

## **Minutes**

### **Tennessee Advisory Council on Workers' Compensation**

*Wednesday, September 6, 2017 at 1:30 p.m. Central*

*Legislative Plaza, Room 16*

*301 Sixth Avenue North*

*Nashville, Tennessee 37243*

#### **Members Present:**

##### Voting Members

State Treasurer David H. Lillard, Jr., Chairman

Kerry Dove

Bruce Fox

Bob Pitts

##### Non-Voting Members

Joy Baker

Jason Denton – By Telephone

Sandra Fletchall – By Telephone

Dr. Keith Graves

John Harris – By Telephone

Gregg Ramos

Pam Smith – By Telephone

##### Ex-Officio Members

Abbie Hudgens, Administrator, BWC

Mike Shinnick, Manager, WC, TDC&I Designee

##### Also Attending

Christy Allen, Asst. Treasurer

Troy Haley, BWC Legislative Liaison

Larry Scroggs, ACWC Administrator

**Chairman David Lillard** called the meeting to order at approximately 1:30 p.m. Central. A physical quorum of voting members was established. The Chairman welcomed new Council member, **Joy Baker**, who is the Director of Risk Management for the City of Johnson City, Tennessee. Council member **Baker** will serve as a representative of local government. She was appointed by Governor Bill Haslam.

**The Chair** addressed the first item on the meeting agenda, which was to approve the minutes of the previous meeting held on April 3, 2017. The minutes were approved on a unanimous voice vote, upon motion by Council member **Bruce Fox**, seconded by Council member **Bob Pitts**.

**The Chair** addressed the next agenda item under New Business, recognizing **Mike Shinnick**, Manager of the Workers' Compensation Insurance Division of the Tennessee Department of Commerce & Insurance, who presented an **Overview of Tennessee's Workers' Compensation Market Conditions and Environment**. Mr. Shinnick's power point presentation may be viewed on the Advisory Council website

at <http://www.treasury.tn.gov/claims/wcac/Overview-Tennessee-Workers-Compensation-Market-Conditions-Environment.pdf>

Council member **Gregg Ramos** asked Mr. Shinnick whether he foresaw a premium increase for workers' compensation insurance in the coming year. Mr. Shinnick indicated it was very likely, considering the significant increase in payroll growth across the state, particularly in manufacturing. He stated the overall increase in economic activity has resulted in an expansion of the economic base.

**The Chair** addressed the next agenda item under New Business, recognizing **David Wilstermann**, analyst and consultant to the Advisory Council, who presented a ***Statistical Analysis of Workers' Compensation Data*** compiled by the Tennessee Department of Labor & Workforce Development for calendar years 2009-2016. Mr. Wilstermann's power point presentation may be viewed on the Advisory Council website at <http://www.treasury.tn.gov/claims/wcac/Tennessee-Workers-Compensation-Data-2016.pdf> Mr. Wilstermann's full report may be viewed at <http://www.treasury.tn.gov/claims/wcac/TN-Workers-Comp-Data-2009-2016.pdf>

Council member **Ramos** asked Mr. Wilstermann if data trends relative to the impact of the workers' compensation reforms would be more meaningful with the accumulation of another full year's data, and Mr. Wilstermann responded affirmatively. His report summary indicates that 2016 marked the first year in which more permanent injury cases were concluded with dates of injuries *after* implementation of the Reform Act of 2013 than with dates of injury prior to the Act's implementation.

At approximately 2:15 p.m., Council member **Fox** excused himself from the meeting, explaining he had a commitment elsewhere. His departure left the Council without a physical quorum, which meant the items to follow were considered for informational purposes only.

