

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, November 30, 2023 – 1:00 p.m.

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| Present: | Dennis P. Kavanaugh | Chairman |
| | Joseph M. Hennelly, Jr. | Vice Chair |
| | D. Alan Everett | Commissioner |
| | Maria Cecilia Valdez | Commissioner |
| | Gaetano J. Testini | Director |
| | Afshan Peimani | Chief Legal Counsel |
| | Lisa Padgett | Deputy Director |
| | Trevor Laky | Legislative Affairs Chief/Public Information Officer |
| | Renee Pastor | Self-Insurance |
| | Kamen Kovatchev | Accounting (Telephonic) |
| | Mark Norton | ADOSH Director |
| | Phil Murphy | Assistant ADOSH Director |
| | Brandt Smith | ADOSH Supervisor |
| | Joel Loranger | ADOSH Compliance |
| | Michael Bryant | ADOSH Compliance |
| | Andy Campbell | Chief Administrative Law Judge |
| | Marilyn Carter | HR Manager |
| | Anna Maria Stonerock | ADOSH Admin |
| | Yvonne Borunda | Legal Admin |
| | Kara Dimas | Commission Secretary |

Chairman Kavanaugh convened the meeting at 1:08 p.m. In attendance, confirmed by roll call were Anne Ryman (ABC15); Stephanie Hefner (Snell and Wilmer); Dorothy Schulte (Perfecta Reporting); Ron Brown; Richard Biggs; Arturo Fernandez (Designing Commercial Interiors, Inc.); and Jeff Homer (Sumto). Also in attendance on the telephone, confirmed by roll call were Arvin del Rosario and Gail Flannery (AM Risk); James Meehan (Parker-Hannifin); and Lori Becker (Ruan Transportation Management System, Inc.).

Public Hearing for Discussion and/or Action pursuant to A.A.C. R20-5-1534 to set Premium Calculation Rates and a schedule of Deviation Rates for Calendar Year 2024.

Chairman Kavanaugh welcomed interested parties to the public hearing which gives stakeholders another opportunity to comment on staff proposals regarding the 2024 Self-Insurers Rate Development, which has been posted on the Commission's website for the last month. Ms. Pastor, the Self-Insurance Administrator provided a brief overview of the Staff Proposal.

Ms. Pastor provided some history on self-insurance, code 7219 for short and long haul trucking and the new codes for them, 8829 was NCCI discontinued and is now 8411 for volunteer codes and the new breakdown codes for the 8411 series. She reviewed the three scenarios in the staff proposal.

Vice Chair Hennelly and Ms. Pastor discussed using NCCI rates as a model for the data for information codes and she provides that information to the actuarial for their review of the rates.

There were no public comments addressed to the Commission during the Public Hearing.

Chairman Kavanaugh noted that the record is now closed and concluded the 2024 Self-Insurer Rate Development Hearing.

Commissioner Valez moved to accept the recommendation of staff to adopt Scenario One which includes rates capped at 25% for those payroll classification codes that were undervalued by NCCI. This option has a 3.5% average rate increase from the prior year. Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

A written transcript of the Public Hearing is attached hereto.

Approval of Minutes of November 16, 2023 Regular Meeting Minutes.

Commissioner Everett moved to approve the Minutes of the November 16, 2023 regular session meeting and Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Consent Agenda:

All items following under this agenda item are consent matters and will be considered by a single motion with no discussion unless a Commissioner asks to remove an item on the consent agenda to be discussed and voted on separately. The Commission may move into Executive Session under A.R.S. § 38-431.03(A)(2) to discuss records exempt by law from public inspection. Legal action involving a final vote or decision shall not be taken in Executive Session. If such action is required, then it will be taken in General Session.

a. Approval of Requests for Renewal of Self-Insurance Authority.

1. Concrete Reinforcements, Inc.
2. Parker-Hannifin Corporation
3. Ruan Transportation Management Systems, Inc.
4. The Procter & Gamble Company

Vice Chair Hennelly moved to approve the items on the Consent Agenda and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Discussion and Action of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties.

Chairman Kavanaugh discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.

