THE GOVERNOR'S WORKERS' COMPENSATION REVIEW COMMISSION

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APPOINTMENT OF THE "REVIEW" COMMISSION

On October 9, 2001, Governor Roy Barnes signed an Executive Order that officially created the Review Commission and contained the Governor's appointments to that Commission. As originally formulated, the Review Commission was to consist of not more than 20 members appointed by the Governor and an "advisory panel" of not more than 8 members to be appointed by the Chair of the State Board of Workers' Compensation. Recognizing that the predecessor Governor's Workers' Compensation Advisory Commission had been far too large and unwieldy, Governor Barnes appointed only 17 members to the Review Commission. The Chair of the State Board of Workers' Compensation appointed seven "Advisory" members, six of which are registered lobbyists in the Georgia General Assembly. Of those six "Advisory" panel members, five are members of the Legislative Committee of the State Board of Workers' Compensation's Advisory Council.

Professor Thomas A. Eaton, J. Alton Hosch Professor of Workers' Compensation Law of the University of Georgia School of Law, was selected and appointed to Chair the Commission. Professor David B. Mustard, Assistant Professor of Economics in the Terry College of Business of the University of Georgia was appointed to compile the statistics collected and to assist in interpreting the result. Three claimant attorneys, Stephen Garner of Bremen, David Moskowitz of Atlanta and this writer were appointed. Melissa M. Clyatt of

Valdosta; Sandy Epstein and Mark Gannon, both of Atlanta; were the defense attorneys selected. Tim Golden, a State Senator from Valdosta and Allen Hammontree, a State Representative and workers' compensation practitioner from Dalton were appointed. Doug McCoy, a consultant, William Lohmeyer of the Builders Insurance Group; Lonnie Plott of IBEW and Cathy Steinberg of the Governor's Office of Consumers' Insurance Advocate were also appointed.

The ostensible purpose for which the Review Commission was appointed was to perform "[a]dditional review and evaluation of Georgia's laws and procedures affecting workers' compensation...." The reality is somewhat different. Unlike most commissions, the Review Commission was given no expiration date because it was recognized that compiling and analyzing data - the real purpose for which the Review Commission was created - might prove to be a lengthy and time consuming endeavor.

At the first meeting of the Review Commission held on October 9, 2001, Professor Eaton appointed one subcommittee; also chaired by Professor Eaton, and consisting of nine members of the Commission including Professor Mustard. This subcommittee was assigned the task of identifying what data would be gathered, to determine the sources of such data and then to compile the data so that policy implications could be discussed and potential "reforms" recommended.

A PRE-EMPTIVE STRIKE

A LESSON FROM HISTORY

During the year that the predecessor Governor's Workers' Compensation Advisory Commission met and debated proposed changes to Georgia's workers' compensation system, it became increasingly clear that a reported nationwide decline in insurer profitability (in all lines of property and casualty insurance) was likely to provoke in Georgia another round of legislative "reform" initiatives reminiscent of the ugly battle that consumed the entire session of the 1992 General Assembly. Many of us that studied research material carefully concluded that premium increases already occurring in some states was likely to become a political problem by the time elections were held in November 2002. And, coupled with the outcome of those elections, could engender sufficient unrest that "slash and burn" legislation was likely to be pushed by the 2003 session of the General Assembly and certainly by the 2004 session.

One 1999 study in particular, aptly entitled "Workers' Compensation Storm Clouds on the Horizon" by Conning & Company of Hartford, Connecticut, an insurance research group, foretold of an impending nationwide increase in workers' compensation insurance premium, if not rates. Some quotes from that 160 page strategic study:

> "Workers' compensation premiums declined sharply in the 1990s. It was the only major line to lose premium. Net premiums written in 1997 were $24 billion, down from $31 billion in 1991 and roughly the amount of premium that was on the books in 1987! This decline is due to a combination of factors - stiff price competition, significant workers' compensation reforms in a majority of states, continuing modest inflation levels, incredibly favorable claim trends and the tendency of companies to retain high deductibles. This

> sharp drop in premiums caused workers' compensation to fall from the second-largest line of business (after personal auto) to the third. It went from about 14% of the total industry premium in the late 1980s to 11.5% in 1994 and to 8.7% by 1997. Homeowners (representing 9.7% of the industry) is in second place now. Based on mathematical relationships, decreasing premium adversely affects the components of the combined ratio. It was not an issue when losses were falling faster than premiums, but it will become an issue if losses increase. Similarly, investment income ratios have not yet been affected, because investment income has not declined as fast as premiums."[1] Workers' Compensation Storm Clouds on the Horizon, 1999, pp. 11 - 12.

