

**PERFORMANCE AUDIT**

**WORKERS' COMPENSATION PROGRAM  
ADMINISTERED BY THE  
NORTH CAROLINA INDUSTRIAL COMMISSION**

**FEBRUARY 1997**



## AUDITOR'S TRANSMITTAL

---

February 6, 1997

The Honorable James B. Hunt, Jr., Governor  
Mr. J. Howard Bunn, Jr., Chairman  
North Carolina Industrial Commission  
Members of the North Carolina General Assembly

Ladies and Gentlemen:

We are pleased to submit this performance audit of the *Workers' Compensation Program Administered by the North Carolina Industrial Commission*. The objectives of the audit were to identify areas where the effectiveness and efficiency of Commission operations could be improved in the areas of operating policies, practices, control activities and current organizational structure and staffing.

This report consists of an executive summary, program overview, and operational findings and recommendations. Chairman Bunn has reviewed a draft copy of this report and his written comments are included.

We wish to express our appreciation to the Chairman, members of the Commission and staff for the courtesy, cooperation, and assistance provided us during this effort.

Respectfully submitted,

*original report signed by Ralph Campbell, Jr., State Auditor*

Ralph Campbell, Jr.  
State Auditor

# TABLE OF CONTENTS

---

	<u>Page</u>
<b>EXECUTIVE SUMMARY</b> .....	1
<b>AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY</b> .....	3
<b>BACKGROUND INFORMATION</b> .....	5
<b>FINDINGS AND RECOMMENDATIONS</b> .....	15
<b>TABLES:</b>	
1 Breakdown of Positions .....	9
2 Summary Budget Data Fiscal Years 1993-94 through 1995-96 .....	10
3 Total Cost to the State as Employer .....	10
4 Status of Cases at June 30, 1996 .....	17
5 Time in Process for Mediation and Formal Hearings .....	19
6 Travel Reimbursement Errors .....	22
7 Safety Director Travel/Workdays in Raleigh.....	23
8 Salaries for State Commission Chairs .....	29
9 Judicial Salaries.....	30
10 State Agency Workers' Compensation Statistical Data.....	53
11 Agencies With Highest Benefit Expenditures .....	53
<b>EXHIBITS:</b>	
1 Reported Claims and Hearing Statistics .....	6
2 Organizational Chart as of June 1996 .....	7
3 Official Forms .....	12
4 Flowchart of Claims Process.....	13
5 Medical Fees Workload .....	25
6 Comparative Salaries for Deputy Commissioner, NC Industrial Commission .....	32
7 Comparative Salaries for Commissioner, NC Industrial Commission .....	33
8 Comparative Salaries for Chairman, NC Industrial Commission .....	34
9 Comparative Salaries for Administrator, NC Industrial Commission.....	35
10 Comparative Salaries for Executive Secretary, NC Industrial Commission .....	35
<b>APPENDIX:</b>	
A Workers' Compensation Administrator Survey.....	41
B Southeastern States Industrial Commission Salary Survey .....	47
C State "Self-Insurance" for Workers' Compensation Claims .....	53
D Response to Audit .....	55
<b>DISTRIBUTION OF AUDIT REPORT</b> .....	77



## EXECUTIVE SUMMARY

---

We have conducted a performance audit of the *Workers' Compensation Program* administered by the North Carolina Industrial Commission (Commission). The scope of the audit encompassed all aspects of the operation of the Workers' Compensation Program but did not extend to the other programs administered by the Commission. We examined operating policies, practices, control activities and the current organizational structure and staffing for the program. The focus of the audit was to understand the operations of the program, to identify areas where the effectiveness and efficiency of program operations could be improved, to determine the costs associated with the administration of the program, and to identify the placement of workers' compensation personnel throughout state agencies. This report is directed toward those areas where we feel improvements can be achieved and is not intended to imply that there are not many commendable aspects of the current operations of the Commission.

The draft of the report was reviewed by the Chairman and members of the Commission. The letter of response is included as Appendix D, page 55.

Page

### *OPERATIONAL ISSUES*

- **THE AGENCY DOES NOT HAVE FORMALIZED INTERNAL POLICIES AND PROCEDURES..... 15**
- **EXISTING STATISTICAL REPORTS ARE NOT CONSISTENT, RELIABLE, OR STANDARDIZED..... 15**
- **THE "BACKLOG" IS OVERSTATED. .... 17**
- **THE COMMISSION'S SYSTEM OF ASSIGNING AND HEARING CASES PRIOR TO OCTOBER 1996 WAS INEFFECTIVE. .... 18**
- **CASES CAN BE RESOLVED MORE QUICKLY THROUGH MEDIATION THAN THE FORMAL HEARINGS PROCESS. .... 18**
- **CLAIM FILES ARE NOT BEING ADEQUATELY MAINTAINED BY THE VARIOUS SECTIONS. .... 20**
- **THE COMMISSION DOES NOT HAVE THE STATUTORY AUTHORITY TO SET INPATIENT HOSPITAL FEES..... 21**
- **TRAVEL REIMBURSEMENTS DID NOT COMPLY WITH BUDGETARY REGULATIONS..... 22**
- **THE COMMISSION IS PAYING THE SAFETY DIRECTOR TO COMMUTE FROM HOME TO HIS PRIMARY WORK SITE..... 23**

**EXECUTIVE SUMMARY (CONCLUDED)**

---

Page

***ORGANIZATIONAL ISSUES***

- **THE WORKERS' COMPENSATION NURSES MAY BE MISCLASSIFIED..... 24**
- **THE MEDICAL FEES SECTION IS UNDER UTILIZED..... 25**
- **THE NEW TEAM APPROACH DOES NOT SUPPORT THE RATIO OF ONE LEGAL SECRETARY FOR EACH DEPUTY COMMISSIONER. .... 26**
- **THE SAFETY EDUCATION SECTION DOES NOT TARGET EMPLOYERS WITH HIGH ACCIDENT RATES. .... 26**
- **THERE IS A LACK OF COORDINATION FOR FRAUD INVESTIGATIONS BETWEEN THE COMMISSION AND THE DEPARTMENT OF INSURANCE. .... 27**
- **THE COMMISSION IS NOT IN COMPLIANCE WITH CERTAIN OFFICE OF STATE PERSONNEL REGULATIONS..... 28**

***SALARY STUDY***

***(OFFICE OF STATE PERSONNEL REPORT)***

- **NO CHANGE IN THE SALARY GRADE FOR THE CLASS OF DEPUTY COMMISSIONER..... 32**
- **SEVERAL OF THE DEPUTY COMMISSIONER SALARIES COULD BE ADJUSTED TO A HIGHER SALARY WITHIN THE ASSIGNED SALARY RANGE BASED ON THEIR TRAINING AND EXPERIENCE ..... 33**
- **IT IS RECOMMENDED THAT THE SALARIES OF THE MEMBERS OF THE NORTH CAROLINA INDUSTRIAL COMMISSION BE ADJUSTED TO \$86,752..... 33**
- **IT IS RECOMMENDED THAT THE SALARY OF THE CHAIRMAN OF THE NORTH CAROLINA INDUSTRIAL COMMISSION BE ADJUSTED TO \$88,460..... 34**
- **NO CHANGE IS RECOMMENDED IN THE SALARY GRADE FOR THE CLASS OF ADMINISTRATOR..... 35**
- **NO CHANGE IS RECOMMENDED IN THE SALARY GRADE FOR THE CLASS OF EXECUTIVE SECRETARY ..... 35**

***STATE AGENCY PROGRAMS***

- **STATE AGENCY WORKERS' COMPENSATION CLAIMS ARE NOT PROCESSED IN A UNIFORM MANNER..... 37**

## AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

---

North Carolina General Statute §147-64 empowers the State Auditor with authority to conduct performance audits of any state agency or program. Performance audits are reviews of activities and operations to determine whether resources are being used economically, efficiently, and effectively. During the period June 17, 1996, through December 9, 1996, the Office of the State Auditor undertook a performance audit of the workers' compensation program administered by the North Carolina Industrial Commission (Commission).

The objectives of the audit were to analyze the current organization and staffing levels, to identify the functions and responsibilities of each section, to examine the operating policies of the Commission, to determine the costs associated with administering workers' compensation programs, to review compliance with state regulations, and to identify the placement of workers' compensation personnel throughout state agencies.

Senate Bill 5346, Part X, Section 10.1 of the 1996 Second Session of the General Assembly required the State Auditor to “. . . *study, in conjunction with the scheduled performance audit of the North Carolina Industrial Commission, the salary levels of the Chairman and members of the North Carolina Industrial Commission as well as that of Deputy Commissioners, the Executive Secretary, and Administrator.*” Furthermore, the legislation directed the auditor to “. . . *consult the Office of State Personnel, the North Carolina Industrial Commission Advisory Council, and the North Carolina Bar Association . . .*” as well as “. . . *review the compensation of Industrial Commissioners and staff of other southeastern states.*” This study has been incorporated into our audit procedures and, as such, its results are contained within this report. (See page 29.)

To achieve the audit objectives, we reviewed legislation and regulations regarding the Commission and the workers' compensation program; reviewed the policies and procedures of the Commission; examined personnel and payroll information; interviewed individuals within and external to the Commission; and conducted compliance testing of transactions with budgetary policies.

Specifically, we obtained organizational charts, payroll data, job descriptions, and workload indicators for the staff. We reviewed a sample of personnel files for compliance with regulations. We examined samples of travel requests and reimbursements, state vehicle logs, contractual costs, and accounts receivable. We conducted in-depth interviews with a representative sample of the staff of each section. In total, we interviewed 127 persons both within and outside the Industrial Commission. Additionally, we surveyed all state agency workers' compensation administrators as identified by the Office of State Personnel. The results of this survey are included in Appendix A, page 41. Finally, we contacted other states to identify their methods of administering their respective workers' compensation programs.

This audit was conducted in accordance with the *Government Auditing Standards* issued by the Comptroller General of the United States.



[ This page left blank intentionally. ]

## BACKGROUND INFORMATION

---

### PROGRAM OVERVIEW

Workers' compensation is a "no-fault" system that protects employers from unlimited liability and entitles workers to benefits without having to prove employer negligence. Workers' compensation programs began in Germany in the latter part of the nineteenth century. In the United States, the first workers' compensation laws were enacted in 1911. These laws were intended to ensure injured workers receive proper and timely benefits with a minimum of disputes and litigation.

The North Carolina Industrial Commission (Commission) was created in 1929 to administer the Workers' Compensation Act (General Statute Chapter 97). In addition, the Industrial Commission oversees tort claims against the State (GS §143-291), the childhood vaccine-related injury compensation program (GS §130A-424), and death benefits for firemen, rescue workers, law enforcement officers, and the civil air patrol (GS §143-166). Currently, the Commission is a division within the Department of Commerce.

The Commission's stated purpose is ". . . to provide for the resolution of contested cases and the administrative handling of non-contested cases . . ." under the agency's jurisdiction. The primary mission of the Commission is to deliver services to the workers' compensation community in North Carolina. Specifically, the agency is responsible for receiving and processing information for claimants (injured employees), insurance carriers, employers, and attorneys.

The North Carolina Workers' Compensation Act covers all employers, with a few exceptions, that have at least three employees (GS §97-2). Employers covered by the Act are required to either carry workers' compensation insurance or prove their ability to pay benefits directly (GS §97-93). Workers with injuries ". . . arising out of and in the course of employment . . ." or who suffer from occupational diseases receive payment for necessary medical treatment. Payments of medical benefits, with the exception of hospital expenses, are made according to a fee schedule established by the Commission. In addition, injured employees may receive "indemnity"\* benefits to replace a portion of lost wages. These benefits generally equal two-thirds of the employee's average weekly wage, with a maximum rate of \$492 per week for 1996. (This amount is adjusted annually.)

To claim workers' compensation, the injured employee must notify the employer within thirty days of the injury. The employee must file the claim with the Industrial Commission within two years of knowledge of the injury. It is the employer's responsibility to arrange and provide necessary treatment for work-related injuries and occupational diseases and to report industrial accidents and occupational diseases to the Commission as prescribed by law. The employer should provide the best possible medical care to help the employee return to work as soon as possible.

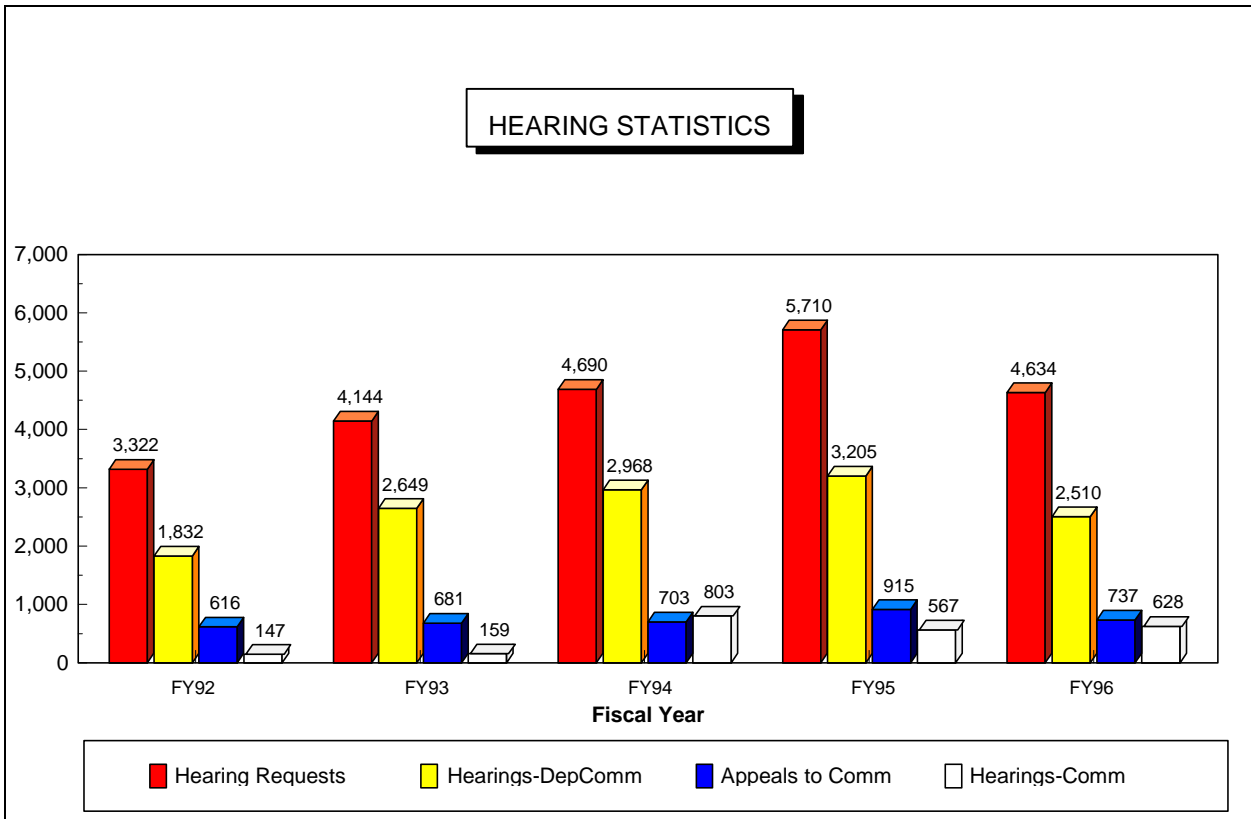
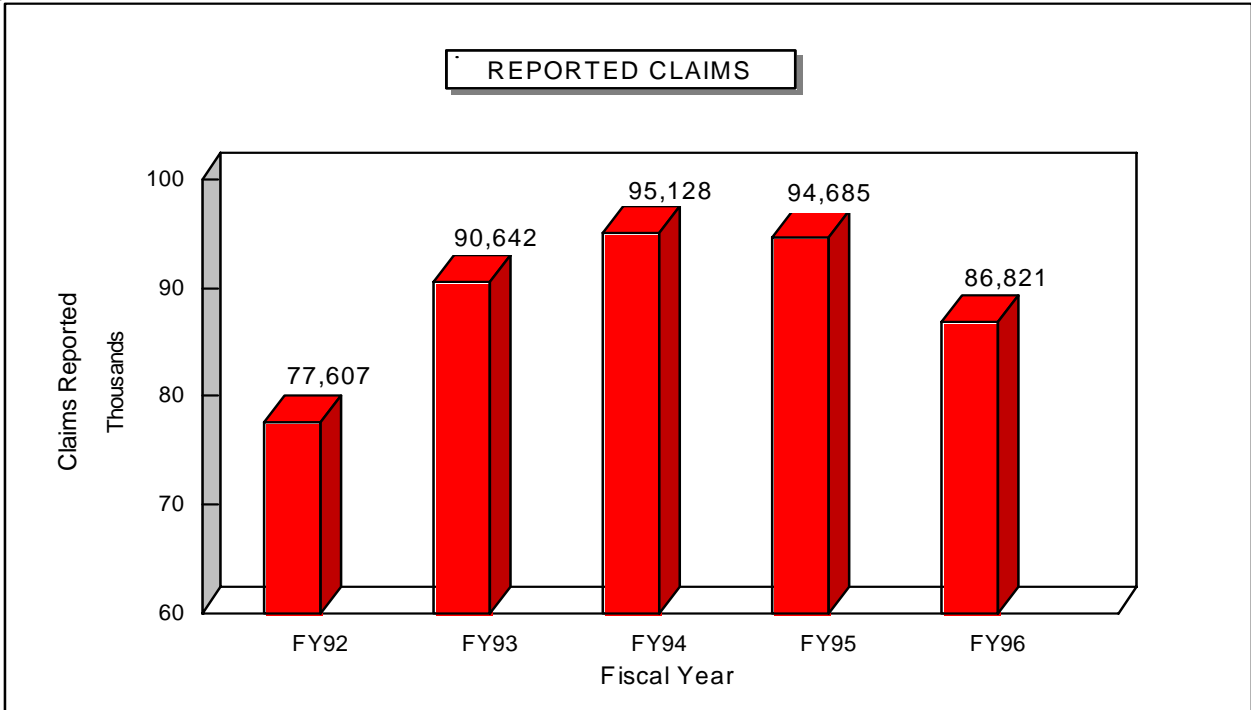
The Industrial Commission receives approximately 90,000 claims annually. (see Exhibit 1, page 6) About 95% of these claims are resolved and processed without the need of a formal hearing. Contested cases are heard initially by Deputy Commissioners in the county where the injury occurred. Deputy Commissioners' decisions may be appealed to a panel of the Full Commission. The Full Commission's decisions can be appealed to the N. C. Court of Appeals.

---

\* Indemnity benefits are paid to the employee for damage, loss, or injury suffered.

