

[Click Here To Close This Window](#)

Economy & Efficiency Commission Presentation

Editorial Note: Although every effort has been made to insure the accuracy of the material in this presentation, the scope of the material covered and the discussions undertaken lends itself to the possibility of minor transcription misinterpretations.

PRESENTATION BY

**Mr. Rocky Armfield, Assistant Chief Administrative Officer, County of Los Angeles
Mr Ranney Pageler, Vice President, Fremont Employers Insurance Co.**

Topic: Risk Management in the Public and Private Sectors

June 5, 2003

Chairman Philibosian gave the floor over to the moderator of the day's panel, Commissioner Fuhrman. Commissioner Fuhrman welcomed the guest presenters, Mr. Rocky Armfield and Mr. Ranney Pageler, to the Commission meeting.

Commissioner Fuhrman informed the gathering that a Commission task force, chaired by Commissioner Oakes, was studying Workers' Compensation issues. Those on the task force thought it would be helpful to have Mr. Armfield and Mr. Pageler give their views on the subject of Workers' Compensation management, oversight, and risk management, as well as the practices of detection and deterrence.

He introduced Mr. Armfield, who is the County's new Assistant Chief Administrative Officer of Risk Management. He then went on to present Mr. Pageler who is Vice President of Fremont Employers Insurance Company, in charge of fraud and investigations programs.

Workers' Compensation and the County

Rocky Armfield began his presentation by stating that the County of Los Angeles' Workers' Compensation unpaid liabilities may approximate \$2B. Such liabilities are striking when compared to the County's annual budget of approximately \$16-17B. Mr. Armfield said the California Workers' Compensation system was broken and was in need of internal repair. For example, during the months of March and April (2003), Risk Management staff identified six legislative reforms that would dramatically improve the state system while not reducing the benefits paid to legitimately ill or injured employees. These reforms would reduce the annual Workers' Compensation expense by approximately \$40M a year. Additionally, staff identified an additional six bills the County could support, or support if amended, which could generate an additional \$40M savings.

Criminal Fraud and Prosecution

Mr. Armfield defined criminal fraud as the situation when an individual, claimant or doctor illegitimately stretches a Workers' Compensation benefit beyond that which can be considered reasonable care,

rehabilitation and time away from work. Also falling under the definition of criminal fraud are situations when doctors illegitimately over prescribed medication, X-rays and/or medical procedures.

Mr. Armfield said Risk Management refers a number of fraud cases to the District Attorney's Office. He informed the Commission that he and staff have met with a DA representative. As a result of recent budget issues, the DA does not possess the resources, it would like to have.

Mr. Armfield referred the Commission to a handout that contained a list of suggested topics as the basis for a review of the County's Workers' Compensation fraud process. The study would be a comprehensive analysis of that process.

Mr. Armfield then discussed the recent activities of Risk Management. Mr. Armfield noted that the County of Los Angeles helped form a coalition of Los Angeles area public entities to develop, subject to approval of each entity, a legislative relief effort. The other entities were Municipal Transit Authority, Los Angeles Unified School District and City of Los Angeles. Mr. Armfield stated the City volunteered to address reform issues with union representatives. Workers' Compensation reform positively impact Workers' Compensation fraud by reducing problems and addressing the possibility for abuse. The ability to abuse the system inevitably leads to fraud.

Mr. Armfield stated the County is strengthening its relationship with private employers to discuss legislative solutions. He warned that unless Workers' Compensation costs can be brought under control, the state will lose business and jobs.

Mr. Armfield was critical of the paucity of Workers' Compensation benefits in the State of Arizona where he previously worked, yet by comparison, California system is "overly enriching." He maintained that Workers' Compensation care should be provided to expeditiously, economically, and cost effectively, help employees transition back to the workplace. At present, the California system does not achieve that result: it overly pays for employees to remain away from work.

Insurance Premiums

Mr. Armfield said it was the marketplace that drove Workers' Compensation premiums in the state. He complimented the insurance industry, saying it was an example of "democracy and capitalism at its best." Yet the industry is not infallible and now is considering its pricing models to see if the money they received today would be able to pay for future benefit claims. In the 90s, the financial markets were high, which held down premiums. Now, due to a more modest market, is not surprising to see premiums rise. At present, the premiums problem does not lie totally within the industry rather in the near breakdown of the compensation process. The rising insurance premiums are a reflection of that breakdown.

Moving Forward

Mr. Armfield declared that CAO Risk Management has been taking a hard look at Countywide Injured Workers' Return-to-Work Program because of its tremendous impact on Workers' Compensation expenses. The Chief Administrative Officer will be provided a set of recommendations for improvement. Since January (2003), Risk Management has also conducted a thorough study on the County's Workers' Compensation processes and plans to publish its recommendations shortly. Those recommendations will reflect the fact the County of Los Angeles Risk Management Program may be equal to, at least, the 40th largest insurer in the United States. While a comparable company would have at least 2000 employees, the combined staff of Risk Management and appropriate County Counsel approximates 200. To make up the difference, a solid risk management approach must be implemented in each County department to facilitate general risk management practice, Return-to-Work Programs, Safety Programs and a collaborative effort between the departments', County Council and Risk Management.