Clean Sweep Property Services
4187 W Kitty Hawk Wy
Chandler, AZ 85226

Fatality/Catastrophe
Years in Business: 18
Empl. Covered by Inspection: 1

Site Location: S. Price Rd & W. Armstrong Pl.
Chandler, AZ 85286
Inspection No: FC-2023-A7717-0119
Inspection Date: July 7, 2023

NON-SERIOUS – Citation 1 –

- a) The employer did not report within 8-hours the death of an employee resulting from a work-related incident. 29 CFR 1904.39(a)(1)
Div. Proposal - \$1,000.00 Formula Amt. - \$0.00
TOTAL PENALTY - \$1,000.00 TOTAL FORMULA AMT. - \$0.00

Mr. Norton discussed ADOSH's inspection, summarized the citation and proposed penalty.

Commissioner Valdez moved to approve the citation and proposed penalties as presented and Commission Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Mr. Norton noted the next two files were related.

DC Gencon HVAC LLC
3283 West Wheatfield Place
Tucson, AZ 85741

Fatality/Catastrophe
Years in Business: 18
Empl. Covered by Inspection: 1

Site Location: 2945 N Flowing Wells
Tucson, AZ 85705
Inspection No: FC-2023-JL680-0005
Inspection Date: July 3, 2023

Mr. Norton summarized ADOSH's investigation and reviewed the file and photographs. ADOSH was not recommending a citation for DC Gencon HVAC LLC.

The Commission took no action.

DC Crane LLC
6350 South Fontana Avenue
Tucson, AZ 85706

Unprogrammed Related
Years in Business: 5
Empl. Covered by Inspection: 1

Site Location: 2945 N Flowing Wells
Tucson, AZ 85706
Inspection No: UR-2023-JL680-0006
Inspection Date: July 3, 2023

WILLFUL-SERIOUS – Citation 1 - Item 1 –

- a) 2945 N Flowing Wells, Tucson, AZ 85706: One employee operated a 26-ton crane (National Crane model number 900A) within 2 feet of a 5 KVA electrical line while setting an AC unit on the rooftop. 29 CFR 1926.1408(a)(2)

the issue of deleting the 80% size adjustment and felt it should be deleted, but he supported the overall recommended violation citations. The motion passed with a three to one vote.

Designing Commercial Interiors, Inc.
23139 West Hammond Lane
Buckeye, AZ 85326

Program Planned
Years in Business: 23
Empl. Covered by Inspection: 4

Site Location: 1558 S Signal Butte Rd
Mesa, AZ 85209
Inspection No: PP-2023-JW184-0013
Inspection Date: July 12, 2023

SERIOUS – Citation 1 - Item 1 –

- a) South area of the building: Two employees were exposed to a loaded Hilti powder actuated tool model # DX 351 serial # 290597 that was left unattended while the employees cleaned up another work area. 29 CFR 1926.302(e)(6)

Div. Proposal - \$3,349.00 Formula Amt. - \$3,349.00
TOTAL PENALTY - \$3,349.00 TOTAL FORMULA AMT. - \$3,349.00

Mr. Norton discussed ADOSH's inspection, summarized the citation and proposed penalty, and reviewed the photographs.

Mr. Fernandez stated the foreman was working with a power tool and was pulled out by one of the Compliance Officers and left the tool behind for 15-20 minutes not two hours.

Chairman Kavanaugh confirmed Mr. Fernandez's comments that the foreman was pulled away to meet with one of the ADOSH inspectors for a period of time.

Mr. Norton stated on review of the case file ADOSH documented at the time of the inspection the power tool was left unattended for two hours.

Commissioner Everett moved to approve the citation and proposed penalty as presented and Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Mega Metals, LLC
1325 N 22nd Ave
Phoenix, AZ 85009

Program Planned
Years in Business: 32
Empl. Covered by Inspection: 27

Site Location: 1325 N 22nd Ave
Phoenix, AZ 85009
Inspection No: PP-2023-T3633-0127
Inspection Date: September 14, 2023

SERIOUS – Citation 1 - Item 1a –

- a) King Kong crusher area: The flywheel on the American Pulverizer brand crusher (King Kong), unknown model and serial number, the bottom of which was approximately six feet eleven inches above the floor, did not have a guard installed. 29 CFR 1910.219(b)(1)
Div. Proposal - \$5,645.00 Formula Amt. - \$5,645.00

SERIOUS – Citation 1 - Item 1b –

- a) King Kong crusher area: The drive belts on the American Pulverizer brand crusher (King Kong), unknown model and serial number, did not have a guard on the bottom side of the belts. 29 CFR 1910.219(e)(3)(i)

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|----------------------------|----------------------------------|
| Div. Proposal - \$0.00 | Formula Amt. - \$5,645.00 |
| TOTAL PENALTY - \$5,645.00 | TOTAL FORMULA AMT. - \$11,290.00 |

Mr. Norton discussed ADOSH’s inspection, summarized the citation and proposed penalties, and reviewed the photographs.