At page 21 of that strategic study, the tactical explanation for the creation of the Review Commission may be found:

> "Inadequate pricing is one of the most important characteristics of today's workers' compensation environment - in sharp contrast with the past, when a series of system breakdowns, along with high inflation and economic recession, brought workers' compensation to a crisis. Many of these issues were corrected through broad-based legislative reforms passed in a majority of states. Improved external conditions - like significantly lower medical and general inflation and a return to a healthy economy - helped as well to overcome the previous workers' compensation crisis.
>
> Today's workers' compensation climate is different. According to industry experts participating in our recent survey, the most important issue facing the industry today is inadequate rates. Insurers generally have control of what they charge, and so technically can influence their future results. But, with about 380 companies writing workers' compensation, it is difficult for a single company or even a small subset of companies to break the cycle of under pricing.
>
> The industry has the power to effect better results, and individual companies are the key. So far, neither the industry nor companies have been willing. Survey respondents tell it best. When explaining why industry rates will increase in 2000, they cite financial factors - such as poor results and the need for improved profitability - as reason. When explaining their own company rate predictions, they cite competition and market conditions twice as frequently as financial performance. From an industry view,

[1] Obviously, now that the stock market has lost a third of its value, investment income has dropped significantly increasing the pressure to raise rates/premiums.

> companies understand that rates need to increase, but - from a company level - they are unable to do so because they are controlled by what their competitors are doing.
>
> *One thing is certain: public constituencies, such as legislators and regulators, will be less tolerant of industry needs brought about by unwise industry behaviors. Insurers will find that any future crisis in workers' compensation brought about largely by today's irrational price competition are not likely to be addressed through legislative or regulatory actions. If they are, public policy outcomes may very well be ones that insurers do not want. But, actions by external parties are not needed to the degree that they were in the past. This time, the bulk of the correction must come from within."* (Emphasis supplied).

Having been alerted to both the impending nationwide premium increases and having been advised by industry consultants that the "crisis" was largely self-inflicted, a very small group of members of the Governor's Workers' Compensation Advisory Commission met with Governor Barnes on February 5, 2001, to discuss the implications of the impending significant premium increases and to formulate a strategy to avert a repetition of the 1992 legislative war. Everyone that attended that meeting remembered that a group of over 100 employers and insurers calling themselves the Georgia Coalition for Workers' Compensation Reform had "sold" the need for "reform" by claiming that fraud (by claimants, of course) had reached epidemic proportion and that such claimant fraud was singly the most significant factor in the dramatic increases in claims costs since 1990. Although there were no statistics - reliable or otherwise - supporting the claim of pandemic fraud, employees were inundated by the tidal wave of "reform" which eliminated "lifetime" benefits, vocational rehabilitation, etc., from the existing statute and grafted several mean spirited provisions (e.g., WC-104) onto what remained. Everyone that attended the meeting with the

Governor anticipated that proponents of further "reform" would exploit the premium increases that were expected to work their way into Georgia by late 2002 by advocating further "belt tightening" that would erode benefits to injured workers further.[2] But, once the periodic cycle of downturn in profitability has passed, profits will improve once again, but the reduced benefits will remain a constant. With all of these thoughts in mind, Governor Barnes wisely decided to appoint a commission to gather statistics and data to be used both offensively and defensively.

A CAVEAT

The results of the November 5, 2002, election created a need to speed up the completion of the Review Commission's work so that a report could be issued as soon as possible since the Commission was "...appointed to serve at the pleasure of the Governor..." and it could not be safely determined whether the Commission would have been allowed to continue and to complete its work once Governor Barnes' successor took office.

The "numbers" reported in this paper - particularly the chart - are the product of an in depth analysis of data performed by this writer and may - or may not - be consistent with data and conclusions which might be contained in the final report of the Review Commission. The "bullets" are largely deductions made from analysis of reports to NCCI, NAIC, the Sate Board and other organizations from data that has been developed by the Commission.