# BACKGROUND INFORMATION

**EXHIBIT 1  
REPORTED CLAIMS AND HEARING STATISTICS**

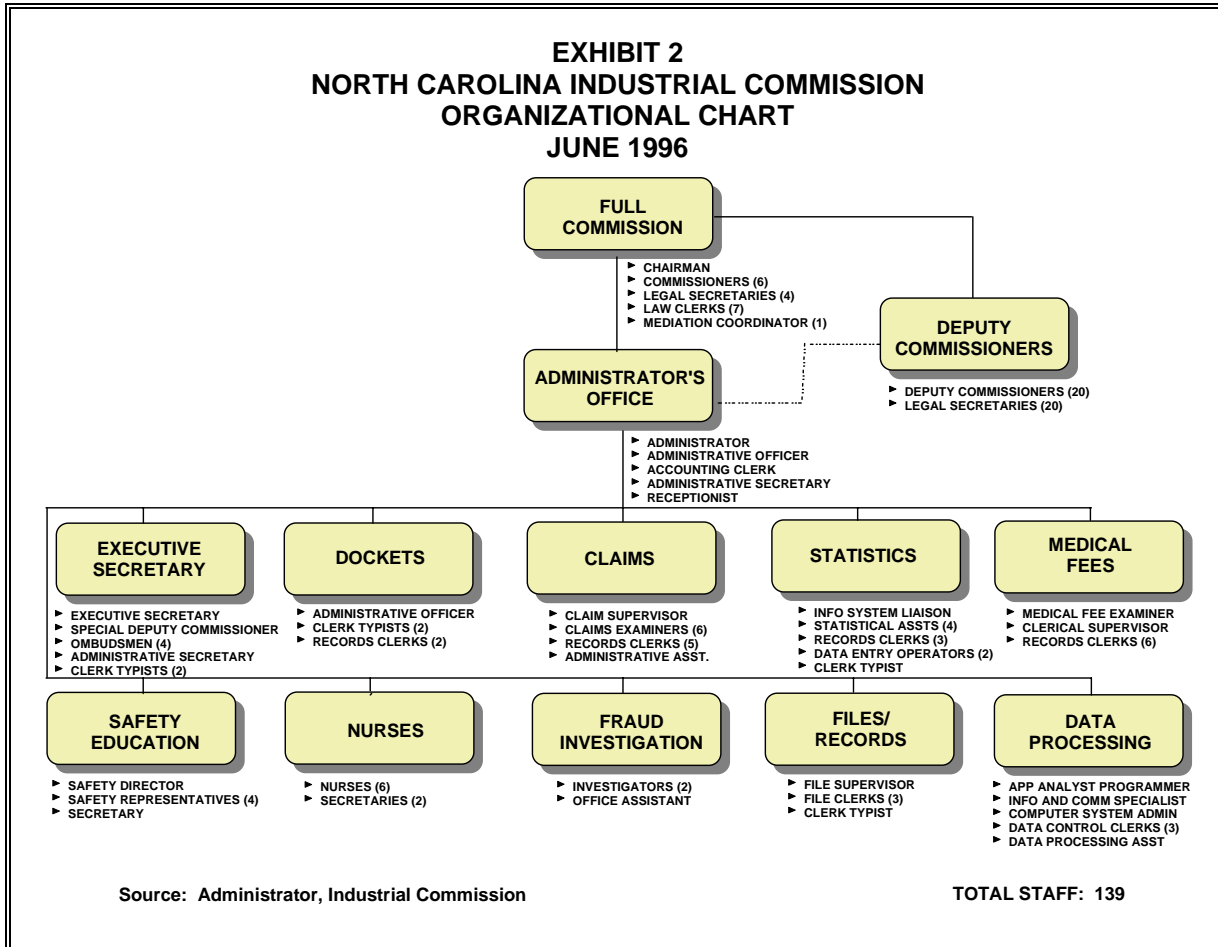


Source: Industrial Commission records

## BACKGROUND INFORMATION

### ORGANIZATIONAL STRUCTURE AND STAFFING

Exhibit 2 depicts the organizational structure in place at the beginning of the audit. The Commission has three distinct levels: (1) the Commissioners, (2) the Deputy Commissioners, and (3) the operational staff. Below, we outline the duties and responsibilities of each of the Commission's sections.



**The Chairman and Commissioners** are appointed to six-year terms by the Governor. The Chairman and six Commissioners are not required to be attorneys. The only requirement, according to GS §97-77, is that “. . . not more than three appointees shall be . . . classed as representatives of employers and not more than three appointees shall be . . . classed as representatives of employees.” The Chairman and the six Commissioners, sitting in panels of three, hear and decide cases appealed from the Deputy Commissioner level. In addition, the Commissioners have an oversight role in the daily operations of the Commission. The Chairman and Commissioners are assisted by seven agency legal specialists (“law clerks”) and four legal secretaries. The Mediation Coordinator is also organizationally located under the Commissioners. The Mediation Coordinator manages the Commission's alternative dispute resolution program, which was instituted on a pilot basis in 1994 and became a regular part of the Commission in 1995.

**The Deputy Commissioners** provide the initial hearing of contested cases. After hearing the case and reviewing necessary case file information, including medical depositions, the Deputy

## BACKGROUND INFORMATION

---

Commissioners prepare “Opinions and Awards” that serve as the official case decision. Each of the twenty Deputy Commissioners must be an attorney; each is assisted by a legal secretary.

**The Administrator** oversees the daily operations of the Industrial Commission and is directly supported by four staff. The Administrator supervises the operational section heads, manages the agency’s budget, acts as the personnel officer and legislative liaison, and oversees special projects. The Administrator’s staff is responsible for handling personnel and accounting functions as well as contracting with court reporters to prepare transcripts of hearings.

The duties of the **Office of the Executive Secretary** include processing Compromise Settlement Agreements (“clinchers”), handling motions for all cases not assigned to a Deputy Commissioner for hearing, and assessing penalties to employers that do not carry required insurance coverage. The Executive Secretary is classified as an agency legal specialist and is assisted by an administrative secretary. The Office of the Executive Secretary also employs “special Deputy Commissioners,” classified as agency legal specialists (one permanent and two temporary positions). They hold informal telephone hearings to determine if the employer’s request to terminate benefits is justified. They are assisted by a clerk typist. In addition, the Executive Secretary supervises the Ombudsman program, consisting of four administrative officers and one clerk typist, which provides informational assistance to the general public through a toll free telephone line.

The **Dockets** section is staffed by an administrative officer, two clerk typists, and two records clerks. This section prepares the calendar for cases to be heard by the Full Commission and establishes a pool of cases available for setting on the hearing docket for the Deputy Commissioners upon receipt of a Request that Claim be Assigned for Hearing. The Dockets section also invoices hearing costs, transcript costs, and other administrative costs.

The **Claims** section is responsible for the administrative processing of non-contested cases. This section consists of a claims supervisor, six claims examiners, five records clerks, and an administrative assistant. The Claims section approves or rejects compensation agreements, verifies case file information, and refers claimants with occupational diseases to physicians for examinations.

The **Statistics** section enters case file information into the computer database. This section includes an information system liaison, four statistical assistants, three records clerks, two data entry operators, and a clerk typist. The Statistics section generates statistical data from a computer database for use by the agency as well as employers. In addition, the Statistics section publishes the *Biennial Report* which contains statistical and performance data for the Commission.

The **Medical Fees** section consists of a medical fee examiner, a clerical supervisor, and six records clerks. Using an automated bill review system, the Medical Fees section reviews and approves bills for medical services provided for workers’ compensation claims, except in those instances where the private sector provides these services as prescribed by law. This section also helps the Commission to formulate a proposed medical fee schedule, which is approved and adopted by the Commission after public hearings. This fee schedule lists the maximum allowable fees for medical procedures. The fee schedule is updated periodically.

The **Safety Education** section prepares and presents courses and workshops directly to supervisors and employees throughout the state. The courses are aimed at accident prevention and workers’

## BACKGROUND INFORMATION

compensation education. This section includes a safety director, four safety representatives, and a secretary. The safety representatives work in conjunction with eight regional safety councils. The safety councils are organizations sponsored by the Commission to promote safety. This section also conducts an annual Statewide Safety Conference.

The six **Workers' Compensation Nurses** and their two secretaries provide medical rehabilitation services for claimants within their districts throughout the state. This is accomplished through interviews and observations; assessment of needs; coordination with and referral to specialized facilities, professionals, and community resources; and support and counseling. This section concentrates its efforts on claimants with complicated medical rehabilitation problems, such as spinal or brain injuries, when either the parties or representatives of the private sector request special assistance, or when disagreements occur between the parties.

The **Fraud Investigation Unit** was created by the 1995 Session of the General Assembly and staffed with two investigators and an office assistant during May 1996. This unit is intended to investigate all potential cases of fraud relating to workers' compensation and administrative violations related to workers' compensation claims whether by the claimant, the employer, the insurer, medical providers, or others prescribed by law.

The **Files/Records** section is responsible for maintaining files for all claims. This section includes a files supervisor, three file clerks, and a clerk typist. The Files/Records section also sorts incoming mail for the Commission.

The **Data Processing** section provides computer support for the Commission. The section is headed by an applications analyst programmer who is assisted by a computer system administrator. These individuals are responsible for installation and maintenance of computer equipment. An information and communication specialist is responsible for creation and updating of the Commission's Internet homepage and the Commission's electronic bulletin board. This section also includes four persons to microfilm all closed files and scan all files for conversion to a "paperless" system.

<b>TABLE 1</b>				
<b>INDUSTRIAL COMMISSION</b>				
<b>BREAKDOWN OF POSITIONS</b>				
<b>SECTION</b>	<b>PERMANENT</b>	<b>PLUS TEMPORARY</b>	<b>LESS VACANT</b>	<b>TOTAL AVAILABLE</b>
Commissioners	19	1		20
Deputy Commissioners	40	2		42
Administration	5			5
Claims	13	1		14
Statistics	11	1		12
Dockets	5			5
Medical	8		1	7
Data Processing	7			7
Files/Records	5	3	2	6
Nurses	8			8
Safety	6			6
Executive Secretary	9	3		12
Fraud Investigation	3		1	2
<b>TOTALS</b>	<b>139</b>	<b>11</b>	<b>4</b>	<b>146</b>
Sources: OSP records and Industrial Commission organizational chart as of 6/30/96				

According to Office of State Personnel (OSP) records as of June 30, 1996, the Industrial Commission has 139 permanent full-time positions. (see Table 1) Total budgeted salaries equal \$4,495,586 (average salary of \$32,342). All positions are subject to the State Personnel Act except for the Chairman, the Commissioners, the Administrator, and the Executive Secretary.

## BACKGROUND INFORMATION

### FINANCIAL INFORMATION

Table 2 summarizes the financial data for the Industrial Commission for the past three fiscal years. The Industrial Commission receives general fund appropriations from the General Assembly and is authorized to collect revenues from sales of publications and forms, collect hearing costs, and assess and collect penalties and fines. The operating costs (expenditures) of the Industrial Commission are the cost to the State of administering the Workers' Compensation program for all employers doing business in this state, including the State of North Carolina as an employer, as well as administering the tort claims act and other responsibilities of the Industrial Commission.

	FYE 6/30/94	FYE 6/30/95	FYE 6/30/96
<b>Expenditures:</b>			
Personal Services	\$4,166,380	\$5,068,574	\$5,495,079
Purchased Services	990,508	1,394,372	1,395,480
Supplies and Materials	64,269	71,566	132,477
Property, Plant, and Equipment	33,229	895,820	202,221
Other Expenditures	4,253	4,967	9,525
Transfers	716,830	1,819,904	1,442,820
<b>Total Expenditures</b>	<b>\$5,975,469</b>	<b>\$9,255,203</b>	<b>\$8,677,602</b>
<b>Revenues:</b>			
Sales of Pubs and Forms	\$ 43,623	\$ 35,289	\$ 39,020
Hearing Costs	1,092,007	1,366,271	1,390,500
Penalties and Fines	377	690	2,375
Transfers	462,690	716,412	1,724,582
Other Revenues	5,551	12,663	9,134
<b>Total Revenues</b>	<b>\$1,604,248</b>	<b>\$2,131,325</b>	<b>\$3,165,611</b>
<b>Appropriations</b>	<b>\$4,371,221</b>	<b>\$7,123,878</b>	<b>\$5,511,991</b>
Source: Monthly Budget Reports			

Workers' compensation costs for the State as an employer include not only the benefits paid to employees but also the costs for managing the program. These costs include salary costs for workers' compensation administrators at the various state agencies. On page 53, we identify the benefit costs paid to state employees over the past three fiscal years. On page 41, we project the salary costs for all workers' compensation administrators. In total, the cost for managing the workers' compensation program for the State of North Carolina as an employer is shown in Table 3.

	FYE 6/30/94	FYE 6/30/95	FYE 6/30/96
Benefits Paid to State Employees	\$28,725,831	\$29,301,931	\$28,522,330
State Agency Administrators' Salaries (Projected)	681,308	681,308	681,308
<b>TOTAL COST TO THE STATE</b>	<b>\$29,407,139</b>	<b>\$29,983,239</b>	<b>\$29,203,638</b>
Sources: Monthly Budget Reports by agency, Workers' Compensation Program survey (see page 41)			

### CLAIMS PROCESS

The processing of a claim is accomplished by filing a variety of forms at different stages. Exhibit 3, page 12, lists the official forms. Below, we describe the flow for processing these forms. A flowchart is included as Exhibit 4, page 13, to further explain this process.

#### *Files/Records section*

The Files/Records section receives, opens, and sorts all mail for the Commission; prepares a file jacket for every new claim received; and maintains all claim files. A claim file is created when the Commission receives an injury report (form 18 or form 19). All injury reports are transferred to the Statistics section.

## BACKGROUND INFORMATION

---

### *Statistics section*

The Statistics section reviews each injury report received from claimants and verifies the claim has not previously been reported. If previously reported, the report is forwarded to the Claims section. The Statistics section enters data for all *new* claims into the computer system, assigns the claim a file number, and returns the forms to the Files section.

The Statistics section also reviews reports of compensation paid. These reports are required to be submitted by the insurance carrier within sixteen days following final payment to the claimant. If there are no discrepancies in tabulating the total compensation paid and all necessary documents are located in the claim file, the file is marked closed and the computer system is updated. If there are discrepancies or additional documents are needed, the Claims section requests the necessary information from the appropriate party. In addition, the Statistics section updates the computer system as other compensation information is reported to the Commission.

### *Claims section*

The Claims section reviews and verifies various information submitted to the Commission such as claims for benefits, compensation agreements, earnings data, and return to work information.

### *Dockets section*

When a request for hearing is received, the Dockets section updates the computer system. The request can be filed by either party when an agreement cannot be reached between the two parties. If the request for hearing is completed by the claimant, the insurance carrier or self-insured employer submits a response to the Dockets section. In addition, the Dockets section receives all appeals of Deputy Commissioner decisions and schedules the court calendar for Full Commission hearings.

### *Medical Fees section*

The Medical Fees section updates the computer system with information reported on medical charges. The on-line system audits the medical charges entered to ensure the charges agree with information from the initial injury reports. If there is a discrepancy, the corresponding bills are forwarded to the Statistics section for review. Following the review, the Statistics section returns the bill adjustments to the Medical Fees section. The Medical Fees section updates the computer system with the adjustments.

### *Office of the Executive Secretary*

The Office of the Executive Secretary reviews and approves applications to terminate or suspend payments of compensation after holding informal telephone hearings, provides certified copies of Industrial Commission files, and reviews and completes applications for appointments of guardians ad litem.



## BACKGROUND INFORMATION

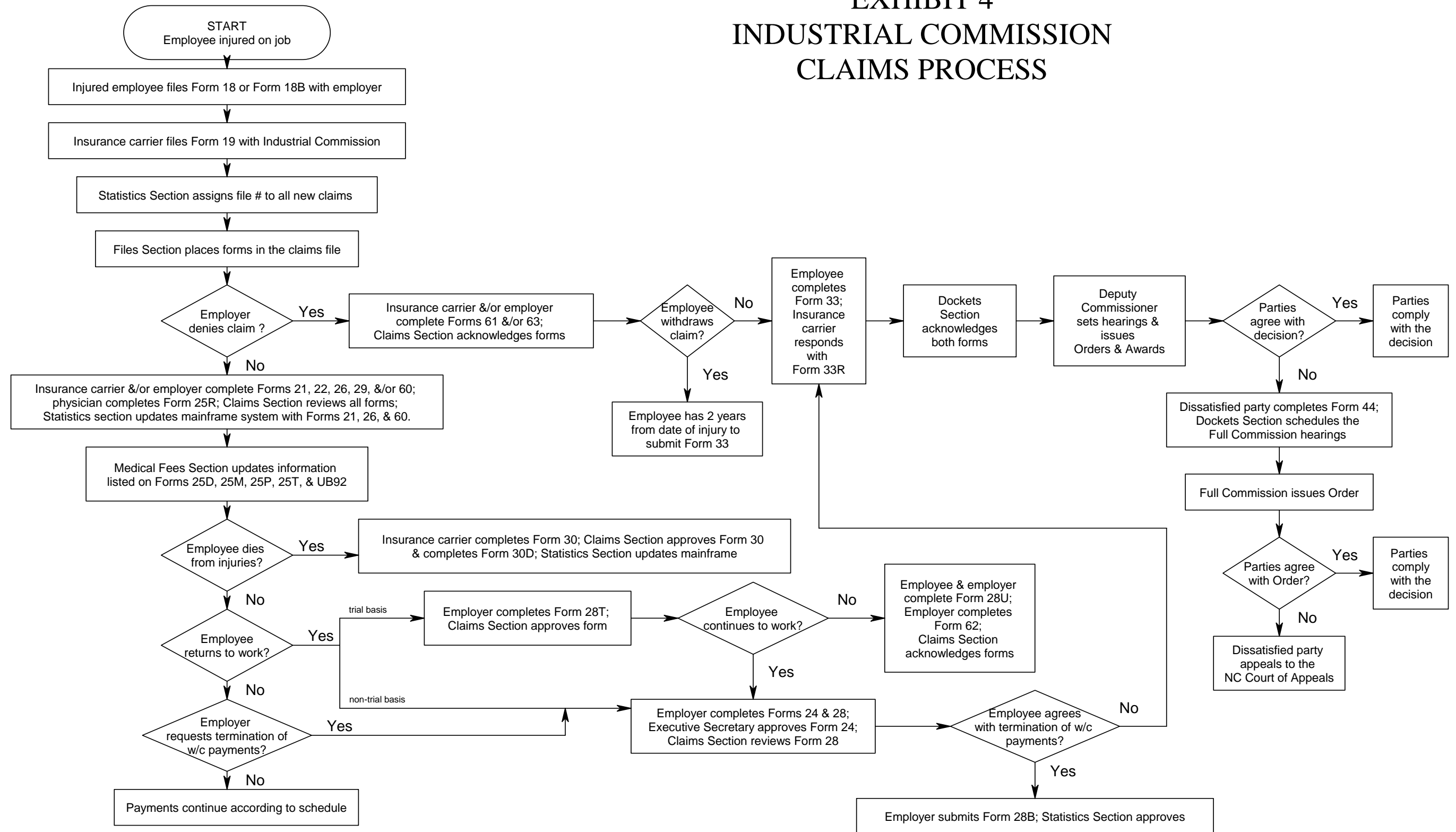
### EXHIBIT 3 OFFICIAL FORMS

The Industrial Commission will supply, on request, forms identified by number and title as follows:

Form 17	Workers' Compensation Notice
Form 18	Notice of Accident to Employer (NC Gen. Stat. 97.22) and Claim of Employee or His Personal Representative or Dependents (NC Gen. Stat. 97-24)
Form 18B	Claim by Employee or His Personal Representative or Dependents for Worker's Compensation Benefits (NC Gen. Stat. 97-53)
Form 18M	Employee's Claim for Additional Medical Compensation
Form 19	Employer's Report of Injury to Employee
Form 21 rev.	Agreement for Compensation for Disability Pursuant to NC Gen. Stat. 97-82
Form 22	State of Days Worked and Earnings of Injured Employee (Wage Chart)
Form 24 rev.	Application to Terminate or Suspend Payment of Compensation Pursuant to NC Gen. Stat. 97-18.1
Form 25D	Dentist's Itemized Statement of Charges for Treatment and Certification of Treatment of Disability
Form 25M	Physician's Itemized Statement of Charges for Treatment and Certification of Treatment
Form 25N	Assignment of Rehabilitation
Form 25R	Evaluation for Permanent Impairment
rev.	
Form 25T	Itemized Statement of Charges for Travel
Form 25P	Itemized Statement of Charges for Drugs
Form UB 92	Hospital Bill
Form 26 rev.	Supplemental Agreement as to Payment of Compensation Pursuant to NC Gen. Stat. 97-82
Form 26D	Agreement for Compensation Under NC Gen. Stat. 97-37
Form 28 rev.	Return to Work Report
Form 28B	Report of Employer or Carrier/Administrator of Compensation and Medical Compensation
rev.	Paid and Notice of Right to Additional Medical Compensation
Form 28T	Notice of Termination of Compensation by Reason of Trial Return to Work Pursuant to NC Gen. Stat. 97-18.1 (b) and NC Gen. Stat. 97-32.1
Form 28U	Employee's Request that Compensation be Reinstated After Unsuccessful Trial Return to Work Pursuant to NC Gen. Stat. 97-32.1
Form 29	Supplementary Report for Fatal Accidents
Form 30	Agreement for Compensation for Death
Form 30D	Notice of Death Award (Approval of Agreement)
Form 31	Application for Lump Sum Award
Form 33	Request that Claim be Assigned for Hearing
Form 33R	Response to Request that Claim be Assigned for Hearing
Form 36 rev.	Subpoena for Witness and Subpoena to Produce Items or Documents
Form 42	Application for Appointment of Guardian Ad Litem
Form 44	Application for Review
Form 50	Itemized Statement of Charge for Nursing
Form 51	Consolidated Fiscal Annual Report of "Medical Only" and "Lost Time"
Form 60	Employer's Admission of Employee's Right to Compensation Pursuant to NC Gen. Stat. 97-18 (b)
Form 61	Denial of Workers' Compensation Claim Pursuant to NC Gen. Stat. 97-18 (c) and (d)
Form 62	Notice of Reinstatement of Compensation Pursuant to NC Gen. Stat. 97-32.1 and NC Gen. Stat. 97-18 (b)
Form 63	Notice to Employee of Payment of Compensation Without Prejudice to Later Deny the Claim Pursuant to NC Gen. Stat. 97-18 (d)
Form IZ-51-	Medical Bill Analysis Used for Approval and Reduction of Medical Bills
T-1	Claim for Damages Under Tort Claim
T-3	Release of Tort Claim
T-4	Answer, Demurrer or Other Pleading of Defendants to Plaintiffs Affidavit
T-44	Application for Review

Source: Industrial Commission

## EXHIBIT 4 INDUSTRIAL COMMISSION CLAIMS PROCESS



Source: Compiled from data supplied by Industrial Commission.

