



STATE OF OKLAHOMA

WORKERS' COMPENSATION COMMISSION

M I N U T E S

of the

WORKERS' COMPENSATION COMMISSION

FOR THE STATE OF OKLAHOMA

for the

April 9, 2015

Regular Public Meeting

MINUTES OF THE MEETING OF THE WORKERS' COMPENSATION COMMISSION FOR THE STATE OF OKLAHOMA

NOTICE OF THIS MEETING WAS FILED WITH THE SECRETARY OF STATE ON MARCH 24, 2015.

The members of the Workers' Compensation Commission for the state of Oklahoma met at 1915 N. Stiles Ave., Oklahoma City, Oklahoma, on April 9, 2015.

Members present: Chairman Troy Wilson, Commissioner Denise Engle, and Commissioner Bob Gilliland.

Others in attendance on behalf of the Commission: Rick Farmer, Clif Cypert, Andrea Bair, Neal Leader, Kim Bailey, and Holly Miller.

Chairman Wilson expressed appreciation for those in attendance. After the roll was taken, he announced the presence of a quorum and the Statement of Compliance with the Open Meetings Act was read. The meeting was called to order at approximately 1:30 p.m.

Approval of Minutes

Chairman Wilson presented the minutes of the March 23, 2015 public meeting for approval.

Motion: Chairman Wilson moved to approve the minutes of the March 23, 2015 public meeting.

Second: Commissioner Engle.

Those voting aye: Commissioner Engle, Commissioner Gilliland, and Chairman Wilson.

The motion carried.

1. Proposed Commission Approval of Group Self-Insurance Application for New Membership

Commission Rule 810:25-11-3 states a new membership to a self-insurance group may not become effective without Commission approval. All applications for membership are filed with the Commission. The application includes evidence of the execution of the indemnity agreement, power of attorney, and joint and several liability agreement, as required by 810:25-11-15, with signed approval of the applicant by the association, and is accompanied by a current balance sheet and income statement.

Chairman Wilson recognized Andrea Bair, Deputy Director Insurance Services, to recommend that the Commission approve the following applicants to the respective self-insurance group associations to which they are applying for membership:

Oklahoma Automobile Dealers Self-Insurance Association (#75058)

Orr Motors of Greenville, Inc. dba Toyota of Lawton

Andrea Bair recommended approval.

Motion: Commissioner Engle moved to approve the application of Orr Motors of Greenville, Inc. for new membership to the Oklahoma Automobile Dealers Self-Insurance Association (#75058).

Second: Commissioner Gilliland.

Those voting aye: Commissioner Engle, Commissioner Gilliland, and Chairman Wilson.

The motion carried.

2. Discussion and Consideration of Approving the Distribution of Surplus Monies to Members of the Oklahoma Health Care Association

Oklahoma Health Care Association (Association), a group self-insurance association, requested a distribution of surplus back to its members in the amount of \$600,000 from the three fiscal years ending on June 30, 2011, June 30, 2012, and June 30, 2013. The Association's December 31, 2014, financial statement shows an overall surplus for the Association of more than \$3,665,000. Commission Rule 810:25-11-10 states that any surplus monies may be declared refundable by the association's board. The date and manner of the distribution shall be declared by the association's board and shall be in accordance with the association's bylaws. The board shall submit the distribution request to the Commission, with all supporting documents.

Chairman Wilson recognized Andrea Bair, Deputy Director, Insurance Services, to make a recommendation that the Commission approve the distribution of surplus monies to members of the Oklahoma Health Care Association.

Motion: Commissioner Engle moved to approve the distribution of \$600,000 of surplus monies to members of the Oklahoma Health Care Association.

Second: Commissioner Gilliland.

Those voting aye: Commissioner Engle, Commissioner Gilliland, and Chairman Wilson.

The motion carried.

3. Discussion and Consideration of Adopting Urine Drug Screen Guidelines

Chairman Wilson tabled this item for possible consideration at a future meeting.

