

Commission on Safety and Health and Workers' Compensation

MINUTES OF MEETING

Thursday, December 14, 2000

San Francisco, California

In Attendance

Chair Tom Rankin

Commissioners Jill A. Dulich, Kristen Schwenkmeyer, Robert B. Steinberg,

Darrel "Shorty" Thacker, John C. Wilson

Executive Officer Christine Baker

(Commissioners Leonard McLeod and Gerald O'Hara did not attend.)

Call to Order/Adoption of Minutes

Chairman Tom Rankin called the meeting to order at 9:00 am and asked for a motion on the draft minutes of the October 5, 2000 CHSWC meeting in Sacramento. Commissioner Wilson moved for approval of the minutes, Commissioner Thacker seconded and the motion passed unanimously.

Chairman Rankin asked for a motion on the draft minutes of the Special CHSWC Meeting by Conference Call on October 31, 2000. Commissioner Dulich moved for approval of the minutes, Commissioner Thacker seconded and the motion passed unanimously.

Status Update on the Feasibility of Dual Classifications in Computing Workers' Compensation Premium Rates

David M. Bellusci, Senior Vice President and Chief Actuary, Workers' Compensation Insurance Rating Bureau of California (WCIRB)

At the October 5, 2000 Commission meeting, the Commission members voted to approve a joint feasibility study with the WCIRB. The purpose of the study is to identify additional classifications in the construction industry that might benefit from a dual-classification rating system and to identify the greatest gain and the pros and cons of expanding this kind of program to other classifications and industries. Mr. Bellusci reported on the results of the feasibility study.

Mr. Bellusci explained that the workers' compensation dual-wage classification system in California is a program where particular construction classifications are segregated based on the wage paid by employers in the class. He reported that an evaluation of key criteria (i.e. rate level, size, proportion of small employers, variation in wages) was used to determine if the segregation by wage level is appropriate for certain classes.

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The analysis showed that the construction industry and, in particular, the current dual-wage classifications best meet the criteria established. The only other classification to meet the test criteria was the trucking industry, although trucking may not be a good candidate since many trucking firms do not pay hourly wages.

Mr. Bellusci stated that the dual wage program generally has worked to address premium inequities due to wage level. However, the program is costly and time-consuming to implement and increases cost and time of insurer payroll audits. Moreover, competitive rating also allows the insurer to reflect wage differences without the dual-classification program. In summary, the WCIRB does not recommend a wholesale expansion of the dual-classification program at this time. However, Mr. Bellusci stated that individual classes can be reviewed as appropriate.

Chairman Rankin commented that trucking could be still looked at as a possible candidate for the dual-classification program since trucking firms do record hours for safety reasons. Commissioner Wilson asked why couldn't 'hours worked' be used as a basis of premium. Mr. Bellusci replied that 'hours worked' was not a good candidate for a basis of premium since it is difficult to independently verify the hours worked in an audit.

CHSWC Vote

Commissioner Wilson moved to circulate the Draft Paper on "Workers' Compensation Premium Calculation based on Dual Wage Classifications" to the community and the public for comment. Commissioner Steinberg seconded and the motion passed unanimously.

**Update on Economic Impact Study of the Permanent Disability Project
Importance of Economic Conditions**

Robert T. Reville, Ph.D., Research Director, Rand Institute for Civil Justice

Robert Schoeni, Rand Institute for Civil Justice

The Economic Impact Study is part of an ongoing evaluation of workers' compensation permanent partial disability in California that the Commission began in 1996. Mr. Schoeni reported that this report summarizes the investigation of the relationship between earnings losses and economic conditions at insured firms in California during the 1990s. Mr. Reville and Mr. Schoeni presented some of the results from the investigation.

Mr. Schoeni stated that significant declines in earnings losses were found at insured firms between 1991 and 1993, stabilizing between 1993 and 1995. The decline in losses is most pronounced among PPD claimants with the lowest disability ratings. Mr. Reville and Mr. Schoeni investigated whether the results of the decline in earnings losses are related to the improved economic conditions in California since the early 1990s recession. Mr. Schoeni reported that economic conditions do not explain much of the reduction in earnings losses. In addition, differences in earnings losses across counties are not closely related to economic conditions in those counties. Finally, Mr. Schoeni reported that Rand also predicted earnings

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losses and replacement rate at five years to workers insured from 1991 to 1997. The estimates, though preliminary, suggest that replacement rates of long term losses for permanent disability claimants have increased as losses have fallen, leading to replacement rate at insured firms in the mid-1990s between 0.5 and 0.55. Mr. Reville and Mr. Schoeni stated that later versions of the report will refine and improve the estimates.

Benefit Utilization Study: Draft Report

Steven Raphael, PhD, Asst. Professor, Goldman School of Public Policy, UC Berkeley
Frank Neuhauser, Project Director, Survey Research Center, UC Berkeley

At the June 2000 Commission meeting, Commissioners voted to approve a utilization study to evaluate whether workers' compensation benefit increases lead to changes in the claim frequency, claim duration and overall claim costs. Dr. Rafael and Mr. Neuhauser reported on the preliminary results of the study.

