

Public Participation in BWC Rule Making

BWC and the Industrial Commission of Ohio (IC) make up the Ohio workers' compensation system, a customer-focused insurance system for employers and employees.

BWC provides workers with compensation for work-related injuries, diseases and deaths. It maintains a central office in Columbus and customer service offices throughout the state. BWC provides workers' compensation insurance to about two-thirds of Ohio's workforce. The remaining workers receive coverage through a self-insurance program for large and financially stable employers who meet strict qualifications set by BWC.

While BWC is the system's insurance arm, the IC is the claims adjudicative arm. The IC hears and decides all contested claims, and determines permanent total disability. The governor appoints the three-member commission and the Ohio Senate confirms each member. One member represents labor, one represents industry and one represents the public sector.

A governor-appointed administrator and an 11-member Ohio Bureau of Workers' Compensation Board of the Directors manage BWC and discharge all administrative duties the Ohio Revised Code (ORC) requires. In addition, the administrator prepares and submits to the board rules for BWC operation. The administrator is a member of the governor's cabinet and serves at the pleasure of the governor.

The governor, with the advice and consent of the Senate, appoints the board of directors. Of the 11 members: one represents employees; two represent employee organizations (at least one of whom is a member of the executive committee of the largest statewide labor federation); three represent employers (one for self-insuring employers, one for state-fund employers of 100 or more employees, and one for state-fund employers of fewer than 100 employees); two are investment and securities experts; one is a certified public accountant; one is an actuary; and one represents the public.

In addition to its ORC-specific duties regarding rules, the board advises and consents on rules the administrator submits for the classification of occupations or industries; premium rates and contributions; the amount to be credited to the surplus fund; rules and systems of rating, rate revisions, merit rating; and overall BWC policy.

Rule-making procedure and opportunities for public participation

The ORC contains the primary law on the operation of the workers' compensation system. In certain workers' compensation statutes, the legislature has granted BWC the power to adopt and enforce rules that serve to complement, clarify and develop the statutory provisions.

All agency rules are part of the Ohio Administrative Code (OAC). You can find IC rules in Chapter 4121.; Safety and Hygiene rules in Chapter 4123.1.; BWC rules in Chapter 4123.; joint BWC/IC rules in Chapter 4125.; and Public Employment Risk Reduction Program rules in Chapter 4167. of the OAC.

BWC files rules under ORC Chapter 119. with four state agencies:

- The Common Sense Initiative Office (CSI);
- The Joint Committee on Agency Rule Review (JCARR);
- The Legislative Service Commission;
- The Secretary of State.

The CSI Office has a minimum of 16 business days to review BWC rules. However, the review can take as long as the CSI Office deems necessary. Once BWC receives the CSI recommendation, BWC files the rule with the remaining three offices. Once filed, BWC's legal division conducts a public hearing no sooner than 31 days and no later than 40 days from the rule filing date. BWC publishes the notice for this hearing in the Register of Ohio (www.registerofohio.state.oh.us). JCARR, a legislative committee, conducts a rule review with the authority to reject rules that do not meet statutory requirements.

Opportunities for public participation in the rule-making process include:

- BWC generally invites interested parties to provide input on rules as they are drafted and prior to their presentation to the board of directors;
- BWC presents the rules to the BWC Board of Directors for its advice and consent. Generally, the board will review a rule at a committee meeting and vote on the rule at the board meeting the following month, giving the public an opportunity to comment on the rule to BWC or to the board;
- BWC files rules with the CSI Office prior to formal filing through the E-Notification System. Persons affected by a BWC rule can sign up to receive notification of reviews and may comment on the adverse business impact of the rule to the CSI office;
- BWC conducts a public hearing for each proposed rule action. The public is invited to provide testimony, either written or verbal. BWC will take this testimony into consideration when deciding whether to adopt or amend a rule;
- JCARR conducts a public hearing after the BWC public hearing.

BWC has the authority to adopt many rules without the standard approval process. BWC files these rules under Section 111.15. These rules are exempt from JCARR's jurisdiction and the public hearing process.

If you have questions about public participation in BWC rule making, log on to www.ohio.bwc.gov, or call 1-800-644-6292.