



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

June 9, 2016

Regular Public Meeting

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

The members of the Workers' Compensation Commission for the state of Oklahoma met at 1915 N. Stiles Ave., Oklahoma City, Oklahoma, on June 9, 2016.

Members present: Chairman Robert Gilliland, Commissioner LeRoy Young and Commissioner Mark Liotta. Others in attendance on behalf of the Commission: Jason Seay, Kim Bailey, Clif Cypert, Stormy Moore, Eric Russell and Tiffany Pratt.

Chairman Gilliland 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 Meeting Act was read. The meeting was called to order at approximately 1:30 p.m.

Approval of Minutes

Chairman Gilliland presented the minutes of the May 12, 2016, May 13, 2016, and May 19, 2016 public meetings for approval.

Motion: Commissioner Liotta moved to approve the minutes of the May 12, 2016, May 13, 2016, and May 19, 2016, public meeting.

Second: Commissioner Young.

Those voting aye: Commissioner Liotta, Commissioner Young, and Chairman Gilliland.

The motion carried.

1. Commission Approval of Group Self-Insurance Applications 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. The following is the applicant and the self-insurance group association to which they are applying for membership:

Oklahoma Automobile Dealers Self- Insured Association (# 75058):

#92 Membership Change– from Harlan Motor Co. to Harlan Ford, Inc.

Stormy Moore, Insurance Director, made a presentation and recommended approval.

Motion: Commissioner Young moved to approve the application to the Oklahoma Automobile Dealers Self-Insured Association (#75058).

Second: Commissioner Liotta.

Those voting aye: Commissioner Liotta, Commissioner Young, and Chairman Gilliland.

The motion carried.

2. Commission Approval of Group Self-Insurance Applications 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. The following is the applicant and the self-insurance group association to which they are applying for membership:

Oklahoma Health Care Association (#75175)

Sooner Health Services III, LLC.

Stormy Moore, Insurance Director, made a presentation and recommended approval.

Motion: Commissioner Liotta moved to approve application of Sooner Health Services III, LLC to Oklahoma Health Care Association (#75175).

Second: Commissioner Young.

Those voting aye: Commissioner Liotta, Commissioner Young, and Chairman Gilliland.

The motion carried.

3. Discussion and Consideration of Distribution of Surplus Monies to Members of the Electric Self-Insurer's Fund

Oklahoma Association of Electric Self-Insurer's Fund (Group), a group self-insurance association, requested a distribution of surplus monies back to its members in the amount of \$204,223 from closed claim years 1987 (\$8,896) and 2006 (\$195,327). The Group had a financial surplus of more than \$9,216,526 for all years combined

for the period ending December 31, 2014. 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. The Commission considered approving the distribution of surplus monies to members of the Oklahoma Association of Electric Self-insurers.

Stormy Moore, Insurance Director, made a presentation and recommended approval.

Motion: Commissioner Young moved to approve the distribution of surplus recommended by Insurance Director in the total amount of \$204,223 to the members of Oklahoma Association of Electric Self-insurers Fund.

Second: Commissioner Liotta.

Those voting aye: Commissioner Liotta, Commissioner Young, and Chairman Gilliland.

The motion carried.

4. Discussion and Consideration of Reducing the Security Deposit of YRC Inc./Yellow Transportation, a Former Own Risk Employer

A security deposit posted with the Commission as required by 810:25-9-4 must remain in place, at its existing amount, for two years after an individual own risk employer voluntarily leaves self-insurance. A security deposit may be reduced at the Commission's discretion after the two year waiting period upon application by the employer and submission of current financial statements and workers' compensation loss runs. The Commission considered whether to reduce a Letter of Credit for YRC Inc. / Yellow Transportation, a former Own Risk Employer.

Stormy Moore, Insurance Director, made a presentation and recommended taking no action.

Motion: Commissioner Liotta moved to take no action regarding the security deposit of YRC Inc./Yellow Transportation, a former Own Risk Employer.

Second: Commissioner Young.

Those voting aye: Commissioner Liotta, Commissioner Young, and Chairman Gilliland.

The motion carried.

5. Discussion and Consideration of Reducing the Security Deposit of BOK Financial, N.A., a Former Own Risk Employer

A security deposit posted with the Commission as required by 810:25-9-4 must remain in place, at its existing amount, for two years after an individual own risk employer voluntarily leaves self-insurance. A security deposit may be reduced at the Commission's discretion after the two year waiting period upon application by the employer and submission of current financial statements and workers' compensation loss runs. The Commission considered whether to reduce a Letter of Credit for BOK Financial, N.A., a former Own Risk Employer.

Stormy Moore, Insurance Director, made a presentation and recommended taking no action.

Motion: Chairman Gilliland moved to take no action regarding the security deposit of BOK Financial, N.A., a former Own Risk Employer.

Second: Commissioner Young.

Those voting aye: Commissioner Liotta, Commissioner Young, and Chairman Gilliland.

The motion carried.