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[2] One does not need a crystal ball to deduce that the next round in the never-ending workers' compensation reform main event will be "blamed on" catastrophic claims and the absence of data to support the assertion that 'something's gotta be done about CATS' will cause no more discomfiture to those "reform" proponents than the absence of "fraud" statistics did in 1992.

THE "NUMBERS"

Attached as an Exhibit is a chart prepared by this writer which is a synthesis of data extracted from a number of different sources such as "Workers' Compensation Storm Clouds on the Horizon," 1999, Conning & Company, Hartford, CT; Labor Force, Employment and Unemployment Data in Georgia, Georgia Department of Labor, 11/13/02; "Policy Year Underwriting Results," National Council on Compensation Insurance, Inc., December 31, 2000; "Profitability by Line by State in 2000," November 2001, National Association of Insurance Commissioners and the Annual Reports of the State Board of Workers' Compensation as supplemented by specific data requested by the Review Commission and extracted by the Georgia Technology Authority from records of the State Board of Workers' Compensation. It must be conceded that the "numbers" extracted by the various sources identified are not necessarily consistent with each other. There could be many reasons for this lack of consistency. Probably the "best" explanation is simply that different record keeping methodologies exist among the statistics gathering bodies. Moreover, conclusions drawn from reports extracted from voluminous data submitted over the years to the State Board of Workers' Compensation is only going to be as good as the validity and thoroughness of the data submitted to the State Board on WC-1's, WC-2's, WC-4's, WC-6's, WC-26's, etc. It is known that the data input/retention methodologies have changed over the years.

A "SNAP SHOT" OF GEORGIA'S WORKERS' COMPENSATION SYSTEM

Increase In Employment

Georgia has become one of the fastest growing states in the United States. Total employment increased from 2,688,000 in 1985 to 3,966,348 by the latest complete reporting period in 2001. That is an increase of 1,278,384 employees. *GA. Dept. of Labor "Quick Stats," 11/13/02.* See quickstats.dol.state.ga.us.

Distribution of Employers by Number of Employees

108,211 employers employ 2 or less employees
31,031 employers employ 3 to 4 employees
39,137 employers employ 5 to 9 employees
26,074 employers employ 10 to 19 employees
19,170 employers employ 20 to 49 employees
7,941 employers employ 50 to 99 employees
4,576 employers employ 100 to 249 employees
1,201 employers employ 250 to 499 employees
470 employers employ 500 to 999 employees
222 employers employ 1,000 or more employees

Total employers in Georgia as of the second quarter 2002: 238,573

Georgia Department of Labor

Decline In Accidents/Claims

While total employment in Georgia was increasing from 1985 to 2001 by 1,278,348 employees - an increase of 67% - medical only and lost time claims increased annually in relative proportion to the increase in total employment from 1985 (222,960 "medical only" and 39,737 "lost time" in 1985) to a peak of 250,647 "medical only" and 53,527 "lost time" claims in 1993 and since that year have gradually declined to 210,566 "medical only" claims and 44,186 "lost time" claims of which only 24,789 actually resulted in the payment of income benefits by the year 2000. Even more amazingly, in the year 2000, the total employment in Georgia had peaked at 4,108,876. Following the recent "downturn" in the economy, total employment has declined in the State of Georgia; however, that decline has been dramatically outpaced by the continued decline in accidents/claims.

Analysis of Annual Reports of State Board of Workers' Compensation from 1985 to 2001.

A Decline In Claims - A Nationwide Trend

The decline in accidents/claims in Georgia is consistent with the general decline in claims nationwide. Occupational Safety & Health Administration logs, US Department of Labor and Bureau of Labor Statistics (BLS) data from 1992 to 1999 demonstrated that every major industry in the United States had experienced declines in work accidents/claims. Every major age group in claims by both male and female workers demonstrated a similar decline. There was a larger percentage decrease in the frequency of lost-time claims than for medical only claims. This finding tends to dispel the theory of an increase in non-reporting of relatively minor claims.

NCCI "Workers' Compensation Issues Report 2002," at page 20.

Debunking a Popular Myth

At page 16 of "State of the Line: A Detailed Examination of the Current Market Conditions," a part of the 2002 Workers' Compensation Issues Report, the following statement is made following an analysis of nationwide claims reporting:

> "Some speculate that the nation's poor economy may result in increased claim frequency as workers targeted for layoffs file

> workers' compensation claims. In fact, the historical data show the opposite effect: frequency of claims declined during five of the last six recessions."