Commissioner Everett confirmed that 7 feet is the standard and this was 6 feet 11 inches, so 1 inch for that particular violation, the belts were within the 7 feet.

Vice Chair Hennelly and Mr. Norton discussed abatement of the missing safety guard which had been off for a couple years but was reinstalled following the inspection..

Commissioner Valdez moved to approve the citation and proposed penalties as presented and Chairman Kavanaugh seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Platinum Framing And Drywall LLC
 7933 East Plata Avenue
 Mesa, AZ 85212

Complaint
 Years in Business: 1
 Empl. Covered by Inspection: 50

Site Location: 10060 W Desert River Blvd
 Glendale, AZ 85305
 Inspection No: CP-2023-JR339-0008
 Inspection Date: June 6, 2023

SERIOUS – Citation 1 - Item 1a –

- a) Building B: Two employees were framing a second story roof, approximately 20' off of the ground, utilized personal fall protection systems with anchorages installed without the supervision of a qualified person. 29 CFR 1926.502(d)(15)(ii)

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|----------------------------|---------------------------|
| Div. Proposal - \$6,697.00 | Formula Amt. - \$6,697.00 |
|----------------------------|---------------------------|

SERIOUS – Citation 1 - Item 1b –

- a) 10060 W Desert River Blvd: Two employees were framing a second story roof, approximately 20' off of the ground, without first receiving training on fall protection. 29 CFR 1926.503(a)(1)

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|----------------------------|----------------------------------|
| Div. Proposal - \$0.00 | Formula Amt. - \$6,697.00 |
| TOTAL PENALTY - \$6,697.00 | TOTAL FORMULA AMT. - \$13,394.00 |

Mr. Norton discussed ADOSH’s inspection, summarized the citation and proposed penalties, and reviewed the photographs.

Commissioner Everett moved to approve the citation and proposed penalties as presented and Commissioner Valdez seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Sedona Bottling Company, LLC
 120 N 57th Dr, Ste 1
 Phoenix, AZ 85043

Site Location: 120 N 57th Dr, Ste 1
 Phoenix, AZ 85043
 Inspection No: PP-2023-T3633-0126
 Inspection Date: September 13, 2023

Program Planned
 Years in Business: 30
 Empl. Covered by Inspection: 7

SERIOUS – Citation 1 - Item 1 –

- a) 120 N 57th Ave, Ste 1, Phoenix: Employees did maintenance work on bottling equipment including lubrication and conveyor motor changes, and the company had not established an energy control procedure which included employee training and periodic inspections. 29 CFR 1910.147(c)(1)

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|----------------------------|---------------------------------|
| Div. Proposal - \$3,349.00 | Formula Amt. - \$3,349.00 |
| TOTAL PENALTY - \$3,349.00 | TOTAL FORMULA AMT. - \$3,349.00 |

Mr. Norton discussed ADOSH’s inspection, summarized the citation and proposed penalty, and reviewed the photographs.

Commissioner Everett moved to approve the citation and proposed penalty as presented and Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

SRT Autoworks LLC
 2017 w rose garden ln
 Phoenix, AZ 85027

Site Location: 2017 W Rose Garden ln.
 Phoenix, AZ 85027
 Inspection No: CP-2023-VM508-0009
 Inspection Date: August 30, 2023

Complaint
 Years in Business: 7
 Empl. Covered by Inspection: 4

SERIOUS – Citation 1 - Item 1 –

- a) Shop: Three employees were required to work in a shop where four 55-gallon drums of Category 2 Torco Racing Fuels T85 gasoline were located outside of an inside storage area. 29 CFR 1910.106(e)(2)(ii)(b)(2)

| | |
|----------------------------|---------------------------------|
| Div. Proposal - \$3,349.00 | Formula Amt. - \$3,349.00 |
| TOTAL PENALTY - \$3,349.00 | TOTAL FORMULA AMT. - \$3,349.00 |

Mr. Norton discussed ADOSH’s inspection, summarized the citation and proposed penalty.

