



South Carolina  
House of Representatives  
Legislative Oversight Committee

**LAW ENFORCEMENT, CRIMINAL AND CIVIL  
JUSTICE SUBCOMMITTEE**

Chairman Chris Wooten

The Honorable William H. Bailey  
The Honorable Kambrell H. Garvin  
The Honorable Leon Douglas "Doug" Gilliam  
The Honorable Jeffrey E. "Jeff" Johnson

**AMENDED AGENDA**

Thursday, February 29, 2024

9:00 a.m.

Room 403 - Blatt Building

- I. Approval of Minutes of November 21, 2023 Meeting
- II. Discussion of the study of the Workers' Compensation Commission
- III. Adjournment



# South Carolina House of Representatives Legislative Oversight Committee

## Chair Jeffrey E. “Jeff” Johnson

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Gary S. Brewer  
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Lewis Carter  
Director

Cathy A. Greer  
Administration Coordinator

Roland Franklin  
Legal Counsel

Riley E. McCullough  
Research Analyst

Post Office Box 11867  
Columbia, South Carolina 29211  
Telephone: (803) 212-6810 • Fax: (803) 212-6811  
Room 228 Blatt Building

## MEETING MINUTES

Tuesday, November 21, 2023  
10:30 a.m. Blatt Room 521

### Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.7, South Carolina ETV was allowed access for streaming the meeting. You may access an archived video of this meeting by visiting the South Carolina General Assembly’s website (<http://www.scstatehouse.gov>) and clicking on Committee Postings and Reports, then under House Standing Committees click on Legislative Oversight. Then click on Video Archives for a listing of archived videos for the Committee.

### Attendance

- I. Chair Chris Wooten called the Law Enforcement and Criminal and Civil Justice Subcommittee meeting to order on Tuesday, November 21, 2023, in Room 521 of the Blatt Building. In addition to Chair Wooten, Representative William H. Bailey, Representative Kambrell H. Garvin, and Representative Jeffrey E. Johnson were present for all or a portion of the meeting.

### Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings, but the minutes do not have to be verbatim accounts of meetings.

## Approval of Minutes

- I. Representative Wooten makes a motion to approve the meeting minutes from the July 19, 2023 meeting. Representative Garvin moved to approve the minutes. A roll call vote is held and the motion passes.

<b>Rep. Wooten's motion to approve meeting minutes.</b>	Yea	Nay	Not Voting
Rep. Wooten	✓		
Rep. Johnson	✓		
Rep. Bailey	✓		
Rep. Garvin	✓		
Rep. Gilliam			✓

## Discussion of the South Carolina Workers' Compensation Commission

- I. Chair Wooten calls the meeting to order and asks the Members to introduce themselves. Chair Wooten notes that Commissioner T. Scott Beck was sworn in at the Thursday, March 9, 2023 public input meeting and remains under oath. Chair Wooten asks if there are any agency representatives present who intend to present testimony who have not been sworn in. Commissioner Beck notes that today's presentation will be handled by J. Keith Roberts, General Counsel for the Commission, and Wayne A. Ducote, Jr., Director of Insurance and Medical Services. Chair Wooten swears in Roberts and Ducote, and the presentation commences.
- II. Mr. Roberts begins the presentation by addressing and answering questions concerning laws and regulations governing the filing of a claim, various applicable statutes of limitation, and Form 19. Mr. Ducote then addressed fines and assessments for employer coverage noncompliance, and fines and assessments for failure to file required forms.

## Adjournment

- I. There being no further business, the meeting is adjourned.

# Agency Overview: Workers' Compensation Commission

## Agency Mission

“The mission of the South Carolina Workers' Compensation Commission is to provide an equitable and timely system of benefits to injured workers and employers in the most responsive, accurate, and reliable manner possible.”