Conclusions Concerning the Decline in Accidents/Claims

Despite a dramatic increase in the total employment in Georgia, as a percentage of that total employment, the decline in both medical only and lost time claims is nothing short of dramatic. For example, there were a total of 262,697 "medical only" and "lost time" claims in 1985. That total represented/affected 9.8% of the total employment of 2,688,000. However, 15 years later in the year 2000, the total employment had increased to 4,018,876; but, not only had the total number of "medical only" and "lost time" declined by 27,342 to a total of 235,355 claims, stated as a percentage of the total employment, the incidence of work injuries had dropped to only 5.9%.

The Decline in "Lost Time" Claims Since 1997

Analysis of the State Board's "Annual Reports" since 1985 suggest that data concerning the numbers of "lost time" claims were based upon "claims made" and there may not have been a further refinement of the data in order to determine of the total "claims made" how many actually resulted in the payment of income benefits. Recent data furnished to the Review Commission "breaks down" the "claims made" group into the smaller category of those claims upon which benefits were actually paid. This writer postulates that the category which more accurately reflects the "real" numbers of "lost time" claims in Georgia would be the category composed of those claims upon which benefits had actually been paid. Looking only at the four year time period from 1997 to the year 2000, claims upon which income benefits had been paid declined from 27,069 in 1997 to 24,789 by accident year ending 12/31/00. That is a decline of 2,280 claims or 8.5% in only four accident years. That decline should be viewed against the backdrop of the increase in the total employment of this state for the same time period of 291,500 persons. By 2000, "lost time" claims represented only 11.7% of "medical only" claims - one of the lowest percents/ratios in the country.

Analysis of State Board's Annual Reports 1985 - 2001.

The Decline in Claims Costs

It is well known by those that have examined annual reports of NCCI, NAIC and other organizations that premium - whether stated as Standard Earned Company Premium or Net Earned Premium increased on an annual basis from 1981 reaching a peak in the year 1990 when $1,015,203,436 was reported to the NCCI as Standard Earned Company Premium. For consistency's sake, however, readers of this paper should consider the net earned premium of $922,614,573 since "loss ratio" is actually determined by subtracting "total developed losses" from Net Earned Premium rather than Standard Earned Company Premium.[3] Since many of the Board's annual reports use the word "gross" earned premium rather than "net" earned premium, the chart attached hereto contains standard or "gross" earned premium so that where earned premium and premium equivalent is stated as a combined sum, subtraction of standard earned premium as reported by the NCCI's "policy year underwriting results based on experience valued as of December 31, 2000" contained standard earned premium so that

[3] "Standard" Earned Premium is the "gross" premium that would apply before discounts, etc. "Net" Earned Premium is the premium that was actually paid by the purchaser of the policy.

the resulting "premium equivalent" derived by subtracting standard earned premium from the combined premium and premium equivalent reported by the State Board would appear to be more accurate. From a "high" of $1,015,203,436 in standard earned premium in the year 1990, a decline to $759,624,134 in 2000 had occurred. That is a decline of $255,579,302 or 25%. During that same period, self/insured's "premium equivalent" increased to a peak of $1,057,880,345 in 1995 and has decreased to $553,132,147 by the year 2000. That is a decline of $504,748,198 or 48%. It must be remembered that "premium equivalent" should not be equated to actual dollars spent by those employers that elected to obtain coverage within the "private" market rather than to self-insure. "Premium Equivalent" is calculated based upon a self-insured's payroll and the "class codes" of its employees. Premium Equivalent is then used to determine the amount of the assessment that funds the Board's operations. It is well known that on a claims paid basis, "premium equivalent" does not remotely relate to actual claims or claims costs. An increase in payroll in an expanding economy results from the hiring of additional employees and that, in turn, will result in an increased "Premium Equivalent." And when more employers elect to withdraw from the "private" (insured) market when/if rates in the private market increase, the company will elect to become self-insured. Similarly, as insurance rates/premium drop, some employers will elect to re-enter the private market. Examination of the columns entitled "std. earned premium" and "premium equivalent" on the chart attached hereto reflect probable "flow" of employers back and forth between the "private" market and self-insurance <u>but do not</u>

represent actual dollars spent by self-insureds "to cover" their employees for workers' compensation purposes! By examining those two columns, one might also observe that many employers could be receiving self-serving advice from their insurance brokers and appear to be behind the curve in attempting "to time" entry and exit from the "private" market.