4. Discussion and Consideration of Assessment and Assessment Rate for the Multiple Injury Trust Fund (MITF)

The Commissioners of the Workers' Compensation Commission are required to establish an assessment rate applicable to each mutual or interinsurance association, stock company, CompSource Oklahoma, or other insurance carrier writing workers' compensation insurance in this state, each employer carrying its own risk, and each group self-insurance association, for purposes of computing the assessment necessary to pay the annual obligations of the Multiple Injury Trust Fund determined on or before December 31 of each year by the MITF Director, to be outstanding for the next calendar year. The rate shall be equal for all parties required to pay the assessment. The maximum assessment rate is six percent (6%). The Commission considered establishing the assessment rate for the MITF. Mark Bolerjack, the Chief

Financial Officer, from the Multiple Injury Trust Fund was available to answer questions about the upcoming annual assessment.

Chairman Wilson recognized Andrea Bair, Deputy Director, Insurance Services, to make a recommendation that the Commission approve the maximum assessment rate of six percent.

Motion: Commissioner Engle moved to adopt the assessment rate of six percent as proposed.

Second: Commissioner Gilliland.

Those voting aye: Commissioner Engle, Commissioner Gilliland, and Chairman Wilson.

The motion carried.

5. Proposed FY-2016 Contract between the Commission and the Oklahoma Office of the Attorney General

The Commission considered a proposed contract engaging the legal services of the Oklahoma Office of the Attorney General for FY-2016. The cost of the contract is \$137,568.00, which includes salary, benefits and charges by the Office of the Attorney General.

Motion: Commissioner Gilliland moved to enter into the proposed contract engaging the legal services of the Attorney General's Office for FY'16 in the amount of \$137,568.00.

Second: Chairman Wilson.

Those voting aye: Commissioner Gilliland and Chairman Wilson.

Abstention: Commissioner Engle.

The motion carried.

6. Consent Agenda for Travel Vouchers Currently Outstanding

85A O.S. §23 states any commissioner or employee of the Commission shall be entitled to receive his or her necessary traveling expenses as provided in the State Travel Reimbursement Act. The expenses shall be certified by the person who incurred them and shall be allowed and paid on presentation of vouchers approved by the Commission. In accordance with this section, the Commission considered a vote to approve the currently outstanding vouchers.

Chairman Wilson recognized Clif Cypert, Deputy Director, to present a recommendation to the Commission. The Consent Agenda for Travel Vouchers is labeled as Agenda Item 6 and included as a part of these minutes. Clif Cypert made the recommendation to approve the listed travel vouchers.

Motion: Commissioner Engle moved to approve the vouchers listed in the Consent Agenda with the exception of her own voucher which would be considered in a separate action.

Second: Commissioner Gilliland.

Those voting aye: Commissioner Engle, Commissioner Gilliland.

Abstention: Chairman Wilson.

The motion carried.

Motion: Chairman Wilson moved to approve Commissioner Engle's travel voucher listed in the Consent Agenda.

Second: Commissioner Gilliland.

Those voting aye: Commissioner Gilliland, Chairman Wilson.

Abstention: Commissioner Engle.

The motion carried.

7. Consent Agenda for Payments Made from the Workers' Compensation Fund Currently Outstanding

85A O.S. §22(A)(5) states that all expenditures in the administration of the act shall be allowed and paid from the Workers' Compensation Fund on the presentation of itemized vouchers approved by the Commission. In accordance with this section, the Commission considered a vote to approve the currently outstanding vouchers.

Chairman Wilson recognized Clif Cypert, Deputy Director to present his recommendations to the Commission to approve payments made from Workers' Compensation Fund. The list of payments is labeled as Agenda Item 7 and is included as part of these minutes. Clif Cypert made the recommendation.

Motion: Chairman Wilson moved to approve the currently outstanding vouchers as recommended.

Second: Commissioner Gilliland.

Those voting aye: Commissioner Engle, Commissioner Gilliland, and Chairman Wilson.

The motion carried.

8. Reports

A. Report from Andrea Bair, Deputy Insurance Services

Chairman Wilson recognized Andrea Bair to report on the individual own risk employer permits issued by the Insurance Division and provide an overview of the security required to be posted by those employers.

