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Details:

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**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on ... Labor, Elections and Urban
Affairs (SC-LEUA)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

SB 430
?

**WISCONSIN
WORKER'S COMPENSATION
ADVISORY
COUNCIL**

**2005 – 2006
Biennial Report**

December, 2006

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Department of Workforce Development
Jim Doyle, Governor
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Frances Huntley-Cooper, Division Administrator

January, 2007

TO: Worker's Compensation Advisory Council & Liaisons

The 2005-2006 Biennial Report for the Worker's Compensation Advisory Council (WCAC) presents a detailed description of the Council and Division's activities and achievements over the 2005 – 2006 biennium. The report also highlights the Worker's Compensation Advisory Council "agreed bill" process used by labor and management to preserve and improve the Wisconsin worker's compensation law.

The report begins with a short history and purpose statement for the Worker's Compensation Advisory Council. A list highlighting some of the Council's achievements through the "agreed bill" process over the past 20 years follows. This list is grouped according to the primary core values of the Wisconsin worker's compensation system. A list of the current Council membership is provided with a short biography of each member. The "agreed bill" process is explained in detail, followed by a summary of the most recent amendments, proposed by the Council and successfully passed by the Legislature as 2005 Wisconsin Act 172.

You will read about several new committees created to study worker's compensation issues relating to health care, employee leasing organizations, permanent total disability rates, and the logging industry. The Safety Partnership Committee is continuing its efforts to improve workplace safety for Wisconsin employees. The committee's last safety campaign focused on back injuries due to lifting in the health care industry.

The Worker's Compensation Division administers the worker's compensation program for Wisconsin. A division overview provides insight into program goals. Workload statistics and accomplishments for the 2005 – 2006 biennium are summarized by program area. Program funding and special benefit funds managed by the Worker's Compensation Division are identified and explained.

The report provides in-depth insight into the unique working mechanism of the Worker's Compensation Advisory Council and the Worker's Compensation Division.

Sincerely,

Frances Huntley-Cooper
Council Chairperson
and Division Administrator

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PURPOSE

Section 102.14(2) of the Wisconsin Statutes created the Wisconsin Worker's Compensation Advisory Council to advise the Department of Workforce Development and Wisconsin Legislature on policy matters concerning the development and administration of the worker's compensation law. The Council provides a vehicle for labor and management representatives to play a direct role in recommending changes in the worker's compensation law to the Legislature.

The formal goals of the Worker's Compensation Act were developed in 1909 by the legislative committee that recommended creation of the Council. The Council's role is to advise the Worker's Compensation Division in the achievement of these goals and objectives. One of the important enduring values of the Council is maintaining the overall stability of the worker's compensation system without regard to partisan changes in the legislative or executive branches of government. Accordingly, the Council's primary responsibilities are:

1. to advise the Department in carrying out the purposes of Chapter 102 of the Wisconsin Statutes;
2. to submit recommendations with respect to Chapter 102 amendments to each regular session of the Legislature;
3. to report its views on any pending bill relating to Chapter 102 to the proper legislative committee; and
4. to meet to discuss any matters of legislative concern related to Chapter 102 at the request of the chairpersons of the Senate and Assembly Labor Committees.

HISTORY

The original bill creating the Wisconsin Worker's Compensation Act was passed by the Legislature as Chapter 50, Laws of 1911, becoming effective May 3, 1911. The provisions abolishing the defenses of negligence of a fellow worker and assumption of risk became effective September 1, 1911. Administration of the Wisconsin Workmen's Compensation Act was placed in the hands of the Industrial Accident Board, created May 10, 1911. The Industrial Accident Board then became known as the Industrial Commission on July 1, 1911. The first commissioners were C. H. Crownhart (chairman), John R. Commons, and J. D. Beck.

Wisconsin was the first state to enact a constitutionally acceptable worker's compensation program. The program is based on the concept that employers have an obligation to compensate injured workers for temporary and permanent injuries resulting from their employment, to return them to employment as soon as practical, and to pay all reasonable health care bills related to the injury.

Before the significant year of 1911 ended, twelve states had enacted worker's compensation acts. Several of these initial acts were declared unconstitutional on the grounds they deprived the employer of property without due process of law. Wisconsin, with a voluntary coverage provision, was the first constitutional act to go into effect.

It is believed a citizen advisory council existed in one form or another since the inception of the Act. The earliest remaining documentation of Council activity in the Worker's Compensation Division's files is an agenda and transmittal letter, dated December 8, 1944, scheduling a meeting of the Advisory Committee on Workmen's Compensation Legislation to begin considering amendments to the Workmen's Compensation Act for the 1945 Legislature.

The Worker's Compensation Advisory Council, as we know it today, was created by Chapter 327, Laws of 1967, effective February 18, 1968. It replaced the Advisory Committee to the Labor and Industry Review Board previously created as part of Chapter 281, Laws of 1963.

ACCOMPLISHMENTS

Worker's Compensation Advisory Council

Over the past 20 years, the Council has made numerous amendments to the worker's compensation law through the "agreed bill" process. Management and Labor have cooperatively worked to keep the Wisconsin Worker's Compensation Act an up-to-date and effective law. Following are some of the highlights of these cooperative accomplishments. They are grouped according to the core values of the Wisconsin worker's compensation system.

UNIVERSAL COVERAGE

- 1980 -- Allowed employing departments within state government more discretion for the payment of claims.
- 1984 -- Clarified the circumstances under which occupational stress claims could be compensated.
- 1984 -- Defined situations in which vocational students could be compensated for injuries incurred during training.
- 1985 -- Clarified situations in which employees engaging in wellness programs could be compensated for injuries arising from such programs.
- 1990 -- Instituted leasing agencies as responsible parties for worker's compensation of leased employees if the agency retains rights or obligations of the employment contract.
- 1990 -- Created the Uninsured Employers Fund to be administered by the Department (implemented in 1994).
- 1998 -- Clarified that AFDC-JOBS and FSET program participants are employees of the public agencies administering the programs unless the work-site agency agreed to provide insurance coverage.

ADEQUATE BENEFITS

- 1980 to 1998 -- Increased the rate of disability and death benefits incrementally.
- 1986 -- Insured that the compensation paid to part-time employees would not exceed the actual earnings of the part-time job.
- 1986 -- Allowed proportionate restoration of employee sick leave when it was inappropriately used instead of worker's compensation benefits.
- 1988 -- Provided for workers injured on part-time jobs to have temporary disability benefits increased to normal full-time earnings for comparable work with the same employer if the worker is employed full-time at another job for not restricting availability for full-time work.

LOW ADMINISTRATIVE COSTS

- 1986 -- Addressed medical disputes by allowing the Department to make determinations on the reasonableness and necessity of treatment to which medical practitioners must adhere.
- 1988 -- Clarified authority to permit divided or partial insurance coverage.
- 1991 -- Instituted strategies and processes to address reasonableness of medical fees and necessity of medical treatments.

