

WORKERS' COMPENSATION BOARD OF DIRECTORS

**THURSDAY, OCTOBER 25, 2007, 10:05 AM
WILLIAM GREEN BUILDING
THE NEIL SCHULTZ CONFERENCE CENTER
30 WEST SPRING ST., 2ND FLOOR (MEZZANINE)
COLUMBUS, OHIO 43215**

Members Present: William Lhota, Chairman
Charles Bryan
David Caldwell
Alison Falls
Philip Fulton
James Hummel
Jim Matesich
Larry Price
Robert Smith
Kenneth Haffey

Members Absent: James Harris, Vice Chairman

Others present at the request of the Board:

Ron O'Keefe

CALL TO ORDER

Mr. Lhota called the meeting to order at 10:05 AM and roll call was taken.

NEW BUSINESS

Workers' Compensation 101

Marsha Ryan, Administrator, introduced Mike Travis, Ombudsman, and former Assistant Law Director, as the educational speaker on basic workers' compensation issues. Mike Travis has been appointed as Ombudsman for a six year term, to act as an independent advocate for both claimants and employers, guiding them through both the Bureau and the Industrial Commission processes, and to handle inquiries on general policy matters. Mike Travis provided a general overview of the workers' compensation system. Mr. Travis explained that Ohio workers' compensation is defined by statutes and rules. Mr. Travis explained the laws, the structure of the workers' compensation system as well as and its history.

James Harris joined the meeting at 10:15 AM.

Mr. Travis further discussed related issues regarding the payment of compensation, court cases, elements of compensability, exceptions to compensability, and coverage. Mr. Travis answered several workers' compensation questions presented by Board members.

Alison Falls asked Mr. Travis, how many phone calls the Ombuds Office receives, on an annual basis. Mr. Travis indicated around twelve thousand per year. The presentation of Mr. Travis ended at 11:00 AM.

Rate making:

Tina Kilmeyer, Chief of Customer Service, introduced the guest speakers, Joy Bush, Director of Employer Management Services and Todd Spence, Manager of Employer Consultants. Ms. Bush and Mr. Spence spoke to the Board on how the Bureau determines premium rates, including the overall rate, individual rate, group rate, collection of premiums, payment of benefits, and the investment of the net proceeds. The discussion included a power point presentation. Ms. Bush discussed the Ohio State Insurance Fund, basic insurance principles, the base rate, and the experience rate. Ms. Bush stated that the Bureau must collect enough money to pay claims. Ms. Bush further stated that the premiums must be allocated fairly and equitably among all employers, and the Bureau must determine the right rate for the right risk. The Ohio State Insurance Fund is similar to a mutual insurance fund. Ohio is a monopolistic state, as is Wyoming, North Dakota, and Washington. Twenty five states have state funds. The Ohio State Insurance Fund is self funded and fully funded. Premiums are exchanged for coverage, which is the most important principle. For rate making, past compensation is a good predictor of future costs. Rate calculations are conducted every year for every job classification. Mr. Matesich questioned if premiums would decrease when safety features of machinery improve, e.g. forklifts now have protective cages. Ms. Bush stated yes. Mr. Bryan questioned whether or not the Bureau would have to collect premiums to cover benefits, or can the money used to cover benefits include investment income. James Barnes, Bureau General Counsel, stated that Ohio law does not specifically define where the money may come from to cover benefits.

John Pedrick, Chief of Actuary, explained credibility rating, including experience rating for four out of the last five years. In calculating experience rating, the most recent year is left out of an employer's experience. Payroll is important as a measure of exposure. Industry classification (the National Council on Compensation Insurance (NCCI) uses over 500 job classifications) classifies jobs based upon the degree of hazard. Mr. Bryan inquired as to whether or not there exists a premium audit function. Ms. Bush answered yes. Mr. Lhota questioned whether or not the pie chart distribution (slide in power point presentation) was accurate. Ms. Bush responded no, not an equal distribution.