Commissioner Valdez moved to approve the citation and proposed penalty as presented and Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Discussion and Action of Attorney Fee Petition.

Grajeda and Dotson - Ms. Peimani summarized that the Applicant, Mr. Dotson, hired Mr. Grajeda, with the typical fee agreement of 25% of benefits, and Mr. Grajeda was paid for a period of time. The payments for work for the last year was the subject of the dispute. Mr. Dotson did not feel that Mr. Grajeda should receive any more fees and was upset about how the hearing was handled and the delay in receiving the decision. Mr. Grajeda reported he worked about 12.46 hours during the past year on the file. Based on what was presented in the petition, the work performed was fair and the Applicant did benefit from the work performed. It is the Legal Division's recommendation that Mr. Grajeda receive payment for the reasonable 12.46 hours, and based on the new approved fee hourly rate of \$290.00, he would be owed \$3,613.40 and deducting \$2,000.00 that has already been received. It is the Legal Divisions recommendation that the Commission approve the remaining \$1,613.40 be awarded to Mr. Grajeda.

Vice Chair Hennelly moved to adopt the recommendation from the Legal Department for the Findings and Award granting attorney's fees in the amount of \$1,613.40 and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Discussion and/or Action regarding the consideration of candidates for appointment to the position of Administrative Law Judge pursuant to A.R.S. § 23-108.02(A). The Commission may move into Executive Session for the purposes described in A.R.S. § 38-431.03(A)(1) and (A)(3).

Judge Campbell noted there were three applications selected for a position in the Phoenix office. Judge Campbell presented three candidates that were interviewed and for the Commission's consideration and recommended and ranked Candidate #2, then Candidate #1 and Candidate #3 for the position, all are qualified candidates. Candidate #2 has a much greater experience specifically in workers' compensation and has previously served at the Commission.

Vice Chair Hennelly asked if it would be appropriate to allow Judge Campbell authority to hire one candidate and also have authority to hire the next candidate should the first candidate decline.

Chairman Kavanaugh commented he was comfortable with Vice Chair Hennelly's suggestion, Judge Campbell has done all of the work and it is current and from time to time issues can arise, and it is important to have the authority so that we can have a seamless transition and maintain the number of ALJs for the work to be done.

Vice Chair Hennelly moved to accept Judge Campbell's recommendation to extend an offer to Candidate #2 and give Judge Campbell the option of going to the next candidate should the first candidate not accept the position. Commissioner Valdez seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Testini noted the Christmas tree was put up, and this year we are going to have an evening with Santa.

Public Comment.

There was no public comment.

The meeting was adjourned at 2:32 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Gaetano J. Testini, Director

ATTEST:



Kara Dimas, Commission Secretary

INDUSTRIAL COMMISSION OF ARIZONA

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PUBLIC HEARING REGARDING THE
2024 SELF-INSURED RATE DEVELOPMENT

* * * * *

November 30, 2023

1:07 p.m.

Prepared by:
Dorothy A. Schulte, RPR
Certified Court Reporter
Certificate No. 50459

PERFECTA REPORTING
602-421-3602

(ORIGINAL)

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THE PUBLIC HEARING REGARDING THE 2024
SELF-INSURED RATE DEVELOPMENT was reported by Dorothy
A. Schulte, CCR, RPR, Arizona Certified Court Reporter
No. 50459, in and for the State of Arizona.

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APPEARANCES

COMMISSIONERS: Chairman Dennis P. Kavanaugh
Vice Chairman Joseph M. Hennesly, Jr.
Commissioner D. Alan Everett
Commissioner Maria Cecilia Valdez

STAFF: Gaetano Testini, Director
Afshan Peimani, Chief Counsel
Kara Dimas, Commission Secretary
Yvonne Borunda, Legal Administrator
Renee Pastor, Self-Insurance

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SPEAKERS:

PAGE:

RENEE PASTOR..... 4

1 Phoenix, Arizona
2 November 30, 2023
3 1:07 p.m.

4 P R O C E E D I N G S

5
6
7 CHAIRMAN KAVANAUGH: All right. First
8 item on our agenda is we're having a public hearing on
9 self-insured rate development for this year. And this
10 hearing is being held to give members of the public and
11 Commission stakeholders an opportunity to comment on
12 staff proposals regarding the 2024 Self-insured Rate
13 Development.