## **FINDINGS AND RECOMMENDATIONS**

---

### ***OPERATIONAL ISSUES***

#### **THE AGENCY DOES NOT HAVE FORMALIZED INTERNAL POLICIES AND PROCEDURES.**

At the beginning of the audit, management supplied policies and procedures consisting of a series of memoranda, a copy of the Department of Commerce's travel regulations, and information from the Commission's Internet homepage. Most staff indicated that their only access to policies and procedures was through receipt of the memos. Furthermore, each section did not have specific, step-by-step operating procedures. We did, however, receive formalized procedures for three sections: the Office of the Executive Secretary, the Files/Records section, and the Fraud Investigations section. Written procedures are critical to guide employees in the performance of their job duties. A review of personnel data shows that 65% of the Commission's employees have been in their current positions for less than two years. Therefore, the lack of formalized procedures may lead to inconsistent application of policies.

#### **RECOMMENDATION**

**The agency should develop a comprehensive internal policies and procedures manual as well as step-by-step procedures for each section within the Commission. These manuals will serve as a reference guide. A standard procedure for updating and distributing should be developed. Management should require strict adherence to the policies and should apply them consistently.**

#### **EXISTING STATISTICAL REPORTS ARE NOT CONSISTENT, RELIABLE, OR STANDARDIZED.**

The Commission provides various information on the workers' compensation program to the general public, businesses, state agencies, and the General Assembly. Currently, the Systems Development Division of the State Information Processing Services (SIPS) generates most statistical reports for the Commission. SIPS also provides programming and systems analysis support for the Commission. For fiscal year 1996, the Commission incurred \$123,789 for technological support from SIPS. In addition, the Commission expended \$155,785 during the same period for contractual services from a computer consulting firm. The consulting firm developed the technology plan for the Commission, assisted in selecting a vendor to develop and install the electronic data management system (EDMS)<sup>1</sup>, and provided programming support for special projects.

---

<sup>1</sup> The EDMS is an imaging system that will allow case files to be viewed on-line and will allow statistical information to be retrieved by section heads, eliminating the need for separate reports.

## FINDINGS AND RECOMMENDATIONS

---

The Commission has to utilize outside sources (SIPS personnel and a consulting firm) because it does not have adequate staff to meet its data processing needs. However, SIPS programmers are not familiar enough with the specific data needs of the Commission to identify all elements which should be captured in the reports. Our examination of reports and statistical data revealed discrepancies in reports generated on the same day showing the same data elements. Specific problems noted include:

- Reports generated from the computer system showing the number of processed medical bills, closed cases, reported cases, continued cases, cases heard, and cases set for hearing did not agree with data published in the *Biennial Reports* for fiscal year 1991 through 1994.
- Statistical information is not verified for accuracy and completeness by section supervisors.
- Statistical data does not agree from report to report because similarly titled line items do not necessarily capture the same data elements.
- Copies of reports are not maintained, making it necessary to rerun the report when that information is needed again, thus increasing the costs to the Commission.
- The computer system is not programmed to generate the statistical reports needed by the sections.
- A standardized computer program log is not maintained so programs may be redesigned each time the same report is requested.

Overall, the results have been poor system design, apparent unnecessary costs, and the generation of reports and statistics which do not accurately reflect the activities of the workers' compensation program. Since workers' compensation data is used by the public, businesses, state entities, and in the performance evaluations of Commission staff, it is essential that it be accurate. Based on our review, we do not believe the statistical data generated by the Commission can be relied upon.

### RECOMMENDATION

**The Commission should continue to request from the General Assembly additional resources to meet its data processing needs and reduce its reliance on costly outside sources. We recommend the addition of two analyst programmer positions (\$121,550.00 in total annual salaries and benefits). The Data Processing section should concentrate its efforts on redesigning programs to adequately capture and report statistical information. The report designs should be standardized to ensure consistency of data reported, and a log should be maintained showing changes in reporting methodology whenever this occurs. In addition, section heads should be responsible for verifying statistical data and maintaining copies of statistical reports.**

## FINDINGS AND RECOMMENDATIONS

### THE “BACKLOG” IS OVERSTATED.

The definition of the “backlog” at the Deputy Commissioner level varies among the Commission, the legal profession, and the general public. Officially, the Commission considers the backlog to be **cases ready for hearing that have not been heard**. However, this definition is not supported by the Commission’s data. Statistical data for June 30, 1996, showed there was a reported backlog at the Deputy Commissioner hearing level of 6,643 cases. This amount included all cases “pending” (2,283) and cases “to be calendared” on the hearing docket (4,360). Table 4 shows a detailed breakdown of the status of cases. As can be seen from this information, the reported backlog contains cases which do not conform to the official definition. We also learned that the backlog may be further distorted by requests for a formal hearing before the cases are actually ready to be heard.

TABLE 4 STATUS OF CASES AT JUNE 30, 1996		
	CURRENT BACKLOG COMPOSITION	PROPOSED BACKLOG COMPOSITION
<b>CASES PENDING:</b>		
Cases set tentative calendar	558	
Cases set final calendar	258	
Cases heard pending action	1,039	
Cases ready for Opinion and Award (within 180 days)	375	
Opinion and Award overdue 180 day limit	53	53
<b>TOTAL PENDING CASES</b>	<b>2,283</b>	<b>53</b>
<b>CASES DOCKETED</b>		
Cases not set in June	422	422
Cases to be calendared as of 6/30/96*	3,938	3,938
<b>TOTAL CASES ON DOCKET</b>	<b>4,360</b>	<b>4,360</b>
<b>TOTAL BACKLOG (AT THE DEPUTY LEVEL)</b>	<b>6,643</b>	<b>4,413</b>
*Includes continued cases, could not identify the number of continued cases.		
Source: Industrial Commission records		

In our opinion, the term “backlog” should be used only for those cases which have requested hearings but have not been calendared on the hearing docket and those cases for which the formal hearing process is completed but the opinion and awards have not been rendered within the established time guidelines. Cases that have been continued by the parties are not completely under the control of the Commission and, therefore, should not be considered backlogged. Cases set on the calendar and cases pending further action from the parties should not be considered in the backlog but should be regarded as normal work-in-process. Using these criteria, it is our opinion that the backlog at June 30, 1996, was overstated by a minimum of 2,230 cases.

### RECOMMENDATION

**The Commission should clearly define the backlog. We believe the backlog should be revised to include only cases not set for hearing and the cases where opinions and awards are overdue. All remaining cases should be considered as active files within the normal operations of the formal hearings process and tracked accordingly. Further, the General Assembly should consider granting the Commission statutory authority to impose sanctions when requests for hearings are filed but the cases are not ready to be heard.**

## FINDINGS AND RECOMMENDATIONS

---

### **THE COMMISSION'S SYSTEM OF ASSIGNING AND HEARING CASES PRIOR TO OCTOBER 1996 WAS INEFFECTIVE.**

Historically, case assignments at the Deputy Commissioner level were made based on a "lottery system." The Chief Deputy Commissioner selected hearing locations based upon a combination of factors, including the age of cases, whether hearings had been held recently in that area, and the number of cases in that area. From these selected locations, deputies were allowed to choose in which county they wanted to hear cases. The order of selection was based on a seniority system, with the twelve Deputy Commissioners with the most tenure each allowed first choice on a rotating basis.

Commission management realized that this method of assignment was ineffective in addressing the increasing number of contested claims. Therefore, in October 1996, management implemented an interim plan that divides the twenty Deputy Commissioners into five teams of four, each with a designated team leader. Each team is assigned to a geographic region of the state for a six month period and is responsible for cases within the region. The teams will be responsible for determining how they will schedule and hear cases. At the time of the audit, no written detailed procedures had been developed by the individual teams regarding their approach to the caseloads in their regions. Among the new methods that may be used are calendar calls and continuance of cases to specific dates. Monthly reports will be required from each team to update management on case status. Plans are to periodically review the effectiveness of the regional assignments.

### **RECOMMENDATION**

**We support the Commission's effort in developing the regional team concept. To be most effective, the teams should establish detailed plans of action to identify how they will schedule and hear cases and to set goals for the team. These plans should provide the necessary information to document and evaluate the work performed by each team and individual team members. We recommend the Commission closely monitor the procedures and evaluate this plan quarterly to determine whether the team concept should continue.**

### **CASES CAN BE RESOLVED MORE QUICKLY THROUGH MEDIATION THAN THE FORMAL HEARINGS PROCESS.**

Mediation is the process of resolving disputes through informal meetings between the parties and a trained, independent mediator. The overall purpose of mediation is to avoid the formal hearings process and to accelerate the resolution of cases. The Commission's mediation program was patterned after the State court's mediation program. Since the program's implementation in September 1994, the Commission has placed 100 to 125 cases in mediation each month by randomly selecting cases pending on the hearing docket. Through June 1996, 2,608 cases have been placed in mediation. Of these, 1,008 were

## FINDINGS AND RECOMMENDATIONS

resolved, 426 were removed from the process at the request of the parties, 406 failed to settle in mediation, and 768 were still in the mediation process at the end of the audit fieldwork. Informally, agency personnel are expecting a 50-60% settlement rate for cases using mediation.

Based on these results, and as part of the special effort to deal with the hearing backlog, the Commission expanded the mediation program effective October 9, 1996. Now, all new requests for hearings are ordered into mediation. Upon receipt of a request for hearing, the Commission sends an "Order for Mediated Settlement Conference" to the parties. Under current procedures the parties have up to 55 days following the order to mediate to mutually select a mediator; failing that, the Commission appoints one. The parties are required to complete the mediation conference within 120 days of receipt of the mediation

TABLE 5 TIME IN PROCESS FOR MEDIATION AND FORMAL HEARINGS				
EVENT	MEDIATION		FORMAL HEARING	
	DAYS TO COMPLETE	DAY IN PROCESS	DAYS TO COMPLETE	DAY IN PROCESS
Request for hearing received		1		1
Mediation order sent	1	2		
Hearing response received			45	46
Mediation conference	120	122		
Agreement received	20	142		
Hearing date			120	166
Record closed			60	226
Opinion and award due			180	406
<b>TOTAL</b>	141		405	

order. The parties must submit their finalized agreement within 20 days of the mediation conference. Barring delays, cases should be resolved within 141 days of the request for hearing. (See Table 5) This process is contrasted with the formal hearing process. Excluding delays or

continuances, the total time to complete the formal hearing process is 405 days from receipt of the request for hearing to the issuance of the opinion and award.

After review of the Commission's pilot program and review of other states' mediation programs, we believe the mediation program will significantly improve the timeliness of handling contested claims. The Commission's Mediation Coordinator has distributed an updated "users' guide". However, specific goals and amendments to the Commission's mediation rules have not been formally developed for this expanded program.

### RECOMMENDATION

**We support the Commission's efforts to improve the timeliness of cases by expanding the mediation program. Written procedures should be developed and goals should be identified to evaluate the expansion of the program in six to twelve months. If mediation is successful in meeting those goals and reducing the caseloads on the hearing dockets, the Commission should consider reducing the number of Deputy Commissioners, training Deputy Commissioners in mediation to allow transferring of resources, or using Deputy Commissioners for other adjudicative functions.**

## FINDINGS AND RECOMMENDATIONS

---

### CLAIM FILES ARE NOT BEING ADEQUATELY MAINTAINED BY THE VARIOUS SECTIONS.

We randomly selected for review a sample of 156 workers' compensation claims filed during November 1993, 1994, and 1995. We noted the following concerns during our review:

- Nineteen claims (12%) were not properly coded according to the status code descriptions provided by the Commission.
- Thirty-three claims (21%) which were either removed, dismissed, or denied during 1994, 1995, and 1996 were still classified as *open* because form 28B (acknowledging final payment by the insurance carrier or employer) had not been completed.
- Sixty-one claim files (39%) lacked supporting documentation that would provide a complete history of the claim.
- Opinions and awards were not completed within 180 days from the date the record was closed for three claims. (1.9%)
- Employers who denied an employee's right to workers' compensation did not notify the Commission within fourteen days of the employee's injury as required by GS §97-18 in 123 claims (79%).
- Seven (4.5%) claim files were classified as open although a completed form 28B was located in the file.

We identified earlier in this report a major concern relative to the validity of statistical data on workers' compensation claims and the reported "backlog." Specifically, the Statistics section is responsible for updating files and for classifying claims as open or closed. Since the Commission maintains statistics on a closed file basis, the untimely closing of files distorts the data. Examination of workload data indicated that lack of sufficient personnel prevented the section from updating the files on a timely basis.

### RECOMMENDATION

**The Commission should ensure the proper coding of each claim and the completeness of each claim file. All opinions and awards should be completed within the 180 day limit. The Commission should consider assessing penalties to employers that do not submit injury reports within the required time frames, and if statutory authority is needed to accomplish this, the General Assembly should consider such legislation. Finally, the Statistics section should prioritize the closing of claim files. To accelerate the closing of claim files and improve claim file management, we recommend the addition of an administrative assistant position in the Statistics section (\$28,600 in annual salary and benefits).**



## FINDINGS AND RECOMMENDATIONS

---

### **THE COMMISSION DOES NOT HAVE THE STATUTORY AUTHORITY TO SET INPATIENT HOSPITAL FEES.**

Historically, the Commission has set all medical fees for workers' compensation including reducing the itemized bill for inpatient hospital costs by 5% for room charges and 8% for ancillary charges. However, Senate Bill 906, passed in 1994, tied workers' compensation inpatient hospital costs to the State Health Plan's inpatient hospital costs beginning July 1, 1995. The State Health Plan uses Diagnostic Related Group (DRG) amounts to determine the approved charge. The DRG system is designed to pay by course of treatment, rather than individual services, and thus discourages overutilization. However, Commission management reported that using the DRG amounts resulted in some payments far exceeding the actual hospital bill and other payments below the actual charges. Because the software used to review and approve DRG amounts does not keep a history of individual payments, we were unable to verify the effect on individual payments.

To resolve complaints from employers about using DRG amounts, a temporary compromise solution was adopted in May 1996 (House Bill 1088). Under the compromise, bills for hospital admissions from July 1, 1995, to March 31, 1996, were processed using DRGs approved by the State Health Plan. Bills for hospital admissions from April 1, 1996, through June 30, 1997, will follow the DRG methodology of the State Health Plan except that charges will be no lower than 90% nor higher than 100% of the itemized hospital bill. Interviews with Commission management revealed the revised reimbursement method is operating properly although the hospitals and insurers are litigating over pre-compromise DRG billings. However, the compromise expires on June 30, 1997, and no specific plan for approving hospital charges for admissions after that date has been developed.

### **RECOMMENDATION**

**The General Assembly should consider eliminating the tie-in of workers' compensation inpatient hospital charges to the State Health Plan and returning the responsibility for setting these fees to the Commission. The Commission should develop a reimbursement method for inpatient hospital charges that disallows charges over 100% of the itemized bill.**

*Auditor's Note: We learned the Commission is not performing audits on any of the provider claims. The State Health Plan conducts provider audits and has found this to be a useful tool in correcting medical bill problems. Commission management acknowledged that provider audits should be performed, but stated they do not have the personnel to perform this function nor the funds to outsource the function. Since the providers are the same, the Commission should contact the State Health Plan to determine procedures for incorporating workers' compensation claims in the existing provider audits.*

## FINDINGS AND RECOMMENDATIONS

### TRAVEL REIMBURSEMENTS DID NOT COMPLY WITH BUDGETARY REGULATIONS.

Section 5X. of the *State Budget Manual* outlines the regulations for reimbursing employees traveling on official state business. To assess compliance with these regulations, we examined a sample of 321 travel reimbursements and attached supporting documentation, totaling \$145,439.72, from the fiscal years 1993-94 through 1995-96. The sample was selected judgmentally after reviewing a complete listing of travel reimbursements for those years.

As summarized in Table 6, the following areas of non-compliance with the budget manual were found:

- Travel reimbursements were not submitted within 30 days after the travel period ended, where “travel period” is defined as being the month during which the travel occurred.
- Lodging reimbursements were not supported with original receipts.
- Meals were reimbursed that were unallowable because the meals were provided at conferences, departure/arrival times were not furnished or did not support claim, or workdays were not extended to warrant a meal allowance.
- Authorizations to use privately owned vehicles and budget authorizations were approved after the dates of travel.

We also noted other questionable reimbursements for hotel rooms which were not canceled timely resulting in payment for the unused rooms (\$572.04), and extra mileage amounts claimed (\$65.10) over what should have been reimbursed.

Finally, we noted other internal control errors by the Department of Commerce-Fiscal Management such as reimbursement requests not being stamped “Paid”, mathematical errors causing overpayments, and expenditures being coded to the wrong object account.

The Commission is responsible for ensuring its personnel are aware of the requirements involving travel reimbursements. The Commission and the Department of Commerce-Fiscal Management are responsible for ensuring controls are in place to prevent and detect errors and ensuring compliance

with budgetary regulations. From the concerns noted, it appears personnel are not properly informed of the budget manual requirements and procedures in place are not working properly.