PROMPT RETURN TO WORK

- 1980 -- Created limitations for permanent disability awards to physical limitation only when employee returns to former employment when there is no less than a 15% wage loss.
- 1984 -- Clarified circumstances in which lump sum advances can be made to the injured worker.

LOW LITIGATION

- 1986 -- Clarified the authority of the Labor and Industry Review Commission (LIRC) to set aside or modify their own or a hearing examiner's order within one year of its issuance.
- 1986 -- Allowed LIRC greater discretion in correcting mistakes in its orders within the time period that an appeal could be made to circuit court.
- 1986 -- Permitted LIRC to reinstate an order that was set aside when further study indicates that this action is appropriate.
- 1988 -- Instituted the "tiebreaker" examination to address selected medical treatment questions.
- 1990 -- Created the nine-part test for independent contractors.

MEMBERSHIP CRITERIA

The creators of the worker's compensation law believed the two parties most concerned about the program – labor and management – should play a direct role in the future development of the law. Therefore, Section 15.227(4), Wisconsin Statutes, prescribes the Council's membership as follows:

5 employee representatives	(voting members)
5 employer representatives	(voting members)
3 insurer representatives	(non-voting members)
1 Department representative	(voting member)

The Council typically meets every two months. Members are not compensated for serving on the Council, but are entitled to reimbursement for expenses involved with attending meetings. However, their respective employers or organizations pay most member expenses.

A quorum for conducting formal business consists of a simple majority of the eleven members eligible to vote. In addition to the members prescribed by statute, the Department (then known as Industry, Labor and Human Relations) added seven non-voting members:

4 ex officio legislators	(non-voting members)
3 medical representatives	(non-voting members)

These non-voting participants were added to help insure good communications with the Legislature and health care organizations in the state. Health care organizations currently represented on the Council are the Medical Society of Wisconsin, the Wisconsin Chiropractic Association, and the Wisconsin Hospital Association.

Member nominations are submitted to the Secretary of the Department of Workforce Development. Nominations usually come from labor and management leaders, legislators, the Governor, and the Wisconsin Manufacturers and Commerce Association. The Department Secretary reviews and approves the Council appointment recommendations. Members are appointed for 5-year terms.

MEMBERSHIP LIST

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Ms. Bean received a Bachelor of Science in Business Administration at the University of Wisconsin-Stevens Point in 1995 and a Master of Business Administration from the University of Wisconsin-Oshkosh in 2004. She began her worker's compensation career at Sentry Insurance in 1997 as a Claims Representative. Ms. Bean worked many different states but was primarily responsible for Wisconsin and Minnesota. Ms. Bean joined Consolidated Papers, Inc., now known as Stora Enso, in 1998. In 1999, Ms. Bean became the Worker's Compensation Specialist helping run a self-insured and self-administered program. In October 2004 she was promoted to her current position of Worker's Compensation and Health Administration Manager, with the responsibility of managing the worker's compensation program as well as part of the health services area. Ms. Bean was appointed to the WCAC as a management representative in June 2004.

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Mr. Beiriger is a Government Relations Advisor and Association Manager with Cook & Franke, SC, a full-service law firm based in Milwaukee and Madison. Previously, Mr. Beiriger served as the chief staff officer and lobbyist for several associations, with particular emphasis on the construction industry. Mr. Beiriger received his Bachelor of Science degree from the University of Illinois at Urbana-Champaign and Master's degree from the University of Illinois at Chicago, with an emphasis on Marketing, Economics, and Human Resource Management. Mr. Beiriger, who holds a Certified Association Executive (CAE) designation from the American Society of Association Executives, is a member and past-president of the Wisconsin Society of Association Executives, and is a member of the Association of Wisconsin Lobbyists. He is also active on numerous boards for charitable organizations. Mr. Beiriger has served as a management representative on the WCAC since October 1994.

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Mr. Brand is currently Regional Sales Manager for Cypress Care, Inc., a national company that provides pharmacy benefit management services to the worker's compensation market. Mr. Brand has spent more than 20 years in the worker's compensation medical cost containment and case management arena. He served for 11 years as Wisconsin District Manager for CorVel Corporation. He also held a variety of management and sales positions throughout the Midwest for Intracorp. Mr. Brand served for three years as chairperson of the Wisconsin Manufacturers and Commerce Worker's Compensation Council. Mr. Brand holds a Bachelor of Science in Elementary Education and a Masters of Science in Rehabilitation Counseling Psychology, both from the University of Wisconsin- Madison. Mr. Brand has served on the WCAC since February 2004.

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Mr. Buchen is Vice President of Government Relations for Wisconsin Manufacturers & Commerce, a statewide business association representing more than 4,600 member companies and over 80 local chambers of commerce. Prior to WMC, Mr. Buchen worked for the Wisconsin Realtors Association and the Real Estate Securities and Syndication Institute in Chicago. Mr. Buchen has served on the WCAC since July 1988. As chief lobbyist for the Association, Mr. Buchen represents the interests of business and industry before the legislature and agencies of state government. He also directs the Association's public policy development activities and has spearheaded initiatives in the areas of unemployment compensation, health care and cost containment, tax reform, workers' compensation and civil justice reform. Mr. Buchen has represented management as a member of the WCAC since 1988.

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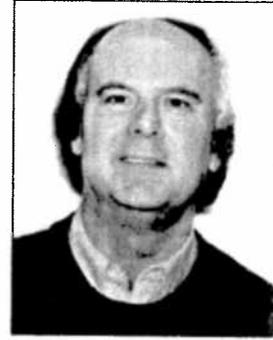
Mr. Furley graduated from Madison Area Technical College with an Associate Degree in Marketing in 1983. Prior to college, he was employed at the General Motors Corporation in Janesville, Wisconsin. In 1985, he was appointed a local labor representative of the UAW and served on the UAW Education and Newspaper Committees. In 1997, Mr. Furley was assigned worker's compensation responsibilities for the United Auto Workers at the General Motors facility. Mr. Furley is also a 1985 graduate of Moraine Park Technical College's Small Business Management program. In the 1990's, he was owner and President of Fort Boat Tours, Inc. and still holds a captain's license issued by the U.S. Coast Guard. In 2002, Mr. Furley became a certified Human Resource Development representative by the UAW-GM Center for Human Resources in Detroit, Michigan. Today, as a retired member of UAW Local 95, his main focus is worker's compensation, specifically assisting injured autoworkers at the General Motors assembly plant in Janesville. Mr. Furley was appointed as a labor representative to the WCAC in July 2004.