## History and Resources (FY 20-21)

### History

#### “The Grand Bargain”

- Workers gave up the right to sue employers in civil court for workplace injuries
- Employees guaranteed treatment and compensation
- Created no fault system with exclusive remedy for injuries
- Minimized cost to employers of lengthy trials

**1935** – Created as the SC Industrial Commission then changed to the Workers' Compensation Commission

### Organizational Units

- Commissioners
- Office of Executive Director
- Information Technology
- Claims
- Judicial
- IMS

### Employees



**53**

authorized FTEs

### Funding



**\$8,400,000**

Annual Operating Budget

## Successes and Challenges

Identified by the agency

### Successes

- Current WCC IT Staff have multiple years and extensive levels of related experience to form a cohesive team.
- Institutional Knowledge
- Employment with State Government, benefits and sense of pride for serving the public good.
- Cooperative relationships with state agencies and local governments for attaining venues for hearings.

### Challenges

- Loss of key personnel would hinder continued development of processes and systems.
- Institutional Knowledge - Eligible for Retirement
- Salaries of current employees have not maintained a level to be competitive with other state agencies and the private sector.
- The potential safety and security of the Commissioners.



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## WORKERS' COMPENSATION COMMISSION

# Internal Changes, Findings, & Recommendations

# INTERNAL CHANGES

## HUMAN RESOURCES

1. The Commission expanded its Human Resources Manager position to include management of the financial accounting, budgeting, and procurement programs along with human resources.

## BUDGET REQUEST

2. In its FY 2024-2025 Agency Budget Plan, the Commission proposed a proviso suspending, for the current fiscal year, the provision in section 42-5-190 requiring the Commission to remit the entirety of the maintenance tax revenues to the General Fund.

## EFFICIENT AND EFFECTIVE FINE COLLECTION

3. The Commission applied for and has been approved for enrollment in SCDOR's new pilot program that enables qualified agencies to pursue corporate entities for delinquent fines using federal tax identification numbers.

## DEFAULT METHOD OF PAYMENT OF BENEFITS

4. On November 13, 2023, the Commission submitted proposed language and Notice of a Public Hearing to the State Register to amend S.C. Code Regs. 67-1602, which will allow payment of temporary disability and reimbursements for expenses under S.C. Code Regs. 67-1601 to be made by electronic payment systems subject to certain conditions. On January 24, 2024, following a public hearing, the

Commission submitted a proposed amendment to the State Register providing for temporary disability and reimbursements for expenses under S.C. Code Regs. 67-1601 to be made by electronic payment systems.

## FORM LANGUAGE

5. The Commission revised WCC Form 19, adding language that states, "A Claimant whose case has been denied may file a WCC Form 50 Employee Request for Hearing to request a hearing and file the claim with the Commission."

## PROVISO REVISION

6. In its FY 2024-2025 Agency Budget Plan, the Commission requested a proviso revision exempting the Commission from the provisions of S.C. Code Ann. § 1-7-170 so that it no longer must seek approval from the Attorney General's Office to engage outside counsel to represent the Commission or individual employees of the Commission when actions are brought against them for decisions made in the course of their employment.





# FINDINGS

## LEADERSHIP

1. Since its inception, 65 individuals have served on the Commission, 29 of whom have been attorneys and 36 of whom have been non-attorneys.
2. From 2009-2023, the executive director of the Commission served as the chief financial officer, chief procurement officer, and ombudsman for the Commission.

## STAFF AND BUDGET

3. Compared to surrounding states, the Commission operates with a modest staff and budget.

## REQUIRED EMPLOYER COVERAGE

4. With certain exceptions, South Carolina employers with four or more employees employed in the state are required to maintain workers' compensation coverage.

## COVERAGE OPTIONS

5. Five compensation coverage options are available to employers in South Carolina: (1) commercial insurance carriers; (2) the self-insured fund; (3) individual self-insurance; (4) the State Accident Fund; and (5) the South Carolina Assigned Risk Pool.

