

**MINUTES OF THE ILLINOIS WORKERS' COMPENSATION COMMISSION  
WORKERS' COMPENSATION ADVISORY BOARD MEETING  
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH STREET  
CHAIRMAN'S CONFERENCE ROOM  
HELD ON APRIL 23, 2012 at 1:00 PM**

**Present at the meeting were:**

Chairman Mitch Weisz, ex officio member  
Richard Aleksy – Corti, Aleksy, and Castenada  
John Carpenter – Chicagoland Chamber of Commerce  
William Lowry – Nyhan, Bambrick, Kinzie, and Lowry  
David Vite – Illinois Retail Merchants Association

**Participating via Teleconference were:**

Aaron Anderson – Painters District Council #30  
Michael Carrigan – Illinois AFL-CIO  
Phil Gruber – International Association of Machinists and Aerospace Workers  
Mark Prince – Prince Law Firm  
Sean Stott – Laborers' International Union  
Mitchell Abbett – Holten Meat Inc.  
Mark Denzler – Illinois Manufacturers' Association  
David Halffield – Sears Holding Management Company

**IWCC staff present at the meeting were:**

Ronald Rascia, General Counsel  
Maria Sarli-Dehlin, Manager of Self Insurance  
Mary Wells, Chief Financial Officer  
Darrell Widen, Deputy General Counsel  
Ted Young, Manager of Information Technology Division

Chairman Mitch Weisz called the meeting to order at 1:07 pm and noted that a quorum was present. Chairman Weisz asked whether any member had any additions or corrections to make regarding the minutes of January 25, 2012. Richard Aleksy noted that the minutes indicated that he had suggested that the Commission consider adding more “cases” to the call in Woodstock. Mr. Aleksy stated that he had suggested that the Commission consider additional “hearing dates” be scheduled in Woodstock and not that additional cases be assigned to the site. The minutes were so amended and Phil Gruber moved to approve the minutes as amended. The motion was seconded by William Lowry and the minutes were unanimously approved as amended.

Chairman Weisz then informed the Board of the status of money borrowed by the Office of Management and Budget from funds under the purview of the Commission. Chairman Weisz indicated that \$10 million borrowed from the Illinois Workers' Compensation Self-Insurance Guarantee Fund had been repaid completely and that \$10 million of the \$11.1 borrowed from the Workers' Compensation Commission Operations Fund had also been repaid. David Vite asked whether the State had paid interest to the Commission-controlled funds for the borrowed money. Chairman Weisz indicated he was unsure whether interest was paid on the funds borrowed by the Office of Management and Budget. General Counsel Ron Rascia stated he would research the issue and report back to the Board.

Chairman Weisz then informed the Board that the Commission had successfully eliminated the use of social security numbers except for instances in which benefits were paid to recipients from funds controlled by the Commission, including the Injured Workers' Benefit Fund, Rate Adjustment Fund, and Second Injury Fund. The Chairman noted that collection of these numbers was still necessary because Comptroller would not issue checks without a social security number. The transition went more smoothly than anticipated.

Chairman Weisz then updated the Board about destruction of files of the Commission. The last previous plan was approved by the State Archives in 1999. The Commission has recently submitted a new document destruction plan to destroy files prior to 1983, which has been approved by the State Records Commission. Pursuant to that plan, 15 tons of documents have been destroyed thus far and another purging is in process. With space at the warehouse emptied, the Commission will be able to transfer closed files that are currently housed in the Commission office at the Thompson Center. The Chairman noted that the Commission is under a litigation hold by the U.S. Department of Justice and that even if such documents were otherwise eligible for destruction the Commission would have to retain all documents from 2006 and thereafter until the hold is lifted.

The Chairman then noted that the Commission was engaging in a process to review the performance of Arbitrators, with special attention paid to those Arbitrators whose terms expire on July 1, 2012. All of those Arbitrators have been evaluated by a Commissioner and all evaluations are being compiled for review by the Chairman for recommendations to the full Commission. In addition, several practicing attorneys who had recently appeared before these Arbitrators were being randomly chosen to complete evaluations of these Arbitrators. The Chairman hoped that the evaluation process would be completed by June 1, 2012. Mr. Aleksy asked whether the sitting Arbitrators would be required to take a test, demonstrating their knowledge of workers' compensation law and procedure. The Chairman responded that in consultation with the legal department, he had concluded that pursuant to P.A. 97-18 currently sitting Arbitrators are exempt from the testing requirement.

The Chairman also indicated that the Commission had doubled the judicial training program for Arbitrators, Commissioners, and attorneys at the Commission, instituting 2 days of training in the Spring and 2 days in the Fall. The Commission is planning to monitor each Arbitrator and Commissioner's compliance with continuing legal education requirements of the Illinois Supreme Court. The Chairman also noted that the training program presented by the Commission has been approved for CLE credit.

Regarding the general operations of the Commission, the Chairman indicated that there generally now no late Commission decisions. Often any delay was occasioned by a transcript not being filed because of failure of litigants to pay for transcribing. The Commission has begun to proactively contact the attorneys to ensure that payment for transcripts are received so that the review process would be expedited. The Chairman noted some delay in approval in settlement contracts due to the scrutiny applied by new Arbitrators. However such delay is being eliminated as all sides become more acquainted with the process. The Chairman also informed the Board that the Joliet site (Joliet Public Library) would be unavailable due to renovation, but that the Commission was close to completing an agreement to use the Catholic Charities facility across the street from the library. Finally, the Chairman indicated that the Commission was considering some modification of trial dates in the Southern Illinois region.