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Ms. Huntley-Cooper is the current Administrator of the Worker's Compensation Division in the Wisconsin Department of Workforce Development. Ms. Huntley-Cooper has been a member of the IAIABC Executive Committee and Chair the IAIABC EDI Council since 2003. Prior to her appointment, she worked for 28 years in the field of social work. During this time, Ms. Huntley-Cooper was a Social Work Supervisor for the Dane County Department of Human Services and a Foster Care Specialist in the Wisconsin Department of Health and Social Services. In 1991, Ms. Huntley-Cooper made history by becoming the first African-American to be elected mayor of a Wisconsin city when she was elected mayor of Fitchburg. She has served as President of TEMPO Madison and is a former President of NAACP - Madison Chapter. Ms. Huntley-Cooper earned a Bachelor of Science in Social Service from North Carolina Agriculture & Technical State University and a Masters of Science in Social Work from the University of Wisconsin School of Social Work. She also earned a Master in Public Policy and Administration from the University of Wisconsin-LaFollette Institute. Ms. Huntley-Cooper has served as chair of the WCAC since April 2003.

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Mr. Kent graduated from the University of Wisconsin in 1970 with a Bachelor of Arts degree in Economics and a Master degree in Industrial Labor Relations in 1973. From 1971 – 1973 he was a member of TAA AFT Local 3220. In 1973, he joined the AFL-CIO as a staff organizer for the United Farm Workers. In 1974, Mr. Kent became a field representative for AFSCME Council 24. In 1977, Mr. Kent became the International Field Education Coordinator for AFSCME. He has developed and taught courses in worker's compensation, labor relations law and other pertinent topics for AFSCME members. Mr. Kent is the editor for the International Labor History Association. Mr. Kent was appointed as a labor representative to the WCAC in February 2003.

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Mr. Newby graduated with degrees from the College of Wooster (Ohio), the University of Chicago, and the University of Wisconsin-Madison. He taught history at Tuskegee Institute in Alabama from 1965 to 1968. In 1968, Mr. Newby moved to Madison and soon became active in the Teaching Assistants Association, American Federation of Teachers Local 3220. In 1975, he was elected Vice President of the Wisconsin Federation of Teachers and served three terms on the WFT Executive Board. Mr. Newby then served as President of the Madison Federation of Labor, AFL-CIO. He then advanced to statewide office and served eight years as Secretary-Treasurer for the Wisconsin State AFL-CIO. In 1994, Mr. Newby was elected President of the Wisconsin State AFL-CIO, which is the statewide coordinating council for all AFL-CIO unions in Wisconsin to determine union policy on state issues. He has represented labor on the WCAC since March 1995.

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Mr. Olson is the Workers' Compensation Claims Technical Director at Sentry Insurance. He has held national and state workers' compensation claims management positions with Sentry Insurance for 25 years. Mr. Olson has served as one of the insurance representatives on the WCAC since February 1994.

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Mr. Redman has been the Business Representative for Plumbers and Gas Fitters Local 75 since 1999. He has held various committee, officer and executive board positions in the Local, and is a Trustee of the Local 75 Health Fund, Education Fund, the 401K Fund, and the Building Trades United Pension Trust Fund. Mr. Redman is a member of the Milwaukee Area Joint Plumbing Apprenticeship Committee and also serves as an Executive Board Member and Delegate to the Milwaukee County Labor Council.

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Mr. Schimke is the Assistant Vice President of Worker's Compensation at General Casualty Insurance, located in Sun Prairie, Wisconsin. Mr. Schimke graduated from St. Norbert College in DePere, Wisconsin, with a Bachelor of Business Administration in Mathematics. He has worked in the insurance industry since 1989 and at General Casualty since 2000. Mr. Schimke has served as an insurance representative to the WCAC since 2006.

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Mr. Scott joined Liberty Mutual Insurance in 1986. He has held various positions of increasing responsibilities, including claims adjuster, claims team manager and claims supervisor. In 1995, he transferred to Wausau Insurance Companies and worked in their Boston office. In 2002, Mr. Scott was named Workers Compensation Claims Manager in Wausau's Chicago office. In April 2003, he moved to Wausau's home office as Operations Manager of Workers Compensation Claims, and in December 2003 was named Vice President and Manager—Workers Compensation Claims. Mr. Scott currently holds the position of Vice President—Claims and Managed Care (an interim position). A native of Ellsworth, Maine, Mr. Scott earned a bachelor's degree from Bryant University, Smithfield, Rhode Island. Mr. Scott has served as an insurance representative to the WCAC since 2006.

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Mr. Shaver is the Director of Worker's Compensation and Medical Services at Briggs & Stratton located in Wauwatosa, Wisconsin. He has been involved in the insurance claim industry since 1987, starting his career at Aetna Casualty and Surety. He was the Claim Manager at Casualty Insurance/Fremont Company and eventually moved to Briggs & Stratton Corporation. He is a past president of the Milwaukee Insurance Adjusters Association. Mr. Shaver is a graduate of Carroll College, receiving a Bachelor of Business Administration. He received his Master's Degree in International Business from the University of Wisconsin-Whitewater. Mr. Shaver was appointed to the WCAC as a management representative in February 2004.

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Ms. Vetter has been a veteran union member and activist for over 35 years. Currently, she holds the position of President of USW Local #850; she was elected to this position in March 2004 when PACE Locals #7-0849 and PACE #7-0865 merged. The PACE International Union later merged with the United Steelworkers International Union. From 1987 to March of 2004, she was President of PACE Local #7-0849. She also served as President of PACE Region #10 Council (now USW District #2 Council) representing Wisconsin and Michigan USW members. In addition to serving on boards of several charitable organizations, she has also held executive positions with United Way of Washington County and the Washington County Central Labor Council. To recognize her leadership, accomplishments, and dedicated union involvement Ms. Vetter was named "President of the Year" by the Washington County Central Labor Council for two consecutive years. Additionally, she was awarded the Catherine Conroy Award for outstanding leadership on behalf of working women. Ms. Vetter has served on the WCAC as a labor representative since February 1997.

LOGGERS COMMITTEE

The Loggers Committee was formed in 2006 by the Worker's Compensation Advisory Council at the request of the Assembly Committee on Forestry. Worker's compensation insurance issues arise when there are bids for forestry work. Some employers are able to bid lower on jobs if they hire subcontractors and do not have to carry worker's compensation insurance.

The Michigan model and the Minnesota model can provide some guidance on possible solutions to questions regarding the issue of group self insurance.

Committee members are:

Michelle K. Bean, WCAC
Gunnar Bergersen, O'Connor Communications
James A. Buchen, WCAC
Tad Cleveland, WCRB
Mark Drangstveit, Mark Drangstveit Logging
Gene Francisco, Wis. Prof. Loggers Assn.
James Furley, WCAC
RalphHermann, WCRB
Brian Krueger, WCD
Joe Moreth, WCD
Lynn Wilson, Plum Creek Timber Co.