The following employers have completed their annual renewal since the Commission's last regular meeting and individual Own Risk employer permits were issued to them by the Insurance Division:

AdvancePierre Foods, Inc. (Own Risk #18039)
Hudiburg Auto Group (Own Risk #17922)
Mathis Bros. Oklahoma City LLC (Own Risk #19602)
Oklahoma Blood Institute (Own Risk #19915)
Rollins, Inc. (Own Risk #12219)
American Waste Control (Own Risk #19614)
Southwest Electric Co. (Own Risk #15824)

Two were granted extensions, in compliance with Rule 810:5-9-1:

Jordan Iron Works, Inc. (Own Risk #19189) Extended To 06/01/15.

Knight Transportation, Inc. (Own Risk #19823) Extended to 05/01/15.

Additional activities included:

Oklahoma Option Insured Guaranty Fund Assessment under Title 85A O.S. 206(A) and Oklahoma Option Self-Insured Guaranty Fund Assessment under Title 85A O.S. 207(A) notices to Qualified Employers and Carriers were sent February 27 with a due date of April 1. There were 33 Qualified Employers. The assessment was 3 percent of either A) Gross Direct Written Premium that would have been paid for Self-Insured Qualified Employers; or B) Gross Direct Written Premiums paid to a carrier for Insured Qualified Employers.

A total of \$80,868.71 was collected on both assessments from 17 Qualified Employers. OID is providing the necessary assistance to get the outstanding 13 employers and one insurance carrier to report and pay the assessment. The Oklahoma Insurance Department will meet with WCC staff on Friday, April 17. They are currently assisting in the follow up of the outstanding assessments. A follow up for the May meeting will include a report on the payment of assessments.

B. Report from Clif Cypert, Deputy Director

Chairman Wilson recognized Clif Cypert to report on the following:

Financial Update

Mr. Cypert said the Commission will finish the fiscal year successfully due to:

- Careful management of operating expenses and not hiring several staff that we had originally planned to hire which includes a second law clerk, a compliance person in Tulsa, another clerk in Tulsa, and a paralegal. Mr. Cypert said the Commission is still struggling to keep up with the work and desperately needs more people.
- Lower than anticipated IT costs.
- In March, we had \$103,331 in income and \$323,438 in expenses. With the Commission's appropriation, we broke even for the month.

Performance Management Update

We had three managers (Clif Cypert, Renea Martin, and Holly Miller) attend the Performance Management Process for the Commission.

The PMP class was on March 25, 2015, and the information was well received by our staff. We have an additional three people (Ray Andrews, Andrea Bair, and Ann Campbell) scheduled for a class in April.

A list of assignments with deadlines has been completed and will be issued tomorrow to the designated managers.

9.- 10. Executive Session

Pursuant to 25 O.S. § 307(B)(4), an Executive Session was held for the purpose of conducting confidential communications between the Commission and its attorneys concerning ongoing investigation by the Commission's Compliance Division involving A to Z Recycling LLC and the ongoing investigation by the Commission's Compliance Division and the bankruptcy involving the Texoma Peanut Company, a former self-insured.

The Commission's counsel from the Attorney General's Office advised that public disclosure of the communications relating to these investigations and bankruptcy would seriously impair the ability of the Commission and its counsel to take appropriate action related to the ongoing investigations and bankruptcy proceeding and to protect the employees of both businesses.

Motion: Chairman Wilson moved to (i) determine that disclosure of the communications will seriously impair the ability of the Commission to take appropriate action in ongoing investigation by the Commission's Compliance Division involving A to Z Recycling, LLC and the bankruptcy proceeding of Texoma Peanut Company; and (ii) go into Executive Session for purposes of:

- a. Discussing the ongoing investigation by the Commission's Compliance Division involving A to Z Recycling, LLC, and F&M Bank & Trust Company; and ongoing investigation and bankruptcy of Texoma Peanut under §307(B)(4); and,
- b. Discussing the hiring, salary or employment of the Candidate A, Candidate B, Candidate C, Candidate D and/ or Candidate E for the position of Commission ALJ; and discussing the employment evaluations, promotion, or performance of the Administrative Law Judges Shane Curtin, Mike Egan, Tara Inhofe and Tish Sommer, under § 307(B)(1).

