

The Privatization of the West Virginia Workers' Compensation System

West Virginia Offices of the Insurance Commissioner
(WVOIC)

Bill Kenny – Deputy Commissioner

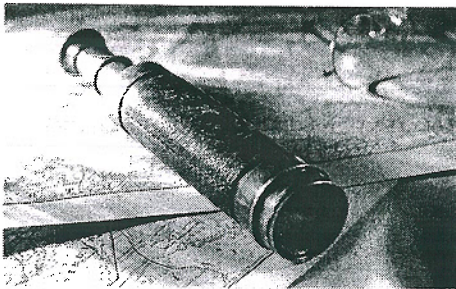
Mary Jane Pickens – General Counsel

North Dakota Legislative Meeting

July 10, 2008



The Old System



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The Old System

- Established in 1913
- Inappropriate Claims Management
- No Fraud Investigations
- Insufficient Classification System
- Regulatory Duties
- Administrative Duties

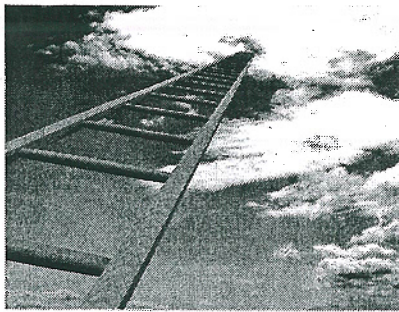
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The Old System – Resulted In:

- \$3.1 Billion Unfunded Liability
- 46,076 Protests in 2004 and 2005
- 41 Days for Claims Reporting (from DOI)
- 335 Days for Ruling of Protested Claims

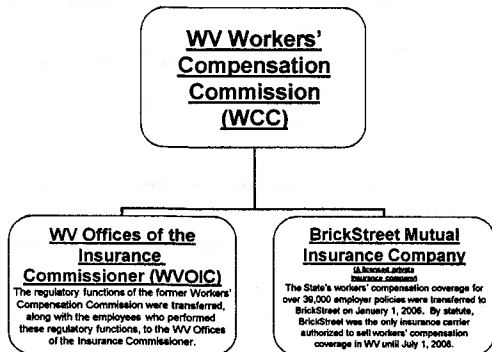
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How We Accomplished Privatization:



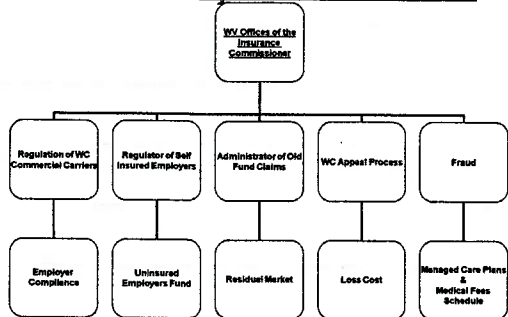
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Division of Responsibilities



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WVOIC Responsibilities in Workers' Compensation Market



Privatization of Workers' Compensation – SB 1004

- Transition was launched on January 1, 2006
- Workers' Compensation Commission (WCC) Terminated
- All Subscribing Employers Transferred to New Monopolistic Mutual Insurance Company
- Regulatory Duties Transferred to WVOIC
- Administration of Legacy Claims to WVOIC

Employees and Assets of the WCC

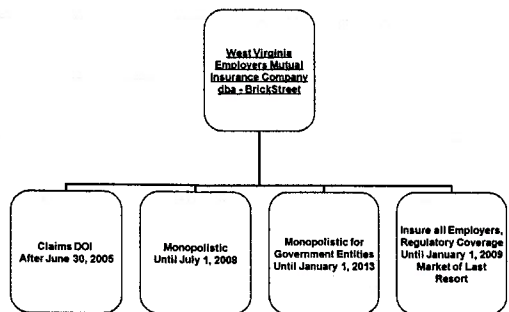
- Former WCC Employees Reassigned
 - Necessary Job Skills Assessed
 - Employee Transition Plans
- Assets of the Former WCC

West Virginia Employers Mutual dba - BrickStreet

- Licensed as of January 1, 2006
- Surplus Note of \$200 Million
- Governor Appointed Initial Board
- Federal Tax Exemption through Dec. 31, 2008

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Responsibilities of the West Virginia Employers Mutual dba - BrickStreet



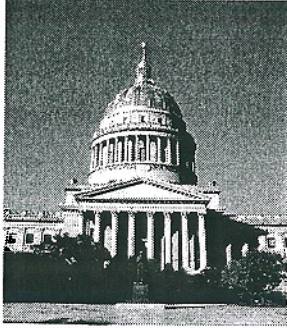
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Industrial Council (INDC)

- Created by S.B. 1004
- Members
- Member Selection
- Meetings
- Duties

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Statutory Changes



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Statutory Changes

- Much of the law relating to claims handling and litigation was not changed by S.B. 1004.
- S.B. 595 – effective 3/26/07
 - Clarified that regulation of the WC system transferred to WVOIC.
 - Addressed personnel and contract issues.
 - Amended provision that had prohibited employers from obtaining WC coverage if they owed money to State.
 - Amended provisions relating to ratemaking.
 - Amended provisions relating to Statistical Agent

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Statutory Changes

- H.B. 4636 – Effective 3/8/08
 - Amended provisions relating to calculation and remittance of regulatory and debt reduction surcharges.
 - Deleted outdated reporting requirements on insureds' owners/officers.
 - Amended provisions relating to notice for cancellation of policies.
 - Amended POC reporting requirements.
 - Requires TPA's used by carriers or self insureds to be licensed.
 - Established 2 party litigation system and eliminated most employer protests to adjuster decisions.
 - Established process for reassigning claim to proper responsible party and requires conditional payment of benefits until proper responsible party is identified (with emphasis on new injuries vs. reopening old claim).

