



South Carolina Department of Insurance

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Columbia, South Carolina 29201

MARK SANFORD
Governor

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Director of Insurance

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March 24, 2009

Via Hand Delivery

The Honorable Glenn F. McConnell
President *Pro Tempore*
South Carolina Senate
101 Gressette Building
Columbia, South Carolina 29201

The Honorable Robert W. Harrell, Jr.
Speaker
South Carolina House of Representatives
506 Blatt Building
Columbia, South Carolina 29201

Re: 2009 Initial Report of the Workers' Compensation Advisory Committee

Dear Senator McConnell and Speaker Harrell,

Enclosed for your review is an initial report of the Workers' Compensation Advisory Committee. South Carolina Code § 42-3-120 provides, in pertinent part:

There is hereby created the advisory committee for improvement of the workers' compensation laws of South Carolina, consisting of five members appointed by the Governor for terms of five years and until successors are appointed and qualify... The committee shall meet at least quarterly to consider improvements in workers' compensation laws and monitor the effectiveness of existing law. Recommendations for changes in the law shall be recommended annually to the General Assembly.

The Department of Insurance has been charged with providing administrative support for the Workers' Compensation Advisory Committee. As the Department's legislative liaison, the Committee has requested that I provide you with a copy of the enclosed report. I have also enclosed a listing of the Governor's appointees to the Committee for your reference.

Should I be of additional assistance on this matter, please do not hesitate to call me at 803.737.6124 (office) or 803.429.7796 (cell).

Sincerely,

Kendall Buchanan
Kendall R. Buchanan, Legislative Liaison

Enclosures (2)

Cc: Chairman David Thomas, Senate Banking and Insurance Committee
Chairman William E. Sandifer III, House Labor, Commerce and Industry Committee
Governor Mark Sanford c/o Jeff Schilz, Policy Director
William E. Shaughnessy, Chairman, Workers' Compensation Advisory Committee

**WORKERS' COMPENSATION ADVISORY COMMITTEE
COMMITTEE MEMBERSHIP**

William "Bill" L. Smith II, Esquire

Seat: Attorney – Plaintiff

Term Expiring: November 1, 2011

309 Cartgate Circle

Blythewood, South Carolina 29016

O: 803.929.3600

F: 803.929.3604

William "Bill" E. Shaughnessy, Esquire

Chairman

Seat: Defense

Term Expiring: November 1, 2011

101 Cape Ann Avenue

Greer, South Carolina 29650

O: 864.552.4602

F: 864.552.4620

John F. Siebert

Seat: Industry

Term Expiring: November 1, 2009

1252 Morning Shore Drive

Lexington, South Carolina 29072

O: 803.731.7728

F: 803.731.1388

James E. Sanderson, Jr.

Seat: Labor

Term Expiring: November 1, 2009

Post Office Box 893

Georgetown, South Carolina 29442

O: 843.546.2525 x. 108

F: 843.546.4129

Millicent "Millie" C. Williams

Seat: Public

Term Expiring: November 9, 2009

7 Newworth Court

Columbia, South Carolina 29229

O: 803.939.3278

F: 803.939.3317

Workers' Compensation Laws of South Carolina: 2009 Annual Report



**Workers' Compensation Advisory Committee
c/o South Carolina Department of Insurance
1201 Main Street, Suite 1000
Columbia, South Carolina 29201**

March 24, 2009

Pursuant to §42-3-120 of the South Carolina Code, the Governor's Advisory Committee for the improvement of the workers' compensation law is to file a report with the General Assembly on an annual basis, recommending changes in the South Carolina Workers' Compensation Act.

By way of background, the Governor's Advisory Committee is a five member committee appointed by the Governor for terms of five years. The composition of the Committee, as outlined in §42-3-120 of the South Carolina Code is:

1. One attorney experienced in the practice of representing claimants (William Smith of Columbia, SC);
2. One attorney experienced in the practice of representing defendants (William Shaughnessy of Greenville, SC);
3. One member representative of industry (John Seibert, formerly of Capitol City Insurance Company);
4. One member representative of labor (James Sanderson, Jr., President of AFL/CIO, Local 7898 of the United Steel Workers of America, Georgetown, SC);
5. A representative of the general public (Millicent C. Williams of Columbia, SC).

The Committee is required to meet at least quarterly to consider improvements in the workers' compensation laws and to monitor the effectiveness of existing law. Recommended changes in the existing law are to be made to the General Assembly on an annual basis.

Following years of inactivity, the inaugural meeting of the reconstituted Advisory Committee took place in Columbia, SC on October 14, 2008. The following topics were identified by the Committee as points of interest for further study:

1. Choice of physicians and drug testing of physicians;

2. Objective standards for awards;
3. Regulation of attorney's fees;
4. Regulations of awards for medical treatment;
5. Treatment of illegal aliens under the South Carolina Workers' Compensation Act;
6. Increase in funeral benefits allowed under the South Carolina Workers' Compensation Act;
7. Workers' Compensation Research Institute;
8. Updated South Carolina Workers' Compensation brochure;
9. More stringent regulation/penalties for employers who are evading their workers' compensation responsibilities or who are misclassifying employees.

The second meeting of the Committee was held on November 14, 2008. Three speakers addressed the Committee on that date:

1. Gary Smith of the South Carolina Workers' Compensation Commission Compliance Department;
2. Amy Quinn of NCCI (National Council on Compensation Insurance);
3. Barry Llewellyn of NCCI; (National Council on Compensation Insurance).

Two topics were discussed at the second meeting:

1. An analysis of the effect on premium rates of the 2007 legislative reform and reconstituted hospital fee schedule; and,
2. The effect on premium rates by employers who are evading their responsibility of covering their employees, or are engaged in intentional misclassification of employees to create a premium shortfall.

It was agreed at the November 14, 2008 meeting that it would be unlikely that the Committee could formulate a full report of recommended changes of the workers' compensation laws for the 2009 Legislative session as:

1. The Advisory Committee had only held two meetings since the inaugural meeting of October 14, 2008;
2. The effect on premium costs of the 2007 Legislative changes and fee schedule reform would be unlikely to be appreciated until later this year (2009) or early next year (2010).

A third meeting was held on January 16, 2009, at which time the Committee again revisited the issue of the impact on premium rates caused by intentional employer misclassification of employees and intentional failure to provide workers' compensation coverage.

It is ANTICIPATED that within the near term, the State will embark on a huge public works effort as part of the federal economic stimulus package. The Committee will likely recommend legislation to ensure that the State carefully scrutinize workers' compensation policies of contractors who might bid for these projects to ensure that all employees, engaged in these projects, are adequately covered under the South Carolina Workers' Compensation Act and that proper classification of employees is made by those bidding on these projects.

A further report will likely be forthcoming.