If Accidents And Claims Costs Are Down

Why Are Premiums "Up"?

We now come full circle back to the remarkable observation in *Workers' Compensation Storm Clouds on the Horizon at page 21.* There is no doubt that the extreme competitiveness of the workers' compensation "private" market beginning in 1993 resulted in the significant "under pricing" of products as hundreds of insurers competed for business. Against the backdrop of that competition, the labor force in the United States was expanding dramatically, payrolls were increasing and the investment ratio of insurers increased from 13% in 1990 to a whopping 20.4% by 1997. *Workers' Compensation Storm Clouds on the Horizon, Ibid quoting from A.M. Best.* In fact, by 1997, insurers were reporting a 25% profit from the line of workers' compensation in the State of Georgia despite the fact that premiums had declined by nearly $400,000,000 dollars from 1990 to 1997.[4] However, for accident year ending 12/31/98, net earned premiums edged back up despite the decline in claims and claims costs for that year.

[4] From 1991 through 2000, "Profit on Insurance Transactions" (see attached chart) has varied widely; however, when the profit in the workers' compensation line is compared to that of the other 15 lines evaluated in the 2000 Profitability Report of the NAIC, it is discovered that workers'

There appears to be a puzzling "disconnect" between what is happening with claims and claims costs in Georgia and premiums. An NCCI rate filing in Georgia on November 1, 2001, provided for a 12.9% reduction in rates that was granted by the Insurance Department. A year later, on November 1, 2002, a filing for an additional 6.7% rate reduction was made but has not yet been acted upon by the Insurance Department. In comparison, a 20% rate increase was filed in South Carolina. The problem which exists now truly is a self-inflicted wound and it is the accumulation of the affect of discounted premiums in conjunction with the downturn in the economy which has finally come back "to bite" the insurers in the posterior. Insurers doing business in Georgia discounted premiums (under priced) 35.9% below scheduled rates in 1998, 32.6% in 1999 and 32.7% in 2000. In comparison, nationally, during these same years, premium discount below rates was 21.8% in 1998, 23.4% in 1999 and 19.2% in 2000. Why the difference? Rates are based upon system costs that have continued to decline in Georgia; but, the premium discounts were offered in order to raise as much money as possible to be invested and to Hell with the consequences. So, now, premium discounts are no longer being offered and employers in the private market are interpreting the notices demanding increased premium based on the true rates to represent an increase in costs in "the system." So, what's actually happening is quite simple: Premiums were being discounted far below the rates which are based upon actual system costs and now that those discounts have been eliminated, it "appears" (and some will

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compensation carriers averaged 10.2% profit during the 10-year period. By comparison, the average for all lines was 3.3%

deliberately represent) that somehow the workers' compensation system has recently experienced an explosion in claims and claims costs. But, how do you explain to purchasers of workers' compensation insurance policies that what they are paying now is the product of having paid far less than the rates indicated they should have been paying in years past? Who wants to hear that?

As insurer's investments soured following the decline in the economy and the stock market, an increase in premium to make up for the shortfall occurred across all lines of property and casualty insurance in state after state. Further, claims of catastrophic losses resulting from "9-11" were made as justification for even larger premium hikes. Yet, by September 23, 2002, it was reported that property and casualty insurers had posted a 5.5 billion dollar profit in the first quarter of 2002, alone. That profit (for only the first three months of 2002) represented a $260,000,000 or 4.9% increase over the same period of 2001. Two examples should suffice: Liberty Mutual Insurance Company reported a profit of 108.7 million dollars and State Farm Mutual reported an even more impressive 178.6 million dollar profit.

> "Property and casualty insurers quickly reversed last year's loss and seem positioned to return to profitable levels this year. Years of strong earnings and frequent rate increases have allowed the industry to quickly absorb losses from catastrophic events." *Melissa Gannon, Weiss Ratings, Inc., 9/23/02.* www.weissratings.com.

"Expense Ratio," the "Wild Card" In Georgia?

At pp. 28 - 30 of Conning & Company's strategic study, "Workers' Compensation Storm Clouds on the Horizon" an interesting observation appears that might cause one to wonder if increased "expenses" were where profits were hidden. Of all categories of "costs," reports of "expenses" offer the best opportunity to obfuscate - to hide profits.