14 And the staff proposal has been posted on the
15 Commission's website for the last month.

16 And Renee Pastor, our self-insured
17 administrator, will provide a brief overview of the
18 staff proposal, so I will turn it over to Renee for her
19 presentation.

20 Thank you for all the work in this.

21 MS. PASTOR: Thank you. Thank you for
22 thanking me.

23 I did -- the memo that I submitted to you it
24 gave a little history because -- and then I gave myself
25 the self-proclaimed title of ICA historian, just so you

1 know.

2 CHAIRMAN KAVANAUGH: Institutional
3 memory is a good thing.

4 MS. PASTOR: Right.

5 So I went over the fact that, you know, ICA
6 and the State Compensation Fund were together up until
7 1969, when they split apart.

8 During that -- a small period there, the
9 State Compensation Fund used to calculate the
10 self-insured taxes for the ICA, and then at some point
11 they said they weren't doing it anymore, and then the
12 staff here had to start calculating taxes.

13 I came on in 2004 and immediately noticed
14 there was a big disconnect between the NCCI rates and
15 what -- what's going on in the self-insurance program.

16 When we promulgated the new Rule packet,
17 Article 15, we had to give ourselves the ability to
18 create rates, and the reason that we did this is
19 because we had to come up with a deviation factor.

20 Before the Statute 23-961 stated that the ICA
21 will follow what State Compensation Fund did.

22 And since they privatized and became a mutual
23 company, we couldn't do that anymore, so -- but in
24 order to come up with a deviation schedule for each
25 self-insured employer, we had to come up with the

1 rates, so you kind of couldn't put the cart before the
2 horse so to speak. So hence is that big package in
3 front of you.

4 And one of the other things that we -- that I
5 noticed going through here is last year we came up and
6 we separated code 7219, which was short-haul and
7 long-haul trucking, and there are definitive, big
8 differences in short-haul and long-haul, so we
9 extrapolated those out, back into their proper areas.
10 So now we have 7228, 7229 starting with this year, so
11 we'll be able to calculate the proper tax for the
12 trucking company.

13 What happened with the trucking company is,
14 like, when they -- they had 7228 and 7229, and then
15 they developed 7219 in 2019 by putting it all together
16 because most of this industry is in our self-insurance
17 program.

18 So where you see things like 7380, that's
19 local drivers, so that -- they didn't really look at
20 that -- NCCI didn't look at that as a need to have that
21 code in the state, whereas we did, because the majority
22 of industries in this state that are in the
23 self-insurance program use that code.

24 So we want to be able to calculate the taxes
25 correctly in order to assess the proper deviation, and

1 we have to be able to assign an experience modification
2 rate to all self-insured employers regardless of the
3 plan that they're on because Plan A and Plan B, which
4 is the fixed premium plan, ex medical plan, do not have
5 experience modification factor in the primary formula.

6 So -- and due to that we were never able to
7 measure the safety of all self-insured employers using
8 information based on the self-insured employers.

9 Now, starting in 2023, every self-insured
10 employer will have an e-mod, and the thing is those
11 e-mods will be credible because it's going to be based
12 on the data of all self-insured employers. So it's
13 based on their own data, so they really can't say it's
14 wrong or right, you know what I mean. There's no
15 argument there. It's accurate basically is what I'm
16 saying.

17 So -- so that's the good point. We don't
18 have to rely on those external sources, you know, for
19 other information to determine if their -- their safety
20 is adequate. We have it right in front of us.

21 And when we're calculating taxes at tax time,
22 I can see that that e-mod has jumped, and I know that
23 it's credible, and then we can make the recommendations
24 to work with ADOT right at that time, right as it's
25 fresh.

1 So, now, moving forward, we also had 8829,
2 which NCCI discontinued, and we brought it back in
3 2023.

4 And for 2024, we came up with volunteer
5 codes. What is out there is NCCI has 8411, and the
6 problem with 8411 is that it's for firefighters or it's
7 supposed to be, and the State Department of Insurance
8 kind of made them come up with this code, but we have
9 several categories in the definitions for volunteers
10 that are supposed to have codes.