<b>TABLE 6 TRAVEL REIMBURSEMENT ERRORS</b>			
<b>TYPE OF ERROR</b>	<b>NUMBER OF INSTANCES</b>	<b>% ERRORS IN SAMPLE</b>	<b>AMOUNTS</b>
Untimely submissions	26	8.1%	13,727.55
Unsupported lodging	2	0.6%	*96.32
Unallowable meals	33	10.2%	*405.75
Privately Owned	40	12.5%	4,330.65
Vehicle Authorizations			
Budget Authorizations	7	2.2%	2,666.24
Late hotel room cancellation	1	0.3%	572.04
Extra mileage	3	1.9%	65.10
Travel requests not properly canceled	9	2.8%	4,940.26
Mathematical errors	2	0.6%	*17.00
Coding errors	52	16.2%	12,409.07
<b>TOTAL</b>	<b>175</b>	<b>-----</b>	<b>\$39,229.98</b>
* Reimbursement should be requested for these amounts.			
--A detailed list of these errors has been provided to Commission management.			

## FINDINGS AND RECOMMENDATIONS

### RECOMMENDATION

**Commission management should institute procedures to ensure all personnel are properly informed of the *State Budget Manual* requirements concerning travel. Additionally, the Commission and the Department of Commerce-Fiscal Management should review the controls in place for weaknesses that have allowed the errors noted. For costs that were improperly reimbursed (\$519.07), management should request employees repay the Commission.**

### **THE COMMISSION IS PAYING THE SAFETY DIRECTOR TO COMMUTE FROM HOME TO HIS PRIMARY WORK SITE.**

The *State Budget Manual* defines duty station as “the job location at which the employee spends the majority of his or her working hours.” The current safety director was promoted from safety representative on July 1, 1994. As a safety representative, his duty station was listed as his home, Graham. The office for the Safety Director is in Raleigh, and the Safety section’s pamphlet lists the director’s location as Raleigh. Further, GS §138-6(a)(1) requires agency management to review and approve annually the designation of an employee’s home as duty station. We found no documentation that the duty stations were reviewed and approved annually.

Analysis of travel reimbursements shows that the Safety Director spent 163 days (63%) working in Raleigh during fiscal year 1995 and 159 days (61%) during fiscal year 1996. The Safety Director is required to travel throughout the state as part of his job. Taking this into account, we found that this employee was reimbursed \$2,699.60 for 13,498 miles of travel exclusively between Graham and Raleigh in fiscal year 1995 and \$2,843.20 for 14,216 miles in fiscal year 1996. (see Table 7 below) Essentially, the Commission is paying the Safety Director to commute to his primary work site. This situation still existed at the end of the fieldwork for this audit.

<b>TABLE 7</b>								
<b>SAFETY DIRECTOR TRAVEL/WORKDAYS IN RALEIGH</b>								
FISCAL YEAR	EXCLUSIVE TRAVEL BETWEEN RALEIGH AND GRAHAM		ROUND-TRIP MILEAGE TO RALEIGH	AMOUNT MILEAGE REIMBURSED	OTHER TRAVEL TO RALEIGH		TOTAL TRAVEL TO RALEIGH	
	# OF DAYS	% OF DAYS			# OF DAYS	% OF DAYS	# OF DAYS	% OF DAYS
1995	121	47%	13,498	\$2,699.60	42	16%	163	63%
1996	128	49%	14,216	\$2,843.20	31	12%	159	61%
Note: Percentages based on 260 workdays per year. Source: Industrial Commission records								

### RECOMMENDATION

**The Safety Director’s duty station should immediately be changed to Raleigh. The Commission should discontinue reimbursing him for commutes from his home to his primary work site. Commission**

## FINDINGS AND RECOMMENDATIONS

---

**management should institute procedures to review and approve the designation of employees' homes as duty stations on an annual basis to comply with GS §138-6(a)(1).**

### ***ORGANIZATIONAL ISSUES***

As part of the audit, we examined the organizational structure and staffing levels of the Commission. Analysis of workload indicators for each section as well as staff interviews, observations of operations, and review of similar functions within state government and in the private sector revealed areas where we believe restructuring would enhance operations. Our organizational recommendations include relocation or coordination of duties with other state agencies and realignment of functions within the Industrial Commission. Our proposed changes are summarized below.

### **THE WORKERS' COMPENSATION NURSES MAY BE MISCLASSIFIED.**

The Nurses section was established in 1973 to assist injured employees in obtaining medical rehabilitation services when all other sources have been exhausted. The duties, as described to us by the nurses, include assessing an injured employees' health status and developing a rehabilitation plan to achieve optimum recovery. According to Commission management, the nurses provide certain other services that are extremely valuable in obtaining settlements for workers' compensation claims. The nurses act as medical experts for the Commission, assisting in interpreting levels of impairment, necessary treatment, and evaluation of diagnoses. The nurses also provide objective referrals for independent medical examinations. However, job descriptions and position classifications for the nurses do not list these duties as the primary focus for the nurses. The duties most needed by the Commission fall more in line with medical consultation as opposed to traditional nursing services.

### **RECOMMENDATION**

**Management should request OSP to undertake a position classification study\* to review the duties and responsibilities of the workers' compensation nurses. Based on our review, the consultation and referral services performed by the nurses are proper administrative functions of the Commission. However, we question whether all duties as described by the nurses should be handled by the Commission. The direct case management functions may be more properly handled by private physicians and medical rehabilitation specialists responsible for the treatment of injured employees.**

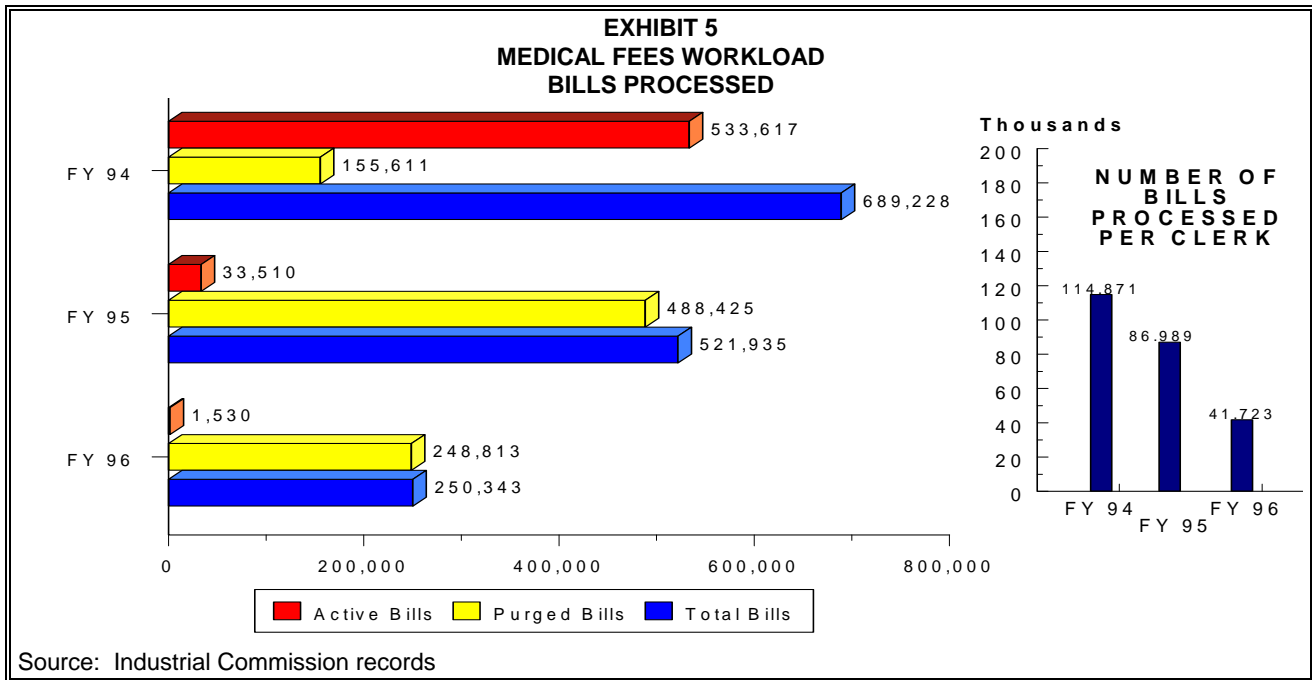
*\*Auditor's Note: We learned at the conclusion of the fieldwork that OSP is in the process of a position classification study for all nursing positions in state government. Commission*

## FINDINGS AND RECOMMENDATIONS

*management should contact OSP to assure that the nurses positions are included in this study.*

### THE MEDICAL FEES SECTION IS UNDER UTILIZED.

On February 15, 1995, the Commission granted insurance carriers, self-insured administrators, third-party administrators, and health care providers the authority to calculate and approve medical bills pursuant to the medical fee schedule established by the Commission. Currently, sixty-nine insurance carriers approve medical bills. As a result, the workload of the Medical Fees section was reduced by 24% between fiscal year 1994 and 1995. It was further reduced by 52% between fiscal year 1995 and 1996. (see Exhibit 5) However, the staffing of the Medical Fees section has remained stable with eight total positions; six are records clerks who actually process these bills. The decreased workload warrants a reduction in staffing for this section.



### RECOMMENDATION

**The Medical Fees section should be reduced by three positions to correspond to the reduced workload. This staff reduction would provide savings of \$83,655 in salaries and benefits. However, some of these positions could be transferred to other sections within the Commission where additional personnel are needed. (See discussion on page 20 and Auditor's Note on page 21.)**

## **FINDINGS AND RECOMMENDATIONS**

---

### **THE NEW TEAM APPROACH DOES NOT SUPPORT THE RATIO OF ONE LEGAL SECRETARY FOR EACH DEPUTY COMMISSIONER.**

At the time of the audit, there was one secretary for each Deputy Commissioner. The rationale for a one-to-one ratio was to improve case management. However, the backlog at the Deputy Commissioner level indicates that improved case management has not occurred. As noted earlier, Commission management recently implemented the team concept at the deputy level. This change is redefining the duties and workloads of the legal secretaries. For example, rather than performing all tasks for their assigned deputy, one team's secretaries rotate some tasks which are performed for the entire team. Under the team concept, the justification for the one-to-one ratio may no longer be valid and as the teams define their roles and solidify their procedures, they may find they no longer have a need for as many legal secretary positions.

### **RECOMMENDATION**

**Management should evaluate the revised use of the legal secretaries. Based on workload and the redefined duties, we believe an appropriate staffing level would be three legal secretaries for each team of four Deputy Commissioners. This would allow for a reduction of five positions and would save \$152,653 annually in salary and benefits. If not needed to support the Deputy Commissioners, these positions could be transferred to other sections within the Commission where additional personnel are needed.**

### **THE SAFETY EDUCATION SECTION DOES NOT TARGET EMPLOYERS WITH HIGH ACCIDENT RATES.**

The Safety Education section prepares and presents accident prevention and safety courses to businesses in North Carolina. We learned during the audit that the section does not target industries with high accident rates, nor does it receive statistics on the businesses that have workers' compensation claims filed against them. The section has sixteen standardized courses that are available to businesses *upon request*. These courses focus on the tasks the employees perform in carrying out their jobs.

The Bureau of Education, Training, and Technical Assistance (ETTA) within the Department of Labor's Division of Occupational Safety and Health (OSHA) does target specific businesses with a history of violating OSHA's rules. ETTA offers a variety of safety and educational courses, several of which address the same topics as those offered by the Industrial Commission. ETTA's courses are directed to management and geared toward the setup of machinery and the layout of work sites. The Safety Education section, in contrast, deals more directly with the workers and their supervisors. The types of instruction provided by the Safety Education section and ETTA should act to complement one another. However, information regarding the businesses contacted and the courses

## FINDINGS AND RECOMMENDATIONS

---

taught is not shared on a routine basis between the two entities. If both sections were located within the same agency, improved communication, coordination, and concentration of efforts could be achieved.

### RECOMMENDATION

**The General Assembly should consider transferring the Safety Education section to the Division of Occupational Safety and Health in order to consolidate business-related safety training courses offered by the State. This should improve concentration of efforts towards high risk employers since OSHA already has procedures in place to target those employees. If the Safety Education section remains within the Commission, the section should take a more proactive approach by utilizing information collected by the Commission about employers with high accident rates and then targeting these employers. Additionally, the Commission should develop a joint plan with ETTA for training both employers and employees in businesses which have a high number of workers' compensation claims.**

### THERE IS A LACK OF COORDINATION FOR FRAUD INVESTIGATIONS BETWEEN THE COMMISSION AND THE DEPARTMENT OF INSURANCE.

GS §97-88.2 authorizes the Industrial Commission to investigate suspected fraud and violations related to workers' compensation claims. However, GS §58-2-163 and GS §58-2-161 require insurance companies to notify the Department of Insurance of suspected fraudulent insurance claims under any insurance policy including workers' compensation. We learned that while the Fraud unit of the Commission was set up in May 1996, the Department of Insurance continues to receive and investigate alleged fraudulent workers' compensation claims without referring the cases to the Commission. The Department of Insurance estimated fifteen percent of its investigations involve alleged workers' compensation fraud, with an estimated twenty-five workers' compensation complaints received during 1996.

### RECOMMENDATION

**The General Assembly should consider transferring the workers' compensation fraud investigation function (consisting of two investigator positions) to the Department of Insurance to eliminate the potential for duplicated investigations. To ensure workers' compensation cases are adequately investigated, any positions transferred should remain devoted to workers' compensation fraud. All suspected workers' compensation fraud should then be referred by the Commission to the Department of Insurance.**

## FINDINGS AND RECOMMENDATIONS

---

### **THE COMMISSION IS NOT IN COMPLIANCE WITH CERTAIN OFFICE OF STATE PERSONNEL REGULATIONS.**

To audit compliance with state personnel regulations, we examined a sample of 73 personnel files for Commission employees. The sample was selected judgmentally based on a review of records obtained from the Office of State Personnel (OSP). We reviewed in detail supporting documentation located in the personnel files including applications, applicant selection forms, personnel action forms, and performance evaluations. Specific problems noted were:

- The Commission does not have standardized hiring procedures from section to section.
- We noted performance evaluations where the overall summary ratings had been changed by the Chairman without adequate documentation. (*see note*)
- Two temporary employees were employed beyond the twelve month limit allowed by personnel regulations.

*Auditor's Note: The non-compliance with the performance management system regulations has been reported to OSP for review and action.*

### **RECOMMENDATION**

**To remove the appearance of bias, the Commission should develop and implement standardized procedures for the interviewing and hiring process. We recommend using a three person committee to conduct interviews, the use of standardized questions, and a ranking of candidates forwarded to the Administrator for his review and approval. Copies of the ranking sheets and interview questions should be maintained in the personnel file of the hired applicant as well as in the position applicant file. The Commission should follow the grievance policy and procedures established for the performance management system. Any changes made to the evaluations should be supported with adequate written documentation. Finally, the Commission should comply with OSP policy regarding the time limit for temporary employment. To ensure compliance, the Commission should develop a system for tracking the hire dates of temporary employees.**

### ***SALARY STUDY***

#### *Background and Overview:*

This section of the report contains the results of a salary study for selected positions at the Industrial Commission. Commission staff sought a salary study based on their belief that



## FINDINGS AND RECOMMENDATIONS

the turnover rate for certain positions at the Commission was excessively high. Of specific concern was the salary range for the Deputy Commissioner level.

Senate Bill 5346 directed the Office of the State Auditor (OSA) to incorporate the salary study in the on-going performance audit. OSA was directed to consult with the Office of State Personnel, the North Carolina Industrial Commission Advisory Council, and the North Carolina Bar Association. Senate Bill 5346 also directed that the compensation of industrial commissioners and staff in other southeastern states be reviewed.

We began the study by reviewing personnel information for the period August 1, 1994, through August 1, 1996. This data revealed that 65% of Commission employees (90 out of 139) have been in their current positions less than two years. During this same period, 36 new positions were created and 25 promotions were given. In total, 42 employees have left the Commission during the last two years, for an average turnover rate of 15.1%. (OSP data indicates that the average turnover rate for all state agencies is approximately 12.2%.) Examination of personnel records for each of the 42 individuals shows that of these, only 6 of the 20 Deputy Commissioners have left the employment of the Commission. Records indicate 4 of the 6 Deputies left for “better employment”. Therefore, the average annual turnover rate for the Deputy Commissioner level is 15.0%.

We contacted the Office of State Personnel (OSP) and worked cooperatively with staff to develop an audit plan for the salary study. We first looked for similar positions within State government. We identified a number of other commissions and reviewed the job descriptions and educational/experience requirements for their staffs. Because of varying requirements, we were only able to compare the salaries of the commission chairs to that of the Chairman of the Industrial Commission. See Table 8.

<b>TABLE 8 SALARIES FOR STATE COMMISSION CHAIRS</b>	
<b>COMMISSION</b>	<b>ACTUAL SALARY</b>
Chair, ABC Commission	\$77,365
Chair, Parole Commission	73,822
Chair, Utilities Commission	91,000
Banking Commissioner	80,846
Chair, Employment Security Commission	77,365
<b>Average</b>	<b>\$80,080</b>
Chair, NC Industrial Commission	\$72,638
Source: Office of State Personnel Database, 10/17/96	
<i>Observation: The salary for the Chair of the NC Industrial Commission is \$7,442 below the average salary for like positions in other North Carolina commissions.</i>	

OSA and OSP personnel also reviewed salary data for the North Carolina judiciary since the Commissioners hear workers’ compensation cases. That data is contained in Table 9. It is the joint conclusion of OSP and OSA staff that these are inappropriate salary comparisons due to the special labor market for the judiciary. While we agree that the workers’ compensation

<b>TABLE 9 JUDICIAL SALARIES</b>	
<b>POSITION</b>	<b>SALARY</b>
District Court Judge	\$79,943
Chief, District Court Judge	82,555
Superior Court Judge	90,915
Senior Resident Superior Court Judge	93,528
Justice, Appeals Court	96,140
Chief Justice, Appeals Court	97,812
Supreme Court Justice	100,320
Chief, Supreme Court	103,012
Commissioner, Industrial Commission	\$70,869
Chair, Industrial Commission	72,638
Source: Administrative Office of the Courts, 10/17/96	

## **FINDINGS AND RECOMMENDATIONS**

---

laws are very complex and that the Commissioners are in fact acting as judges in contested cases, we were unable to confirm a direct comparison to the myriad of duties required of our state judiciary.

As directed by Senate Bill 5346, the Office of the State Auditor contacted the North Carolina Bar Association and the Industrial Commission Advisory Council to discuss salary issues. The Bar Association supplied a copy of its annual salary survey for attorneys in North Carolina. The survey did not contain any data specific to attorneys who specialized in workers' compensation cases. Therefore, it is the opinion of OSP and OSA personnel that this data does not lend itself to use in the study of salaries for Industrial Commission staff.

Interviews with members of the Industrial Commission Advisory Council revealed that, while they had concerns relative to the salary levels for Commission staff, they were unable to supply any specific salary data. Additionally, OSA personnel conducted research to locate any reports from other states which might contain information pertinent to the issue of salaries for industrial commissions. This information was shared with OSP and considered in the recommendations contained in the following report.

OSP developed and conducted a survey to obtain data from the southeastern states. (See Appendix B, page 47.) OSP compiled and analyzed the data from the survey and developed tentative recommendation options for discussion. Jointly, OSP and OSA personnel reviewed all data obtained from the various sources and reached conclusions relative to the appropriateness of the salary ranges for the positions in question. The final recommendations from OSP are presented here in their entirety.\* OSA concurs with the recommendations. Where appropriate, we have added an auditor's note to provide additional information or to clarify a point.