Mr. Spence began his presentation at 11:35 AM. Mr. Spence discussed the issues surrounding what rate to charge each individual employer. This process begins with the base rate. Base rated employers are small employers. Historical claims costs are not used. Ms. Falls inquired as to how employers are counted, towards the two hundred thousand total employers estimated in Ohio. Mr. Spence responded that the count is

performed by risk account number. Many employers are experience rated. Past costs are a good predictor of future costs. Some employers are credit rated while others are penalty rated. John Williams, Assistant Attorney General, inquired as to what impact medical inflation has on premiums. Mr. Spence indicated that it has remained steady. Ms. Bush further commented on premium audits. There was a discussion regarding methods of experience rating. Penalty (debit) rating was discussed. Total maximum loss was discussed (actual claim costs for employer's experience period). Categories of claim costs, including indemnity, medical, and reserve, were discussed. Mr. Fulton asked whether salary continuation had an impact on reserving. Mr. Spence described the credibility percentage as the weight assigned to historical data, and that this is more significant for large employers, which is why large employers are experience rated. Ms. Falls inquired as to whether the Bureau created the credibility table. Mr. Spence stated yes.

Ms. Bush continued to emphasize that rates are to be equitable. At the request of the Board, Ms. Bush will provide the Board with a distribution of manual classifications.

RECESS:

Motion to adjourn was made by Mr. Matesich and seconded by Mr. Caldwell at approximately 12:15 PM.

WORKERS' COMPENSATION BOARD OF DIRECTORS
DRAFT
FRIDAY, OCTOBER 26, 2007, 8:00 AM
WILLIAM GREEN BUILDING
THE NEIL SCHULTZ CONFERENCE CENTER
30 WEST SPRING ST., 2ND FLOOR (MEZZANINE)
COLUMBUS, OHIO 43215

Members Present: William Lhota, Chairman
James Harris, Vice Chairman
Charles Bryan
David Caldwell
Alison Falls
Philip Fulton
James Hummel
Jim Matesich
Larry Price
Robert Smith
Kenneth Haffey

Members Absent: None

CALL TO ORDER

Mr. Lhota reconvened the meeting at 8:00 AM and roll call was taken.

MINUTES OF SEPTEMBER 27, 2007

Motion was made by James Matesich, and seconded by Philip Fulton, to approve the minutes of the September 27th meeting. Motion was made by Robert Smith, and seconded by Larry Price, to amend the minutes, including a change on page seven, in the third paragraph, fourth line from the bottom, the word "some" is removed and "a" is inserted. An addition to page one was made, noting William Lhota as joining the meeting at approximately 10:20 AM.

REVIEW AGENDA

Mr. Lhota moved Alison Falls' Governance Committee presentation until after the presentation of Tracy Valentino, BWC's Interim Chief Financial Officer.

COMMITTEE REPORTS

Actuarial Committee:

Charles Bryan presented on behalf of the Actuarial Committee. Approval of committee charter has been deferred and will not take place this month. Mr. Bryan noted a substantial group rating discussion, including the discussion of equity, solvency, and the necessity of off balance (making up for group rating). It was also noted that public employer rating remains at zero percent. James Hummel encouraged all members to

attend the November 14, 2007, 9:00 AM Actuarial Committee meeting. Robert Smith recommended taking action on group rating at the next meeting.

Audit Committee:

Kenneth Haffey discussed the Audit Committee meeting. Mr. Haffey indicated that the committee entered into executive session, for the purpose of discussing confidential financial matters. Mr. Haffey also mentioned the Yellow Book government audit. Two of three concerns with the audit have been corrected, with the last concern being worked on by the Bureau financial team. The management letter was discussed with Tracy Valentino. Joe Patrick, audit partner with Schneider Downs, discussed related issues. Mr. Haffey noted that Joe Bell, BWC's Chief of Internal Audit, provided a legislative update on House Bill 166, which includes an attempt to overhaul the internal audit function statewide, including changes to the reporting structure.

Investment Committee:

Robert Smith reported on Investment Committee activity. On a motion by Mr. Smith, seconded by Ms. Falls, the Board unanimously decided to convert the custodial account arrangement from a separate account to a commingled account. On a motion by Mr. Smith, seconded by Mr. Harris, the Board unanimously passed Resolution 07-09, authorizing the Administrator to renew the current contract with Wilshire Investment Consulting Services, to serve the Committee and the Board as a full service investment consultant. On a motion by Mr. Smith, seconded by Mr. Price, the Board unanimously passed Resolution 07-05, authorizing the Administrator to issue a Request for Proposal, for the services of an investment consultant and direct the Administrator to consult with the Investment Committee regarding the scope of services defined in the Request for Proposal. Mr. Smith discussed the Wilshire presentation.

