

**WORKERS' COMPENSATION ADVISORY COUNCIL  
MINUTES ~ ~ SEPTEMBER 29, 2005 MEETING [1:00 P.M.]  
710 JAMES ROBERTSON PARKWAY  
HEARING ROOM, FIRST FLOOR  
ANDREW JOHNSON TOWER  
NASHVILLE, TENNESSEE**

The Advisory Council meeting commenced at 1:00 p.m. and a quorum of the voting members was present. Therefore, it was not necessary to conduct the meeting electronically. The following lists each member of the Advisory Council and indicates whether the member attended the meeting:

**\*CHAIR:** Dale Sims, State Treasurer - Present

**\*VOTING MEMBERS:**

Employee Representatives

Jack A. Gatlin - Present

Jerry Lee - Present

Othal Smith, Jr. - Absent

Employer Representatives

Ronnie Hart - Absent

Bob Pitts - Present

Steven Turner - Present

**\*NONVOTING MEMBERS:**

Kitty Boyte [TDLA representative] - Present

Claiborne (Chip) Christian, M.D. [health care providers representative] - Absent

Jackie Dixon [TBA representative] - Absent

Tony Farmer [TTLA representative] - Absent

Bob Kirk [local governments representative] - Absent

Jerry Mayo [insurance companies representative] - Absent

David Stout [health care providers representative] - Absent

**\*EX OFFICIO MEMBERS**

Senator Joe Haynes - Absent

Representative Jere Hargrove - Absent

Commissioner Paula Flowers - Absent [Designee, Larry Knight, present]

Commissioner Jim Neeley - Present

The following topics were discussed at the meeting. Actions taken or recommended to be taken are noted.

## 1. APPROVAL OF MINUTES

The draft minutes for the August 25, 2005 meeting had been provided to the members for review prior to the meeting.

>**ACTION:** The minutes were approved unanimously by the voting members.

## 2. UPDATE ON IMPLEMENTATION OF "REFORM ACT OF 2004"

The Advisory Council has requested Commissioner James G. Neeley to provide a brief update of the implementation of the "Reform Act of 2004" at each meeting. Commissioner Neeley told the members of the Advisory Council that several lawsuits have been filed challenging the constitutionality of the 2004 Reform Act - primarily contending that requiring mediation prior to the ability to file a lawsuit violates due process. In addition, Commissioner Neeley advised the members of the Advisory Council that the Department has assessed a penalty in the amount of \$56,000.00 against Liberty Mutual Insurance Company for its failure to comply with the order of a specialist to commence benefits in a claim that had been acknowledged as compensable.

>**ACTION:** No action was taken by the members regarding this agenda item.

## 3. PRESENTATIONS re: NATIONAL COUNCIL ON COMPENSATION INSURANCE - LOSS COSTS FILING EFFECTIVE MARCH 1, 2006

Presentations regarding the proposed advisory prospective loss costs filing were made by Ms. Carolyn J. Bergh, ACAS, Director and Actuary, NCCI Actuarial and Economic Services; Mr. Greg Alff, FCAS, MAAA, Senior Actuary, Willis Risk Solutions North America and Ms. Mary F. Miller, Select Actuarial Services.

Ms. Bergh explained the process by which the NCCI prepares and files the advisory prospective loss costs and explained the NCCI's filing assumes an indemnity loss ratio trend of 0% and a medical loss ratio of +3.0% per year, which are unchanged from last year's filing. The NCCI proposed no change in the provision for loss adjustment expenses (LAE), which keeps the LAE at its current level of 16.5% of losses. Therefore, the percentage overall change proposed in the filing, as a result of experience, trend and benefits is +1.6%. The NCCI actuary explained the change in loss costs varies depending on the classification and each classification belongs to one of five industry groups.

The average change proposed by the NCCI for the five industry groups is: Manufacturing (-0.2%); Contracting (-3.3%); Office and Clerical (+3.6%); Goods & Services (+2.2%); and Miscellaneous (+8.2%). Ms. Bergh stated that within each of the five industry groups the individual classification change could vary + or - 25%.

Willis [Advanced Risk Management Services] is under contract to the Advisory Council to provide consulting actuarial services by reviewing the NCCI loss costs filing. Mr. Gregory N. Alff, FCAS, MAAA, Senior Actuary, reviewed the filing and prepared a written report that was forwarded to all members of the Advisory Council prior to the September 29, 2005, meeting.

Mr. Alff stated his overall conclusion is the NCCI's proposed increase of +1.6% is reasonable, but pointed out some areas of concern and made suggestions for the Advisory Council to consider. Mr. Alff explained that the trend factors of 1.00 for indemnity and 1.030 for medical selected by the NCCI are net trends after adjustment for wage trends. Mr. Alff suggested it might be more appropriate to utilize a 1.010 indemnity trend instead of the 0% trend filed by the NCCI. This would change the overall indication from +1.6% to +3.2%. Additionally, Mr. Alff recommended the factor for defense and cost containment (LAE calculation) be lowered from the selected 9.5% to 9.0% which would result in a decrease from 16.5% to 16.0% in the loss adjustment expense. This single change would result in a +1.2% overall loss costs change from the current loss costs. Mr. Alff explained that if the Council agreed with his two suggested changes, the result would be a overall change in the loss costs of +2.8%. Thus, his recommendation to the Advisory Council was a change in the range of +1.2% to +2.8%.

Ms. Mary F. Miller, the consultant to the Department of Commerce and Insurance, also addressed the Advisory Council. Ms. Miller stated that the filing does reflect the costs appropriately and is sound from an actuary view. She did indicate concern regarding the large increase in the Miscellaneous Industry Group as it is a significant increase from the current loss costs. After reviewing the underlying data, she determined it was one large class that is driving the increase and expressed concern that the rates for the other employers in the Miscellaneous Industry Group were being set by 5-7 larger classes. She suggested this should be reviewed prior to next filing to determine if the swing limits of + or - 25% within each industry group should be lowered to minimize the changes for the smaller classes. Ms. Miller stated the current filing for a +1.6% increase should not be changed.

**>ACTION:** No action was taken by the members regarding this agenda item.

#### 4. DISCUSSION AND RECOMMENDATIONS BY ADVISORY COUNCIL re: LOSS COSTS FILING

Following the presentations, the members of the Advisory Council discussed the NCCI proposed +1.6% increase and the various opinions of the actuaries who made presentations.

**>ACTION:** The voting members of the Workers' Compensation Advisory Council unanimously recommended the NCCI's proposed overall increase of +1.6% from the loss costs that became effective on July 1, 2005, and the individual loss costs for each classification as included in the NCCI's filing, be approved to be effective on March 1, 2006.

5. OTHER MATTERS

Mr. Steve Turner announced that he had submitted his resignation as a voting member of the Advisory Council to Speaker Naifeh. He expressed his appreciation for the opportunity to have served on the Council and wished the Council well in the future.

Mr. Sims announced since the Advisory Council had concluded its recommendation regarding loss costs it would not be necessary to meet on October 13, 2005. He reminded the members of the meetings tentatively scheduled for November 17 and December 15, 2005.

The meeting of the Advisory Council adjourned at 2:45 p.m.