---

\* The report from OSP has been reformatted to conform with the style and format of the rest of the audit report. However, no data has been changed.

# FINDINGS AND RECOMMENDATIONS



STATE OF NORTH CAROLINA  
OFFICE OF STATE PERSONNEL  
116 WEST JONES STREET  
RALEIGH 27603-8004

JAMES B. HUNT JR.  
GOVERNOR

RONALD G. PENNY  
STATE PERSONNEL DIRECTOR

October 21, 1996

The Honorable Ralph Campbell  
State Auditor  
State Auditor's Office  
Legislative Office Building

Re: **Studies of Industrial Commission Salaries**

Dear Mr. Campbell:

In accordance with Senate Bill 5346, the State Auditor's Office contacted the Office of State Personnel to conduct a study of salaries of the Chairman and members of the North Carolina Industrial Commission, the Deputy Commissioners, the Executive Secretary, and the Administrator. The legislation directed our Offices to review compensation of these roles in the southeastern states. The results of this survey are attached for your review.

This report consists of a southeastern states survey summary and specific survey information for each of these roles with salary recommendations.

We appreciate the assistance of Ms. Janet Hayes during this review. Should you have further questions, please feel free to contact Mr. Thom Wright, Position Management Division, at (919) 733-3182.

Sincerely,

A handwritten signature in black ink, appearing to be "RGP", written over a horizontal line.

Ronald G. Penny

RGP:tp

Directors Office	733-7108	Employee Assistance	733-9545	Employee Service	733-7112	Performance Management	733-7108
Commission Staff	733-7112	Employee & Mgmt. Tng. Div.	733-2474	Employment Practices	733-7922	Position Management	733-3182
Administrative Services	733-7934	Employee Risk Control	733-6316	Equal Opportunity Svcs.	733-0205	Temporary Solutions	733-7927

An Equal Opportunity Employer

## FINDINGS AND RECOMMENDATIONS

### SENATE BILL 5346 - INDUSTRIAL COMMISSION SALARY LEVELS STUDY

#### SOUTHEASTERN STATES SURVEY SUMMARY

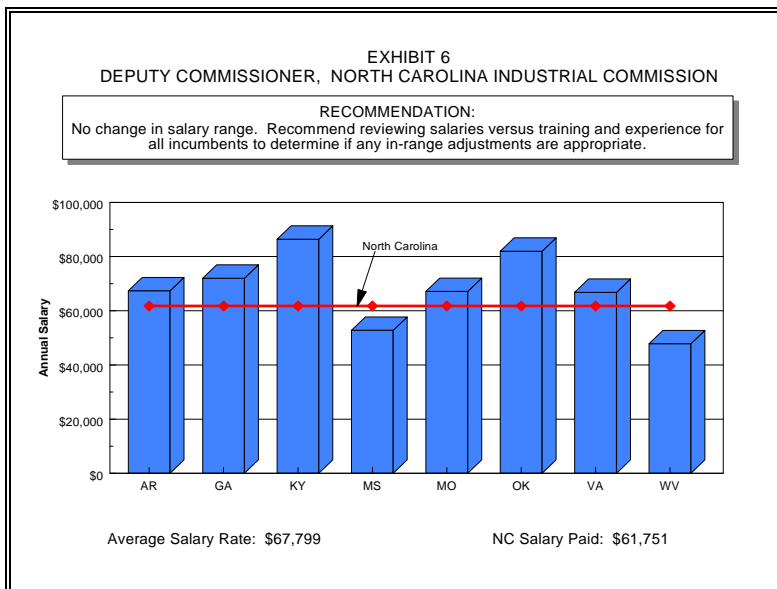
In accordance with Senate Bill 5346 (Second Session 1996), the State Auditor's Office contacted the Office of State Personnel (OSP) to conduct a study of salaries of the Chairman and members of the North Carolina Industrial Commission, as well as that of the Deputy Commissioners, the Executive Secretary, and Administrator of the North Carolina Industrial Commission. The legislation directed OSP to review the compensation of these roles in the southeastern states.

The Office of State Personnel staff met with the State Auditor's Office and the Chairman, Administrator and other Industrial Commission staff to define the roles to be surveyed and to identify similar workers' compensation programs in the southeastern United States. The fourteen southeastern states in the survey included: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

The survey tool was sent to these states on August 29, 1996. The survey information was received and compiled by Office of State Personnel in mid-September.

The southeastern states survey is summarized with recommendations in the attached documents. Key points are as follows:

#### 1. Deputy Commissioner, North Carolina Industrial Commission (see Exhibit 6)



a. **The Office of State Personnel recommends no change in the salary grade for this class.** The class of Deputy Commissioner, North Carolina Industrial Commission (salary grade 83 with a range of \$50,143 - \$84,512) was found to be competitive at the hiring rate and the maximum of this range, with eight states having comparable roles.

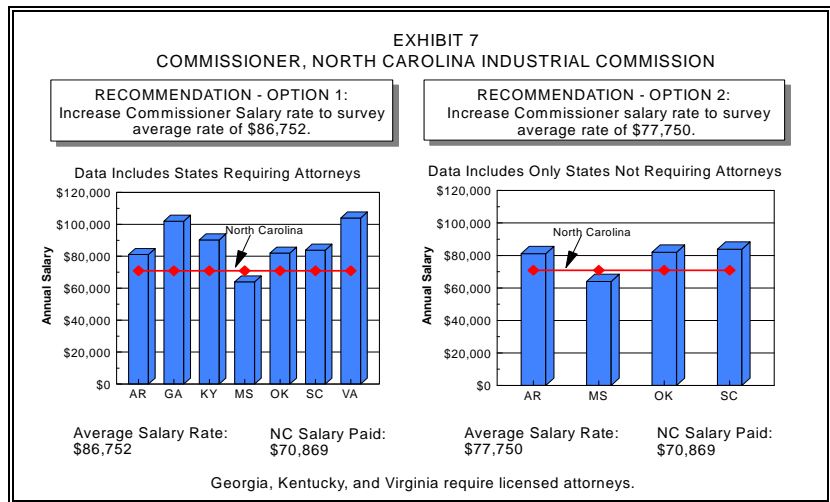
## FINDINGS AND RECOMMENDATIONS

b. Several of the Deputy Commissioner salaries could be adjusted to a higher salary within the assigned salary range based on their training and experience. The North Carolina actual average salary paid for the Deputy Commissioners is \$61,751. The Department of Commerce's In-Range Salary Adjustment Plan (effective May 1, 1996) can be used to implement salary adjustments up to 10% within a one year period.

*It should also be noted that other state classifications in the legal profession are closely related to this labor market. If changes are made in the salary grade of the Deputy Commissioner, North Carolina Industrial Commission, it could impact the equity relationship with these other classes.*

### 2. Commissioner, North Carolina Industrial Commission (see Exhibit 7)

It is recommended that the salaries of the members of the North Carolina Industrial Commission (current salary set by the Legislature at \$70,869) be adjusted to \$86,752. This change is based upon the finding that the states of Georgia, Kentucky and Virginia require Commission members to be licensed attorneys with experience in the practice of law. The average salary rate of all states participating in the survey, including those requiring licensed attorneys, is \$86,752. The average salary rate of the states not requiring licensed attorneys is \$77,750.

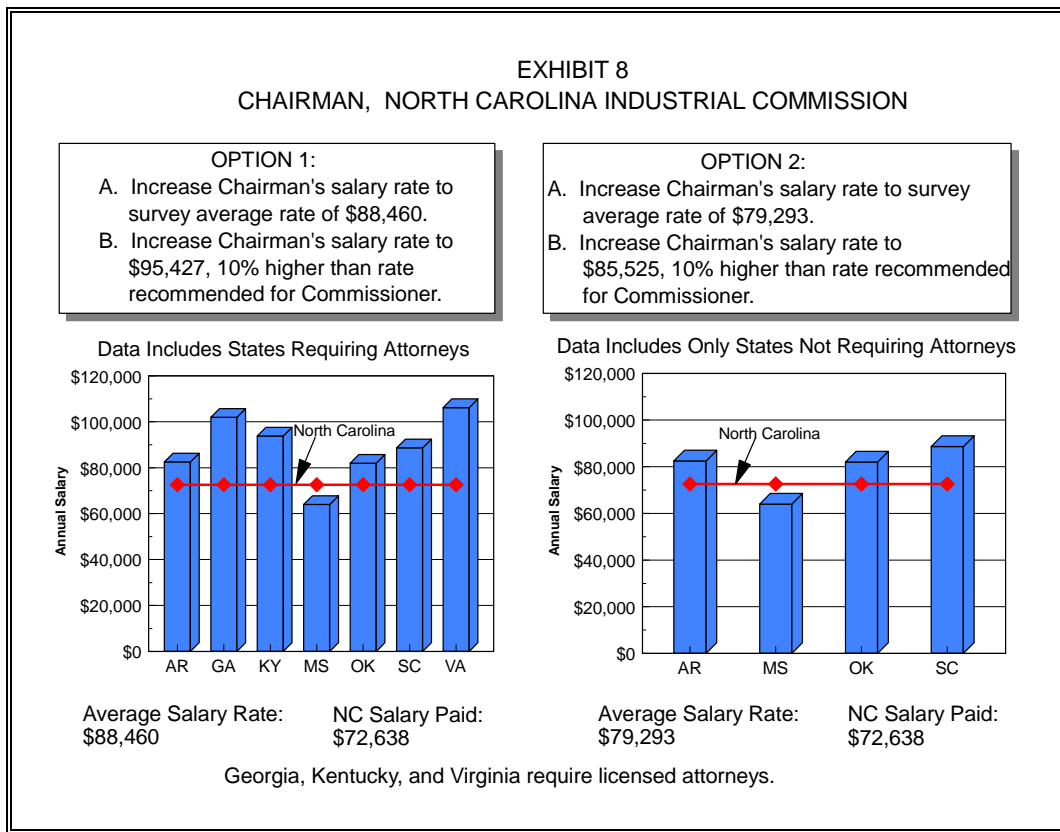


The North Carolina Statutes do not require a legal background for Commission members; however, five of the current Commissioners are attorneys. Commission members are appointed by the Governor, with the Statutes requiring that backgrounds be balanced in the areas of the legal, business and labor professions. The General Assembly could require that all Commission members be licensed attorneys, with their experiences balancing the areas of the legal, labor and business profession requirements.

## FINDINGS AND RECOMMENDATIONS

### 3. Chairman, North Carolina Industrial Commission (see Exhibit 8)

It is recommended that the salary of the Chairman, North Carolina Industrial Commission (current salary set by the Legislature at \$72,638) be adjusted to \$88,460. The Chairman in the states of Georgia, Kentucky and Virginia is required to be a licensed attorney. The average salary rate of all states participating in the survey, including those requiring licensed attorneys, is \$88,460. The average salary rate of the states not requiring a licensed attorneys is \$79,293.



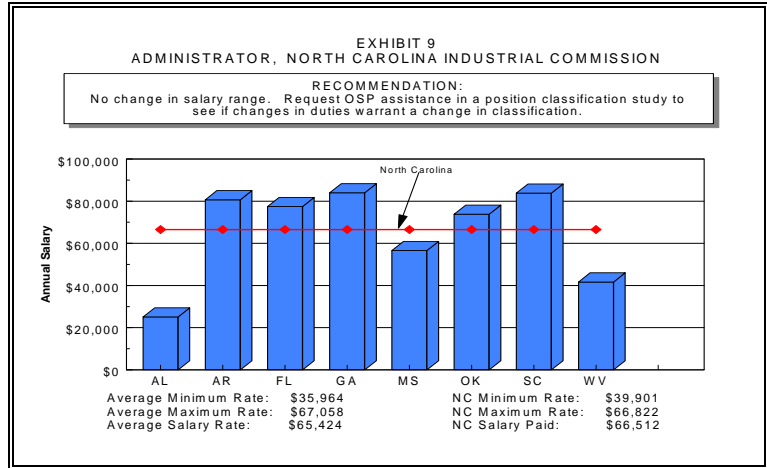
In North Carolina, the Chairman is appointed by the Governor. The North Carolina Statutes do not require a legal background; however, the Chairman has often been an attorney. The Statutes encourage a balanced background in law, labor, and/or business with extensive knowledge in the area of workers' compensation. The North Carolina incumbent is a licensed attorney.

Another guide would be to set the salary of the Chairman, the North Carolina Industrial Commission 10% above the salary set for the members of the Industrial Commission.

## FINDINGS AND RECOMMENDATIONS

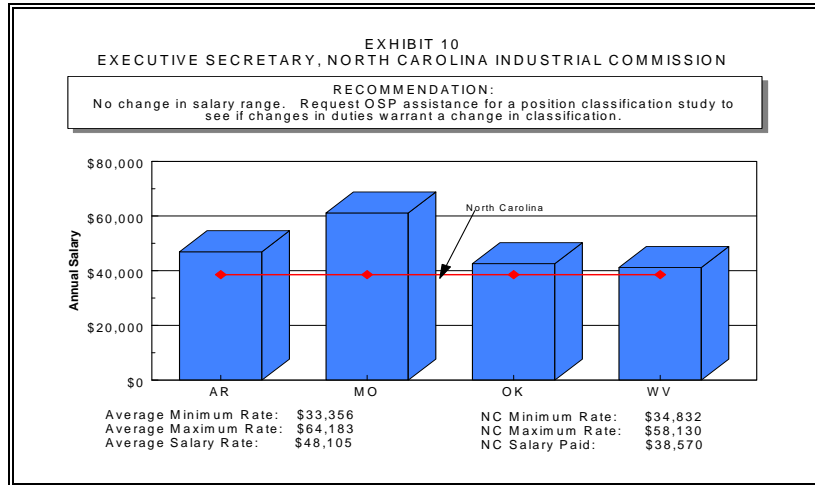
### 4. Administrator, North Carolina Industrial Commission (see Exhibit 9)

**No changes are recommended to this class.** The Administrator, North Carolina Industrial Commission (salary grade 78 with a range of \$39,901 - \$66,822) was found to be competitive at the hiring rate and the maximum of the range. The incumbent's salary is \$66,512, which is slightly above the average salary rate paid in the market of \$65,424. Based upon recent changes in the duties for this position noted by the Chairman, it is recommended that management request from OSP a classification study of the position.



### 5. Executive Secretary, North Carolina Industrial Commission (see Exhibit 10)

**No changes are recommended to this class.** The Executive Secretary, North Carolina Industrial Commission (classified as an Agency Legal Specialist II at salary grade 75 with a range of \$34,832 - \$58,130) was found to be competitive. (Only four states noted a comparison to this position.) Based upon our review of the position



during the salary survey process, we observed the possibility of a job change. Therefore, management could consider an in-range salary adjustment for the incumbent based on job change or request from OSP a classification study of the position.

*Auditor's Note: We noted during the audit that the Executive Secretary now performs a number of quasi-judicial functions such as informal hearings on disputed applications to terminate or suspend payment of compensation. Additionally, the Executive Secretary has responsibility for all motions and orders on cases not assigned to Deputy Commissioners. We concur with OSP's recommendation for a position classification study. We further recommend Commission management consider reassigning the Ombudsman function, now overseen by the Executive Secretary, to the Administrator to more closely align administrative functions. We believe, because of its quasi-judicial nature, the Office of the Executive Secretary should be reassigned to the Chairman or one of the Commissioners to assure the proper level of legal oversight.*

## **FINDINGS AND RECOMMENDATIONS**

---

### **Additional points noted from the Southeastern Salary Survey:**

1. Georgia, Kentucky and Virginia require that the Commissioners and Chairmen be licensed attorneys, elevating salaries to the level of judges. Virginia's Commissioners are appointed to six-year terms.
2. Arkansas, Missouri, and Virginia assign Deputy Commissioners/Administrative Law Judges to regional offices, reducing travel and some case assignment issues.
3. Virginia uses a geographical pay difference for attorneys in the Washington, D. C. area.
4. Alabama uses mediation as an alternative dispute resolution process. If cases are not settled through mediation, the case goes to Circuit Court. South Carolina also uses a claims mediator.
5. The State of Oklahoma uses a trial court administrator who oversees the entire court and staff, advises claimants not represented and approves settlements, hears requests for certification for "own risk" insurers, and assists the presiding judge in monitoring all court functions.
6. The State of Mississippi uses a trial court administrator to docket the calendar, not monitor the courtroom.

Source: NC Office of State Personnel  
Date: October 4, 1996



## FINDINGS AND RECOMMENDATIONS

---

### *STATE AGENCY PROGRAMS*

#### **STATE AGENCY WORKERS' COMPENSATION CLAIMS ARE NOT PROCESSED IN A UNIFORM MANNER.**

Each agency designates a Workers' Compensation Administrator (WCA) to process and review claims and maintain statistics for the agency. Most of the administrators work in their agency's personnel section and perform duties in addition to workers' compensation. Our survey of WCA's showed 70% of these administrators spend less than 20% of their time on workers' compensation functions. In addition, the WCA often has little experience or training in workers' compensation. (See Appendix A, page 41.) While the Office of State Personnel (OSP) does provide a *State Government Workers' Compensation Manual* and offers technical assistance, each agency determines its own methods for processing claims. As a result, the amount of work performed to investigate or verify a claim varies from agency to agency.

In April 1996, the State began a pilot project in which a third-party administrator, Key Risk Management Services, Inc., processes claims for seventeen state agencies. Services provided include determination of liability, investigation, statistical reporting, case management, and payment to employees and medical providers. Key Risk pays employees and providers from a reserve fund equal to two months estimated expenditures (over \$1.5 million) for the participating agencies. This project was undertaken in an attempt to reduce workers' compensation costs and improve claim management. Indications are that the contracted service changes the roles of the WCA's and that costs may be reduced.

#### **RECOMMENDATION**

**In our opinion, the processing of state agency claims should be centralized either (1) within an existing state agency such as OSP or (2) by outsourcing services with a private third-party administrator. The State should closely evaluate the pilot project and its future costs when determining the appropriate method for centralized claims processing. Centralization would ensure consistent application of the workers' compensation law to all State employees and provide a knowledge base for more effective claims administration.**

## FINDINGS AND RECOMMENDATIONS

---

[ This Page Left Blank Intentionally ]

## APPENDICES

---

APPENDIX	DESCRIPTION	PAGE
A	Worker's Compensation Program Survey	41
B	Industrial Commission Salary Survey	47
C	State "Self-Insurance" for Workers' Compensation Claims	53
D	Response to Audit	55

## APPENDICES

---

[ This Page Left Blank Intentionally ]

## APPENDICES

---

### APPENDIX A

#### **WORKERS' COMPENSATION PROGRAM SURVEY --SUMMARY OF RESPONSES FROM STATE AGENCY WORKERS' COMPENSATION ADMINISTRATORS--**

As part of the audit, we mailed opinion questionnaires to all state agency workers' compensation administrators, as identified by the Office of State Personnel. The surveys were designed to identify how state agencies are handling workers' compensation claims, who in the agency is handling the claims, and how much specific workers' compensation training the administrator has had, and to offer administrators an opportunity to make suggestions for needed changes to the program.