PERMANENT TOTAL DISABILITY COMMITTEE

The Worker's Compensation Advisory Council created the Permanent Total Disability Committee to review the benefit rates paid to employees who are permanently and totally disabled from work-related injuries. This committee made recommendations that were included in the 2005 "agreed bill" process which affected benefit changes and provided changes through the 2005 Wisconsin Act 172. The benefit changes affected injuries prior to January 1, 1985 to be effective January 1, 2006; and injuries prior to January 1, 1987 effective January 1, 2007.

The Committee has been re-established to study ways of funding additional increase of three years and future increases. The intent is to develop a special bill for passage by the Wisconsin Legislature in 2007.

Committee members have been provided information regarding the current number of injured workers in permanent total disability status, the historic balances of the Work Injury Supplemental Benefit Fund, projections for proposed periodic rate increases, the cost to insurers and self-insured employers, and possible funding mechanisms.

Statistics regarding information on current permanent total disability (PTD) claimants and the projected occurrence of future PTD claims are being calculated, along with the projected rate of closure of PTD claims. The additional cost based on different benefit increase options is also being calculated.

Committee meetings are ongoing. Meeting agendas and minutes are available on the Worker's Compensation Division website. Committee members are:

Abby Butler, WCD Staff
James A. Buchen, WMC
Jodie M. Connor, Wausau Insurance
John Conway, WCD Staff
Neill De Clercq, UW Extension
Allison Hanson, R & R Insurance Services
Ralph Hermmann, WCRB
Ron Kent, WCAC
Janell Knutson, WCD Staff, Co-Chair
Scott Shaver, WCAC
Heather Thomas, WCD Staff, Co-Chair

PROFESSIONAL EMPLOYEE ORGANIZATION COMMITTEE

The Professional Employee Organization Committee was created at the request of the Worker's Compensation Advisory Council. At the WCAC Council meeting held on July 25, 2005, the Council agreed that a study committee should be established to review issues related to Professional Employee Organizations (PEOs) regarding:

- (1) the definition of PEOs;
- (2) the process for experience rating PEOs and their clients;
- (3) the employer status of PEOs;
- (4) WC insurance policies covering PEOs and their clients.

Committee members are:

Laura Andreasson, OCI
Randy Blumer, OCI
James A. Buchen, WCAC
Todd Cohn, NAPEO
John Conway, WCD
Thomas R. Detmer, The Employer Group
Michael Gotzler, QTI
Ralph Herrmann, WCRB
Brian Krueger, WCD
Fred Nepple, OCI
Jim O'Malley, WCD, Chair
Paul Riegel, Riegel Law, SC

SAFETY PARTNERSHIP COMMITTEE

After the training manual for the Youth in the Food Service Industry was distributed, the Safety Partnership Committee decided the next area they would address would be back injuries. Back injuries related to lifting in the healthcare industry was chosen as the next specific focus. This choice mirrored the back injury concerns in the healthcare industry that were being studied by the Department of Workforce Development Healthcare Partners Select Committee, chaired by Department Secretary Roberta Gassman. The Safety Partnership Committee is chaired by Warren Brockmeyer, Risk and Safety Manager for the Worker's Compensation Division. Committee membership varies depending on the safety topic being addressed.

The Safety Partnership committee chose to address the need for education of the healthcare employee, the patient, and the patient's family regarding the use of mechanical lifting equipment in the healthcare industry. The issue in the acceptance of mechanical lifting equipment for patient or client transfers is the perceived loss of human contact by the patient and the safety of the patient or client during the transfer.

Training materials were developed in the form of a series of public service announcements for radio. The first public service announcement (PSA) was targeted at the patient. The second PSA was targeted at the patient's family. The third PSA was targeted at healthcare employees required to use the mechanical lifting equipment on their patients. The announcements were aired statewide on radio stations, primarily during the hours when the public are in their cars driving to and from work. At present, the committee is exploring the areas of overexertion as it relates to lost time workplace injuries.

“AGREED BILL” LEGISLATIVE PROCESS

The “agreed bill” concept is a long-standing tradition of the Council. Under this concept, Council members agree to support the Council’s proposed changes in the Legislature and not to individually seek any changes to those proposals. Likewise, the Council members agree not to support any worker’s compensation law changes that have not gone through the Council’s “agreed bill” process. Based on this concept, the Legislature traditionally accepts the Council’s recommendations and enacts them into law. The Council is aware of the trust and support offered by the Legislature. In return, the Council makes every effort to address worker’s compensation concerns and respond to questions brought by legislators.

The “agreed bill” process itself begins with the Council holding public hearings throughout the state. Testimony regarding amendments to the current statutes is taken from all interested sources, including representatives of labor, management, legal and health care professions, Department staff and other interested parties. Testimony is summarized and presented to the Council in the form of specific amendments. The Council’s labor and management members negotiate the final amendment proposals. In order for any legislative proposals to be passed into the “agreed upon” bill process, the Council must pass it with unanimous agreement.

The Council seeks legislative input and support for its recommendations by:

- Inviting liaisons of the labor committees to attend Council meetings;
- Briefing legislators and staff members on the Council and its functions;
- Promptly responding to letters from legislators expressing concerns or asking for help with constituent problems;
- Holding public hearings throughout the state seeking input to the “agreed bill” (one hearing is always held in the State Capitol at a time convenient for legislators); and
- Briefing legislative labor committee chairs on the content of the “agreed bill.”

Since its enactment in 1911, the history of the Worker’s Compensation Law is largely the history of the Council’s recommendations for legislative, regulatory and administrative change for more than 90 years. With the exception of one legislative session during World War II, the Council (or its formal or informal predecessor group) has recommended an “agreed upon” bill to each session of the Legislature. Typically, both houses of the Legislature have unanimously endorsed the recommended changes.

