

To: Workers' Compensation Advisory Council

From: James E. Marsh, Labor and Management Division Director
South Dakota Department of Labor and Regulation

Date: June 13, 2017

Subject: 2017 Division Report on the State Workers' Compensation System

This report is prepared for submission at the June 19, 2017, meeting of the Workers' Compensation Advisory Council.

Overall, our state's workers' compensation system is functioning well, and competes successfully with neighboring states. Average base rates for the voluntary insurance markets have decreased 1.0 percent, and assigned-risk rates have decreased 0.9 %, for the period from July 1, 2017, to June 30, 2018. This is the sixth year of decreases in the voluntary insurance market. Injury frequency continues to decrease, good news for employers and employees alike.

At the last 2016 Council meeting, the Public Utilities Commission advised the Council it was proposing legislation to repeal the "certificate of good standing" process for self-insured utilities. The Council took no action on the proposal. The legislation passed by unanimous votes in both Houses and will become effective on July 1. No other workers' compensation legislation was passed in the 2017 Session.

No Supreme Court cases affecting workers' compensation were decided since the last Council meeting.

In addition to the pending case before the department challenging the constitutionality of the Wheeler v Cinna Bakers legislation, in a recent filing a challenge has been raised to the constitutionality of SDCL 62-3-15(2), exempting farm and agricultural laborers from the workers' compensation laws. I shall report on any developments in these matters when they occur.

On July 1, South Dakota's workers' compensation system will be 100 years old. I believe its longevity, and the likelihood that it will survive for another century, are directly tied to the open exchange of experience and wisdom held in what at least one expert has described as the system's "information silos" – workers, employers, lawyers, actuaries, medical providers, vocational experts, claims handlers and the many people who advise and support them. Such exchanges promote the flexibility and adaptability needed for the present and the future. My thanks to the Council for providing at least one viable forum in which such discussions can go forward.

Respectfully submitted,

James E. Marsh