BOARD OF CLAIMS
Minutes for the December 14, 2017 Meeting of the Board

Members Present:

Steve Summerall, designee for David H. Lillard, Jr., State Treasurer, Chair
Rebecca Hunter, Commissioner of Human Resources
Mary Beth Thomas, designee for Tre Hargett, Secretary of State
Terry Mason, designee for Justin Wilson, Comptroller
Lucian Geise, designee for Larry Martin, Commissioner of Finance and Administration

Treasury Staff:

Rodney Escobar, Director of Claims and Risk Management, Treasury Department
Mary Roberts-Krause, General Counsel, Treasury Department
Amy Dunlap, Assistant Director of Claims and Risk Management, Treasury Department
Larissa Dills, Division of Claims and Risk Management
Chad Bellin, CorVel
Jack Pipa, Select Actuarial Services
Cheryl White, Select Actuarial Services
Mary Francis Miller, Select Actuarial Services

Call Meeting to Order

With a quorum present, Steve Summerall, Assistant Treasurer for Program Services, called the meeting to order at 9:00 a.m.

Review of Minutes of August 17, 2017 Meeting

The first item of business was review of the minutes for the Board of Claims meeting on August 17, 2017. A motion to approve was made by Mary Beth Thomas, designee for Secretary of State Tre Hargett. The motion was seconded by Terry Mason, designee for Comptroller Justin Wilson. The motion passed unanimously approving the minutes.

Corvel Presentation Overview of the Workers' Compensation Program

Chad Bellin from CorVel presented segments of the annual stewardship report for the State of Tennessee's Workers' Compensation Program. Mr. Bellin explained to the Board about the reductions in the total number of claims reported, average incurred costs, cumulative payments and claim closing rates. He discussed the positive impact prior incentives/penalties implemented by the board for injury reporting lag time and the return-to-work program across the state enterprise. Mr. Bellin explained how both of these incentives had an overall positive outcome in customer service and financial savings for the workers' compensation program. Mr. Bellin closed by discussing the impact Corvel's 24/7 Nurse Triage program has had on the overall results for the State. He identified a potential area of significant improvement in service to employees and cost reduction for the State through continuous education to all state entities regarding employees utilizing the 24/7 program prior to seeking medical treatment with emergency rooms, walk-in clinics, or out of network physicians. Mr. Bellin explained that if the state could reduce this type of behavior of employees ignoring reporting protocols, the state could see financial savings of $1.5 million dollars.

Actuarial Report of Risk Management and Casualty Claims
Jack Pipa, Mary Francis Miller and Cheryl White with our actuary, Select Actuarial Services, presented the annual actuarial report of Risk Management and Casualty Claims. The purpose of the presentation was to summarize the reserve and forecast reports for the State of Tennessee based on data evaluated as of June 30, 2017. The reserve and forecast reports provide estimates associated with the State's workers' compensation and liability exposures.

Outstanding losses are estimated to total $151.6 million for all types of losses as of June 30, 2017.

Workers' compensation losses are an estimated $132,845,000.

Total outstanding losses for auto liability are $5.3 million. General liability and medical malpractice are $10.9 million and $2.5 million respectively.

With no questions, a motion was made by Rebecca Hunter, Commissioner of Human Resources and was seconded by Mary Beth Thomas, designee for Secretary of State Tre Hargett. The motion was approved unanimously accepting the actuarial report.

Proposed Amended and Restated Educator Protection Act of 2015 Program Guidelines Ms. Mary Roberts-Krause, General Counsel for the Tennessee Treasury Department, presented a proposed Amended and Restated Educator Protection Act of 2015 Program Guidelines. She explained that the document contained three proposed amendments to the Guidelines. The first amendment was of a housekeeping nature. The amendment would change the Tennessee Code reference to the Educator Protection Act from Tenn. Code Ann. § 9-8-501 through § 9-8-508 to Tenn. Code Ann. § 9-8-201 through 9-8-206. She explained that the Code Commission had transferred the Act from Title 9, Chapter 8, Part 5 to Title 9, Chapter 8, Part 2.

The second amendment would broaden the definition of a "criminal proceeding" to include criminal investigations or proceedings conducted by a social welfare, child protection or similar agency such as the Tennessee Department of Children's Services. The third amendment would broaden the types of costs that an educator could recover in defending himself/herself against criminal allegations. The amendment would broaden them to include all costs incurred by the educator in defending the criminal allegations, such as the costs of a polygraph test, but excluding loss of income, court sanctions, opposing counsel's attorney fees or restitution.

With no questions, a motion was made Rebecca Hunter, Commissioner of Human Resources and was seconded by Terry Mason, designee for Comptroller Justin Wilson. The motion was approved unanimously to adopt the Proposed Amended and Restated Educator Protection Act of 2015 Program Guidelines.

Claim of Alex Taylor, Teacher's Liability Claim
On September 13, 2017, the State of Tennessee Treasury Department, Division of Claims and Risk Management received a request for reimbursement of legal expenses from Greeneville High School Educator Alex Taylor. Mr. Taylor was accused of participating in an inappropriate relationship with a student, but was eventually cleared of all allegations by local law enforcement and Robert Steuart from the Tennessee Department of Children's Services. Mr. Taylor had to obtain an attorney during the criminal investigation as well as the Tennessee Department of Children's Services Administrative Procedures hearing conducted by Administrative Judge Carol G. Marcum. On August 15, 2017, Judge Marcum signed an order of dismissal on behalf of Alex Taylor who appealed his suspension as an educator. The total amount that Mr. Taylor is requesting for reimbursement is $6,815.00.

A review of the insurance policy exclusions and a confirmation of denial from Greeneville School System's insurance carrier supported Mr. Taylor's claim of not having liability coverage to pay for these legal expenses through his employer. Also, I confirmed with Tennessee Education Association, Assistant Executive Director Steve McCloud that Mr. Taylor was not a member of the Tennessee Education Association (TEA). This too supports Mr. Taylor's claim that he does not have additional coverages for liability with the TEA. See attachments for details regarding the Order of Dismissal, legal expenses invoices, and administrative letters from DCS.

Based upon the facts of this claim, Mr. Taylor's has met all the requirements for reimbursement for his legal fees under the Public Chapter No. 493, Tennessee Educator Liability Fund T.C.A. §9-8-501 through §9-8-508. Therefore, it is staff's recommendation to reimburse Mr. Taylor's a total of $6,815.00 for his incurred legal expenses from the Teacher's Liability Fund.

With no further questions, a motion to approve was made by Rebecca Hunter, Commissioner of Human Resources and was seconded by Mary Beth Thomas, designee for Secretary of State Tre Hargett. The motion was approved unanimously for reimbursement of Mr. Taylor's legal expenses.

Adjournment

There being no further business, the meeting was adjourned at 9:59 a.m.

Rodney Escobar
Director of Claims and Risk Management
State of Tennessee, Treasury Department
Executive Secretary to the Board of Claims

Steve Summerall, Designee for
David H. Lillard, Jr
State Treasurer
Chairman, Board of Claims