11 So we extrapolated all the different
12 information that we could, and we came up with the
13 eight -- the seven additional codes plus 8411, so I
14 call it the 8411 series.

15 We needed a volunteer -- general volunteer
16 code as well as these detailed codes that match the
17 statute because there are several self-insurers out
18 there that cover their volunteers, you know, as part of
19 their self-insurance program.

20 I've seen claims in the six digits, you know,
21 for these volunteers, and so we need to have a code to
22 make sure that they're included in the tax calculation,
23 so -- and to know what their actual e-mod is.

24 So those codes are -- we start at 8411, and
25 we made that very organic with the volunteer

1 firefighters. We have 8412, which is certified
2 ambulance drivers and attendants.

3 And we have 8413, certified volunteer police
4 and sheriff reserve because there wasn't a lot of
5 difference in those two, so we approved them together.

6 8414 was DES on-the-job training for TANF, so
7 if the DES has any claimants or, you know, recipients
8 of TANF that they farm out, they should be covered
9 under the State's work comp. program. And this is the
10 code that they would use.

11 We have 8415 worker -- Volunteer Workers of a
12 Licensed Health Care Institution, again medical is one
13 of those categories where the primary industry is in
14 the self-insurance program.

15 Municipals -- almost all municipals with the
16 exception of, like, two small towns and one small city
17 and about 70 fire districts are in the self-insurance
18 program. So now we have places for them, for their
19 volunteers.

20 Moving on, we have 8416 for volunteer search
21 and rescue.

22 8417 is your general volunteer.

23 And 8418, Arizona Game and Fish Reserves.

24 8417, I was able to pull it out using
25 23-901.06 for cities and counties.

1 The idea with this is to also have the other
2 entities that are reporting just general volunteers
3 report under that code, and then we'll extrapolate that
4 and come up with a code for them next year, so --

5 And then the rates that you have before you,
6 there are three different options.

7 Option 1, rate increases are capped at
8 25 percent, and I want to say that this is just an
9 average kind of cap. There were codes for municipals
10 where the rates were still under valued by about 65
11 percent because the majority of municipals are in the
12 self-insurance program.

13 So where there's a majority of industries in
14 the self-insurance program, there's a big gapping law
15 between NCCI rates and our rates, but we're trying to
16 bridge that gap. It'll probably take about another
17 three years to get there.

18 Anyway, back to option 1, rate increases are
19 capped at 25 percent for those payroll classification
20 codes that were undervalued, and excess distributed to
21 the remaining classification codes, and it has a 3.5
22 percent average rate increase.

23 Rate two, option 2, is rate increases are
24 capped at 25 percent with no excess distributed to the
25 remaining payroll classification codes.

1 And then option 3, capped at 25 percent, and
2 then -- sorry -- the full excess were not distributed,
3 but we had -- excuse me -- 5 percent that was
4 distributed of the excess on option 3.

5 With that, we make the recommendation for the
6 Commission to adopt scenario 1 with the excess
7 distributed because that will actually help us get to
8 our end goal in -- in a sooner amount of time.

9 And I will add that I calculated several
10 taxes where there were e-mods of like 1.6, 1.80.

11 And what happened was these e-mods dropped to
12 about half, so we're seeing a more accurate version.

13 When we're using NCCI rates for the --
14 there's an ELR table, and these ELR table -- it's
15 expected loss rate table -- there is a rate assigned to
16 each payroll class code, and those were way too low.

17 And so when you have an abundance of
18 injuries, it was weighting the injuries too heavily,
19 thus driving up the e-mods, so we were getting, like, a
20 super -- super pushed up e-mod. There was -- it was
21 larger than it should have been. So with that, it just
22 weighted too heavily on injuries.

23 So now we're going to get a true e-mod. We
24 can depend on this e-mod, and we can look at it to make
25 recommendations as well as determine what the deviation

1 that the self-insurer will get.

2 And the idea with the deviation rate schedule
3 in here is that the better the e-mod the more of a
4 discount the self-insured employer will get from the
5 annual premium, so thus we're incentivizing safety with
6 the idea of them putting more into their safety program
7 because they realize it does affect their bottom line.

8 And in business, yes, they look at people and
9 people have worth, but it's like, you know, in business
10 and corporate level, they really look at bottom lines,
11 and so that's a way to emphasize safety. And, quite
12 frankly, I'm very proud of that.