**The Chair** proceeded to the third agenda item under New Business, recognizing **Eddie Herrera**, Director of Plan Administration for the National Council of Compensation Insurance (NCCI), who presented the ***Tennessee Workers' Compensation Residual Market Administration Plan Report***. Mr. Herrera's power point presentation may be viewed on the Advisory Council's website at <http://www.treasury.tn.gov/claims/wcac/Tennessee-Workers-Compensation-Residual-Market-Administration.pdf>

Council member **Pitts** asked Mr. Herrera to identify the seven direct assignment carriers now operating in Tennessee. (Following the meeting Mr. Herrera provided Council members with the requested information. The seven carriers are: Ace American Insurance Company, American Zurich Insurance Company, Auto Owners Insurance Company, Builders Mutual Insurance Company, Cincinnati Insurance Company, Continental Casualty Company, and Hartford Underwriters Insurance Company.)

**The Chair** next addressed the fourth agenda item under New Business, recognizing **Ann Marie Smith**, actuary of NCCI, via telephone conference, and **Amy Quinn** of NCCI, who was present, for a presentation of an overview of the ***Tennessee Workers' Compensation Voluntary Loss Cost and Assigned Risk Rate Filing*** proposed to be effective on March 1, 2018. Ms. Smith's Power Point presentation may be viewed on the Advisory Council website at <http://www.treasury.tn.gov/claims/wcac/Voluntary-Loss-Cost-Assigned-Risk-Rate-Filing.pdf>

Council member **Pitts** asked Ms. Smith how a reduction in the Assigned Risk market could be achieved, considering the trend toward declining loss cost and loss adjustment expense. Ms. Smith and Mr.

Shinnick both commented that continuing loss cost reductions could ultimately attract more voluntary market carriers and reduce the assigned risk pool.

**The Chair** opened the floor for discussion of the presentations. Council member **Ramos** said that based on the presentations to the Council, a “workers’ compensation crisis never existed in Tennessee. It was a façade and was not borne out by actual evidence,” considering the strength of the insurance market. He stated that based on his observations as a Council member, a “rosy picture” of the workers’ compensation voluntary market existed as far back as 2012.

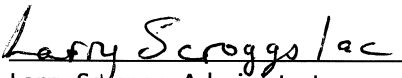
Council member **Pitts** responded, stating in his experience over 25 or 30 years there had been “times of real trauma with workers’ compensation.” “Just about every year there have been adjustments made in the General Assembly that have had a positive impact, before and including the (Reform Act of 2013), but to conclude that “just because insurance companies didn’t lose money did not mean reforms were unnecessary.”

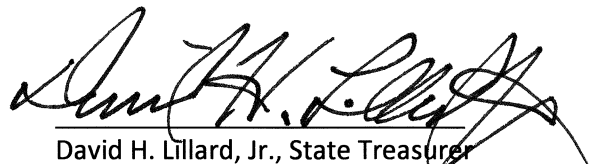
Council member **Ramos** said in his opinion there was no need for the 2013 Reform Act, considering the 2004 Act was working well. “Medical costs and indemnity were going down and stabilizing (under the 2004 Act). I agree certain fixes were necessary and had a positive impact, but contrary to objective evidence, we went overboard. Throwing out the old system created the biggest bureaucracy that Tennessee has now. The reforms were done on the backs of working men and women.” Council member **Pitts** responded that part of the effort behind the 2013 Reform Act was to bring Tennessee in line with the cost of workers’ compensation in other southeastern states. “We were anti-competitive and it was killing us in economic recruitment.”

**The Chair** next recognized **Troy Haley** of the Bureau of Workers’ Compensation, for an explanation of the proposed new *Statistical Data form (SD-2)*. Mr. Haley asked the Council members to review the proposed form and respond within two weeks with any suggestions, comments and concerns.

**The Chair** thanked the presenters for their presentations and invited Council members to review all reports and presentations in preparation for making a formal recommendation to the Commissioner of the Department of Commerce & Insurance relative to the Tennessee Voluntary Loss Cost Filing at the next scheduled meeting of the Advisory Council on **October 11, 2017**.

The meeting was adjourned at approximately 3:30 p.m.

  
Larry Scroggs, Administrator  
Advisory Council on Workers’  
Compensation

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