

BWC Board of Directors
AUDIT COMMITTEE
Thursday, May 27, 2010, 8:00 A.M.
William Green Building
30 West Spring St. 2nd Floor (Mezzanine)
Columbus, Ohio 43215

MEMBERS PRESENT: Kenneth Haffey, Chair
Bob Smith, Vice Chair
William Lhota
James Harris
Jim Matesich

Members Absent: None

Other Directors Present: David Caldwell, Allison Falls, James Hummel, Thomas Pitts, and Larry Price

Counsel present: John Williams, Assistant Attorney General

Scribe: Larry Rhodebeck, Staff Counsel

CALL TO ORDER

Mr. Haffey called the meeting to order at 8:00 a.m. and the roll call was taken.

MINUTES OF APRIL 29, 2010

Mr. Harris moved to approve the minutes of April 29, 2010. Mr. Smith seconded and the minutes were approved by a roll call vote of five ayes and no nays.

AGENDA

There were no changes to the agenda. Mr. Harris moved to adopt the agenda. Mr. Smith seconded and the agenda was adopted by a roll call vote of five ayes and no nays.

NEW BUSINESS/ACTION ITEMS

RESOLUTION FOR SECOND READING, FISCAL YEAR 2011 ADMINISTRATIVE BUDGET

Tracy Valentino, Chief, Fiscal & Planning Division, requested approval of the fiscal year 2011 Administrative Budget. Her presentation included reference to "Fiscal

Year 2011 Annual Budget Executive Summary” of May 14, 2010. The only changes from the April report were removal of some duplicative items. This slightly lowers the 2011 fiscal year budget request from \$284.7 million to \$284 million. The report also now includes appropriation line items. With these changes the budget is now \$22 million less than fiscal year 2010 budget, and 13% (or \$45 million) less than amount appropriated by the General Assembly.

Mr. Matesich moved that the Audit Committee recommend that the BWC Board of Directors approve the Administrator’s recommendation for the fiscal year 2011 Annual Administrative Budget. This motion consents to a fiscal year 2011 budget of \$284 million for the operation of BWC and the BWC Board of Directors as presented at the Audit Committee. Mr. Harris seconded the motion.

Mr. Lhota asked if the transfer of funds from the Coal Workers’ Pneumoconiosis Fund was included in the budget. Ms. Valentino responded that it was not in the budget, but it was a cash item on the balance sheet. Mr. Lhota asked if it was the same type of transfer to the Inspector General and the Workers’ Compensation Council. Ms. Valentino replied that these transfers received the same treatment and were also included in the “Enterprise Report.”

The motion was approved by a roll call vote of five ayes and no nays.

FIRST READING: ACCESS TO CONFIDENTIAL PERSONAL INFORMATION, OHIO ADMINISTRATIVE CODE RULES 4123-10-01 TO 4123-10-05.

James Barnes, General Counsel, and Ken Cain, Staff Counsel, recommended approval of Ohio Administrative Code Rules 4123-10-01 to 4123-10-05 on confidential personal information. The presentation included reference to “Executive Summary, ORC 1347.15 Confidential Personal Information” of May 14, 2010. Mr. Barnes provided background that necessitates the rule. Mr. Barnes reported that in 2008 there was controversy involving a state agency—not BWC—accessing personal information of a private citizen. The citizen is commonly known as Joe the Plumber. In response, the Ohio General Assembly enacted HB648 (R.C. 1347.15) to ensure that state employees only access agency records for a legitimate government purpose. One of the requirements of R.C. 1347.15 is that each state agency must enact rules surrounding employee access to confidential personal information. The statute became effective April 2009 and applies only to access by state employees. State agencies are also required to implement policies and procedures regarding such access.

Referring to the Common Sense Business Regulation checklist, Mr. Barnes reported with respect to criterion 8, stakeholder input was not appropriate because the rules are internal process rules. Criterion 12 was not checked because the rules are indeed burdensome and costly. BWC has more than 2,300

employees and the business of BWC is to access claim files, and each examination requires logging. BWC employees will be required to create manual logs.

Mr. Matesich asked if this was included in the BWC administrative budget. Ms. Valentino replied that it is primarily a human resource cost rather than a monetary cost. Mr. Barnes added the logging requirement will result in lost productivity. Also, the statute requires new IT systems to have systematic logging capabilities.

Marsha Ryan, BWC Administrator, reported that the General Assembly did not consider the business costs of the rules. Mr. Barnes added that although mandated in April 2009, the lack of clarity of the statute requirements has caused implementation delays for state agencies.

Mr. Haffey asked about the timeline for completion. Mr. Barnes replied that there will be a second reading at the June meeting of the Audit Committee. June 30 is the deadline for submission to the Joint Commission on Agency Rule Review and completion of policies and procedures.

Mr. Cain reported that the rule defines “confidential personal information” as something that can be researched by name or number. At BWC, these include twenty-nine items including claims status, premiums, and number of employees. Rule 4123-10-01 includes other definitions. Rule 4123-10-02 follows the model rule of the Department of Administrative Services. Rule 4123-10-03 sets forth specific criteria applicable to BWC. Rule 4123-10-04 restates federal and state requirements on confidentiality which BWC already follows. Rule 4123-10-05 sets forth logging requirements. BWC is still developing forms and policies to conform to the statute and rules. Employees are not required to log if asked a question by a customer or if a customer is requesting action, but must notify the customer that accessing confidential information is necessary to respond to their request.