MONTHLY FINANCIAL REPORT

Tracy Valentino, BWC's Interim Chief Financial Officer, presented on Bureau financial statements, included in the meeting materials. The presentation began at 8:25 AM. Ms. Valentino discussed combined basis accounting, accrual basis accounting, Generally Accepted Accounting Principals (GAAP), and Government Accounting Standards Board (GASB). Reporting on a group of funds as single entity (combined reporting) was discussed. Ms. Valentino emphasized the need for an investment policy for each fund individually since they are each unique. Ms. Valentino discussed various funds. Discussion of funds by Board ensued. Barbara Ingram, Manager of Financial Reporting, discussed the impact of the Public Employee Retirement System on financial reporting requirements.

Ms. Valentino discussed all of the financial statements, included in the meeting materials, in great detail. The statements include combined schedule operations, net assets, operations, investment income, cash flows, projected statement of operations, projected statement investment income, projected statement of cash flows, insurance ratios, and fiscal year end ratios. There was substantial discussion of the financial statements. Ms. Falls raised the issue of inclusion of business planning in financial statements as opposed to only projections. Liz Bravender, Director of Actuary, discussed case reserves below

aggregate reserves. James Matesich, inquired into this issue. Marsha Ryan, Administrator, and Ms. Valentino, emphasized the importance of maintaining solvency and reasonable fund surplus, in the 2.3 to 13 billion dollar range. It was noted that the Bureau is looking to the Board for guidance in this area. Mr. Price inquired as to what studies were utilized with regard to the 2.3 to 13 billion dollar figure. It was noted that relevant studies include the AON study, the Pinnacle study, and Bureau research. Mr. Matesich suggested that studies be relevant to what the Bureau is, as opposed to a private insurer. Ms. Ryan indicated that the issue is financial soundness. Ms. Ryan indicated that issues such as House Bill 100, the upcoming reserve, surplus and the rate study request for proposal, are important in determining financial soundness.

Mr. Fulton requested statistics from 1995 forward with regard to dividends, surplus, and reserve, as it relates to impact on net assets. Ms. Valentino indicated she would provide these statistics. Ms. Valentino suggested that dividends should be made with regard to fund specific data, not combined data. Mr. Smith suggested a rate reduction rather than a dividend payment. Ms. Valentino indicated that the Bureau leverages the investment portfolio to pay expenses (net operating loss). Mr. Matesich inquired into the issue of selling bonds. Bruce Dunn, Chief Investment Officer, responded to the inquiry. Lee Damsel, Director of Investments, discussed actual versus projected investment expenses, in response to an inquiry by James Hummel. Ms. Damsel noted a request for proposal on this issue.

Mr. Lhota requested cash schedule balances for the prior twenty four months. Ms. Valentino indicated she would provide that information.

A discussion of insurance ratios ensued. Ms. Ryan indicated the ratios are to provide the Board with a vehicle to compare Ohio with other states. Mr. Haffey requested financial summaries monthly, to eventually become quarterly.

The meeting recessed at 10:25 AM and reconvened at 10:40 AM.

Governance Committee:

The Chair of the Governance Committee, Alison Falls, provided an overview, noting the committee met twice in the month of October. The Committee has recommended the retention of Ron O'Keefe as fiduciary counsel to the Board. Ms. Falls further discussed the Committee's plan to develop governance guidelines for the Board, as well as a process for reviewing committee charters. Ms. Falls noted that the Governance Committee will recommend the chairs of standing committees. Ms. Falls emphasized the coordination in submission of all reports for the Governor's Office and General Assembly.

Ms. Falls further noted that Ron O'Keefe had been interviewed on October 24, 2007 by the Governance Committee and Mr. Fulton for consideration as fiduciary counsel to the Board. Subsequently, Mr. O'Keefe spoke with the Board, discussing his views on the role of fiduciary counsel, including his views on an appropriate model for the Board, and the administration of affairs for the Bureau. Mr. Bryan inquired as to the public

companies that are clients of Mr. O'Keefe. Mr. O'Keefe indicated that most of his clients are on the east coast, none are in the insurance industry and financial services industry, with respect to his role as regulatory counsel. Mr. Matesich raised issue concerning the conflict of interest rules. Mr. O'Keefe indicated that he will work with the Bureau's Legal Department and the Attorney General's office on this issue. Ms. Falls indicated that such issues should go through the Chair of the Board, and then to fiduciary counsel. Mr. O'Keefe further stated that he has experience with special committees.