6. Discussion and Determination of Account Balances of the Oklahoma Option Insured Guaranty Fund and the Oklahoma Option Self-insured Guaranty Fund

- A. *Until the Insured Guaranty Fund under the Oklahoma Option contains two million dollars (\$2,000,000.00) or if the amount in the fund falls below one million dollars (\$1,000,000.00), each insurer shall be assessed. If the account balance prompts an assessment to be issued for the Option Insured Guaranty Fund, it shall be paid to the Insured Guaranty Fund, care of the Commission. Each insurer shall be assessed two percent (2%) of all gross direct premiums written during each quarter of the calendar year for insurance covering a benefit plan under this act after deducting from such gross direct premiums, return premiums, unabsorbed portions of any deposit premiums, policy dividends, safety refunds, savings and other similar returns paid or credited to policyholders.*
- B. *Until the Self-insured Guaranty Fund under the Oklahoma Option contains one million dollars (\$1,000,000.00) or if the amount in the fund falls below seven hundred fifty thousand dollars (\$750,000.00), each self-insurer shall be assessed. If the account balance prompts an assessment to be issued for the Option Self-*

insured Guaranty Fund, it shall be paid to the Self-insured Guaranty Fund, care of the Commission. Each self-insurer shall be assessed a fee at the rate of one percent (1%) of the total compensation for permanent partial disability awards paid out during each quarter of the calendar year by the employers.

Stormy Moore, Deputy, Insurance Services, presented the account balances of each of the Option Guaranty Funds to the Commission and made the recommendation to determine the need for an assessment.

Motion: Chairman Gilliland moved that the Commission determine the balance of the Insured Guaranty Fund under the Oklahoma Option is below the statutory amount, therefore, requiring an assessment.

Second: Commissioner Liotta.

Those voting aye: Commissioner Liotta, Commissioner Young, and Chairman Gilliland.

The motion carried.

Motion: Chairman Gilliland moved that the Commission determine the balance of the Self-insured Guaranty Fund under the Oklahoma Option is below the statutory amount, therefore, requiring an assessment.

Second: Commissioner Liotta.

Those voting aye: Commissioner Liotta, Commissioner Young, and Chairman Gilliland.

The motion carried.

7. Discussion and Consideration of Approval of Annual Report

Pursuant to 85A O.S. § 101(A), on or before the first day of July each year, the Commission shall prepare, make public and submit a report for the prior calendar year to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and each member of the Legislature, containing a statement of the number of awards made and the causes of the accidents leading to the injuries for which the awards were made, total workload data of the administrative law judges, including a detailed report of the workload and judgments written by each judge, a detailed statement of the expenses of the Commission, together with any other matter which the Commission deems proper to report. The Commission considered approval of the 2015 Annual Report as presented at the meeting.

Director of Counseling Services, Eric Russell was recognized to report and recommended approval.

Motion: Chairman Gilliland moved that the Commission approve the annual report.

Second: Commissioner Liotta.

Those voting aye: Commissioner Liotta, Commissioner Young and Chairman Gilliland.
Chairman Gilliland commended Eric Russell for his preparation of the annual report.

The motion carried.

8. Personnel Policies

The Human Resources Director, Clif Cypert made a report on the proposed Family Leave and Medical Act (FLMA) policy amendments.

Clif Cypert recommended the Commission approve the policy as amended.

Motion: Chairman Gilliland moved to approve the amendments to the Family Leave and Medical Act (FMLA) Policy.

Second: Chairman Young.

Those voting aye: Commissioner Liotta, Commissioner Young, and Chairman Gilliland.

The motion carried.

9. 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.

Motion: Commissioner Liotta moved to approve the travel vouchers currently outstanding, which are included as a part of these minutes.

Second: Chairman Gilliland.

Those voting aye: Commissioner Liotta, Commissioner Young, and Chairman Gilliland.

The motion carried.

10. Executive Session for Confidential Communications Between the Commission and Its Attorneys Concerning Ongoing Bankruptcy Involving

Seventy Seven Energy, and Related Determination Regarding the Bankrupt Status as the Impaired Self-Insured, Pursuant to Title 25 O.S. § 307(B)(4)

Pursuant to 25 O.S. § 307(B)(4), an Executive Session was proposed for the purpose of conducting confidential communications between the Commission and its attorneys concerning ongoing bankruptcy involving Seventy Seven Energy, a former self-insured.

The Commission's legal counsel advised that public disclosure of the communications relating to this bankruptcy would seriously impair the ability of the Commission and their counsel to take appropriate action related to the ongoing bankruptcy proceeding and protect the Commission's interest.

Motion: Chairman Gilliland moved to (a) determine that disclosure will seriously impair the ability of the commission to take appropriate action in the ongoing bankruptcy proceeding and protect the Commission's interest and (b) vote to go into Executive Session.

Second: Commissioner Liotta.

Those voting aye: Commissioner Liotta, Commissioner Young, and Chairman Gilliland.

The motion carried.

b. Vote to Reconvene in Open Session

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

Second: Commissioner Young.

Those voting aye: Commissioner Liotta, Commissioner Young, and Chairman Gilliland.

The motion carried.

Chairman Gilliland announced that no action was taken in Executive Session.

Announcements

The next Regular Meeting of the Commission is scheduled for July 14, 2016.

Adjournment

Motion: Chairman Gilliland moved to adjourn.

Second: Commissioner Liotta.

Those voting aye: Commissioner Liotta, Commissioner Young, and Chairman Gilliland.

The motion carried.

Chairman Gilliland announced the meeting was adjourned.