The Chairman noted the on-going concerns of downstate attorneys and litigants regarding additional travel necessary to present emergency 19(b)/8(a) petitions to the Arbitrator specifically assigned to the claim. He noted that Commission was looking into the use of web-based real-time video conferencing, such as Skype for 19(b) hearings and possibly for oral arguments.

The Chairman then provided the Board with an update of the ongoing review and amendment of the Rules of Practice before the Commission. The Commission has submitted rules to JCAR updating the Medical Fee Schedule, which have already passed the First Notice comment deadline. The Commission is currently working on technical amendments to the proposed rules. The Commission has also approved new rules regarding intoxication as required under P.A. 97-18. However the Commission is addressing technical concerns regarding “split samples” prior to submission to the Joint Committee on Administrative Rules.

The Chairman mentioned two cases interpreting rules of the Commission which resulted in what appeared to be anomalous conclusions and which may prompt additional rule changes. First, the Commission rule requiring submission of a completed Request for Hearing Form (stip. sheet) prior to a hearing being conducted, was interpreted to preclude an *ex parte* litigant from proceeding with a prove-up because the litigant did not submit a completed stip. sheet, even though there was no opposing party with whom to stipulate. In another case, a petitioner was precluded from amending the Application of Adjustment of Claim to conform to the proofs established at arbitration. That interpretation resulted in the Petitioner having to file a second Application for Adjustment of Claim in order to allege injury to another body part. The Chairman indicated that the Commission would consider rule amendments but that such amendments could not be used to revive claims that would otherwise be banned by the Statue of Limitations.

The Chairman then advised the Board the budget process was going smoothly and we anticipated no obstacle to approval of the Commission budget. He also noted that the fiscal office was instituting new procedures for inventory and administration of the Rate Adjustment Fund. Mr. Vite asked Commission CFO Mary Wells what CMS charged the Commission for health insurance per employee. Ms. Wells responded that in FY12 the charge for benefits for each employee, which included life and dental insurance as well as health insurance, is \$14,500. However the charge for FY13 will be \$23,000 per full-time employee. Those are average figures, which include both individual beneficiaries and those who have dependents included in their state insurance. This increase represents an increase of approximately \$500,000 in the Commission budget. Mr. Vite then asked about the increase in pension payments. Ms. Wells indicated that the contribution rate would increase from approximately 34% of payroll in FY12 to 39% of payroll in FY13.

The Chairman updated the Board on the status of the Injured Workers’ Benefit Fund. He noted that this fiscal year the Commission had collected \$705,000 in fines for non-compliance with the requirement that employers maintain workers’ compensation insurance. However, there are currently 40 claims against the fund amounting to \$2.3 million. All awards against the fund are paid out from fines collected by the Commission that fiscal year and if there are not sufficient funds to satisfy all the awards, the awards are prorated proportionately. The Chairman also noted that with the new citation process authorized under P.A.97-18, the Commission collected \$43,500 in fines, which also resulted in 87 employers newly obtaining workers’ compensation insurance protecting 389 employees. Upon inquiry by Mr. Aleksy, the Chairman indicated that he was looking into methods by which the Commission would be notified automatically when insurance expires or is cancelled.

Chairman Weisz updated the Board on progress in the Information Technology department. He commended the department for overseeing the massive project of reassigning all cases pursuant to the internal reorganization put in place pursuant to P.A. 97-18. He then noted that all negative audit findings associated with information technology, some of which had been in place since 1996, have been reclassified as “immaterial.” Mainframe entries related to motions filed were now available on line. In addition, the Information Technology department had developed and is in the process of implementing a name and birth date search function of the Commission’s mainframe that will soon be available on the Commission’s website. A large majority of the Commission’s

Information Technology functions, including its servers, were recently migrated to CMS. This integration provides the Commission much greater capacity and functionality for its IT systems. Although there is a cost associated with CMS' support of these IT functions, overall it is more cost effective than achieving and maintaining these IT functions on an in-house basis.

The Chairman advised the Board of the appointment of two new members and reappointment of one member of the Self-Insurers Advisory Board. He also informed the Board of the insolvency filing of a self-insured entity, Employco. The Commission is monitoring the progress of that process to determine whether the Commission has any recourse if the insolvent entity misstated to the Commission the reserves it would be required to keep to satisfy workers' compensation claims. The Chairman indicated that the Employco situation has encouraged the Commission to determine the efficacy of purchasing excess supplemental coverage for the self-insurance fund. David Halffield opined that the excess coverage market is currently stagnant and it may be very difficult to find any affordable coverage. He suggested we may contact a risk management entity that does not actually act as a broker, in order to avoid violating State procurement rules. He would be able to forward to the Chairman possible candidates for such consultation.

The Chairman then informed the Board about the status of various ongoing audits at the Commission. The audit of the Commission, CMS, and the Office of Attorney General, by the Auditor General as required by House Resolution 131 was almost complete and would soon be available to the public. The Commission has completed the internal audit required by statute (FCIAA), with which the Commission had not previously complied in at least 10 years. There is also a statewide "executive audit," which is assessing non-union personnel. The Commission is cooperating with this audit as well .

The Board agreed to have the next Board meeting on July 25, 2012 be held in Springfield. There was a motion by Mr. Lowry, seconded by Mr. Stott, and unanimously carried to adjourn the meeting. The meeting adjourned.