WORKER'S COMPENSATION ACT AMENDMENTS
2005 WISCONSIN ACT 172
PLAIN LANGUAGE SUMMARY
EFFECTIVE APRIL 1, 2006

1. **Employee Wellness.** Current law provides that an employee who is injured while voluntarily participating in a program designed to improve the employee's physical well-being is not entitled to worker's compensation benefits. This amendment also excludes from coverage injuries sustained while an employee is engaged in a voluntary and uncompensated event or activity designed to improve the employee's physical well-being. s.102.03(1)(c)3
2. **Temporary Help Agency.** This is a technical amendment by the drafter to modernize language in this subsection. s. 102.04(2m).
3. **Permanent Partial Disability.** The maximum benefit rates for permanent partial disability are increased for injuries occurring on or after the effective date in 2006 to \$252 and to \$262 for injuries occurring on or after January 1, 2007. s. 102.11(1)(intro.).
4. **Temporary Total Disability, Permanent Total Disability & Death Benefits.** The maximum benefit rate for temporary total disability, permanent total disability and death benefits will be 110 percent of the state's average weekly earnings as determined under s. 108.05, Wis. Stats. This amendment makes permanent the use of 110 percent of the state's average weekly earnings to establish these benefit rates. s.102.11(1)(intro.).
5. **Final Practitioner's Report.** Under this amendment, a treating practitioner may charge a reasonable fee for completing a final report, but cannot require pre-payment of the fee; and an insurer or self-insured employer can dispute the reasonableness of a fee charge for completion of a final report through the reasonableness of fee dispute resolution process. s.102.13(2)(c).
6. **WC Treatment Guidelines.** The Department is authorized to promulgate rules to establish treatment guidelines to be applied in resolving necessity of treatment disputes. ss.102.16(1m)(b),102.16(2m)(c) and. 102.16(2m)(g).
7. **Certified Reports from Practitioners and Experts.** This amendment clarifies that medical and vocational evidence in the form of certified reports admitted at hearings may be relied on by the Department in issuing orders without the necessity of the practitioner or expert appearing at the hearing. s.102.17(1)(d) 4.
8. **Certified Reports from Industrial Safety Specialists.** This amendment clarifies that certified reports from industrial safety specialists admitted at hearings may be relied upon by the Department in issuing orders without the necessity of the experts appearing at the hearings. s.102.17(1)(h).

9. **Elimination of the Statute of Limitations for Specified Traumatic Injuries.** There will no longer be a statute of limitations for injuries resulting in the loss or total impairment of a hand or any part of the rest of the arm proximal to the hand, or of a foot, or any part of the rest of the leg proximal to the foot, any loss of vision, any permanent brain injury or any injury causing the need for a total or partial knee or hip replacement, and the insurer or self-insured employer is responsible for payment. The amendment also adds the need for an artificial spinal disc as a traumatic injury covered under this subsection. s.102.17(4).
10. **Necessity of Treatment.** This amendment clarifies that the Department shall apply the treatment guidelines to be promulgated by rule in deciding necessity of treatment disputes in orders following hearings. s.102.18(1)(bg) 2.
11. **Bad Faith.** The maximum penalty for bad faith is increased from \$15,000 to \$30,000. If a bad faith penalty is imposed increased compensation under s. 102.22(1) or other interest cannot also be awarded for that event or occurrence. s. 102.18(1)(bp).
12. **Payment of Orders on Appeal.** This amendment clarifies that a party ordered by the Department, LIRC or a court to pay compensation must pay that compensation while the case is on appeal when the only issue on appeal is liability between the employer and one or more insurance companies. s.102.23(5).
13. **Self-insured Employers Liability Fund.** The Self-Insured Employers Liability Fund is made non-lapsible and the money in the fund may only be used for statutory purposes and not other state purposes. s.102.28(8).
14. **Third Party Actions.** This is a technical amendment by the drafter to modernize language. s.102.29(1).
15. **Professional Employer Organizations.** Professional Employer Organizations (PEOs) are required to provide the Department notice within ten (10) days after entering into an agreement with a client and 30 days notice before the termination date of the client agreement. s.102.31(2m).
16. **Fees for Wrap-up Insurance.** This amendment requires that the money received by the Department for administering the insurance wrap-up projects be deposited into the worker's compensation operations fund. s.102.31(7).
17. **Prompt Payment of Permanent Partial Disability.** Under this amendment an employee who is still in the healing period and has returned to work is eligible to receive payments for PPD that are based on minimum ratings established by Department rule. s.102.32 (6)(b).
18. **Advancements.** This amendment provides that an employee or dependent can receive no more than three (3) advancements per calendar year. s.102.32 (6m).

19. **Public Inspection & Copying of Department Records.** The restrictions on access to confidential records provided to the Department are extended to LIRC. The Department will be permitted to release confidential information to government agencies, educational institutions and non-profit research organizations with the assurance that information will not be re-released without authorization from the Department. s.102.33(2).
20. **Surcharges and Interest.** With this amendment forfeitures will be changed to surcharges, and payments will be redirected from the School Fund to the Work Injury Supplemental Benefit Fund. Interest will be charged at a rate of one per cent per month on any unpaid surcharges that remain unpaid after 90 days and the interest will also be deposited in the WISBF. s.102.35(1).
21. **Travel Expense (Mileage).** This amendment codifies the Department's policy that injured employees receive mileage reimbursement for travel to obtain treatment at the same mileage rate state employees receive. s.102.42(2)(b).
22. **Pharmacy Fee Schedule.** A pharmacy fee schedule is established that limits charges to the average wholesale price, plus a \$3.00 dispensing fee and applicable state and federal taxes. The use of generic drugs is encouraged, and pharmacists are prohibited from balance billing employees for charges over the fee schedule amount. s.102.425.
23. **Restricted Work in the Healing Period.** Under this amendment employees will not be eligible to receive compensation for temporary disability if they refuse an offer of suitable employment without reasonable cause; or if the employment was suspended or terminated by the employer because of a commission of a crime substantially related to the employment; or if the employment was suspended or terminated by the employer because of violation of the employer's drug policy in effect and enforced at the time of injury. s.102.43(9).
24. **Supplemental Benefits.** The maximum supplemental benefit rate is increased in two (2) steps. The initial step will increase the maximum rate from \$233 per week to \$321 per week for injuries occurring before January 1, 1985 and payable for weeks of disability beginning on the effective date of the amendment. The second step will increase the maximum benefit rate from \$321 per week to \$338 per week for injuries occurring before January 1, 1987 and payable for weeks of disability beginning January 1, 2007. s.102.44(1).
25. **Payment to State Fund-Death Claims.** The payment (assessment) to the Work Injury Supplemental Benefit Fund by insurers and self-insured employers for injuries resulting in death is increased from \$10,000 to \$20,000. s.102.49(5).

