

Jim Bowen

About Workers' Comp . . .

Labor stands ready to be part of the solution

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On March 11, the Charleston Daily Mail published an editorial charging labor leaders to be largely responsible for the workers' compensation problem.

Like most editorials published by the Daily Mail, it is based purely on fiction and not on fact. This fiction is an attempt to make perception appear as the truth when, in fact, it is a misleading distortion of the real problems with the West Virginia Workers' Compensation Fund.

The facts are these: Of the claims filed annually with the West Virginia Workers' Compensation Fund, approximately 20 percent of the employers are responsible for 100 percent of the claims.

The industries largely responsible for these claims are coal, timbering, trucking related to the coal industry, construction, and heavy manufacturing.

All of these are hazardous industries, and a number of the companies involved have poor safety records. Hazardous occupations, coupled with poor safety practices, result in a high number of workers' compensation claims.

Workers injured resulting in lost time are entitled to receive temporary total disability benefits. For those resulting in death, their dependents are entitled to receive dependent benefits.

Contrary to expressions made by the state Chamber of Commerce and this newspaper, West Virginia's temporary total disability weekly benefits, dependent benefits, and permanent total disability benefits are substantially lower than surrounding states.

West Virginia's maximum weekly benefit rate is \$506.49, while Kentucky's is \$550.66, Maryland's is \$668, Pennsylvania's is \$662, Ohio's is \$628, and Virginia's is \$645.

There have been additional statements that West Virginia's rates are the highest in the nation. Nothing could be farther from the truth. A study done every two years by the state of Oregon reflects that West Virginia's compensation rates rank 23rd in the nation -- with Pennsylvania's, Kentucky's, and Ohio's rates higher than ours.

During prior administrations, uncollected workers' compensation premiums amounted to almost \$851.7 million.

Of that figure, more than \$646.7 million in uncollected premiums was attributable to the coal industry and \$118.4 million was attributable to the trucking industry, a large portion of which is attached to coal. An additional \$24 million was uncollected from the timbering industry.

To additionally compound the problem of these uncollected workers' compensation premiums, former Gov. Arch Moore in 1985 reduced premiums by 30 percent, and former Gov. Cecil Underwood reduced premiums in 1998 by 8.4 percent.

These figures reflect that big coal and its allies, by failing to pay their proper share of the workers' compensation premiums, have been the major cause of the problem this state now faces with workers' compensation.

The failure by the coal industry and its related businesses to pay their fair share of workers' compensation premiums has caused the small business owners of West Virginia to pay a higher premium than they ordinarily would be charged. Small business owners make up that 80 percent of employers who have few or no claims.

The chamber of commerce and this newspaper have failed to fully inform the citizens of West Virginia that big coal has abandoned small business owners and injured workers in this state.

The Mail's statement that labor is described as implacably opposed to the measures needed to solve the problem is totally erroneous. Your source of information apparently is again big coal or the chamber.

On Jan. 24, 2003, in a joint meeting with business and labor, I specifically acknowledged that a long-term solution was necessary to solve the existing fiscal problems.

We agreed that there should be a re-organization, with the Workers' Compensation Division being established as a separate entity and dividing the existing debt as a fund separate from future claims.

We agreed to an elimination of the Second Injury Fund.

The Second Injury Fund is a fund that was abused by industry.

Perhaps you should make inquiry as to how self-insured employers, during the fading years of the Underwood administration, and again big coal, dumped into the Second Injury Fund, and then had their claims bought out by the fund.

We also agreed to increasing the permanent total disability threshold from 40 to 50 percent, and to self-administration, but not self-adjudication, for self-insureds.

We also agreed to a special payroll tax for a limited period of time so that all citizens of West Virginia would join hands in correcting this problem. This offer was totally rejected.

Perhaps the Daily Mail's sources failed to inform it that had this plan, as proposed by labor, been implemented, there could be as much as a 28 percent rate reduction on future claims.

I do not wish to mislead anyone on this matter. The existing deficit would still need to be addressed through surcharges equitably imposed upon those who have failed to pay and created the highest number of claims, i.e. coal, and through the payroll tax.

Give small business owners and injured workers the truth about the problem. Do not compound it with misleading editorials.

Bowen is president of the West Virginia AFL-CIO.

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