Mr. Armfield concluded by saying that over the next 6 months – 2 years, the Department will develop claims and loss prevention standards of performance to better train and monitor its staff.

Commissioner Fuhrman introduced the next presenter, Mr. Ranney Pageler. He informed the Commission that Mr. Pageler had been with Fremont Employers Insurance Co. for 12 years and was responsible for the development of one of the premier law enforcement programs in the insurance industry. He was recognized as one of the leaders in detecting and prosecuting Workers' Compensation fraud.

Mr. Pageler began his speech by detailing his long history with the county, which included his work with the Departments of Flood Control, County Retirement and Assessor's Office, et al.

Escalating Costs of Insurance Fraud

Mr. Pageler told the Commission that in 1992, he began working for a California insurance company's anti-fraud program. During his first year, the company was responsible for 16 of the 17 insurance fraud arrests for the entire state. At that time, the Workers' Compensation Review Board (WCRB) stated that an average indemnity claim was worth approximately \$10K. Of the 16 claims that were prosecuted, the company paid out approximately \$40K each. That meant a fraudulent claim was worth four times as much as a legitimate claim. Mr. Pageler went on to say that the latest cost of an indemnity claim in the state of California was \$58K. That meant that a legitimate claim now was worth almost 50% more than a fraudulent claim was ten years ago.

Dealing with Fraud

Mr. Pageler stated that over the past 12 years, Fremont Employers Insurance Co. had obtained 500 criminal prosecutions in 23 states. It also handled a \$1M internal fraud case, premium fraud cases, and fraud cases involving the gaming industry in the State of Nevada. He then described the duties of his job as vice president of the home office. They included handing fraud and investigation issues, IRS and vendor payments, as well as internal issues. According to Mr. Pageler, the difficulty in detecting Workers' Compensation fraud was in "documenting the lie."

Battling Fraud, Legislation and Prosecution

Mr. Pageler, remarked that in 1992, the industry succeeded in making Workers' Compensation fraud a felony. In 1993, legislation was also passed that mandated the cutting of benefits once a claimant was convicted of criminal fraud. In terms of advertising, the industry had also been able to get legislation passed, requiring that anti-fraud statute be included on billboard and commercial advertisements.

Mr. Pageler informed the Commission that in 1995, Fremont Employers Insurance began to coordinate their fraud investigation with their claims investigation. Mr. Pageler had individuals from the law enforcement (ie. LAPD, LASO, Chicago PD) deal with the investigative end of cases – specifically in matters of surveillance. He thought it was not a good idea to send a Workers' Compensation attorney, or a claimant into court, without the assistance of someone who had experience in the criminal justice system.

Mr. Pageler stated that in 1998, his company began videotaping depositions. NBC Dateline ran a story on a fraud case involving an 80-year-old man. Although they had filmed the individual "throwing bails of hay out of his truck," it was the videotaped deposition, with the claimant seated in a wheelchair, that made the prosecution's case. He saw little use in "going fishing" style surveillance unless it was tied to a documented act of misrepresentation. At present, his company was handling over 100 such cases.

Changes in Surveillance Legislation

Mr. Pageler then spoke of the legislative changes involving surveillance that had occurred in the state of California since 1999. He also informed the Commission on how his company had used these changes to get a handle on the cost of surveillance. In Mr. Pegeler's opinion, California did the industry a real favor by passing Civil Code 1708.8 – an anti-stalking statute. Subsection 5 of the code read: a carrier could videotape an individual only if there was "articuable suspicion" of wrongdoing. Fremont Employers Insurance Co. had their insurance's examiners look more closely at why certain cases had fallen under suspicion. Mr. Pageler went on to explain how such action not only helped meet the criteria of Civil Code 1708.8, but in the Case

of California, helped “kick in” Civil Code 1871.4. That code required companies to report suspected fraud to the Board of Insurance within 60 days. Fremont Employers Insurance Co. started sending referrals of all their surveillance cases to both the Department of Insurance and to the local D.A.s.

Anti-Fraud Regulation

Mr. Pageler commented that in the State of California, Fremont Employers Insurance Co. has had to comply with a number of anti-fraud regulations. In accordance with these statutes, his company volunteered to be audited by the state. Fremont has also given out 6000 referrals on issues of licenses, administration, billing, and language. Mr. Pageler said that in accordance with state regulations, his company now files an annual report to the state every September. This report includes a prospectus of the coming year, organizational charts, sources of funding, outreach programs, et al.

Television as a Deterrent

Mr. Pageler then spoke of how his company was getting more heavily involved in television. In one case, his company had teamed with ABC Primetime to set up a phony clinic to catch doctors “buying and selling patients.” (This episode garnered the show an Emmy Award.) Mr. Pageler concluded by saying such programs acted as a deterrent to those contemplating fraud.

Commission Questions

Commissioner Thompson asked what percentage of the Workers’ Compensation budget went to fraud. Mr. Pageler said when it came to Fremont Employers Insurance Co., fraud accounted for 2-3% of expenditures.