Mr. O'Keefe indicated that focus should be placed on the Board's common constituencies, with an emphasis on the duty of loyalty & care, and the importance of taking good minutes. Mr. Smith stated that he is comforted by Mr. O'Keefe's degree of expertise. Further, Mr. Fulton indicated he was pleased with the extent of Mr. O'Keefe's knowledge of Board members. Mr. O'Keefe advocates a "bottoms up, top down approach," which requires him to possess great knowledge of individual Board members, to facilitate his ability to serve the Board. Mr. Caldwell inquired as to how many respondents there were to the request for proposal. The answer was not readily known. Mr. Matesich inquired as to whether or not fiduciary counsel will be present at all Board meetings. Fiduciary counsel shall be available to attend meetings, communicate by phone, and communicate by memo. To secure attendance, Board members may go through Ms. Falls or James Barnes, Bureau General Counsel to coordinate attendance of fiduciary counsel at Board and Committee meetings. On motion by Ms. Falls, seconded by Mr. Smith, the Board unanimously approved Resolution 7-10 to engage Mr. O'Keefe to serve as fiduciary counsel for the Board of Directors, for a period of one year.

ADMINISTRATOR BRIEFING

Ms. Ryan congratulated the Board members on the Senate confirmation, taking place on October 23, 2007. There were 32 yes votes and 0 no votes. The Commerce, Insurance, and Labor Committee Journal Entry is available. Ms. Ryan discussed House Bill 100 issues, including the requirement to implement a new reserve system. BWC has previously conducted a public forum on this issue, with another session planned for November 5, 2007. The operations consultant contract of David Hollingsworth has been extended. Senator Faber is seeking legislation that would prohibit a claimant from having workers' compensation claims in multiple jurisdictions. Mr. Fulton expressed concern over Senator Faber's proposal, as current law adequately addresses jurisdictional issues, such as sufficiency of contacts, offset provisions, selection of jurisdiction by the parties, and general concern for claimants. House Bill 79, was discussed, with regard to the removal of the reasonably prudent person standard. There will be more discussion next month, concerning the pneumoconiosis fund. This fund is an old fund, which is stagnant and well funded. Based upon actuary research, the idea of utilizing accumulated interest to fund safety activity in mines is being entertained. Legislative appointees of the Workers' Compensation Council are to perform the duty of reviewing the soundness of the system. Six members have been named. In the Senate, the members are Senators Stiver, Cater and Carney. From the House, the members are Representatives Batchelder, Watchman, and Setson. Five non-legislative members have yet to be named. There is an attempt to create a vehicle for which to exchange information with the Board of Directors. Presentation of the Governor's Excellence Awards has been made to four

private businesses and two public entities. As part of the Bureau's business continuity efforts, a disaster recovery system was tested. The Bureau has a "hot site" for computer back up functioning in Pennsylvania. The exercise went well. Another test shall be conducted in six months.

With regard to the recovery of the coin funds, approximately 42.9 million dollars worth has been recovered. The best case scenario anticipates a recovery of 54 million dollars, yielding a potential net recovery of 46 million of the original 50 million.

Electronic payment of injured worker benefits is being implemented at the Bureau. The electronic funds transfer (EFT) will permit claimants to have funds deposited in their bank accounts or utilize debit cards. It will benefit claimants in many ways, including ensuring timeliness of the payments. There will be an estimated 1.5 million dollars in savings as a result of the conversion. An estimated fourteen thousand claimants are still receiving paper warrants. The Bureau does not pay a fee for the debit cards. Mr. Fulton noted that implementation of this requirement of Senate Bill 7 had been previously discussed with him by a former Bureau employee. However, he was unaware of the Bureau's recent efforts. Mr. Fulton noted that a complete explanation has now been provided with information that he can give to his constituents. Mr. Harris expressed concern that he did not hear about the implementation of this program until after the program was being implemented. Mr. Lhota emphasized the need to operate in a manner whereby the Board is never surprised by such developments.

ADJOURNMENT

Upon motion by Mr. Smith, seconded by Mr. Harris, the meeting was adjourned at 11:50 AM.

Prepared by: Tom Woodruff, Staff Counsel