> "Another concern in workers' compensation is expenses. The expense ratio has increased steadily since 1989 as expenses grew and premiums contracted. Underwriting expenses totaled $6.2 billion in 1997 on a base of $24 billion in premium, resulting in a 25.9% expense ratio, the highest level since at least 1960. To put this in context, in 1987, with net premiums written of $23.4 billion (roughly equal to 1997's level), expenses were $4.2 billion, or two-thirds of today's amount. AT that time, the expense ratio was 18.0% that was one of the lowest expense ratios of the past 20 years.
>
> *   *   *
>
> The deterioration in combined ratios between 1995 and 1997...is the result of increasing expense ratios - both underwriting and unallocated loss adjustment expenses. The pure loss ratio has remained essentially flat during this time.
>
> *   *   *
>
> *This growth in expenses is not necessarily negative if it holds down losses by spending to reduce fraud or accidents, for example. Some of the growth in expenses probably has contributed to the recent declines in lost costs. But, declining premium levels have put pressure on expense ratios. One cannot help but wonder if some of the increase in expenses is due to insurers not keeping their eyes on expenses as they enjoyed some of the best underwriting results in years."* (Emphasis supplied).

Beginning in 1990, "Expense Ratio" reported by A.M. Best increased from 17.6% (for all carriers involved in workers' compensation) to 25.9% by 1997. *A.M. Best 1991 - 2000 Aggregates & Averages* cited in the NCCI's 2002 "State of The Lines: A Detailed Examination of the Current Market Conditions" reports that "Expense Ratios" for 1998 increased (nationally) to 26.7; to 28.0 in 1999 and fell to 26.5 by 2000. But, what was being reported by carriers to the NCCI for transactions in Georgia? During the "yardstick" years 1991 to 1999, while the national average was "bouncing" between a low of 17.6 in 1990 to a high of 28.0 by 1999, the "Expense Ratio" in Georgia was 30.5% and has steadily increased to 47.3% by 1999! Why? What is so different about Georgia? A comparison of "Expense Ratios" for all states in policy year 1999 reports that at 47.3% the Expense Ratio in Georgia was third highest to Louisiana's (in second place at 48.4%) and South Carolina in first place at 49.4%

Some definitions of components of "Expense Ratio" might be of assistance:

> "Expense ratio usually consists of five components. The five components include:
>
> - **Direct Defense and Cost Containment Expense -** Includes defense, litigation, and medical cost containment expenses.
> - **Adjusting and Other Expenses -** Reflect the remaining costs associated with the settlement of claims, such as fees of claim adjusters.
> - **Commission and Brokerage Expenses -** Reflect fees paid by the insurer to agents and brokers who represent the insured in placing orders for coverage.
> - **Taxes, Licenses, and Fees -** Represent the insurer's legal obligation to pay premium taxes, various miscellaneous taxes and assessments that vary by state. Taxes are generally levied as percentages of premium, and assessments can be levied as percentages of premium or losses.
> - **General and Other Expenses -** Reflect costs to the insurer of running internal operations (e.g., rent, salaries), general activities (e.g., administration, payroll, audits, boards and bureaus funding, and inspections) and other acquisition costs (e.g., advertising and premium collection expenses)."

Interesting "Numbers" Regarding Claims

and Benefit Level, Etc.

An analysis of claims made by standard industrial classification was made and provided to the members of the Review Commission. In the year 2001, a total of 22,046 paid claims were recorded. Those claims include every imaginable job in Georgia. Not surprisingly, a few "jobs" stand out because of the numbers of claims that occurred and the number of claims in which less than the maximum benefit rate was paid. Predictably, employees in nursing homes and personal care facilities experienced a considerable number of lost time claims (285) and even more predictably, only 27 out of a total of 285 were paid the maximum income benefit available for a date of accident occurring during the year 2001. As expected, employees in the skilled building trades experienced numerous lost time accidents, but more often than not, received the maximum income benefit. Employees in the plumbing, heating and air conditioning trade sustained 304 lost time claims and 127 were paid the maximum income benefit. Similarly, 297 employees performing electrical work lost time and 126 were paid the maximum. Persons employed as special trade contractors sustained 1,170 lost time accidents and 416 of that number were paid the maximum. The employment in which the greatest number of lost time accidents occurred was "trucking & carrier" in which 1,240 lost time claims were reported of which 584 were paid the maximum benefit.