26. **Payment to the State Fund-Dismemberment.** The payment (assessment) to the Work Injury Supplemental Benefit Fund by insurers and self-insurers for injuries resulting in dismemberment is increased from \$10,000 to \$20,000. s.102.59(2).
27. **Illegal Employment of Minors.** This amendment redirects the payments by employers for double and treble compensation penalties for the illegal employment of minors from the state treasury to the Work Injury Supplemental Benefit Fund. The amendment also provides the employer is no longer required to make any payment if the employer is misled in hiring the minor because of fraudulent written evidence of age presented by the minor. s.102.60.
28. **Travel Expense (Mileage).** This amendment codifies the Department's policy that injured employees receive mileage reimbursement for travel to attend vocational rehabilitation training at the same rate state employees receive for mileage. ss.102.61(1) and (1m)(c).
29. **Primary & Secondary Liability.** This is a technical amendment by the drafter to modernize the language in this section. s.102.62.
30. **Work Injury Supplemental Benefit Fund.** This amendment requires that payments of surcharges, interest on late surcharge payments, double and treble compensation due for the illegal employment of minors and interest on late payments of the operations assessment are to be paid into the Work Injury Supplemental Benefit Fund. s.102.65(1).
31. **Barred Claims.** Under this amendment the specified traumatic barred claims will no longer be paid by the Work Injury Supplemental Benefit Fund and will become the liability of insurers and self-insured employers beginning with the effective date of the amendment. s.102.66(1) and (2).
32. **Administrative Expenses and Interest.** The worker's compensation operations fund is established as a separate non-lapsible fund to be used only for statutory purposes and not for any other state purpose. The amendment also provides for interest at a rate of one percent per month on any unpaid assessments that are not paid within 90 days with the interest payable to the Work Injury Supplemental Benefit Fund. s.102.75(1m),(2) and (4).
33. **Uninsured Employers Fund.** Several sections were amended. One amendment provided that the money in the Uninsured Employers Fund can be expended only for statutory purposes and cannot be used for any other purpose. The other amendments are of a technical nature by the drafter to correctly cite current statutes. ss.102.80(1m), 102.81 (1)(a), 102.81(2) and 102.87(4).

THE WORKER'S COMPENSATION DIVISION

Mission - To assure prompt delivery of benefits legally due; to promote compliance with the worker's compensation law; to improve workplace safety and facilitate labor-management cooperation; and to serve customers fairly and courteously through the efforts of a dedicated staff.

Vision - To successfully meet the needs of its customers and stakeholders. The components of success are prompt and fair customer service; adequate resources, training and facilities to meet program demands; creation of educational and technological partnerships; continuation of strong worker's compensation and self-insured councils; catalyst role to ensure workplace safety; and continuation of Wisconsin's status as a leader in the administration of worker's compensation programs.

Services - The creation of the worker's compensation program was based on the premise that employers are obligated to compensate their employees injured on the job and return them to employment. Payments are made for lost wages, medical expenses and resulting permanent disabilities. The Division's basic purpose is to ensure the proper payment of benefits for claims of injured workers, provide timely settlement of disputed claims, educate stakeholders regarding the worker's compensation law and administrative rules, and enforce the law. The Division has also initiated programs to promote safety in the workplace and to monitor and prosecute cases of alleged WC fraud.

Goals - The Division set five goals to provide direction for administering the worker's compensation program. The goals are to:

- 1) Continue to provide quality service to customers by managing program workloads and change.
- 2) Enable our employees to develop to their full potential.
- 3) Administer the WC law and administrative rules fairly and consistently.
- 4) Continue to be a leader in addressing contemporary issues affecting worker's compensation programs.
- 5) Promote the preservation of the Worker's Compensation Advisory Council and Self-Insurers Council.

Objectives:

To achieve quality customer service, Division staff are striving to provide prompt resolution to claim disputes; ensure accurate benefit payments, provide timely and accurate answers to customer questions, and educate customers on division programs and services.

To develop staff potential, Division management strives to provide job and career development training opportunities for staff, to provide a safe and healthy work environment, to promote the use of cost beneficial technology to improve employee productivity, and to maintain healthy labor-management relations.

To administer the worker's compensation law and rules fairly, Division staff are strengthening and improving administration of the uninsured employer program and the self-insurers program, developing educational programs for claim reporting requirements and promptness of payment rules, maintaining a database of program performance indicators, and strongly supporting the roles of the advisory councils.

To continue being a leader in addressing contemporary WC issues, Division staff will actively participate in regional and national WC organizations, will be kept informed of pertinent WC issues, and maintain active partnerships with stakeholder organizations.

To promote the participation of the advisory councils in developing WC law and administrative rules, Division staff will provide leadership and support to the councils, communicate the importance of council input to Department management, will keep councils informed of the Division's strategic planning and budgeting initiatives, and promptly respond to council members' requests for information.

Statistics:

The Worker's Compensation Division oversees approximately 80,000 active claims from approximately 250 insurance carriers, 190 private self-insured employers, and 55 public self-insured entities. Hundreds of medical care providers and attorneys are also involved in the process of managing injured workers medical care and compensation benefits guaranteed by the worker's compensation law. According to the Workers' Compensation Research Institute and the Wisconsin Legislative Audit Bureau, the Wisconsin Worker's Compensation Division has one of the lowest cost per claim litigation rates in the country.

ADMINISTRATIVE ASSESSMENT

Wisconsin Statute 102.75 authorizes the assessment and collection of administration costs for the Wisconsin Worker's Compensation Act from insurance carriers writing worker's compensation business in Wisconsin and self-insured employers. An annual administrative assessment is issued each year in December.

The indemnity amount for each company is determined by totaling the amount paid for each claim "first closed" in the previous calendar year. Indemnity includes payments for temporary total and partial disability, permanent total and partial disability, compromises, death benefits, funeral expenses, paid holidays, supplemental benefits, disfigurement, and vocational rehabilitation.

The assessment rate is then determined by dividing the current fiscal year's net operating cost by the total indemnity payments from insurance carriers and self-insured employers for claims closed in the previous calendar year. The resulting assessment rate is applied to all insurance carriers and self-insured employers. Self-insured employers are also assessed an additional amount to cover the cost of the self-insured employers program, along with an annual renewal fee. Each company is able to review the claims they are being assessed for by reviewing individual claim information on a secured web page on the department's web site.

ANNUAL ASSESSMENT RATES

Fiscal Year	Indemnity Prev Cal Yr	Net Operating Costs-WC	Assessment Rate-General	Add'l Rate S-I Assessment
1992	\$173,849,200	\$6,051,100	3.48%	--
1993	\$181,516,644	\$6,947,850	3.83%	--
1994	\$188,144,406	\$7,934,818	4.22%	--
1995	\$230,622,260	\$7,408,621	3.21%	--
1996	\$195,506,754	\$8,944,455	4.58%	--
1997	\$195,170,801	\$9,427,796	4.83%	--
1998	\$219,654,689	\$9,386,939	4.27%	.47%
1999	\$183,466,981	\$10,010,218	5.46%	.64%
2000	\$177,542,251	\$ 9,607,932	5.42%	.71%
2001	\$231,593,871	\$11,558,454	5.00%	.46%
2002	\$225,968,662	\$11,079,800	4.91%	.50%
2003	\$213,774,061	\$11,241,200	5.26%	.67%
2004	\$216,155,530	\$12,461,500	5.77%	.68%
2005	\$202,313,162	\$11,972,800	5.92%	.86%
2006	\$233,254,731	\$10,545,600	5.42%	.63%

WC DIVISION ACCOMPLISHMENTS

Claims Management -- The Claims Management Bureau's claim monitoring system was further improved in 2005 to achieve the reporting conversion from paper to electronic of more than 250,000 required claim reports from insurance carriers and self-insured employers. This has resulted in a savings of at least 4 division staff positions of keying work annually, improvements in quality and timeliness, and savings of hundreds of thousands of dollars to insurance carriers as a result of less paper handling. In addition, it is estimated approximately 50,000 electronic communications related to claims activities were received and processed that would have otherwise been done by paper or telephone.