Commissioner Thompson asked if the percentage of fraud represented perhaps 10% of the County’s budget, what might be happening to the remaining 90%. Mr. Pageler answered by saying that he was not in the County and he had no hard data with which to respond.

Commissioner Thompson then asked what were the “cost-drivers” contributing to the rise in premiums. Mr. Armfield attributed the rise in premiums to medical inflation, which exceeds yearly inflation by a factor of three. Additionally, when A.B. 49 is fully enacted, the cost to the County will exceed \$50M a year therefore, benefits in-cases are occurring. Mr. Armfield also attributed the rise to a lack of systems management within the State Workers’ Compensation system that increases overhead and administrative expense. For example, for every dollar paid out in Workers’ Compensation claims, the County incurs an additional 35 cents. Additionally, the State of California’s “crazy laws” covering penalties arising from on claims processing drives the expense unnecessarily upward. For example, if a carrier was late in making a payment to a claimant, a penalty would be assessed of 10% of all past, present and future medical payments, not just 10% of an individual invoice. The Los Angeles area public entity coalition will likely propose legislation to address the matter. Mr. Armfield conceded that a penalty should be paid for illegitimate late payments, but there should be a cap placed on an individual invoice as well an aggregate cap for claims as a whole. Mr. Armfield stated that the County’s Workers’ Compensation litigation expense is approximately \$10M a year; far too much, since Workers’ Compensation was designed to be a no fault system. Mr. Armfield informed the Commission a positive reform would be to allow an employer and union to agree to mediation or arbitration process rather than the Workers’ Compensation legal process.

Commissioner Fuhrman asked Mr. Armfield how the County administers claims and how those who administer the claims are trained. Mr. Armfield said that because of the increase in claims, the County has contracted with third-party administrators (TPA). Within each of those contracted offices, there is a “monitor” who is an experienced Workers’ Compensation examiner and adjuster. Yet the county contract requires TPAs to reimburse the County for their mistakes. At present, these penalties amount to approximately \$3M a year. Although necessary, these penalties tend to dampen the interest of carriers.

Commissioner Petak asked Mr. Armfield what was being done in terms of loss control. Mr. Armfield responded that prior to last year, the alignment of responsibilities for Risk Management was dispersed throughout the County. The Chief Administrative Officer, through its Risk Management Operations, remains

responsible for purchased insurance, overseeing contract language and managing the property and liability adjuster for the County. The Department of Human Resources (DHR) managed the Occupational Health and Disability Management (OHDM) which was responsible for Workers' Compensation processes and the Return-to-Work Programs. The 2002 McVeigh Study recommended that the CAO and the DHR risk management functions be consolidated and that the position of County Risk Manager, Loss Control Manager, and Loss Control Supervisor be created. Mr. Armfield stated he would soon hire a Loss Control Manager who would in turn hire two supervisors and Senior Loss Control Specialist. To make the County more favorable for carriers to insure and reduce expense, Risk Management will become more proactive by meeting with departments, reviewing their expenses and losses and develop a plan to mitigate and monitor those losses.

Commissioner Petak interjected that at present, Risk Management did not have a database system that would allow it to see where significant claims were occurring. Mr. Armfield said the County's Workers' Compensation database was located in a computer system called GenComp. Yet at present, departments had no direct access to that database, but Risk Management plans to correct that deficiency.

Commissioner Fuhrman asked what was the claims-to-employee ratio for the County in total. Mr. Armfield responded that out of an approximated employee population of 90,000 approximately 12,000 claims a year are filed, increasing by approximately 2% a year from 1990 to 2002. Additionally, the cost of claims from 1996 to 2002 grew at a rate of 15-16% a year. However, if one analyzes the 1999 to 2002 period, that rate of claim cost increase jumps to nearly 30% a year. Mr. Pageler commented that there were fewer carriers in the state now than there were ten years ago. Mr. Pageler returned to the question of the overall percentage of fraud. Using the Cuning Report of 1994, he estimated that 25% of all California claims involved fraud.

Commissioner Fuhrman asked if someone had a corporation with 100 employees, what would be the yearly average number of claims. Mr. Pageler said that was dependent on the underwriting. Many of the carriers that had to put up major reserve increases on past books of business were companies that were unable to forecast additional medical costs over time. He turned the Commission's attention to WCRB Report of July that recommended a 22.8% rate increase for the quarter.

Commissioner Sylva asked if there had been any efforts to coordinate a discussion with the State Bar, the medical industry, the government and business to see if there might be any way to remedy the situation. Mr. Armfield responded by saying Risk Management had met with other agencies to discuss Workers' Compensation reform issues.

Chairman Philibosian thanked Commissioner Fuhrman for putting together the discussion and then thanked the speakers, Mr. Armfield and Mr. Pageler for their intelligent and informative presentations.

[Return to Top of Presentation](#)

[Return to Agenda](#)



Kenneth Hahn Hall of Administration, Room 163, 500 West Temple St.,
Los Angeles, CA 90012
Phone (213) 974-1491 FAX (213) 620-1437 EMail_eecomm@co.la.ca.us
WEB eec.co.la.ca.us