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## Reformed: Privatization of workers, compensation continues to be an example of government job well done

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By Mandi Cardosi - email

A program set into motion by U.S. Sen. Joe Manchin, D-W.Va., continues to bring benefits to the state.

On Nov. 1 this year, the workers' compensation loss costs filed by the National Council on Compensation Insurance, or NCCI, over the summer became effective. The numbers reflected a massive overhaul that was nearly a decade in the making.

Then-governor of West Virginia, Manchin signed a law in 2005 fully privatizing the state's Workers' Compensation Commission and transforming it into a private insurance carrier — what became known as BrickStreet Insurance. Since the process completion in 2008, workers' compensation rates declined an average of 30 percent statewide, saving employers annual costs of \$150 million in 2010. The number of protested claims is now hovering at about 4,000 a year — a dramatic difference from 2004 when it was about 24,000. In just the first two years, the number of outstanding, unfunded liabilities from the old state-run system dropped from \$3.2 billion to \$1.9 billion.

The current loss costs now reflect an overall reduction in cost levels for the voluntary workers' compensation insurance market of less than 8.8 percent.

From first filing the classification plan and loss costs on July 1, 2006, the state has enjoyed a continuous decrease in workers' compensation claim costs resulting in a cumulative loss cost level change of less than 46.5 percent.

Back in the early 2000s, West Virginia was experiencing one of the worst-managed workers' compensation systems in the country. Due to ineffective management, large awards for injured workers and a history of both unpaid and underpaid premiums, the system was left a whopping \$3.6 million in debt.

Officials were expecting the state would be \$226 million in debt — but then lawmakers and business-savvy Mountaineers stepped in to make a difference for the state's shortcomings.

The Workers' Compensation Division itself had one of the worst records for comp claims among state agencies, state records showed. But with the blame set on many of the state's workers, the Supreme Court of Appeals blamed lawmakers and administrators for failing to crack down on the system.

Manchin stepped up as one of his first actions as governor, calling a special session of the Legislature to force a change.

### Former governor reflects

Manchin said there was never a question of if the state would improve the workers' compensation program, but when and how well.

"No one ever thought we would change (the program) and to be able to do it (quickly) and do it right — I'm proud of that," Manchin said. "We still have to make sure we're taking care of our injured workers (and they aren't missing paychecks.)"

He said his main goals after taking office were to keep the jobs the state had, create more jobs and change the workers' compensation program. Now the program is used as a nationwide model, Manchin added.

"It was a landmark piece of legislation," Manchin said. "(The change) was a positive outcome for our state and business climate, but most importantly for our workers."

His main concern throughout the process was making sure an injured West Virginia worker did not miss a paycheck.

"Their family needs that paycheck — if they need any type of doctor care, rehabilitation, those are the things we weren't accomplishing and had to change," Manchin said.

### Not a quick fix

Two women involved in the process recently reflected on how the new program continues to breathe life today.

Jane Cline and Mary Jane Pickens were part of the general counsel to the Workers Compensation Commissioner's Office when the privatization process began in 2003. The women worked on the project keeping the full-time jobs they already had.

Pickens served as the general counsel at the offices of the insurance commissioner, and Cline served as the state insurance commissioner.

The two also were part of the team of people established with BrickStreet Insurance, the company that handled all of the state's claims involving workers' compensation for two years.

Cline explained that the legislation spelled out how the workers' compensation commission would cease to exist.

"West Virginia had 94 classes within the old employer classification system, (which) posed part of the challenge," she said.

The state adopted a new class system from the National Council on Compensation Insurance in July 2006 which transitioned the state from having 94 to more than 400 different classes in the state. The change helped insurance companies better classify injured workers.

"Another example, as the continued improvement, (the) business community (is) enjoying lower premiums and have more money freed up to use for other investments or employee benefits," Cline said. "It has really been a success all the way around. Litigation is way down from the early 2000s, which means claims handling has greatly improved by having companies that know how to handle these claims in the market."

The system has really become a better opportunity for the best outcome, the ladies agreed.

"It lessens return-to-work time; the sooner (workers) are getting that treatment the better for everybody," Pickens said. "There are less medical costs in the end with the appropriate treatment upfront."

They explained that privatization made for a more normal system wherein injured workers get the benefits they deserve, reducing costs ultimately for everybody.

The women continue to represent the National Council on Compensation Insurance, or NCCI, locally as well as serving as statistical agents.

"A large part of what we do is government relations and following what the legislature is looking at; there are a number of bills we look at," Cline said, and added that they work locally with insurers as well.

By staying current with national and state agencies, the women look at the same issues taking place across the country and decide the best ways for West Virginia to benefit.

"(BrickStreet) is really a success story for the state (and) employer community," Cline said. "It's nice to have your local West Virginia insurer of that size and quality."

#### A program that benefits everyone

Gregory Burton was at the forefront of the changing system. Now the President and chief executive officer of BrickStreet, Burton oversees policy direction, leadership, strategic planning and budget development for the insurance company.

Burton stays busy, serving on Charleston City Council and the board of directors for the Charleston Area Alliance. Burton was the executive director of the Workers' Compensation Commission in 2003 when the workers' compensation program was under the state's operation.

He said there are now more than 200 carriers similar to the large insurance company— BrickStreet.

"The system is in the best shape it's ever been," Burton said when asked to reflect. "One of the key things is if there is an injured claimant, they are getting the care they need and able to return to work quicker than they ever have been (able to) in the past."

Burton, like Manchin, understood the importance of saving the program. When he was first interviewed by The State Journal nearly a decade ago, Burton said he believed the system had about six months before it would cost the state complete bankruptcy. Taking a cue from other states and crunching numbers, Burton found a way to help the state.

"It started Jan. 1, 2006, and since then rates have gone down more than 60 percent for employers in West Virginia," Burton said.

Burton said he isn't worried about the competitive market the increasing number of carriers brings to the state, claiming "competition is great— it makes people do their job better, including us," he said.

#### New and expanding horizons

With more insurance companies handling claims, they have more of a chance to specialize in cases and cater to ever-changing needs.

Those emerging needs would include an insurance company dedicated to helping a niche market to better focus on the safety programs for that type of employer, saving time and money for people who need to return to work and their employers who need those workers back on the job.

Insurance claims involving a coal miner would be handled differently from that of a clerical worker, for example, with the program allowing for more of a "common sense" approach.

The extent of the state code, Chapter 23, Workers' Compensation, article 1-e reads simply: "It is the intent of the Legislature, expressed through its enactment of legislation, to transfer the regulation of the workers' compensation system to the Insurance Commissioner."

It continues to spell out how the Worker's Compensation Commission would be terminated on Dec. 31, 2005 and the duties and responsibilities would then rest with the Insurance Commissioner.

But the monumental changes created from those lines continue to reverberate through West Virginia's economy, whether most people realize it or not.



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