

Background

Governor Mike DeWine and BWC propose to pay a dividend from the State Insurance Fund to Ohio's private and public employers, a move on our part to ease the financial pressures these employers may be experiencing amid the coronavirus (COVID-19) pandemic. As in past years, the proposed dividend is possible due to our investment returns, prudent fiscal management, and the good work of employers who pay their BWC premiums and look out for the health and safety of their employees.

Legal Authority

Pursuant to Ohio Revised Code ("ORC") Chapter 4123.321 and Ohio Administrative Code ("OAC") Chapter 4123-17-10, BWC has the authority to issue a dividend to private and public employer taxing districts. Pursuant to rule, the Board of Directors has the discretion and authority to determine the nature of the dividend; the employers who are eligible for the dividend; the payroll period or periods to which the dividend applies; the applicable date of the dividend; and any other issues involving the dividend.

Dividend Recommendation

Management recommends that BWC provide a one-time 100 percent dividend to all private and public employer taxing district State Insurance Fund employers, thereby reducing the State Insurance Fund net position by up to \$1.6 billion. The percentage will be applied to policy year beginning July 1, 2018 for private employers and policy year beginning January 1, 2018 for public employer taxing districts. Using the March 31, 2020 State Insurance Fund net position as the base, the net position would decline to \$8.9 billion with a resulting simple funding ratio of 1.68. In reaching this recommendation, management considered the net position balance, potential changes to the investment portfolio value, and potential changes to the reserve for BWC's long-term claim liabilities.

While this proposed dividend percentage will not immediately bring the simple funding ratio within the ratio guidelines, it is important for management to responsibly manage planned reductions to the net position.

Dividend Eligibility and Calculation

If approved by the Board, the dividend recommended for Fiscal Year 2020 will be issued according to the following parameters:

- a) The applicable policy periods for the dividend shall be as follows:
- 1) The July 1, 2018 through June 30, 2019 policy period for private employers, and
 - 2) The January 1, 2018 through December 31, 2018 policy period for public employer taxing districts.
- b) Eligibility will be defined as follows, subject to the provisions set forth in sections e, f, and g, in the written proposal:
- 1) The employer must have been a participant in the State Insurance Fund for the applicable policy period (private or public-taxing districts only);
 - 2) The employer must have reported payroll greater than zero for the applicable policy period;
 - 3) The employer must have been billed premium for the applicable policy period;
 - 4) Private employers must have completed payroll reporting and premium reconciliation pursuant to OAC 4123-17-14(D) for the July 1, 2018 through June 30, 2019 policy period by the April 4, 2020;
 - 5) The employer must establish itself as a going concern and be in an active, reinstated, combined, cancelled – business sold, or debtor-in-possession status as of April 4, 2020; or alternately, in a lapsed status with a lapse date of January 1, 2020 or later; and
 - 6) Public employer taxing districts must complete payroll reporting and premium reconciliation pursuant to OAC 4123-17-14(H) for the January 1, 2018 through December 31, 2018 policy period by April 4, 2020.

Private employers who do not meet all the criteria set forth in 1, 2, 3, 4, and 5 in the written proposal will not be eligible to receive a dividend. Public employer taxing districts who do not meet all the criteria set forth in 1, 2, 3, 5, and 6 above will not be eligible to receive a dividend.

- c) The private employer dividend will be defined as 100 percent of billed premium for the eligible employers for the applicable policy period of July 1, 2018 through June 30, 2019. The percentage will be applied to the blended premium amount. Other clarifications of the appropriate premium base include:
- 1) Premium base for private, individual retrospective rated employers will be defined as minimum premium plus the impact of retrospective claim loss premium billed for the applicable policy period as of April 4, 2020.
 - 2) Premium base for private, group retrospective rated employers will be defined as individual, experience rated premium as of April 4, 2020. Future evaluations including the 2018 public and private group retrospective rated policy years will not result in adjustment of the dividend or any additional credits or debits.
 - 3) Premium base for private employers participating in a deductible program will be defined as adjusted, blended premium.