Mr. Harris asked why the number of employees is considered confidential. Mr. Cain replied that the number may be proprietary information and is taken from the BWC Public Records grid. Mr. Barnes added that there is a statutory prohibition and BWC will provide the specific statute citation and language.

Mr. Lhota asked if research by John Pedrick, Chief Actuarial Officer, or his department requires logging. Ken Cain replied that would constitute official agency research and is excluded.

Mr. Pitts asked if this affects access to Dolphin. Mr. Barnes replied that it does not impact access by outside parties. Mr. Pitts asked if Customer Service Specialists were required to log and Mr. Barnes affirmed. He added that such access

constitutes day to day processes, however, that is also research into individual records, so it requires logging.

Mr. Matesich asked what is logged. Mr. Barnes replied it will be the date, claim number, and reason. Logs will be kept in accordance with policies and record retention schedules.

Mr. Haffey stated that logging is part of CPA business practices.

Mr. Pitts noted that this could require logging of a hundred claims per day by Customer Service Specialists.

Mr. Harris asked if the statutory requirement includes auditing provisions. Mr. Barnes replied there were no such provisions.

INTERNAL AUDIT CHARTER

Caren Murdock, Chief of Internal Audit, recommended approval of the “Internal Audit Charter.” A “red-lined” and a “clean” version was provided to the Audit Committee for the presentation. This charter addresses the specific duties of the Internal Audit Division (IAD) and is distinct from the Audit Committee Charter. The charter is required by the Institute of Internal Auditors and must be approved by senior management and the board of directors. The charter was last reviewed by the Audit Committee in January 2007.

The scope of division work is to determine if the BWC risk management, control, and governance processes are adequate and functioning in a manner to ensure overall compliance. The IAD staff has the operational independence and authority to initiate, carry out, and report on any action considered necessary. IAD will perform all audit work with due professional care and in accordance with the standards. This includes the specific professional standards of CPAs and internal auditors. The accountability of the Chief of Internal Audit is to submit an annual risk-based audit plan to the Audit Committee. This will be done in June. The Chief of Internal Audit (CIA) will make monthly and quarterly reports to the Committee, including changes in the audit plan. The charter also discusses the independence of the Internal Audit Division -- The CIA reports administratively to the BWC Administrator and in an advisory capacity to the Audit Committee. The CIA and staff have a responsibility to conform to statutes and internal audit standards.

Mr. Haffey asked what were the items changed by the IAD to the charter. Ms. Murdock replied it was mostly clarification of terms and duties, such as requiring definition on internal audit.

Ms. Falls asked if the section on independence was new. Ms. Murdock replied that it is not, but moved from another location in the prior IAD charter.

Mr. Smith asked if the Audit Committee needed a waiver of first reading in order to vote approval today. Don Berno, Board Liaison, stated it would be required. Ms. Falls stated that the Governance Guidelines specified that waiver was needed for rules “and new business matters.”

Mr. Lhota moved to waive the requirement for a second reading. Mr. Smith seconded and the motion was approved by a roll call vote of five ayes and no nays.

Mr. Smith moved that the Audit Committee of the Workers' Compensation Board of Directors approve the Internal Audit Division Charter as presented here today, and refer the document to the Board for review and approval. This approval will fulfill the requirements of the Institute of Internal Auditors International Professional Practices framework and will be documented as such in the meeting minutes. Mr. Harris seconded and the motion was approved by a roll call vote of five ayes and no nays.

DISCUSSION ITEMS

OPEN DISCUSSION WITH INTERNAL AUDIT

Ms. Murdock reported that the Internal Audit Division had recently completed the fiscal year 2011 audit plan and submitted it to Administrator Ryan and senior management. The quarterly audit report is complete and will be presented in July to the audit Committee. Internal Audit has seven projects in process. These include one on the temporary total disability process, one of the largest benefit paid from the State Insurance Fund. There are six reviews, including setting of rates for the Disabled Workers' Relief Fund; manual rate adjustments of employers; the premium audit process; the investment personal trade policy; and the Safety and Hygiene Division review of grants to safety councils, and the public employer risk reduction program.

Mr. Haffey asked when Schneider Downs began testing for the fiscal year 2010 external audit. Ms. Murdock replied it was May 12. BWC has already met with Schneider Downs to allocate tasks. Mr. Haffey commented that the audit is underway and the start is going well.

COMMITTEE CALENDAR

Mr. Haffey reviewed the calendar for next month's meeting.

EXECUTIVE SESSION

Mr. Haffey reported that it was 8:45 a.m. and that the Audit Committee was moving into executive session. Mr. Bryan joined the meeting at this time.

The only other business to be conducted after adjournment from the executive session will be adjournment of the meeting.

Mr. Haffey moved to enter executive session pursuant to Ohio Revised Code §121.22(G) (3) and (D) (2) to discuss litigation and to conduct an audit conference with the Office of Budget and Management Chief Executive Officer. Mr. Smith seconded and the motion was approved by a roll call vote of five ayes and no nays.

ADJOURNMENT

The Audit Committee returned from executive session. Mr. Smith moved to adjourn and Mr. Lhota seconded. Mr. Haffey adjourned the meeting at 9:30 a.m. after the motion was approved by a roll call vote of five ayes and no nays.

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June 1, 2010