Second: Commissioner Gilliland.

Those voting aye: Commissioner Engle, Commissioner Gilliland, and Chairman Wilson.

The motion carried.

Vote to Reconvene in Open Session

Motion: Chairman Engle moved to reconvene the public meeting in Open Session.

Second: Commissioner Gilliland.

Those voting aye: Commissioner Engle, Commissioner Gilliland, and Chairman Wilson.

The motion carried.

Discussion and action from Executive Session

Motion: Commissioner Gilliland moved that the Commission extend an offer to Blair McMillan for the position of Administrative Law Judge at the salary discussed in Executive Session, to begin work on or after May 1, 2015.

Second: Commissioner Engle.

Commissioner Engle requested an amendment that the motion to include Commissioner Gilliland has the authority to extend the offer. Commissioner Gilliland accepted the amendment.

Those voting aye: Commissioner Engle, Commissioner Gilliland, and Chairman Wilson.

The motion carried.

Announcement

Chairman Wilson announced that the Commission's next regular meeting has been rescheduled for Friday, May 8, 2015 at 1:30 p.m.

Adjournment

Motion to adjourn: Commissioner Gilliland.

Second: Commissioner Engle.

Those voting aye: Commissioner Engle, Commissioner Gilliland, and Chairman Wilson.

The motion carried.

The meeting was adjourned.

<u>TRAVEL</u>	<u>Invoice No.</u>	<u>Amount</u>	<u>Voucher No.</u>
Denise Engle	Travel031015	62.79	1326
Ray Andrews	Travel021115	54.97	1368
William Gillock	Travel032015	128.55	1370
Tara Inhofe	Travel032515	64.04	1371
Tara Inhofe	Travel040115	64.11	1372
Shane Curtin	Travel022515	62.15	1373
Michael Egan	Travel040115	62.22	1374
Rick Farmer	Travel031515	360.72	1379
Troy Wilson	Travel031515	215.66	1380

INVOICES	Invoice No.	Amount	Voucher No.	Invoice Date	Billed Month
OMES - Tulsa Move	SM00000773	3,002.76	1301	3/16/2015	Cable-Comit
AT&T OneNet	1161703535	4.70	1335	3/1/2015	Mar. 2015
OMES - 369/865 SPLIT	OT00000821	7,117.17	1336	3/24/2015	Applied Comp
Standley Systems	INV486695	99.70	1363	3/27/2015	Jan-Mar 2015
Standley Systems	INV486693	268.00	1364	3/27/2015	Jan-Mar 2015
Standley Systems	INV486694	618.30	1365	3/27/2015	Jan-Mar 2015
Standley Systems	INV486696	1,247.49	1366	3/27/2015	Jan-Mar 2015
Standley Systems	INV486697	679.87	1367	3/27/2015	Jan-Mar 2015
OMES-OK Web Bill	3150092	1,544.53	1323	3/1/2015	Feb. 2015
Optum360	80011584176	609.85	1377	12/30/2014	
MailFinance	N5256992	239.61	1378	4/1/2015	Apr. 2015
MailFinance	H5248460	304.50	1381	3/29/2015	Apr. 2015
Standley Systems	INV435009	116.06	1396	9/26/2014	Jul-Sep 2014
Standley Systems	INV435010	993.18	1397	9/26/2014	Jul-Sep 2014
Standley Systems	INV435011	655.68	1398	9/26/2014	Jul-Sep 2014
Standley Systems	INV435006	247.21	1399	9/26/2014	Jul-Sep 2014
Standley Systems	INV435007	695.63	1400	9/26/2014	Jul-Sep 2014
Standley Systems	INV435008	1,293.45	1401	9/26/2014	Jul-Sep 2014