

SPECIAL MEETING OF THE  
OKLAHOMA WORKERS' COMPENSATION  
COMMISSION

Thursday, September 10, 2015  
1:30 p.m.  
Commission Chambers  
1915 N. Stiles Ave.  
Oklahoma City, Oklahoma  
[www.wcc.ok.gov](http://www.wcc.ok.gov)

---

*AGENDA*

---

**CALL TO ORDER ..... Mr. Gilliland, Chair**  
**ROLL CALL..... Mr. Gilliland, Chair**  
**NOTICE OF COMPLIANCE.....Tiffany Pratt**

**MINUTES**

The drafted Minutes of Special Commission Meeting on August 19, 2015, will be considered for approval.

**THE FOLLOWING MATTERS ARE PRESENTED FOR CONSIDERATION AND ACTION, IF ANY, DEEMED APPROPRIATE BY THE COMMISSION.**

**1. Discussion and Consideration of Releasing the Letter of Credit for Continental Resources, a Former Own Risk Employer (#17950)**

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.

A security deposit may be released at the Commission's discretion upon application by the employer and submission of current financial statements and a signed and notarized affidavit, from a duly authorized officer of the employer, affirming that all workers' compensation claims incurred under the own risk permit of the employer have been permanently closed, and the statute of repose for reopening the claims has passed. The Commission will consider whether to release a Letter of Credit for Continental Resources in the amount of \$375,000.

**Possible Action:**

Possible action may include, but is not limited to: taking no action, continuing the matter, reducing or releasing the letter of credit for Continental Resources.

**2. Discussion and Consideration of Distribution of Surplus Monies to Members of the Automobile Dealers Self Insured Association**

Oklahoma Automobile Dealers Self Insured Association (Association), a group self-insurance association, is requesting a distribution of surplus back to its members in the amount of \$3,400,000 from the five fiscal years ending on June 30, 2008, June 30, 2011, June 30, 2012, June 30, 2013 and June 30, 2014. The Association's financial statement shows an overall surplus of more than \$10,495,937 for all years combined. 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 will consider approving the distribution of surplus monies to members of the Oklahoma Automobile Dealers Self Insured Association.

**Possible Action:**

Possible action may include, but is not limited to: taking no action, continuing the matter, approving some, all or none of the distribution of the surplus monies to the members of the Oklahoma Automobile Dealers Self Insured Association.

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

- A. 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. 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.

Andrea Bair, Deputy Insurance Services will present the account balances of each of the Option Guaranty Funds to the Commission.

**Possible Action:**

- a. Option Insured Guaranty Fund- Possible action may include, but is not limited to: taking no action; continuing the matter; determining the balance is below the statutory amount requiring an assessment; or determining the balance is above the statutory amount not requiring an assessment.
- b. Option Self-insured Guaranty Fund- Possible action may include, but is not limited to: taking no action; continuing the matter; determining the balance is below the statutory amount requiring an assessment; or determining the balance is above the statutory amounts not requiring an assessment.

**4. Personnel Policies**

The Commission will discuss and consider approving the following agency policies: 1) At Will Employment Policy and 2) Family Leave and Medical Act Policy.

**Possible Action:**

Possible action may include, but is not limited to: taking no action; approving some, all or none of the policies listed in this agenda; or continuing the matter.

**5. Discussion and Consideration of Bifurcated Proposed Judgment for Failing to Secure Coverage Form**

The reviewing attorney in a compliance investigation may recommend bifurcating the proposed judgment and penalty assessment to allow employers the opportunity to remedy violations prior to penalty assessment. First, a proposed judgment of non-compliance may be issued notifying the employer of the WCC's determination and intent to assess penalties. If the employer then remedies the violation by securing coverage, the penalty may be reduced accordingly. If the employer fails to secure coverage, the Commission may petition to enjoin the business from engaging in further employment and issue stricter penalties. Employers may still have the opportunity to challenge the proposed judgment and the subsequent penalty assessment in a final hearing. The Commission will consider a new Proposed Judgment for bifurcating the Proposed Judgment for Non-Compliance from the Proposed Judgment to Assess a Penalty.

**Possible Action:**

Possible action may include, but is not limited to: taking no action; approving, disapproving, approving as amended the Proposed Judgment; or continuing the matter.

**6. Commission Consideration of Sponsorship of Educational Programs for Independent Medical Examiners**

Under Commission Rule 810:15-9-1, one of the requirements is that Independent Medical Examiners must attend "Commission sponsored education programs at least

once every two (2) years . . .” Presented for the Commission’s consideration are the following programs presented at the Oklahoma Annual Workers’ Compensation Commission Educational Conference on October 1, 2015, with additional programs to be considered at future meetings: a) Practical Use of AMA Guides Requirements for IME Panel Discussion; and b) Practical Use of ODG with Real Case Studies.

**Possible Action:**

Possible action may include, but is not limited to: taking no action, continuing the matter, approving some, all, or none of the above listed programs for Commission sponsorship.

**7. 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 will consider a vote to approve the currently outstanding vouchers.

All vouchers listed within this Consent Agenda have been made available to each Commissioner prior to today’s meeting, are considered routine, and will be enacted by one motion of the Commission. If separate discussion is desired, that item may be removed from the Consent Agenda and separately voted upon.

**Possible Action:**

Possible action may include, but is not limited to: taking no action; approving some, all or none of the vouchers listed in this Consent Agenda; continuing the matter.

**8. Reports**

**THE FOLLOWING REPORTS ARE PRESENTED FOR INFORMATIONAL PURPOSES ONLY. NO ACTION WILL BE TAKEN.**

**Report on the National Workers’ Compensation Regulators College**

Chairman Gilliland will report on his participation at the National Workers’ Compensation Regulators College in Orlando, Florida and the IAIABC 101<sup>st</sup> Annual Convention in Chicago.

**9. Possible Executive Session Pursuant to Title 25 O.S. § 307(B)(1) for the purpose of discussing the hiring, salary or employment of Candidate A or B for the position of Financial Analyst; and for the purpose of discussing the hiring, salary or employment of Candidate A or Candidate B for Insurance Services clerk.**

**A. Motion and Vote to:**

Go into Executive Session for purposes of:

- a. Discussing the hiring, salary or employment of Candidate A or B for the position of Financial Analyst; and discussing the hiring, salary or employment of Candidate A or Candidate B for Insurance Services clerk under § 307(B)(1).

**B. Vote to Reconvene in Open Session**

- a. No Action will be taken on the hiring, salary or employment of Financial Analyst or Insurance Services clerk.

**Announcements**

The next regular meeting of the Commission is scheduled for October 8, 2015.

The next special meeting on appeals is scheduled for September 11, 2015.

**ADJOURNMENT.....Mr. Gilliland, Chair**