- 4) Employers reporting zero payroll will not be eligible.
 - 5) The premium base will be reduced by premium based credits already earned including, but not limited to, lapse-free, go green, and safety council.
 - 6) Prior-to-coverage penalties will not be included in the premium base used to calculate the dividend.
- d) The public employer taxing district dividend will be defined as 100 percent of billed premium for the eligible employers for the policy reporting period of January 1, 2018 through December 31, 2018. The percentage will be applied to the blended premium amount. Other clarifications of the appropriate premium base include:
- 1) Premiums paid for the Public Work-Relief Employees' Fund will not be included in determining the dividend.
 - 2) Premium for public taxing district, individual retrospective rated employers will be defined as minimum premium plus the impact of retrospective claim loss premium billed for the applicable policy period as of April 4, 2020.
 - 3) Premium for public taxing district, group retrospective rated employers will be defined as individual experience rated premium net of the impact of the 12-month premium calculation.
 - 4) Employers reporting zero payroll will not be eligible.
 - 5) Premium base will be reduced by premium based credits already earned including, but not limited to, lapse-free, go green, and safety council.
 - 6) The premium base will be reduced by credits earned in the policy rebate program.
- e) Any employer who cancels coverage prior to April 4, 2020 will not be eligible for the dividend. No account adjustments will be made to give these employers the dividend.
- f) Employers who paid premium for the applicable policy period but were granted the privilege of self-insurance before April 4, 2020 will be eligible for the dividend based upon the billed premiums during the applicable policy period.
- g) Private employers who paid premium as an individual employer for the applicable policy reporting period but entered into a Professional Employment Organizations relationship before April 4, 2020 will be eligible for the dividend based upon the billed premiums during the applicable policy period.
- h) An employer who has an outstanding balance will have its dividend payment reduced by the amount of the outstanding balance. An employer whose dividend is applied to an outstanding balance will receive detail regarding how the dividend was applied on their next scheduled invoice. Employers will be able to see their updated account information at any time on bwc.ohio.gov.
- i) The dividend will be treated as a one-time payment. No adjustments will be made to the dividend amount for any reason including, but not limited to: audits, rate adjustments,

appealed balances, changes in lapse status, and subsequent retrospective claim loss billings after April 4, 2020.

- j) All dividends will be net of discounts.
- k) Upon application by an employer, BWC may for good cause shown redetermine on a case by case basis an employer's eligibility for the Dividend when that employer is initially determined ineligible pursuant to the provisions of paragraph (b)(5) or paragraph (e) above. Such redetermination may consider lapses prior to January 1, 2020 and cancellations prior to April 4, 2020 for an employer that establishes itself as a going concern. "Good cause" may include specific reasons demonstrating a causal relationship between the COVID-19 Pandemic and the employer's inability to meet the requirements of paragraph (b)(5) or paragraph (e) above.
- l) Professional Employment Organizations who receive a dividend are required to provide notice of the dividend to their client employers of record for the July 1, 2018 through June 30, 2019 policy period, regardless of whether the client employer is still a client employer of the Professional Employment Organizations.

The Professional Employment Organizations shall pay to each client employer of record for the applicable policy period 100 percent of the blended premium paid by the Professional Employment Organizations to BWC on behalf of the client employer for that policy period; less any permissible administrative fees as discussed below. The dividends to clients must be issued within 30 days of BWC's issuance of the dividend.

- 1) For purposes of the Professional Employment Organizations payment to its client employers, "blended premium" includes any retrospective claim loss premium billed for the applicable policy year as of April 4, 2020.
 - 2) The client employers' share of the dividend shall be calculated based on the full amount of the dividend issued to the Professional Employment Organizations and shall not be reduced by any credit applied to the Professional Employment Organizations policy because of non-pending, outstanding balances.
 - 3) The Professional Employment Organizations may retain up to six percent% of the client employer's dividend as an administrative fee.
 - 4) The Professional Employment Organizations may not condition the issuance of the dividend to the client employer on a requirement to continue in a relationship with the Professional Employment Organizations.
 - 5) The Professional Employment Organizations may not withhold, or offset payment of the dividend based on any contractual obligation that precludes the client employer from receiving the dividend.
- m) BWC will notify Professional Employment Organizations client employers that a dividend has been sent to their Professional Employment Organizations.