

TENNESSEE ADVISORY COUNCIL ON WORKERS' COMPENSATION MINUTES

Legislative Plaza, Room 30

Nashville, Tennessee

Tuesday, August 17, 2010

1:00 p.m.

Members Present:

David H. Lillard, Jr., State Treasurer, Chair

Voting Members:

Jack Gatlin

Bob Pitts

Gary Selvy

Anthony Farmer, by telephone

Non-Voting Members:

Katherine Boyte

Keith Graves

Sue Ann Head, Designee, Commissioner of Labor and Workforce Development

Stephen Johnson

Hon. James Neely, Commissioner of Labor and Workforce Development

Dan Pohlgeers

Bruce Fox, by telephone

M.R. Shinnick, Designee, Commissioner of Commerce and Insurance

Also Present:

Tom Redel, AON Risk Services

Kim Zerson, AON Risk Services

Landon Lackey, Department of Labor and Workforce Development

Janice Cunningham, Chief of Staff, Treasury Department

Steve Curry, Assistant Treasurer for Programs, Treasury Department

Gary Hotvedt, Assistant Treasurer, Legal, Audit and Compliance, Treasury Department

Anne Adams, Director, Division of Claims Administration, Treasury Department

And other persons and interested parties

Chairman Lillard called the meeting to order in Room 30; Legislative Plaza; Nashville, Tennessee. Anne Adams completed the roll call, which resulted in three (3) voting members present, one (1) voting member participating by phone, and two (2) voting members absent. Chairman Lillard declared there was not a quorum of voting members physically present. He proposed a resolution that allows any member participating by telephone to be deemed present for the purposes of the quorum requirement and voting. A copy of the resolution is attached and is incorporated as part of these minutes. Mr. Bob Pitts made a motion to adopt the resolution. Mr. Jack Gatlin seconded the motion. The motion was approved unanimously by a voice vote. Chairman Lillard declared a quorum present.

The first item of business was a review of the Council operations and of the transfer of the Council to the Treasury Department. Chairman Lillard provided new contact information, website, address and phone number for the Council. He introduced Steve Curry and Anne Adams as Treasury staff contacts for Council activities. He reported that he sent approximately 400 contact letters to lobbyists with this contact information. Council members expressed no concerns or questions regarding the transition of the Council's operations to the Treasury Department.

The next item of business was a presentation of a report on the workers' compensation market conditions and environment by Mr. Mike Shinnick of the Department of Commerce and Insurance. He stated that his

report is intended to prepare the Council in advance of the Department of Commerce and Insurance Commissioner's decision on the loss cost filing for March 1, 2011. He reports a favorable minus 5.1% overall loss cost filing. He advised that lost time frequency continues to decline nationally, which is typical in recessionary times. He reported that industry reserve deficiencies are moderate according to the National Council on Compensation Insurance (NCCI); that company failure rate has been low; that the Tennessee residual market is the smallest market in ten (10) years; and that the market remains very competitive with competitive pricing. He reports negative factors include an 8 point Tennessee pure underwriting loss on an accident year basis, stating it was the worst combined ratio in seven (7) years. Mr. Shinnick also reported that further deterioration in the underwriting cycle is possible, though maybe not likely, and that low investment returns continue to pressure underwriting results. Mr. Shinnick provided a summary of the impact of the 2004 workers' compensation reforms, as required by T.C.A. 50-6-134. Mr. Pitts inquired about the reduced premium savings seen in 2007. Mr. Shinnick responded that this was reflective of adjustments in the medical fee schedule. Mr. Pitts expressed concern that very competitive pricing levels are continuing in spite of the industry's underwriting loss. Mr. Shinnick opined that in many situations workers' compensation does not stand on its own; it's written in conjunction with other property and casualty lines of business where profitability is not an issue. After further discussion, there were no questions; the Council was not required to take any action.

The next item of business was the annual update on the Tennessee Assigned Risk Plan, presented by Mr. Tom Redel and Ms. Kim Zerson of AON Risk Services. Mr. Redel reported a premium decrease of 25% in 2009 from 2008, but states in 2010 to date, the decrease is 15% so the rate of decline is decreasing. He also stated the activity is contrary to the attention and phone calls AON receives concerning the decrease in small businesses, many of which are going out of business. There were no questions or further discussion; the Council was not required to take any action.

The next item of business was an update on activities from the Department of Labor and Workforce Development (DLWFD). Mr. Landon Lackey, staff attorney for DLWFD, advised the Council of an upcoming rule making hearing regarding adjuster certification training. He stated the Department wants to improve the workers' compensation system but not make unreasonable requirements in the process. They are trying to establish certification training that is not too onerous or costly, and are considering a web-based training. He stated that written comments could be submitted to him if anyone could not attend the meeting. There were no questions or discussion, and no action for the Council to take.

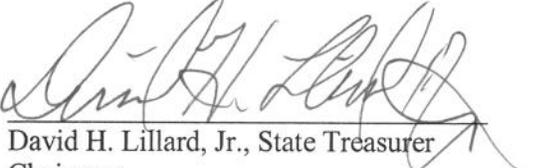
Chairman Lillard reviewed upcoming Council events and activities. He reported that the Willis contract expired on June 30, 2010, but that the Treasury Department is in the process of getting a new contract in place with no interruption of service. He thanked Commissioner Jim Neely and his staff for their assistance in transferring the Council to the Treasury Department.

The last item of business was an update on the staff position of Administrator of the Advisory Council on Workers' Compensation. Chairman Lillard stated that he looks to the Council for comments on the position and applicant finalists, for which the Treasury Department will post an open position notice and a job description and conduct interviews. He stated the position does not require an attorney but one is preferred. He emphasized that the candidate must have extensive knowledge of the workers' compensation law.

Mr. Pitts made a motion to adjourn. Mr. Selvy seconded the motion. There being no further business, meeting was adjourned.



Anne Adams, Director, Division of Claims



David H. Lillard, Jr., State Treasurer
Chairman
Tennessee Advisory Council on Workers' Compensation

Council Resolution For A Conference Call Meeting

As you are aware, the purpose of this meeting is to hear and consider several presentations that may be important to the Council with respect to its legislative directives in making recommendations to the Commissioner of Labor and Workforce Development and the Commissioner of Commerce and Insurance.

The law allows this Council to meet by telephone conference call upon a determination by the Council that the matters to be considered at this meeting require timely action by the body, that physical presence by all members is not possible within the period of time requiring action, and the participation by some members by telephone is, therefore, necessary. If the Council makes such a determination, any member participating in a meeting by telephone is deemed present in person at the meeting for purposes of quorum requirement and voting.

Due to the importance and need for timely action of the matters to be considered at this meeting, I move that this Council find that telephone participation in this meeting by all Council members is necessary.