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Statutory Changes

- H.B. 4381 – Residual Market
 - Assigned risk pool - mechanism that provides coverage for employers unable to obtain workers' compensation coverage in the voluntary market.
 - Authorizes the WVOIC to designate a third party to "develop and administer" the program, including the development of premium levels designed to make the system self-sustaining.
 - Administrator also has the authority to assess other carriers to cover any deficits that may arise.
 - Although the initial administrator may be appointed, the WVOIC must bid out the contract for plan administrator in 2011.

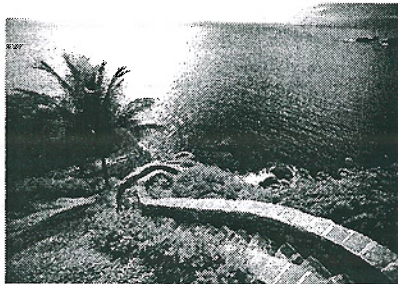
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Statutory Changes

- H.B. 4079 – Professional Employer Organizations
 - PEO's provide human-resource services, such as administering benefit plans and payroll, pursuant to an agreement with client-employers.
 - The bill requires PEOs to obtain a license from the WVOIC.
 - Ensures that the WVOIC is able to obtain the workers' compensation claims and coverage information at the client-employer level that is needed to set rates and otherwise regulate the market.
 - Prohibits PEOs from offering self-funded health plans to their client employers.
 - The issues of PEO involvement with health plans, taxes, labor laws and unemployment taxes are to be studied by the Joint Committee on Government and Finance and several agencies.

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Steps Toward New System



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Steps Toward New System

- NCCI designated as Rating Organization – 10/05
- 1/1/06 Rates – Approved aggregate **15%** rate decrease. All classes, other than state government, had decreases
- NCCI Classification System Adopted – 7/1/06
- Approved NCCI Loss Costs – 7/1/06 (aggregate **10.5%** loss cost decrease)
- NCCI Dispute Resolution Process Implemented – 7/1/06
- Proof of Coverage/Coverage Validation Systems Implemented – 9/06
- Approved NCCI Loss Costs – 7/1/07 (aggregate **8.1%** cost decrease)
- NCCI Experience Rating Plan Implemented – 7/1/07
- Approved NCCI Loss Costs – 7/1/08 (minimal decrease)

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The Self-Insured System

- Self-Insured Program
- Self-Insured Employers
- Self-Insurance Unit
- Monitoring of Self-Insured Employers
- The Industrial Council Approves Certain Actions

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Paying off the Old Fund

- The West Virginia Legislature provided for a number of sources to pay the remaining “Old Fund” liability:
 - Debt Reduction Surcharges Against West Virginia Employers
 - Severance Tax on Natural Resources
 - Money from West Virginia Video Lottery Proceeds
 - Ability to Issue Bonds, if Necessary
 - Personal Income Taxes

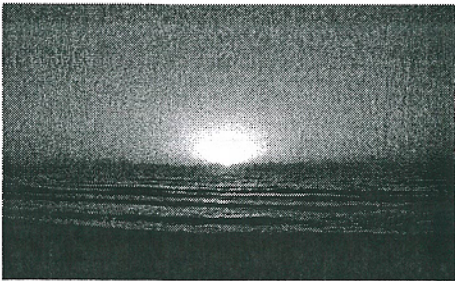
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Ultimate Goal

- Remove State of West Virginia from any workers' compensation claims liability
- Projected date of accomplishing this goal is 2014-2016

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Our Current Climate



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The New System – So Far:

- \$1.9 Billion Unfunded Liability
- 8,532 protests projected in 2008
- 13 Days for Claims Reporting (from DOI)
- 305 Days for Ruling on Protested Claims

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The New System – So Far:

- More than 90% of all claims are ruled within the first 30 days
- Average time From Receipt of Claim to Ruling is less than Two Weeks
- Better Decisions of Claims
- Fewer Injuries Reported - Due to Workplace Safety Initiatives.

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Our Current Climate

- 166 Companies Have Made WC Filings
- 24 New to WV Insurance Market
- Rate Reduction – 30.3%
- Employer Savings in Excess of \$150 Million Annually

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Our Current Climate – cont.

- Market Opened
- Improved Claims Handling
- Emphasis on Enhanced Treatment
- Work Left to Do
 - Residual Market

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CONTACT INFORMATION

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