Dr. Rafael reported results from the analysis of the utilization effect on duration. In general, the analysis compared the number of weeks on average that someone receives benefits after the expansion in benefits to people with similar earnings that were injured prior to the expansion. Dr. Rafael stated that there was some change in mean duration for workers facing increased benefits even after adjusting for age and gender. The elasticity of benefit duration ($\% \text{ change in duration} / \% \text{ change in benefits}$) was on the lower side of previous research estimates. This indicates that there was some increased response in duration when there was an increase in benefits, but it was not very large.

Mr. Neuhauser reported on whether changes in benefit levels caused increases in the frequency with which claims are filed. Mr. Neuhauser reported that elasticity estimates for frequency were higher than estimates for duration. However, the actual cost impact of increased frequency of claims may be small, because the majority of claims migrating to indemnity are medical-only claims (and consequently the cost faced would be the cost of indemnity). However, these indemnity claims are also likely to be short duration claims. Mr. Neuhauser stated that the next steps in the project would be to estimate the impact of benefit changes on medical costs, refine estimates for temporary disability duration, estimate elasticity for permanent disability claims, and refine frequency estimates.

School District Liability for Workers' Compensation under Labor Code Section 3368

C.L. Swezey, Consultant
Christine Baker, Executive Officer, CHSWC

At the October 2000 CHSWC meeting, the Commission requested the development of an issue paper on the responsibility for workers' compensation coverage under Labor Code Section 3368 for students and apprentices engaged in vocational education programs. Ms. Baker and Mr.

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Swezey summarized the findings of the study conducted by Mr. Swezey for the Commission. The study's analysis indicated that when an injured worker, who has released the initial employer from all liability except for vocational rehabilitation services, is provided retraining at the public educational facility and sustains new injury, the school will be liable for workers compensation benefits for which the initial employer would have been liable in absence of a compromise and release. Mr. Swezey proposed a recommendation to add sections to the Labor Code and Education Code which provide that in cases where an injured worker has settled his liability, the school district won't have workers' compensation liability for new and further disability.

Ms. Baker suggested that the Commission could consider options for further action at this point. The Commission could limit the study to the specific issue, circulate the draft issue paper and solicit comments from the workers' compensation community on the extent of the problem. Alternatively, the Commission could expand the study to include similar coverage situations.

CHSWC Vote

Commissioner Wilson moved to limit the study to the specific issue of the responsibility for workers' compensation coverage for public school vocational programs, and to get input from the community on the extent of the problem and what remedies might be useful. Commissioner Steinberg seconded and the motion passed unanimously.

Draft Update to the report "Workers' Compensation and the California Economy"

Christine Baker, Executive Officer, CHSWC

Ms. Baker reported that the CHSWC publication "Workers' Compensation and the California Economy" issued in April 2000 had been updated with more recent figures from the Governor's Office and the Legislative Analyst and the WCIRB. She asked if the Commission wished to circulate the draft report to the community and the public for comment.

CHSWC Vote

Commissioner Dulich moved to approve the circulation of the "Workers' Compensation and the California Economy -- December 2000 Draft Update" to the community and the public for comment. Commissioner Schwenkmeyer seconded and the motion passed unanimously.

Proposed changes to the May 2000 "Recommendations: Information for Injured Workers"

Christine Baker, Executive Officer, CHSWC

In May 2000, the Commission on Health and Safety and Workers' Compensation published a report entitled "Recommendations on Information for Injured Workers". Subsequently, additional studies were conducted regarding the design and format of the informational materials recommended in the Commission's May 2000 report. It is now suggested that some revisions in

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the form of the notices, posters, and fact sheets will be required. Commission consultant C. L. Swezey developed new proposed legislation to implement these revisions, which he outlined in a December 12, 2000 memo.

CHSWC Vote

Commissioner Dulich moved to approve the new proposed legislation, Commissioner Wilson seconded, and the motion passed unanimously.

Election of CHSWC Chair for 2001

According to Labor Code Section 75(b), the CHSWC Chair for 2001 must be a Commission member who represents employers.

CHSWC Vote

Jill Dulich moved to nominate John Wilson as Chair for the year 2001. No further nominations were made and John C. Wilson was elected unanimously as Chair of the Commission for 2001.

Public Comments

Vancois D'Amoun

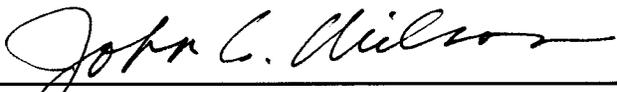
Mr. D'Amoun, an injured worker, spoke about the losses that he has incurred and urged the Commission to pay attention to the economic impact of occupational injuries on high-wage earning employees.

Adjournment

Commissioner Dulich moved to adjourn the meeting and Commissioner Wilson seconded the motion. The meeting was adjourned at 11:50 am.

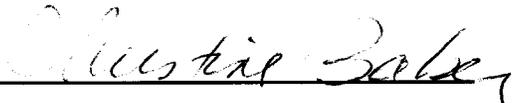
Approved:

Respectfully submitted,



John Wilson, Chair

Date



Christine Baker, Executive Officer