A Final Observation

Georgia competes with most of the states in the south for new business and business investment. With the exception of Mississippi, Georgia's maximum income benefit of $400.00 is the lowest. Before one utters the now familiar 'well, at least we're ahead of Mississippi.' Not so fast. The point must be made that even though Mississippi's maximum comp rate is only $318.00 per week, when stated as a percentage of that state's statewide average weekly wage of $477.00, the maximum benefit still represents 2/3 of the statewide average weekly wage.

A comparison of other Southern states:

STATE	CAP	SWAWW	%
North Carolina	$719.00	$654.00	110%
Alabama	$531.00	$531.00	100%
Florida	$587.00	$587.00	100%
Kentucky	$551.00	$551.00	100%
South Carolina	$549.42	$549.42	100%
Tennessee	$581.00	$651.00	100%
Virginia	$671.00	$671.00	100%
Arkansas	$425.00	$500.00	85%
Louisiana	$402.00	$536.00	75%
Mississippi	$318.00	$477.00	66 2/3%
Georgia	$400.00	$667.00	59.9%

Many argue that increasing the CAP in Georgia would be so costly that rates/premiums would rise to an unacceptable level. One final chart should suffice to demonstrate that the number of claims that would be affected by raising or even eliminating the CAP is surprisingly small and based upon the present trend the percentage of Georgia workers that would qualify for a maximum benefit for temporary total disability in an amount greater than $400.00 week will decline as a percentage of lost time claims since only 31% of lost time claims incurred in accident year 2001 received the maximum benefit of $400.00 per week. When it is realized that the number that received the maximum benefit was only 6,773 injured workers, continued opposition to raising or even removing the CAP is difficult to comprehend.

YEAR	CLAIMS MADE	PAID CLAIMS	MAX. RATE PAID	% OF PAID CLAIMS	< MAX. RATE PAID	% OF PAID CLAIMS
1997	46,777	27,069	9,073	34	17,996	66
1998	46,171	26,234	9,313	35	16,921	65
1999	45,664	25,932	9,107	35	16,825	65
2000	44,173	24,789	8,157	33	16,632	67
2001	39,548	21,963	6,773	31	15,190	69

Thoughts About "Catastrophic" Claims

Statistics on a year-by-year basis since 1997 demonstrate that "CAT" claims are not a significant factor in either numbers of claims or claims costs.

For example, in 1997, there were 125 claims in the 200.1(g)(1-5) categories. Indemnity attributed to those claims was $12,798,045 and medical care costs were $37,889,745. However, even though there were 25 more (g)(6)'s at 150, medical care costs - as one might expect - at $10,092,912, were substantially lower than the medical care costs for the (g)(1-5)'s. Stated as a percentage of total lost time claims, (g)(6)'s represented a miniscule .5%. Medical and indemnity costs attributed to (g)(6)'s of $23,974,502 represent only 3% of all claims costs for 1997 and only 3.3% of the cost of "lost time" claims.

The "picture" for 1998, 1999 and 2000 is even better. In 1998, while there were 169 claims designated "CAT" under (g)(6) compared to 110 (g)(1-5)'s, the total costs of the (g)(6)'s were only $25,043,684 which is 2.2% of total "medical only" and "lost time claims costs."

By 1999, the percent had dropped to 1%. "Medical only" and "lost time" claims costs totaled $671,612,640; but, (g)(6) "CAT" costs were reported to be only $6,871,873.

The Board's cumulative statistics for 1997 to 11/6/02, extracted 11/6/02, report 632 (g)(1-5)'s and 583 (g)(6)'s. Comparison of total claims costs is $152,912,683 for the 632 (g)(1-5)'s; but, only $75,665,481 for the 583 (g)(6)'s. It is in the comparison of the $75,665,481 (g)(6) claims costs to the total claims costs for all claims incurred during the years 1997 through 11/6/02 that the oft-repeated "there's a flood of CATs" is revealed to be an exaggeration at best; but, more likely, was selected to be the centerpiece of a cynical strategy to destroy the (g)(6) "safety net." Total claims costs for the five + year period of 1/1/97 to 11/6/02 was $3,483,729,624. Of that total claims cost, the 583 (g)(6)'s represent a cost percentage of only 2.1% but only .4% of the actual number of employees that sustained lost time accidents during that period (125,987 reported through 12/31/01).