Over 80,000 claims were scrutinized for accurate and timely payments. The timeliness of initial payments exceeded the 80% legal standard for the fifth consecutive year. Only 400 penalties were issued to insurers for late payments to injured workers. About 5,000 notices were sent to insurers to require complete payment on underpaid claims. Over 150 insurance representatives were voluntarily trained by staff. Claims staff answered over 47,000 telephone inquiries from injured workers and performed about 15,000 disability ratings for permanently disabled workers. Over 2,500 forfeitures were issued for claims handling rule violations and \$200,000 collected (100% collection rate) from the previous year's violations. The 2006 statistics are comparable.

Insurance Programs -- The Bureau of Insurance Programs, Uninsured Employer Fund (UEF), covers valid claims filed by employees injured while working for illegally uninsured Wisconsin employers. The fund remains strong with a \$13.5 million balance as of 10/31/06. Updated statistics for 2005 and 2006 show the Insurance Program staff's workload:

- Completed Wisconsin employer investigations:
 - 2005 -- 20,105 / 2006 -- 19,503
- Assessed employer penalties for operating without WC insurance:
 - 2005 -- 1,843 / 2006 -- 1,627
- Collected penalties from illegally uninsured employers:
 - 2005 -- \$3.0 million / 2006 -- \$2.4 million
- Wisconsin employees receiving new insurance coverage:
 - 2005 -- 36,701 / 2006 -- 34,884
- UEF payments for workers injured while working for illegal uninsured employers:
 - 2005 -- \$1.3 million / 2006 -- \$1.9 million
- An automated personal liability system was developed to assist in collecting delinquent uninsured employer penalties.
- An automated tax offset program was developed in conjunction with the Department of Revenue to assist in collecting delinquent uninsured employer penalties.

- The Self-Insured Program monitored 190 private and 55 public self-insured Wisconsin employers during 2005 and 2006.
- In conjunction with DWD-Administrative Services, the Uninsured Employers Fund implemented an online payment system for employers to pay penalties.

Upcoming Initiatives -- Integration of the Uninsured Employers Fund penalty calculation process and the WC accounts receivables to more efficiently issue assessments.

Legal Services -- According to the Workers' Compensation Research Institute and the Wisconsin Legislative Audit Bureau, the Wisconsin Worker's Compensation Division has one of the lowest cost per claim litigation rates in the country. During the 2005-2006 biennium, staff in the Bureau of Legal Services processed the following workload:

	<u>2005</u>	<u>2006</u>
• Formal hearings conducted	1,200	950
• Pre-hearing/settlement conferences	1,350	1,150
• Judicial orders resolving claim disputes	8,400	7,700
• Cases resolved by ADR	1,700	1,700
• Contested case settlements approved	5,500	5,250

A **Hearing Process Improvement Committee** was created at the request of the Worker's Compensation Advisory Council in late 2004 with the mission to review the litigated claim hearing process. The purpose of this review is to reduce the average wait time for a litigated claim hearing to six months. Committee membership consists of Worker's Compensation Division management, Bureau of Legal Services attorneys and support staff, attorneys in private practice, and a non-partisan facilitator. Regular meetings were conducted throughout 2005 and into 2006 to examine ways to streamline the hearing process. Changes to procedures, policies, forms, and staff duties are being made on a pilot basis to help develop a more efficient and productive process. Then, if necessary, amendments to Chapter 102 or DWD 80 will be recommended by the WC Advisory Council to streamline the hearing process.



RESEARCH AND STATISTICS

The following three research and statistical programs were previously located in the Division of Worker's Compensation. The programs and staff were transferred to the University of Wisconsin State Laboratory of Hygiene. Each program conducts a survey of workplace injuries or fatalities. Each survey is funded through a cooperative federal-state agreement with the U.S. Department of Labor. The Worker's Compensation Division provides the state match funds for these federal survey programs.

The **Occupational Safety and Health Survey (OSHS)** is a random sampling of approximately 6,500 Wisconsin employers from all industry types and sizes. Data is collected on employment hours, totals from OSHA injury report logs, and specific information on lost-time cases. The information is used to determine incident rate, types of injuries and occupations by industry. Employers can use this survey to compare their own company injury rates to state and national averages. Employers can then evaluate their business for workplace safety by comparing their own company rates to these state and national statistics.

The **Census of Fatal Occupational Injuries (CFOI)** is a study of all work-related fatalities. These workplace fatalities may or may not be covered by worker's compensation. The overall purpose of the study is to reduce the number of work-related fatalities. Collected data is used to educate employers, workers and the general public about the types of fatal accidents and how the use of safety equipment or safer procedures can prevent workplace fatalities.

The **Occupational Safety & Health Act (OSHA)** grant is similar to OSHS in the data collection aspect. Data is collected from approximately 2,500 employers based on hazardous industry type. The data is used for consultation purposes on an individual employer basis. OSHA sends a letter directly to companies with a high incident rate requesting they set up a consultation meeting. The consultation is used to evaluate and make safety suggestions on the company's operations and procedures.

SELF-INSURANCE UNIT

The Department may exempt an employer from the duty to carry worker's compensation insurance, if the employer can demonstrate adequate financial resources to cover injured workers. Those employers become self-insured. Currently, there are 166 self-insured private employers and 52 self-insured public entities.

The Self-Insurance Unit administers the self-insured employers program. The program consists of reviewing applications for self-insurance status, preparing a risk analysis (financial, loss control and safety), and making a recommendation for approval or denial. This recommendation also includes (1) the amount of risk allowable before an excess insurance policy assumes the liability, and (2) what security amount should be required in case the company fails to meet its obligations. The recommendations are presented to the Self-Insurers Council for the final decision to accept new self-insurers. The Self-Insurers Council makes the decision because all self-insured employers incur the risk of all others. The Council also advises the Department on policy and laws that would affect them.

Staff review all current self-insurers for potential risk, alert management and the Self-Insurers Council of potential risk, and recommends a change in the insurance status of a company that no longer seems viable. The Self-Insurance Unit also provides support to the Self-Insurers Council.