Responses were compiled and analyzed for each question. The percentage responses are included on the following pages. Additionally, respondents were given the opportunity to comment on all questions. Specific results of which the reader should be made aware are:

- ∇ The Office of State Personnel identified a total of 52 state agency workers' compensation administrators. The Department of Human Resources notified us that it had an additional 40 administrators working in its various programs. These individuals were included in the total mailing of 92.
- ∇ We received a total of 61 responses--a 66.3% rate of return.
- ∇ Fifty-six of the respondents included details on salary. The average annual salary for persons assigned the duties of workers' compensation administrator for state agencies is \$30,883.
- ∇ Data from the survey shows total salary costs related to workers' compensation administration to be approximately \$421,730 for the 56 respondents. This projects to be a total salary cost to the state for all workers' compensation administrators of \$681,308 annually.
- ∇ The majority (48.3%) of the respondents are classified as "administrative" personnel, with 82.0% of those being in the Personnel section of the agency.
- ∇ Approximately ninety-eight percent (98.3%) of the administrators have job duties other than handling workers' compensation claims.
- ∇ Only 18 of the respondents (29.5%) reported spending more than 20% of their time processing workers' compensation claims; however, the average time required for workers' compensation for these 18 was 58.3%.
- ∇ The State is currently sponsoring a pilot project whereby Key Risk, Inc. is serving as a third party administrator for 17 agencies, one of which was DHR whose 40 sites were included in the survey. Twenty-two of the respondents were participating in the pilot project.

## APPENDICES

---

### APPENDIX A PAGE 2

- ∇ Most training for workers' compensation administrators has been offered through the Office of State Personnel (51 respondents), with a concentration on methods of processing claims (85.2%).
- ∇ The majority (96.4%) of respondents said they had found information provided by the Industrial Commission staff to be useful and accurate, with most (83.6%) respondents communicating with the Claims section of the Commission.
- ∇ The majority (50.8%) of funds to pay workers' compensation claims come from lapsed salaries.
- ∇ The workers' compensation program would operate more efficiently if all claims were processed by a central service agency in the opinion of 70.9% of the respondents, with smaller agencies benefiting more than larger.
- ∇ Overall, the major concerns expressed by respondents were that claims were not handled in the same manner from agency to agency and that persons assigned the duties of workers' compensation administrators have not been given adequate training on how to handle claims.

We wish to thank all the respondents who supplied extensive and thoughtful comments on the survey.

**APPENDICES**

**APPENDIX A  
PAGE 3**

**OFFICE OF THE STATE AUDITOR  
AUDIT OF WORKERS' COMPENSATION PROGRAM**

**SUMMARY DATA**

***Purpose:** The Office of the State Auditor is conducting a performance audit of the workers' compensation program administered by the North Carolina Industrial Commission. As part of our procedures, we are gathering information regarding how workers' compensation claims are processed by the individual state agencies. This questionnaire will allow us to assemble this information in the most efficient manner. Please direct this questionnaire to the **individual who handles workers' compensation claims for your agency**. Please complete and return this questionnaire in the enclosed envelope no later than **September 3, 1996**.*

**Agency:** \_\_\_\_\_ **Name of Person Completing Survey:** \_\_\_\_\_

**Position/Title:** \_\_\_\_\_ **Annual Salary:** \_\_\_\_\_

**PLEASE CHECK YOUR ANSWERS. ATTACH ADDITIONAL SHEETS IF YOU NEED MORE SPACE FOR ANY RESPONSE.**

1. How is your position classified? **60 RESPONSES**

<input type="checkbox"/> A. Administrative	<input type="checkbox"/> B. Professional	<input type="checkbox"/> C. Clerical/Support
29 48.3%	13 21.7%	18 30.0%

2. In which section within your agency do you work? **61 RESPONSES**

<input type="checkbox"/> A. Senior Management	<input type="checkbox"/> B. Accounting/Budget	<input type="checkbox"/> C. Personnel	<input type="checkbox"/> D. Other (please specify)
3 4.9%	6 9.8%	50 82.0%	5 8.2%

3. How long have you handled workers' compensation claims for your agency? **61 RESPONSES**

<input type="checkbox"/> A. 0-2 years	<input type="checkbox"/> B. 2-5 years	<input type="checkbox"/> C. 5-10 years	<input type="checkbox"/> D. more than 10 years
22 36.1%	11 18.0%	16 26.2%	12 19.7%

4. Do you have job duties aside from handling workers' compensation claims? If yes, please list. **60 RESPONSES**

<input type="checkbox"/> A. Yes	<input type="checkbox"/> B. No
59 98.3%	1 1.7%

OTHER DUTIES INCLUDED:

BENEFITS	43.8%	SAFETY & HEALTH	22.9%	OFFICE SUPPORT	12.5%
PERSONNEL	50.0%	TRAINING	18.8%	PAYROLL/ SALARY ADM.	27.1%
DISABILITY/TESTING	22.9%	ACCOUNTING/ BUDGET	14.6%	MISCELLANEOUS	8.3%

5. What percentage of your time is spent processing, reviewing, or investigating workers' compensation claims? **61 RESPONSES**

<input type="checkbox"/> A. 1% - 2%	<input type="checkbox"/> B. 3% - 5%	<input type="checkbox"/> C. 6% - 10%	<input type="checkbox"/> D. 10% - 20%	<input type="checkbox"/> E. more than 20% (please specify percentage)
13 21.3%	8 13.1%	10 16.4%	12 19.7%	18 29.5%

6. What procedures do you normally follow for processing a workers' compensation claim? **61 RESPONSES**

<input type="checkbox"/> A. Check for completion of Forms 18 & 19	<b>57 93.4%</b>	<input type="checkbox"/> F. Establish claim file	<b>52 85.2%</b>
<input type="checkbox"/> B. Check for completion of accident investigation report	<b>52 85.2%</b>	<input type="checkbox"/> G. Maintain statistical data	<b>40 65.6%</b>
<input type="checkbox"/> C. Contact Attorney General's Office	<b>15 24.6%</b>	<input type="checkbox"/> H. Forward claim to Industrial Commission	<b>42 68.9%</b>
<input type="checkbox"/> D. Contact Employee Safety & Health Division, OSP	<b>17 27.9%</b>	<input type="checkbox"/> I. Other (explain)	<b>26 42.6%</b>
<input type="checkbox"/> E. Forward to designated agency supervisory personnel for approval	<b>9 14.8%</b>		

## APPENDICES

### APPENDIX A PAGE 4

7. How do you determine whether a claim is valid? 44 RESPONSES

<input type="checkbox"/> A. Forward to Industrial Commission- -do not determine	2	4.5%	<input type="checkbox"/> E. Talk with workers' comp administrator at OSP	28	63.6%
<input type="checkbox"/> B. Compare claim to liability determination guidelines	40	90.9%	<input type="checkbox"/> F. Talk with agency's legal counsel	14	31.8%
<input type="checkbox"/> C. Talk with individual filing claim	44	100.0%	<input type="checkbox"/> G. Other (please list)	24	54.5%
<input type="checkbox"/> D. Talk with individual's supervisor	43	97.7%			

8. Does your agency use the services of individuals or companies outside state government to assist with processing or investigating workers' compensation claims? 59 RESPONSES

A. Yes      B. No (Skip to questions # 11)

34	57.6%	25	42.4%				
----	-------	----	-------	--	--	--	--

9. If answered "yes" to question 8, what service providers do you use? 41 RESPONSES

A. Key Risk, Inc.      B. Other claims processing firms (please specify)      C. Private investigators (please specify)      D. Other (please specify)

22	53.7%	4	9.8%	7	17.0%	8	19.5%
----	-------	---	------	---	-------	---	-------

10. What services do these persons provide? 42 RESPONSES

A. Investigation      B. Processing/Filing Forms      C. Statistics      D. Other (please specify)

20	47.6%	21	50.0%	15	35.7%	14	33.3%
----	-------	----	-------	----	-------	----	-------

11. From which state agencies have you received training regarding workers' compensation? 51 RESPONSES

<input type="checkbox"/> A. Industrial Commission	40	78.4%	<input type="checkbox"/> D. Other (please specify)	23	45.1%
<input type="checkbox"/> B. Attorney General's Office	14	27.5%	<input type="checkbox"/> E. Have received no training (Skip to question #13)	1	0.2%
<input type="checkbox"/> C. Office of State Personnel	51	100.0%			

12. If you received training, what type of training did you receive? 61 RESPONSES

<input type="checkbox"/> A. Education on workers' compensation laws	45	73.7%	<input type="checkbox"/> C. Procedures for investigating the validity of claims	36	59.0%
<input type="checkbox"/> B. Methods of processing workers' compensation claims	52	85.2%	<input type="checkbox"/> D. Other (please specify)	15	24.6%

13. With which sections of the Industrial Commission have you interacted? 61 RESPONSES

<input type="checkbox"/> A. Commissioners (includes law clerks)	10	16.4%	<input type="checkbox"/> D. Safety	15	24.6%	<input type="checkbox"/> G. Statistics	24	39.3%
<input type="checkbox"/> B. Deputy Commissioners	14	23.0%	<input type="checkbox"/> E. Claims	51	83.6%	<input type="checkbox"/> H. Medical Fees	40	65.6%
<input type="checkbox"/> C. Ombudsman	10	16.4%	<input type="checkbox"/> F. Nurses	14	23.0%	<input type="checkbox"/> I. Fraud Investigation	2	3.3%

14. Have you found the information provided by the Industrial Commission to be useful and accurate?

56 RESPONSES

A. Yes      B. No

54	96.4%	2	3.6%		
----	-------	---	------	--	--



## APPENDICES

### APPENDIX A PAGE 5

15. To what other sources have you referred for information on workers' compensation claims? Check all that apply.

**61 RESPONSES**

<input type="checkbox"/> A. State Workers' Compensation Manual	<b>56 91.8%</b>	<input type="checkbox"/> D. Attorney General's Office	<b>44 72.1%</b>
<input type="checkbox"/> B. Your agency's policies and procedures manual	<b>44 72.1%</b>	<input type="checkbox"/> E. Department of Insurance	<b>4 6.6%</b>
<input type="checkbox"/> C. Office of State Personnel	<b>48 78.7%</b>	<input type="checkbox"/> F. Other (please specify)	<b>23 37.7%</b>

16. When a claim is to be paid for your agency, from where does your agency get the funds? **61 RESPONSES**

<input type="checkbox"/> A. Budget transfer from lapsed salaries	<b>31 50.8%</b>	<input type="checkbox"/> D. Specific line item for workers' comp claims	<b>27 44.3%</b>
<input type="checkbox"/> B. Budget transfer from other line-item (please specify)	<b>3 4.9%</b>	<input type="checkbox"/> E. Other (please specify)	<b>5 8.2%</b>
<input type="checkbox"/> C. Special appropriations from the Contingency and Emergency Fund	<b>0 0.0%</b>		

17. In your opinion, would the workers' compensation program operate more efficiently if all state agency claims were processed by a central service agency? Please explain your answer. **55 RESPONSES**

A. Yes                       B. No

<b>39 70.9%</b>	<b>16 29.1%</b>
-----------------	-----------------

**Positive Comments:**

- Key Risk is doing a good job.
- Central processing would allow for consistency and a pool of knowledgeable administrators; current method is too fragmented.
- Would allow for more uniform handling of claims.
- Personnel officer should continue to work with employees and centralized service.
- Program would be more efficient and organized with centralized processing.
- Central agency is not prejudiced in denying or accepting claims since they are not state employees.
- Central agency would be dedicated to WC work; more efficient use of time and energy; overall cost savings and better service to employees.
- All state agencies are not processing claims the same way.
- Would offer fairness, accurate processing, cost effectiveness, and proper medical monitoring.

**Negative Comments:**

- Would lose the personal touch.
- Would add an additional layer of administrators since claims adjustment functions would remain at the agency.
- Would cause more delays in validating WC claims, especially in areas where there are few medical providers.
- Safety issues would fall through the cracks.
- Third party could not conduct incident investigation at the work site.
- Communications with employee would not be as efficient and could cause increased delays.
- Third party would present lack of personalized service, lack of knowledge on employee issues, staffing.
- Third party too removed from incident.

## APPENDICES

---

### APPENDIX A PAGE 6

18. How many workers' compensation claims has your agency processed during the past three fiscal years?  
TOTALS REPRESENT ALL CLAIMS FILED BY THE 61 AGENCIES RESPONDING.

- A. Fiscal year ending 6/30/94 7,946
- B. Fiscal year ending 6/30/95 7,965
- C. Fiscal year ending 6/30/96 7,342

19. Please note any concerns you have regarding the workers' compensation program. (Attach additional sheets if necessary.) 20 RESPONSES

- Agency personnel responsible for processing WC claims don't have necessary level of knowledge and experience.
- Claims are not processed uniformly from agency to agency.
- WC efficiency can only be achieved by medical management; medical providers must interact with job rehabilitation service and employers.
- Third party administrator has increased delays in processing claims; increased workload for agency staff.
- WC is unorganized now; no specific patterns to do things; so many questions that the WC administrator has to answer.
- WC legislation needs to be revamped; not set up to be best for employee and employer as now written.
- Third party administration, whether through a state agency or an outside party, would not be able to provide "swift and sure compensation to employees injured in the course of employment."
- WC administrators need more in-depth training.
- Major delays in the process come from delays in waiting for hearings and decisions.
- Compensation determination doesn't include denials or a system for closing claims; factors critical for case management.
- The State needs to recognize Workers' Compensation costs more like private industry.
- Too time consuming and tedious; too much paperwork regardless of extent of injury.
- A tremendously complicated system with many legal pitfalls and problems which small agencies are not staffed to handle.
- Ever increasing tendency of Industrial Commission to deny employers some rights; almost impossible for an employer to prevail in any litigation brought as a result of claim denial or non-compliance by employees.

**APPENDICES**

---

**APPENDIX B**

**OFFICE OF STATE PERSONNEL  
INDUSTRIAL COMMISSION SALARY SURVEY**

Approximately 90,000 to 100,000 claims are filed with the N.C. Industrial Commission each year; 5-7% of these are contested cases are assigned to the Deputy Commissioners who act as judges in trials, finding facts as a jury and applying the appropriate legal standards in written judgments in cases prosecuted under the Workers' Compensation Act and several other laws administered by the Commission. North Carolina currently assigns contested cases to 20 Deputy Commissioners, attorneys licensed to practice law in N. C. The Deputies are divided into five teams of four attorneys and assigned to a geographical area of the State. Each team has a group appointed team leader who will monitor work and case management, and train new Deputies. We are not currently using a Chief Deputy; a Full Commissioner is supervising the process at this time.

North Carolina has a seven member Industrial Commission, all appointed by the Governor, who hear appeals from the Deputy Commissioners' decisions. The Commissioners sit in panels of three. Currently, six of these Commissioners are licensed attorneys, but the Statute does not make this a requirement. (The Statute suggests that the Commission be comprised of membership from the legal, labor, and business professions.) The Full Commission meets as needed, usually once or twice a month. Also, the Commission acts as a rule-making body for the Industrial Commission, establishing agency policy and procedure.

1. Does your state have an appellate level for appeals within the Industrial Commission or other named entity? ( ) Yes ( ) No

If yes, please describe:

---

---

---

---

---

2. Does your state have a hearing process for handling contested cases by Deputy Commissioners or judges? ( ) Yes ( ) No

If yes, please describe:

---

---

---

---

---

3. Does your state use a Chief Deputy to supervise and assign work of Deputy Commissioners? ( ) Yes ( ) No

**APPENDICES**

---

**APPENDIX B  
PAGE 2**

4. How are cases assigned to Deputy Commissioners who determine contested cases?

---

---

---

---

5. What is the timeline for docketing cases and approximate length of time to complete a case from the time a request for hearing is filed until an opinion and award or decision are written?

---

---

---

---

6. Do you use a trial court administrator? ( ) Yes ( ) No

If yes, please describe

---

---

---

---

---

## APPENDICES

---

### APPENDIX B PAGE 3

**Chairman, The North Carolina Industrial Commission** - The Chairman, appointed by the Governor, serves as the chief judicial officer and chief executive officer of the North Carolina Industrial Commission (GS §97-77) which administers the Workers' Compensation Act, Childhood Vaccine-Related Injury Compensation Program, and the Law Enforcement Officers', Fireman's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefits Act. The Commission is also constituted a court by Statute for the purpose of hearing and passing upon tort claims against State Agencies and Departments. The Chairman has the authority to oversee and direct the Commission to ensure proper management.. The Chairman appoints three Commissioners to sit in panels to hear appeals, establishes the dates the Full Commission will be held, and monitors the process. The Chairman appoints and chairs the Advisory Council to give input to the Commission on policy and legislative issues. The Chairman provides leadership to the Commission, establishes priorities, and works with staff and others to achieve goals and objectives. The Chairman responds to the media, and testifies and provides expertise to legislative committees.

Minimum Training and Experience - The Chairman is appointed by the Governor. The Statutes do not require a legal background, however, the Chairman has often been an attorney. The Statutes encourage a balanced background in law, labor, and/or business with extensive knowledge in the area of workers' compensation.

Current Salary: \_\_\_\_\_ Salary Range Minimum \_\_\_\_\_ Salary Range Maximum \_\_\_\_\_

Comparison: ( ) Less Than ( ) Equal To ( ) Greater Than

**Commissioner, North Carolina Industrial Commission** - The six members of the Industrial Commission are appointed by the Governor. The members of the Commission serve as an appellate body, with 25-30% of their time in reviewing decisions made by Deputy Commissioners which are appealed to the Full Commission. The Chairman assigns cases to the Commissioners who sit in panels of three members, typically one to two weeks each month. The Commissioners render decisions with the assistance of legal specialists. By Statute, the Full Commission can reconsider evidence, receive further evidence, rehear parties, and amend awards.

The Commission is also the rule-making body for the Industrial Commission, establishes policy, and establishes the medical fee schedule for medical providers. Each Commissioner is also responsible for sections of the agency, reporting back to the Full Commission on operations and policy. The Full Commission reports to the Chairman of the N.C. Industrial Commission.

Minimum Training and Experience - Commissioners are appointed by the Governor of North Carolina, balancing backgrounds from the legal, business and labor professions. The Statutes do not require a legal background, although Commissioners are attorneys. Work requires extensive experience in the area of workers' compensation with the ability to uphold the laws of the State, to understand the facts of cases, and to deliver a fair decision based upon the facts and the law.

Current Salary: \_\_\_\_\_ Salary Range Minimum \_\_\_\_\_ Salary Range Maximum \_\_\_\_\_

Comparison: ( ) Less Than ( ) Equal To ( ) Greater Than

## APPENDICES

---

### APPENDIX B PAGE 4

**Deputy Commissioner, Industrial Commission** - This is professional legal work, presiding as a judge in non-jury trials, making findings of fact and applying the appropriate laws in written opinions and awards in cases under the Workers' Compensation Act and other statutory responsibilities. The Deputies also render decisions in a court that has heard and passed upon tort claims against State Agencies and Departments.

Work involves determining if cases are in a proper posture for trial, scheduling and sending notices of dates and times, handling all correspondence and telephone communication regarding pre-trial issues, ruling on motions regarding cases set for trial, researching points of substantive and procedural law which are likely to arise during the trial, holding pre-trial conferences when necessary and reviewing for appropriateness any settlements which are made prior to a case coming to trial. During the course of the trial, the Deputy Commissioner sits as both judge and jury, makes evidentiary rulings throughout the trial, ensures that all facts have been disclosed and enters a binding judgment determining the liability of parties. Work is performed independently under the administrative supervision of the Full Commission and may include related duties as required. When called upon to sit as a member of the Appeals panel, the work involves hearing and determining appeals and writing Opinions and Awards or Decisions.

Minimum Training and Experience - Graduation from an accredited law school and three years of legal experience, or an equivalent combination of training and experience. The Commission requires the Deputy Commissioner to be licensed to practice law in North Carolina as set forth in Rules Governing Admission to the Practice of Law and N.C. GS §84-24.