13 CHAIRMAN KAVANAUGH: Questions for Renee
14 from Commissioners today?

15 COMMISSIONER HENNELLY: I have a
16 question.

17 CHAIRMAN KAVANAUGH: Joe.

18 COMMISSIONER HENNELLY: So just to sort
19 of make sure I understand this, we still use NCCI rates
20 and a lot of codes.

21 MS. PASTOR: No, what we use -- we're
22 going to use these rates to calculate insurance; but I
23 will say when we're developing the rates, we take into
24 consideration the NCCI model, so it's involved in
25 there.

1 MR. HENNELLY: Okay, and this is because
2 of the fact that the NCCI rates or process just misses
3 a lot of what goes on in Arizona because of the vast
4 number of self-insured entities?

5 MS. PASTOR: Yeah, in Arizona, like I
6 said, with municipals, the majority of industries --

7 COMMISSIONER HENNELLY: Right.

8 MS. PASTOR: -- and their -- medical,
9 trucking, you know, and it's like you can't -- when I
10 say majority, yes, they have the largest employers that
11 make up the most weight.

12 COMMISSIONER HENNELLY: Right.

13 MS. PASTOR: So smaller employers aren't
14 in the Self-insurance Program unless they're part of a
15 pool, so -- but when it comes to municipals, most of
16 them are in one of the pools that we have. We have
17 five pools, so there is -- what there is, is like they
18 won't take the -- NCCI won't take the information that
19 we have for payroll and losses.

20 And last year the self-insured made up like
21 32.6 percent. The prior year the self-insured made up
22 40 percent of the injuries in the state. And on
23 average they make up anywhere from 22 to 28 percent of
24 the premiums.

25 So that's quite a large amount to just not

1 use to develop rates. So, I mean, they're just using
2 the rates -- or developing rates on the information
3 provided by insurance carriers.

4 COMMISSIONER HENNELLY: Okay, and so AMI
5 has access to the self-insured data and the NCCI --
6 NCCI concept developed appropriate rates for the
7 Self-insured Program.

8 MS. PASTOR: Correct. I average it all
9 over, and we work with both.

10 COMMISSIONER HENNELLY: Okay. Thank
11 you.

12 MS. PASTOR: So this is -- You know,
13 we're going to get better and better at this.

14 COMMISSIONER HENNELLY: Oh, we are. I
15 really appreciate all the work you had put into this
16 too. Thank you.

17 CHAIRMAN KAVANAUGH: Other questions for
18 Renee from Commissioners?

19 Because we are having a public hearing today,
20 we now welcome people to present your oral comments and
21 recommendations regarding the 2024 Self-Insurance Rate
22 Development.

23 And we'll start with a list that people have
24 already requested to speak per the instructions
25 received a month ago with a copy of the proposed

1 updates.

2 Others wishing to speak will then also be
3 given an opportunity. You'll have five minutes to
4 speak. At the beginning of your comments, for the
5 record and the court reporter, please state your name
6 again and spell it and state who you represent.

7 At the conclusion of your comments, the
8 Commissioners and Staff may ask you questions.

9 In the interest of time, please do not repeat
10 what other speakers have stated. If you agree with
11 what has been said, simply state as such.

12 And I do not have a list of people who have
13 requested to speak or would this be individuals
14 identified on my call sheet?

15 MS. DIMAS: They didn't indicate they
16 needed to speak, but --

17 CHAIRMAN KAVANAUGH: Okay. And I don't
18 have any requests to speak from people present here at
19 the hearing.

20 So given those circumstances with no prior
21 requests to speak or current requests to speak, we'll
22 now declare the record closed.

23 (WHEREUPON, the Self-Insured Rate Development
24 Public Hearing concluded at 1:28 p.m.)

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C E R T I F I C A T E

BE IT KNOWN that the foregoing proceedings were reported by Dorothy A. Schulte, Certified Reporter, Certificate No. 50459, State of Arizona, and reduced to written form under my direction; that the foregoing 15 pages constitute a full, true, and accurate transcript; all done to the best of my skill and ability.

DATED at Phoenix, Arizona, this 5th day of January, 2024.

Dorothy A. Schulte

Dorothy A. Schulte, RPR
Certified Court Reporter
Certified No. 50459