## APPROPRIATIONS

6. Less than 25% of the Commission's funding comes from general appropriations.

## SELF-INSURANCE TAX

7. Prior to January 2024, the Commission had not requested an increase in the amount of funds received from the self-insurance tax in nearly a decade.

## COMPLIANCE FINES

8. In FY 2022, the Commission's Compliance Division assessed \$4.9 million in fines and penalties but collected only \$686,000 from noncompliant employers.

## FINE COLLECTION

9. The Commission lacks an effective means of collecting assessed fines.

## JURISDICTIONAL DISTRICTS

10. It is not known when or by what method of determination the Commission created the seven long-existing jurisdictional districts.

## VENUES

11. The Commission lacks designated venues in which to hold single commissioner hearings.

## SECURITY

12. The Commission lacks recurring funding for security (e.g., officers, technology).

## DEFAULT PAYMENT OF BENEFITS

13. Payment of benefits by paper check remains the default method of payment.

## FILING A CLAIM

14. Regulation 67-206, which governs the filing of a claim, does not properly reflect the parties who may file a claim.

## E-CASE

15. The Commission is replacing its claims management system, which will allow all parties involved in workers' compensation claims to submit claims, complete required reports and forms, and pay applicable fines and fees electronically.

## FRAUD TRAINING

16. The Commission has not invested in training designed to improve commissioners' ability to identify and mitigate workers' compensation fraud.

## LEGAL REPRESENTATION FOR COMMISSIONERS

17. The Commission encounters difficulty obtaining approval from the South Carolina Attorney General's Office to hire counsel.

## STAFFING

18. Fifty percent of the Commission's employees are eligible for retirement in five years.



# RECOMMENDATIONS

## EFFICIENCY

1. The Committee recommends that the Commission conduct a study to determine the effectiveness of the SCDOR pilot program.
2. Once the Commission's case management system is fully upgraded, the Committee recommends that the Commission conduct a study to evaluate the efficiency of online payment of claims and report the findings to the House Oversight Committee within six months of publication of this report.
3. The Committee recommends that the Commission conduct a study to determine the funding needed for Commission security.

## FRAUD

4. The Committee recommends that the Commission post contact information for the Insurance Fraud Division of the Department of Insurance conspicuously on the agency's website to provide a way for the public to report fraud, waste, abuse, and wrongdoing specific to workers' compensation benefits.

## HUMAN RESOURCES

5. The Committee recommends that the Commission identify key positions within the Commission that may be vacant within the next five years and develop a plan for individuals to assume those positions.
6. The Committee recommends that the Commission request the Office of the State

Inspector General (SIG) conduct an employee satisfaction survey.

## MODERNIZATION OF LAWS

7. The Committee recommends that the Commission amend the title to S.C. Code Regs. 67-206 to clarify that the provisions of the regulation apply only to a claimant filing a claim with the Commission. The Committee further recommends that following the submission of the amended regulation to the General Assembly, the General Assembly approve S.C. Code Regs. 67-206 as amended.
8. The Committee recommends that the Commission amend S.C. Code Regs. 67-411 to provide that an employer files a claim when the employer files a WCC Form 12A with the Commission and that a claim is deemed to have been filed even if the employer's representative subsequently denies the case by filing a WCC Form 19 pursuant to S.C. Code Regs. 67-414(B). The Committee further recommends that following the submission of the amended regulation to the General Assembly, the General Assembly approve S.C. Code Regs. 67-411 as amended.

9. The Committee recommends the General Assembly consider amending Section 1-7-170 of the South Carolina Code (Supp. 2023) to expressly exempt the Commission from the requirement of seeking approval from the Attorney General to engage on a fee basis an attorney at law.

10. As noted in Internal Change #4, the Commission submitted proposed language and Notice of a Public Hearing to the State Register to amend S.C. Code Regs. 67-1602, which will allow payment of temporary disability and reimbursements for expenses under S.C. Code Regulations. The Committee recommends the General Assembly consider approving the amended regulation.