UNINSURED EMPLOYERS FUND

The Uninsured Employers Fund (UEF) was established as a separate trust fund to pay benefits for valid worker's compensation claims filed by employees who are injured while working for illegally uninsured Wisconsin employers. If a compensable claim is filed, the UEF pays the injured employee worker's compensation benefits as if the uninsured employer had been insured. Claim benefit payments are processed through a third party administrator who investigates the work-injury claim, verifies the employer-employee relationship, determines the benefits due the injured employee, and prepares a payment voucher for the WC Division.

Section 102.80(3)(am), Wis. Stats., authorized the Department to expend the money in the fund beginning July 1st of the year the fund balance equals or exceeds \$4,000,000. The fund reached the required balance in early 1996 and was activated on July 1, 1996. From July 1, 1996 through December 2006, the Fund has paid out \$12,806,826.42 in benefits and excess insurance premiums. The cash balance at the end of December 2006 was \$13,618,637. Of this amount, 71.27% is calculated to be encumbered for claim reserves and incurred but not reported claims (which is a calculation based on the fund's historical data). If the encumbered funds and calculated amount for incurred but not reported claims reaches 85% of the fund's cash balance, the Department Secretary, upon consulting with the Worker's Compensation Advisory Council, shall file a certificate attesting that the cash balance is likely to become inadequate to fund all claims. The certificate would specify a date after which no new claims will be paid.

The Uninsured Employers Fund is maintained through penalties assessed against employers for illegally operating a business in Wisconsin without worker's compensation insurance. The penalties are mandatory and non-negotiable. The Department also pursues reimbursement from each uninsured employer for benefit payments made by the Fund under s. 102.81(1), Wis. Stats., to the employee of that uninsured employer or to the employee's dependents. The UEF uses aggressive collection action (including warrants, levies, garnishment and execution against property) to secure satisfaction of penalty assessments and reimbursement of benefits paid by the Fund. Collection activities are performed within the Worker's Compensation Division, Bureau of Insurance Programs.

WORK INJURY SUPPLEMENTAL BENEFITS FUND

The Work Injury Supplemental Benefits Fund was created by Section 102.65, Wisconsin Statutes. This special fund provides additional benefit payments for special claim situations. Sufficient money reserves for benefits to be paid by the fund are set aside in the state treasury by order. There are basically four benefit payment types under the fund:

- **Section 102.44** provides for additional payments for claimants with injury dates prior to 1976 to bring permanent total disability payments up to the maximum rate of \$150 or the same percentage to maximum rate that the injured worker had at the time of the claim.
- **Section 102.49** provides for payments to dependent children after the spouse's primary death benefits have ended (typically 5 years). The dependent children get 10% of what the surviving spouse received until 18 years of age. These benefits are paid into an account for the minor child.
- **Section 102.59** provides for payments to injured workers who have a work-injury disability resulting in at least 200 weeks of permanent disability and have a prior disability (whether or not it was due to a work-related injury) that did or would have resulted in 200 weeks of benefits. This benefit is paid up to 200 weeks.
- **Section 102.66** provides for barred claim benefits. These payments are for any type of benefits or medical expenses paid in connection with a work-related occupational disease that is not covered because the claim was made beyond the 12-year statute of limitations.

There is also a provision to limit the fund revenue if the balance in the fund on any June 30 exceeds three times the amount paid out of such fund during the fiscal year ending on such date. The Department shall, by order, direct an appropriate proportional reduction of payments into the fund so the fund balance will remain at three times the payments made in the preceding fiscal year. Revenue for the Work Injury Supplemental Benefits Fund is generated in four ways:

- **Section 102.47** requires a **\$20,000** payment to the fund by an employer for each employee death resulting from a work-related injury.
- **Section 102.49(5)b** requires payment to the fund of death benefits that otherwise would have been due to a spouse or dependents of a fatally injured worker. These payments are made over a 5-year period.
- **Section 102.59** requires a **\$20,000** payment to the fund by an employer when an injury causes the loss or total impairment of a hand, arm, foot, leg or eye of an employee.
- **Section 102.65(2)** requires the monies in the fund to be invested by the state investment board. Interest rates varied, but 4.0% was the average.

WRAP-UP INSURANCE PROGRAM

Wrap-up insurance provides for the owner of a project to select a single insurance carrier for all contractors on a large construction project, where all interests involved on the project (the owner, general contractor, subcontractors, architect, engineer, and surveyors) are combined and insured under one policy with a single insurer. It is designed to provide a coordinated project safety program and reduce the project's overall insurance costs. Wrap-up insurance programs are also commonly known as Owner-Controlled Insurance Programs (OCIP).

PURPOSE -- The central purpose is to strengthen safety on large construction projects.

- Reduce injuries to employees
- Provide a coordinated project safety program
- To obtain the most efficient accident prevention and loss control service so as to prevent accidents and reduce the cost and suffering of those that do occur
- Ensure minimum confusion about insurance coverage and maximum safety on the project site
- Reduce the project's overall insurance costs

PROJECT QUALIFICATIONS -- The estimated project cost of completion must equal at least \$25 million and the estimated standard worker's compensation manual premium must be \$250,000 or more.

The total estimated project cost of completion is determined by the estimate of the costs of the total construction contracts to be awarded by the owner on the wrap-up project. (On average, 20% to 23% of the total wrap-up project cost is WC related payroll, on which the premium is based)

The operations of an eligible project are to be confined to a single location. However in connection with the building of a road, bridge, pipeline, tunnel or waterway, the entire job would be considered as a single location to the extent that there is single ownership or a single contractor. Multiple locations may be considered by the Department (DWD 80.61(3)(em), Wis. Adm. Code.)

DIVISION'S ROLE -- The Division authorizes wrap-up insurance for the major construction projects by:

- Ensuring that the project meets minimum requirements,
- Reviewing the safety plan,
- Approving the choice of insurance carrier,
- Approving the individual contractors for divided insurance (between their regular carrier and the project-designated carrier),
- Monitoring the safety and loss control efforts of the projects at quarterly meetings
- Ensuring a safe project
- Issuing divided coverage orders and extending them as necessary
- Coaching owner in maintaining requirements of program
- Recommending termination of project if Division:
 - is not satisfied with safety,
 - feels insurance issues are becoming unclear,
 - finds lack of cooperation from owner, carrier, contractor or other players.

ACTIVE WRAP-UP PROJECTS:

- ✓ Forest County Potawatomi Casino - Milwaukee
- ✓ Winnebago County II - Nursing Home
- ✓ Racine County II - Jail
- ✓ Columbia St. Mary's Hospital Milwaukee
- ✓ Wisconsin Public Service Corporation - Weston #4
- ✓ Marquette Interchange
- ✓ Port Washington Generating Station
- ✓ Milwaukee Metro Sewerage District - Phase 3



State of Wisconsin
Department of Workforce Development
Worker's Compensation Division

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