Current Salary: \_\_\_\_\_ Salary Range Minimum \_\_\_\_\_ Salary Range Maximum \_\_\_\_\_

Comparison:    ( ) Less Than                    ( ) Equal To                    ( ) Greater Than

**Administrator, Industrial Commission** - This is administrative and managerial work in directing the activities of the North Carolina Industrial Commission staff in the administration of the North Carolina Workers' Compensation Act and other statutory responsibilities. The employee is the agency's chief operating officer, responsible for managing the Commission's \$8.2 million budget and overseeing 139 employees. The employee is responsible for: structuring and managing operations devoted to claims processing, medical bills processing, statistical reporting, safety consultation and related areas; the provision of support services including docket management and legal stenography to the hearings process; the provision of all administrative services including budget development and administration, procurement, and personnel. The employee determines the need for modifications or exceptions to established policies and procedures based on input from subordinate managers, and is responsible for ensuring that such decisions do not compromise the mission of the Commission. The employee reports to the Chairman of the Industrial Commission.

Minimum Training and Experience - Graduation from a four year college or university with a degree in business administration, public administration, or related field and four years of supervisory/managerial experience involving responsibility for administratively directing the delivery of services, two of which must have involved participation in workers' compensation issues; or an

**APPENDICES**

---

**APPENDIX B  
PAGE 5**

equivalent combination of training and experience. Graduation from an accredited school of law may be substituted for the required two years of general administration experience.

Current Salary: \_\_\_\_\_ Salary Range Minimum \_\_\_\_\_ Salary Range Maximum \_\_\_\_\_

Comparison:    ( ) Less Than                    ( ) Equal To                    ( ) Greater Than

**Executive Secretary, Industrial Commission** -The Executive Secretary acts in a quasi-judicial capacity, designated by the Chairman as a Special Deputy Commissioner, with responsibilities for ruling and issuing orders on various Motions presented by plaintiffs/defendants counsel, approving clincher settlement agreements, following-up on non-insured employers, supervising Agency Legal Specialists in ruling on termination of benefits, and providing supervision, training and direction for the Ombudsman program which provides public information on the workers' compensation claims process. The employee provides management, legal direction and supervision of the Office of the Executive Secretary, Ombudsmen, and the Industrial Commission's Informal Hearing Program. The employee reports to the Administrator of the Industrial Commission, and to the Chairman of the Industrial Commission on legal and policy matters.

Minimum Training and Experience - Graduation from an accredited law school and three years of related professional legal or workers' compensation/programmatic experience, or an equivalent combination of training and experience.

Current Salary: \_\_\_\_\_ Salary Range Minimum \_\_\_\_\_ Salary Range Maximum \_\_\_\_\_

Comparison:    ( ) Less Than                    ( ) Equal To                    ( ) Greater Than

## APPENDICES

---

[ This Page Left Blank Intentionally ]



## APPENDICES

### APPENDIX C

#### STATE “SELF-INSURANCE” FOR WORKERS’ COMPENSATION CLAIMS.

“Self-insurance” is defined as an entity’s retention of risk of loss arising out of the ownership of property or from some other cause, rather than transferring that risk to an independent third party through the purchase of an insurance policy. It is sometimes accompanied by the setting aside of assets to fund any related losses. Because no insurance is involved, the term “self-insurance” is a misnomer. (Governmental Accounting Standards Board, C50.528)

In North Carolina, all state employees are covered under the Workers’ Compensation Act. Each state agency is responsible for accepting employer liability for the State and paying workers’ compensation claims from its operating budget. The Department of Transportation is the only state agency that maintains a reserve against which workers’ compensation costs may be charged. All other agencies must use funds budgeted for other purposes, usually lapsed salaries, to pay employees’ claims. If an agency does not have available funds in its

<b>TABLE 10</b>			
<b>STATE AGENCY WORKERS’ COMPENSATION STATISTICAL DATA</b>			
	<b>FYE 6/30/94</b>	<b>FYE 6/30/95</b>	<b>FYE 6/30/96</b>
Benefit Costs	\$28,725,831	\$29,301,931	\$28,522,330
Claims Filed	12,404	12,791	13,509
Sources: NC Comprehensive Annual Financial Reports (Benefit Costs) and Office of State Personnel Annual Statistical Reports (Claims Filed)			

operating budget, it must request a special appropriation from the Governor’s Contingency and Emergency Fund. Table 10 shows total benefit costs and claims files

for fiscal years 1993-94 through 1995-96. Table 11 shows data on the ten agencies with the highest benefit expenditures for the past three fiscal years.

<b>TABLE 11</b>						
<b>STATE AGENCY WORKERS’ COMPENSATION COSTS</b>						
<b>AGENCIES WITH HIGHEST BENEFIT EXPENDITURES</b>						
<b>RANK</b>	<b>FY94</b>		<b>FY95</b>		<b>FY96</b>	
	<b>AGENCY</b>	<b>AMOUNT</b>	<b>AGENCY</b>	<b>AMOUNT</b>	<b>AGENCY</b>	<b>AMOUNT</b>
1	Public Instruction	\$10,996,853.10	Public Instruction	\$11,564,729.48	Public Instruction	\$9,870,494.97
2	Div of Mental Health	4,335,583.93	Div of Mental Health	4,096,216.71	Div of Mental Health	3,119,044.26
3	Dept of Corrections	3,262,603.67	Dept of Corrections	2,989,358.51	Dept of Corrections	2,569,417.40
4	Env, Health, Nat Res	661,717.60	Env, Health, Nat Res	831,346.28	UNC-Greensboro	1,404,922.65
5	UNC-Greensboro	597,728.58	Community Colleges	787,908.47	Community Colleges	843,041.89
6	Dept of Justice	545,278.67	Crime Control	557,115.85	UNC-Chapel Hill	812,527.75
7	Community Colleges	466,596.76	Dept of Justice	548,175.17	Env, Health, Nat Res	617,585.48
8	NC State University	412,008.58	Div of Youth Services	533,364.81	NC State University	551,514.99
9	NC A&T University	379,025.50	NC State University	389,391.77	Div of Youth Services	450,973.32
10	UNC Hospitals	342,380.19	Dept of Administration	351,762.74	Crime Control	420,615.79

Source: Monthly Budget Reports by Agency

## APPENDICES

---

[ This Page Left Blank Intentionally ]

**James B. Hunt Jr., Governor**  
**J. Howard Bunn Jr., Chairman**



**Commissioners**  
**Bernadine Ballance**  
**Thomas J. Bolch**  
**Laura K. Mavretic**  
**Dianne Sellers**  
**Coy Vance**  
**J. Randolph Ward**

**North Carolina**  
**Industrial Commission**

Dobbs Building • 430 North Salisbury Street • Raleigh, North Carolina 27611  
Telephone: (919) 733-4820 • Fax: (919) 715-0282 • BBS: (919) 715-5920  
Internet Address: <http://www.comp.state.nc.us/>

January 27, 1997

**Honorable Ralph Campbell, Jr.**  
**State Auditor**  
**300 North Salisbury Street**  
**Raleigh, NC 27603**

Dear Mr. Auditor:

The Industrial Commission has reviewed your draft of the performance audit entitled *Workers' Compensation Program Administered by the North Carolina Industrial Commission*. Our response is attached.

Our agency appreciates the time and detail with which your staff reviewed the operation, organization and programs of the Industrial Commission and worked with the Office of State Personnel in a study of agency salary levels. We commend you on your review of the handling of workers' compensation claims by state agencies for the State of North Carolina as an employer, an area that we believe has warranted for some time close examination and evaluation.

Our goal is to provide employers and employees in our state simplified workers' compensation claims procedures and swift resolution of claims. Our agency is proud of the accomplishments it has made in serving the people of North Carolina.

We believe that the suggestions and recommendations of your office contained in this audit, coupled with our agency's goals and objectives and the continued dedication of our hard-working staff, will allow our agency to meet the challenges of the future and help us continue to serve the people of the state more effectively and efficiently.

Sincerely,

Original Signed By: J. Howard Bunn, Jr.

**J. Howard Bunn, Jr.**  
**Chairman**

---

The response from the Industrial Commission has been reformatted to conform with the style and format of the rest of the audit report. However, no data has been changed.

THE NORTH CAROLINA INDUSTRIAL COMMISSION

RESPONSE

TO THE STATE AUDITOR'S PERFORMANCE AUDIT

BACKGROUND

CREATION OF THE WORKERS' COMPENSATION SYSTEM

The 1929 General Assembly, responding to the growing complexities of industrialization, passed the North Carolina Workers' Compensation Act to compensate injured workers.

This legislation had a two-fold purpose:

1. swift compensation for the worker; and
2. limited liability for the employer.

The Act was a compromise between employers and employees: the employee gave up the right to common law damages in exchange for guaranteed, though limited, compensation; the employer traded unlimited liability for damages being limited to the employee's loss of earning capacity.

The workers' compensation system was initially designed to prevent injured workers from being thrust into poverty and to prevent the lengthy, expensive court proceedings necessary to prove fault on the part of the employer. The system was not designed to provide general health and accident insurance for workers.

North Carolina's system has evolved, through court interpretation and changes in the law, to cover only injuries that arise out of or are in the scope of employment. Exclusions such as the following have been added: only employers with three (3) or more regular employees are required to provide coverage and farm workers are excluded unless the farm employer has ten (10) or more full time non-seasonal workers.

North Carolina, in passing the Workers Compensation Act, made a decision to adopt a form of no-fault social insurance that would treat the productive worker, who had wage loss because of a work-related injury, as "an honorable veteran of the workforce" and provided compensation and medical benefits for that worker in a manner necessary to maintain the worker's dignity.

THE WORKERS' COMPENSATION SYSTEM TODAY

Sixty-eight years after the passage of this legislation, the North Carolina Industrial Commission administers one of the top workers' compensation systems in the country...but a far different system than ever envisioned by its founders.

Today, the Industrial Commission operates as a quasi-judicial system and claims agency for work related injuries and illnesses.

It is a system that handles an average of 90,000 workers' compensation claims annually and approves over \$206 million in medical charges and over \$319 million in Compensation payments. Workers' Compensation is said to now be a "billion dollar" business in North Carolina if all medical, compensation and legal charges are taken into account.

And, the system that was designed to avoid litigation has become a system dominated more and more by the legal process.

The percentage of workers' compensation claims resolved without a hearing has sharply declined in recent years. Today, eighty five percent (85%) of all claims reviewed by the agency are claims agreed to by employers and employees and routinely approved for compensation by the Industrial Commission. But, the other fifteen percent (15%) are contested by the parties and go either to mediation or to a hearing first before a deputy commissioner with the right to appeal to a panel of Commissioners with further appeal rights to the North Carolina Court of Appeals and in certain instances to the North Carolina Supreme Court.

As the number of contested cases has increased so has legal maneuvering and resulting backlogs and slowdown. Our challenge is to return the system to its original plan: swift compensation and simplicity of claims procedure.

RECENT ACCOMPLISHMENTS OF THE INDUSTRIAL COMMISSION

By 1993, the Industrial Commission was severely backlogged with cases, not responsive to the public, and riddled with criticism. There was a lack of sufficient staff (even though the 1992 General Assembly had made an appropriation for 15 additional staff positions), lack of equipment, lack of space and resulting inefficiency.

The agency had reached the critical point in its history. It was time to "roll up our sleeves" and get to work changing the direction of the agency.

With the strong support of Governor Jim Hunt, the positive response of the General Assembly, the hard work of a committed staff and vigorous citizen involvement, we can today proudly say "what a difference four years make." Although there is more to be done, including many of the suggestions of the State Auditor, we are proud of the following major accomplishments in improving and streamlining the Industrial Commission:

- Eliminated a backlog of 900 cases on appeal to the Full Commission by forming 2 extra appeals panels, using former Commissioners and former Deputy Commissioners, funded from the Contingency and Emergency Fund.
- Recognized gross underfunding and understaffing of the Commission and received General Assembly approval to
  - (a) expand the Commission from 3 to 7 members, allowing 2 panels of Commissioners to sit simultaneously thus expediting the appeals process and preventing appeals backlogs from recurring--today the Full Commission is current with its case load;
  - (b) add 4 Deputy Commissioners to facilitate increased hearings and expedite the contested case process--twenty (20) Deputy Commissioners now hold hearings across the state.
- Requested and received funding from the General Assembly to develop an "Information Strategic Plan", which built upon an earlier appropriation for an Optical Disk System. The

implementation of both of these efforts resulted in the following:

- (a) the installation of personal computers for all employees tied together with a Local Area Network and tied to the State Computer Center with a Wide Area Network; and
  - (b) the installation of an Electronic Document Management System (presently in the final stages of installation) that will result in the millions of paper documents received by the Commission being scanned, converted to an electronic image file, condensed and stored on permanent 12" laser disks.
- Implemented a Mediation Program, approved by the 1993 General Assembly, staffed by one employee with part time clerical help. Industrial Commission Mediation now handles more than 175 cases per month with almost two-thirds being settled, providing claimants with faster resolution of cases and avoiding scheduling of hearings and freeing contested case dockets. Mediation is a key to limiting litigation and swiftly resolving cases.
  - Created, with General Assembly funding, an Ombudsperson Program, which provides information and assistance to the general public on workers' compensation matters--four (4) Ombudspersons now receive up to 200 calls per day; a toll free line(1-800-688-8349) has been installed to make the program more accessible to the public.
  - Chairman Howard Bunn chaired a group of business, labor and other interest groups that developed the first major rewrite of the Workers' Compensation Act since 1974 when Chairman Bunn previously headed the Commission. This 1994 rewrite was passed into law without opposition. It provided, among other things, for coverage under Managed Care Organizations, allowed employers to begin paying claims faster under a "payment without prejudice" provision, initiated a "trial return to work" system for injured workers, and allowed the Commission to revise rehabilitation rules.
  - Appointed an Advisory Council, composed of representatives of all segments involved with workers' compensation issues, allowing the Commission to hear concerns, discuss issues and seek solutions to problems at the earliest possible time, and to provide the legislature with expertise on legislative proposals and to suggest legislative initiatives when needed.
  - Won legislative approval during the 1995 General Assembly Session for the creation of a Fraud Investigation Unit to investigate workers' compensation fraud, estimated to be as

much as \$60 million annually (10% of the total premium dollars for workers' compensation coverage).

- Won approval from the 1995 General Assembly for additional claims and legal support staff to help expedite handling of the 90,000 workers' compensation claims filed on average annually.
- Acquired expanded office space for the Industrial Commission to better organize the Commission's work flow and provide adequate space for all agency sections.
- Revised (downward) the workers' compensation medical fee schedule. The Commission found that Georgia and South Carolina had fee schedules 12 to 16% lower than North Carolina's, that the six states with similar costs of producing medical services had fee schedules 13 to 27% lower than ours, and the two major private payers in the state had schedules that average 14% lower. The Commission adopted a Fee Schedule that will result in an overall reduction in medical fees of 11% (reducing surgery charges by 8% and Radiology by 20%). This reduction, estimated to be between \$40-50 million, will impact employers with future lower workers' compensation rates.
- In March, 1996, North Carolina Workers' Compensation Insurance Base Rates were reduced by 15% and were further reduced by 13.9% in October 1996. The state now enjoys the 8th lowest workers' compensation costs in the country (according to *National Underwriter* magazine)---and continued cost containment and medical fee schedule reductions should see this downward trend continue.
- Offered during the year ending June 30, 1996, through the Industrial Commission Safety Education Section, accident prevention courses to 18,447 workers. These courses, offered to business and industry by request, are designed to help reduce the number of work related injuries and disabilities which impact on overall costs.
- Provided, through our agency's Workers' Compensation Nurses, professional coordination for 125 new workers' compensation cases in 1996, in addition to an average of 133 cases in progress handled annually, ensuring that claimants receive the best possible medical and rehabilitation services in these often complicated and catastrophic cases that seek to return injured workers to their pre-injury potential.
- Crafted an agreement with the North Carolina Hospital Association to stabilize on a temporary basis a DRG system for hospital charges, thus ending a nightmare of enormously increased hospital fees where one major employer had



received billings of \$104,000 more than the actual hospital bill for 20 injured employees. This agreement strongly advocated by the Industrial Commission and adopted by the 1996 Session of the General Assembly as a "temporary measure" allows payments to hospitals for inpatient services of not less than 90% of itemized charges nor more than the hospital's actual itemized charges.

- Adopted new procedures in our Claims Section for dealing with agreements for payments that were submitted incorrectly. By calling and faxing carriers and self insurers, delays have been eliminated and our claims section is current in dealing with agreements.
- Completed a major reorganization of the Deputy Commissioner unit to facilitate the elimination of a backlog of cases at the initial hearing level. Organizing and deploying teams of hearing officers (Deputy Commissioners) in five regions of the state creates greater accountability of the hearing process and allows Deputies to develop strategies resulting in faster resolution of cases.
- Established COMP.net, the Industrial Commission's electronic Bulletin Board System and Internet World Wide Web site, that provides a host of workers' compensation information online, including Commission Decisions, Court Decisions, Commission Forms (available to download), a Commission staff directory, general information and an extensive library of national workers' compensation information. Workers' compensation experts from across the nation have described our system as "one of the best workers' compensation Web sites in the country."
- Included as part of every Industrial Commission section head's annual work plan a "service orientation" requirement, mandating that each manager pays attention to constituents, exhibits empathy, follows through, is courteous, and agrees and acts on a clear course of action. Section heads have been instructed to include this requirement in the work plan of every employee in their section. Our goal is "service to the public."
- Organized and conducted the First Annual Workers' Compensation Educational Seminar in September 1996 which offered in-depth training and information on the North Carolina Workers' Compensation claim process to employers, employees, insurers, medical providers, and other interested parties.

The Industrial Commission is proud of its accomplishments; however, the future is filled with challenges.

CHALLENGES FOR THE INDUSTRIAL COMMISSION

As we move toward a new century the Industrial Commission faces new challenges brought about by a growing and changing economy. To continue to meet the needs of North Carolina's work force, the Industrial Commission has identified three areas for major emphasis:

1. Mediation. Moving more contested cases to mediation will result in swifter disposition of cases and limiting litigation. Each Deputy and Commissioner will be trained in mediation and the agency will continue to recruit private sector mediators. Our goal is to move the mediation program to the forefront of the Commission thus speeding and simplifying the claims process.

2. Computerization. The completion of the installation of our agency's electronic document management system and continued computer training of our staff will speed claims handling and improve efficiency. Our goal is to achieve a paperless agency that is responsive and highly efficient.

3. Education and Information. The Ombudsperson program provides the business community and employees a ready source of information and help. Our First Annual Workers' Compensation Educational Seminar, held in the Fall of 1996, was the beginning of our commitment to expanding educational and training seminars to inform and train employers and carriers on proper procedure. Our goal is to expand the education and information function of the Industrial Commission and increase workers' compensation training to insure swifter compensation and added simplicity of claims procedure.

Seven decades after the passage of North Carolina's Workers' Compensation Act, we look to the future seeing North Carolina surging economically, growing and moving into a new era of change.

Our goal is to continue improving a system that has provided North Carolina's industry and laborers protection and stability to successfully move through the changing era of industrialization into the Computer Age and now into a new century.

Our challenge remains to direct the system on its original course: swift compensation, and simplicity of claims procedure.

AUDIT RESPONSE

The Industrial Commission appreciates the suggestions and recommendations of the State Auditor which will help the agency meet its challenge and achieve its goals. Below are the Commission's responses to the Auditor's Findings and Recommendations:

OPERATIONAL ISSUES

Response to Recommendation # 1: "The Agency Does Not Have Formalized Internal Policies and Procedures"

The Commission agrees that written procedures are critical to guide employees in the performance of their job duties. The Industrial Commission has a detailed document, "Navigating Through The Industrial Commission", which outlines duties and procedures for each section of the Commission in administering the workers' compensation program. This document is in hard copy as well as on the Internet (all staff have Internet access through the Commission's Local Area Network).

The Commission's new Electronic Document Management System (EDMS), effective in the Spring of 1997, will provide detailed procedures by containing instructions to each employee concerning the handling of "paperwork" by the individual employee. While not contained in a manual, this is the equivalent in that it is electronically stored and available to each employee who needs it. Additionally, these "workflow" instructions provide for consistent treatment of the Commission's work.

The agency will develop an internal policies manual, which will also reside on the Commission's Intranet. The "workflow" instructions in the new EDMS will serve the function of step-by-step procedures for each section within the Commission. A standard procedure for updating and distributing the manual and procedural "workflow" instructions will be developed.

Response to Recommendation # 2: "Existing Statistical Reports Are Not Consistent, Reliable, or Standardized."

The agency concurs with the Auditor's findings that the agency "has had to utilize outside sources (State Information Processing Services [SIPS] personnel and a consulting firm) because it does not have adequate staff to meet its data processing needs."

With the completion of the installation and the final implementation of the agency's new Electronic Document Management System (EDMS), the agency's capability to generate accurate statistical reports will improve. For example, the new EDMS provides technology allowing reports to be saved in COLD (Computer Output to Laser Disc), which can be imported to various software programs and used to compare one or more periods with other periods.

The Commission will continue to request from the General Assembly additional resources to meet its data processing needs and reduce its reliance on costly outside sources.

In addition to the positions recommended by the State Auditor, the Industrial Commission believes the addition of a Computer Support Technician II (\$27,183.00 in total annual salaries and benefits) is needed to help users with the new EDMS. This position will allow the data processing manager and the LAN administrator to perform higher-level functions such as training of Commission personnel on the use of data processing equipment and software thus impacting positively on the generation of statistical reports.

Response to Recommendation # 3: "The 'Backlog' is Overstated."

The agency concurs with the Auditor's finding that the "backlog" at the Deputy Commissioner level (first level hearing) should be more clearly defined.

The Industrial Commission believes that cases fit into two distinct categories: "hearing backlog" and "decision backlog."

The term "hearing backlog" should be used for those cases which have requested hearings but have not been

calendared on the hearing docket. Cases that have been continued by the parties, though not completely under the control of the Commission, should be considered a part of the "hearing backlog."

Cases set on the calendar and cases pending further action from the parties should not be considered in the backlog but should be regarded as normal work-in-process.

In our opinion, the term "decision backlog" should be used only for those cases for which the formal hearing process is completed but the opinion and award has not been rendered within the established statutory period of 180 days from close of evidence.

The Commission will work to further refine the definition of "backlog."

The Commission also concurs with the recommendation that the General Assembly should consider the need for granting the Commission statutory authority to impose sanctions when requests for hearings are filed but the cases are not ready to be heard.

Response to Recommendation # 4: "The Commission's System of Assigning and Hearing Cases Prior to October 1996 was Ineffective"

The agency appreciates the Auditor's support of the Commission's development of a regional team approach for assigning and hearing cases at the Deputy Commissioner level. The Commission will continue to monitor and evaluate this approach on a regular basis and will develop plans of action for each team.

We do want to point out, however, that Commission management realized more than a year ago that the "lottery system," historically used by Deputy Commissioners for case and hearing assignments, was ineffective in addressing the increasing number of contested claims. Therefore, in the Spring of 1996, the Commission began to explore alternative methods of hearing cases in order to reduce the backlog at the Deputy level. After consultation with the Industrial Commission Advisory Council and representatives of the NC Bar Association's Workers' Compensation Section Council, the Commission in October 1996 implemented an interim plan that divides the twenty Deputy Commissioners into

## APPENDICES

---

### APPENDIX D PAGE 12

five teams of four, each with a designated team leader. Initially, each team is assigned to a geographic region of the state for a six month period and is responsible for cases within the region. The teams will be responsible for determining how they will schedule and hear cases.

Our initial reports indicate that the regional team concept is working well. When the team concept was initiated, the hearing backlog was over 4000 cases. As of January 17, 1997, the backlog had been reduced to approximately 700 cases--a reduction of some 3400 cases in four months.

*Auditor's Note: See discussion of unreliability of data and questions relative to the backlog on pages 15-17.*

The Commission will closely monitor the new system over the next several months to determine whether the team concept should continue.

#### Response to Recommendation # 5: "Cases Can Be Resolved More Quickly Through Mediation Than The Formal Hearing Process"

The agency appreciates the support of the State Auditor for its mediation program.

We believe that mediation will result in swifter disposition of cases and will limit litigation. The Commission intends to make mediation a cornerstone of the workers' compensation process.

#### Response to Recommendation # 6: "Claim Files Are Not Being Adequately Maintained By The Various Sections"

We concur with the Auditor's finding that "...the lack of sufficient personnel prevents the section [Statistics Section] from updating the files on a timely basis." The addition of a position as recommended is needed.

In addition, the Commission's new Electronic Document Management System (EDMS) will aid in the orderly handling of claim files and routine "paperwork" by providing individualized instructions to each employee concerning the handling of "paperwork" for which they are responsible.

The initiation of the new regional team concept at the Deputy Commissioner level has produced increased accountability for each Deputy and is allowing the agency to better manage cases and better track the time for completing decisions.

The Commission will study the need for statutory authority to assess penalties to employers that do not submit injury reports in the required time frames.

Response to Recommendation # 7: "The Commission Does Not Have the Statutory Authority to Set Inpatient Hospital Fees."

The Industrial Commission concurs with the State Auditor's Recommendation.

The agency will review ways to perform provider audits including utilizing personnel in the medical fee section now under utilized because of medical bill processing changes as noted on page 25 and 26 of the report.

Response to Recommendation # 8: "Travel Reimbursements Did Not Comply With Budgetary Regulations"

Employees of the Industrial Commission have been informed of *State Budget Manual* requirements concerning travel. To ensure that all employees who travel fully understand and comply with Budget policy, a copy of *Department of Commerce Fiscal Management Guidelines* was again distributed and explained in detail at meetings in October, 1996.

In addition, a Memorandum from the Industrial Commission Administrator, dated November 15, 1996, was distributed to all employees to emphasize further the agency's policy and to outline measures that will be taken if guidelines are not followed.

Among policies outlined were:

- (a) All travel reimbursement requests must be filed for approval and payment within 30 days after the travel period ends. Travel requests filed later than 30 days after the travel period ends will NOT be paid.
- (b) All budget authorizations for travel must be submitted and approved prior to the date of travel.

## APPENDICES

### APPENDIX D PAGE 14

(c) All private vehicle authorization requests must be submitted and approved prior to the date of travel.

(d) Exact time of departure and return must be shown on all reimbursement requests in order for the request to be processed. Reimbursement for meals must meet the guidelines outlined in the document *Fiscal Management Guidelines*.

(NOTE: (i) The finding that "Travel reimbursements were not submitted within 30 days after the travel period ended..." involves 26 reimbursement requests with documented actual and legitimate expenses for travel that were necessary and required in the line of duty for the employee and in many cases travel and expenses for which the employee had made personal expenditures in anticipation of reimbursement.

(ii) The finding that certain "...meals were reimbursed that were unallowable because the meals were provided at conferences..." appears to be in conflict with Department of Commerce policy. The Fiscal Management Division of the Department of Commerce responded to this type of reimbursement in an earlier fiscal audit: "The reimbursement of a breakfast claim, though a continental breakfast was provided, is consistent with Department of Commerce and OSBM policy. The continental breakfast was provided by corporate sponsors and did not represent a portion of any registration fee paid by the employee. Therefore the employee was not obligated to participate in this particular breakfast.")

*Auditor's Note: Questioned meals were provided as part of the conference per documentation attached to the requests for reimbursement. OSBM has indicated a change will be made to the "continental breakfast" policy; however, as of the completion of the fieldwork for this audit, the policy still states that "costs of meals furnished with other related activities . . . may not be duplicated in reimbursement requests."*

The Fiscal Management Division of the Department of Commerce has determined that processing errors identified were attributable to one accounts payable clerk. Rather than identifying a systemic problem, this suggests an individual weakness that will be corrected by remedial training and close review of this employee's work product by the Commerce Department's Chief Fiscal Officer.



The Commission believes that the steps outlined above, along with increased monitoring by agency management, will result in employees complying with all fiscal management and budget requirements.

Response to Recommendation # 9: "The Commission Is Paying the Safety Director to Commute From Home to His Primary Work Site."

The Safety Director's duty station has been changed to Raleigh.

The Commission will annually review the designation of employees' homes as duty stations. Currently, eleven (11) employees who are assigned specific geographical areas of responsibility have their home designated as duty station.

#### ORGANIZATIONAL ISSUES

Response to Recommendation # 1: "The Workers' Compensation Nurses May Be Misclassified."

The agency concurs with the State Auditor's recommendation that OSP should undertake a position reclassification study to review the duties and responsibilities of the workers' compensation nurses. In fact, the Chairman of the Commission had previously requested such a study.

Since 1973, the involvement in rehabilitation by the private sector has increased dramatically due to statutory and case law changes. Consequently, the duties of the Industrial Commission's workers' compensation nurses have shifted focus from that of direct case management to a role of liaison with the private sector in complicated and catastrophic cases and of problem solver when impasses between the parties occur. The nurses provide coordination and guidance in problematic workers' compensation medical rehabilitation cases.

The direct case management functions of workers' compensation rehabilitation cases are generally handled by private physicians and medical rehabilitation specialists responsible for the treatment of injured employees. The Commission's workers' compensation

nurses should get involved in these cases only on a selective basis approved by the Commission when the private sector requests assistance in the resolution of certain cases or if the Commission for good cause orders the workers' compensation nurses to intervene in the proper resolution of a pending case.

Response to Recommendation # 2: "The Medical Fee Section is Under Utilized"

Because of the change in the method in which medical bills are approved in workers' compensation cases, the workload in the Medical Fee Section has been impacted. Employees of this section have been assigned duties in other sections of the agency on days when the work load in the section is light.

The agency believes that it is premature to reduce personnel in the section. Rather, the staffing of the Medical Fee Section should continue to be evaluated by the agency to determine overall agency needs. The agency, in the meantime, will continue to assign these employees to other sections on days when their work load is light.

The decreased workload may warrant a permanent reassignment of personnel in this section to other areas of the Commission in need of additional help, especially the Commission's Statistics Section (See discussion on page 20 of Auditor's Findings and Recommendations.)

Also, if the agency implements provider audits as a result of the approval of medical bills by insurance carriers, self insured administrators, third party administrators and health care providers, these positions could be best utilized to perform these provider audits since these individuals are trained in medical fee billing procedure. (See Auditor's Note on page 21 of Auditor's Findings and Recommendations.)

Response to Recommendation # 3: "The New Team Approach Does Not Support The Ratio of One Legal Secretary For Each Deputy Commissioner."

The Commission disagrees with the Auditor's findings that the backlog at the Deputy Commissioner level indicates

that the rationale for the one-to-one legal secretary to Deputy ratio has not improved case management. The legal secretaries have an active, constructive role in case management at the Deputy Commissioner level. The hearing backlog developed at the Deputy Commissioner level for reasons that go beyond the control and daily case management by the legal secretaries.

The Commission believes that under the team approach, the ratio of one legal secretary for each Deputy Commissioner should be evaluated on an ongoing basis as the teams define their roles and solidify their procedures.

Currently, secretaries are assigned, in addition to their primary responsibility of assisting a designated Deputy, to tasks which are performed for the entire team or to provide needed backup support to other team Deputies.

If determined not to be needed to support the Deputy Commissioners, these positions could be transferred to other sections within the Commission where additional personnel are needed.

Response to Recommendation # 4: "The Safety Education Section Does Not Target Employers With High Accident Rates."

The Industrial Commission disagrees with the Auditor's recommendation that consideration should be given to transferring the Safety Education Section to the Department of Labor.

The House Appropriations Committee's Natural and Economic Resources Subcommittee debated such a transfer during the 1995 session and rejected the proposal.

There are differences in the mission and functions performed by the Industrial Commission's Safety Education Section and the Division of Occupation Safety and Health in the Department of Labor. The Safety Education Section concentrates on the safe performance by employees of job related tasks. OSHA concentrates more on worksite and workplace machinery safety.

The Safety Education Section has no enforcement arm while OSHA may impose penalties for safety infractions found.

Employers are often reluctant to request assistance from an agency with the power to impose penalties.

The Commission's Safety Education Section concentrates on helping businesses and industry remain safe and not become a "statistic." The eight Safety Councils from around the state refer businesses and industries to the Safety Education Section that they believe need assistance. The section also receives requests for safety training directly from employers.

The Commission does agree that the Safety Education Section should, along with its current work, direct additional attention to employers with high accident rates. The Commission will make information on employers with high accident rates available to the Safety Education Section to target such employers for safety training.

The Commission believes that more sharing of information between the Safety Education Section and OSHA should be accomplished so that better use can be made of limited resources.

Response to Recommendation # 5: "There Is A Lack of Coordination For Fraud Investigations Between The Commission and The Department of Insurance."

The Industrial Commission disagrees with the State Auditor that consideration should be given to transferring workers' compensation fraud investigations to the Department of Insurance.

The General Assembly during its 1995 Session debated this issue and resolved that workers' compensation fraud investigations should be under the control of the Industrial Commission. Previously, the Industrial Commission referred all cases of suspected fraud and all violations related to workers' compensation claims to the Department of Insurance.

Since the establishment of the Workers' Compensation Fraud Unit of the Industrial Commission in May 1996, one hundred twenty one (121) cases of suspected fraud and

violations related to workers' compensation claims have been received and investigated. (The Department of Insurance estimated fifteen percent of its investigations involve alleged workers' compensation fraud, with an estimated twenty-five workers' compensation complaints received during 1996.)

The Industrial Commission and the Department of Insurance should coordinate fraud investigative efforts to eliminate the potential for duplicated investigations. The two agencies should share investigative information concerning alleged fraudulent workers' compensation claims to ensure that workers' compensation fraud cases are adequately investigated.

Response to Recommendation # 6: The Commission Is Not In Compliance With Certain Office of State Personnel Regulations."

The Commission will develop and implement additional standardized procedures for its interviewing and hiring process. The agency will evaluate the use of group interviews, use of standardized questions and other professional personnel management techniques for inclusion in the agency's interviewing and hiring process.

The Commission will provide additional supporting documentation if changes are required in future performance appraisals.

The Commission is tracking the hire dates and tenure of temporary employees.

SALARY STUDY

Senate Bill 5346--Industrial Commission Salary Level Study

1. Deputy Commissioner Salary Study

Response: The In-Range Salary Adjustment Plan depends on the availability of "salary reserves." Consequently, sufficient funds are not available to make all necessary adjustments to achieve salary equity based on training and experience. Many of the inequities here are the result of deficiencies in the overall State Personnel Act. A plan designed to address specifically the salary

needs of the Deputy Commissioners would be more appropriate.

2. Commissioner Salary Study

Response: The Commission concurs with the findings of the Office of State Personnel that the salaries of Commissioners should be increased.

3. Chairman Salary Study

Response: The Commission concurs with the findings of the Office of State Personnel that the Chairman's salary should be increased.

4. Administrator Salary Study

Response: The position of Administrator has recently undergone changes and has been assigned additional management and supervisory responsibility. The Commission concurs with the finding of the Office of State Personnel that a classification study of the position of Administrator be requested. A request will be forthcoming.

5. Executive Secretary Salary Study

Response: The Commission concurs with the finding of the Office of State Personnel and the State Auditor's Note that a classification study of the position of Executive Secretary be requested. A request will be forthcoming.

6. Additional Points

Response: The Southeastern Salary Survey by the Office of State Personnel noted that the States of Oklahoma and Mississippi have "trial court administrators." (See Page 36 of the Auditor's Findings and Recommendations)

The Industrial Commission asks the General Assembly to consider funding the position of Trial Court Administrator for the Industrial Commission. The Trial Court Administrator (\$45,922 in annual salary and benefits) will set cases for hearing before the appropriate Deputy, prepare case calendars for the 20 deputies, receive and rule on continuances, communicate with parties and attorneys concerning the readiness of cases to be heard, help resolve issues to allow cases to be heard, actively manage and bring closure to older cases on the hearing docket, and set goals and standards for the hearing process. This position, by consolidating the management and scheduling of contested case hearings,

would allow for more effective and efficient handling of cases and expedite the hearing process.

STATE AGENCY PROGRAMS

Response to "State Agency Workers' Compensation Claims Are Not Processed In A Uniform Manner"

The Commission concurs with the findings and recommendation of the State Auditor.

# # #

[ This Page Left Blank Intentionally ]



## DISTRIBUTION OF AUDIT REPORT

---

In accordance with GS §147-64.5 and GS §147-64.6(c)(14), copies of this report have been distributed to the public officials listed below. Additional copies are provided to other legislators, state officials, the press, and the general public upon request.

### EXECUTIVE BRANCH

The Honorable James B. Hunt, Jr.	Governor of North Carolina
The Honorable Dennis A. Wicker	Lieutenant Governor of North Carolina
The Honorable Harlan E. Boyles	State Treasurer
The Honorable Michael F. Easley	Attorney General
Mr. Marvin K. Dorman, Jr.	State Budget Officer
Mr. Edward Renfrow	State Controller
Mr. J. Howard Bunn, Jr.	Chairman, North Carolina Industrial Commission

### LEGISLATIVE BRANCH

Appointees of the Joint Legislative Commission on Governmental Operations

Senator Marc Basnight, Co-Chairman	Representative Harold J. Brubaker, Co-Chairman
Senator Austin Allran	Representative James W. Crawford, Jr.
Senator Betsy L. Cochrane	Representative Billy Creech
Senator J. Richard Conder	Representative N. Leo Daughtry
Senator Roy A. Cooper, III	Representative Theresa H. Esposito
Senator C. R. Edwards	Representative Robert Grady
Senator David Hoyle	Representative Lyons Gray
Senator Fountain Odom	Representative George M. Holmes
Senator Beverly M. Perdue	Representative Larry T. Justus
Senator Aaron W. Plyler	Representative Richard T. Morgan
Senator Anthony E. Rand	Representative Liston B. Ramsey
Senator J. K. Sherron, Jr.	Representative George S. Robinson
Senator Ed N. Warren	Representative Carolyn B. Russell

### Other Legislative Officials

Representative James B. Black	Minority Leader of the N.C. House of Representatives
Mr. Thomas L. Covington	Director, Fiscal Research Division

### NORTH CAROLINA INDUSTRIAL COMMISSION COMMISSION MEMBERS

Commissioner Bernadine Ballance	Commissioner Dianne Sellers
Commissioner Thomas J. Bolch	Commissioner Coy Vance
Commissioner Laura K. Mavretic	Commissioner J. Randolph Ward

February 6, 1997

## ORDERING INFORMATION

---

Copies of this report may be obtained by contacting the:

Office of the State Auditor  
State of North Carolina  
300 North Salisbury Street  
Raleigh, North Carolina 27602-5903

Telephone: 919/733-3217

Facsimile: 919/733-8443

E-Mail: [reports@aud.osa.state.nc.us](mailto:reports@aud.osa.state.nc.us)

A complete listing of other reports issued by the Office of the North Carolina State Auditor is available for viewing and ordering on our Internet Home Page. To access our information simply enter our URL into the appropriate field in your browser:

<http://www.osa.state.nc.us/OSA/>.

As required for disclosure by GS §143-170.1, 600 copies of this public document were printed at a cost of \$690.00, or \$1.15 per copy.