LEGISLATIVE AUDIT COMMISSION

Management Audit
Group Workers' Compensation
Self-Insured Pools

January 2003

622 Stratton Office Building
Springfield, Illinois 62706
217/782-7097

MANAGEMENT AUDIT

GROUP WORKERS' COMPENSATION
SELF-INSURED POOLS
January 2003

Recommendations - 9

Background

Since 1981, the Department of Insurance (DOI) has issued certificates of authority (licenses) to group workers' compensation self-insured pools to operate in the State. The creation and development of these pools was in large part a result of the scarce availability of coverage at a reasonable rate during the 1980s. Group workers' compensation self-insured pools operate differently from a commercial carrier for several reasons:

- They can offer only one line of insurance;
- There is no profit motive because they are usually formed by trade associations whose employers want the lowest premium possible;
- Pools have few assets and pool members are sometimes smaller employers that no one else want to insure or are sometimes high-risk employers, such as construction employers;
- There is no surplus requirement for pools unlike commercial carriers who must maintain a $1.5 million surplus.

During 1999 and 2000, four of these pools were placed into court-ordered receivership with the Director of the Department of Insurance because the pools had become insolvent. All four of these pools are now in the process of liquidation with the Department of Insurance's Office of the Special Deputy Receiver (OSD). At the time the four pools went into liquidation, there were a total of 628 claims for $18,128,552 outstanding, or an average claim amount of $28,867.

The laws and administrative rules that apply to group workers' compensation self-insured pools contained provisions that gave DOI the authority to regulate pool operations prior to the insolvency of the four pools. Under a new law effective January 1, 2001 the pools are considered assessable domestic mutual insurance companies and are subject to many of the same provisions of the Insurance Code. Provisions added by the new law included, among others, those which:

- Clarified DOI's statutory authority to take corrective action;
- Redefined the reserve requirements;
- Required all pool members to have homogeneous risk characteristics;
- Required pool trustees to be an employee, officer, director, or owner of a pool member; and
- Added medical service payments to the amount on which pools are assessed for the Insolvency Fund.

Group Workers' Compensation
Self-Insured Pools

The four pools currently in liquidation filed most required financial reports with DOI in a timely manner. This included annual financial statements, actuarial opinions, and audits. While some financial reports contained inaccurate or incomplete information, DOI had financial information that showed the financial condition of these pools.

Between July 1999 and February 2000, DOI issued corrective orders to three of the four pools currently in liquidation. These corrective orders required steps such as continuing issuance and renewal of insurance, considering whether the amount of administrative fees and/or agents' fees were excessive, increasing financial reporting, and submitting a general plan for improving the financial condition of the pool. The pools did not comply with the orders and questioned DOI's authority to issue corrective orders. The fourth pool did not receive a corrective order before being placed into receivership. None of the four pools received an assessment order before being placed into receivership.

Although court ordered receivership has resulted in the collection of additional assessments, it has not been successful in making the pools viable again. The process of liquidating the four pools is ongoing and will not be completed until sometime in 2003. There is an estimated $18 million in claims. As of June 30, 2002, a total of $3.1 million in expenses and claim payments have been incurred in administering the pools while in rehabilitation and liquidation. OSD has issued $15.9 million in assessments and collection notices to the four pools; however, only $4.5 million has been collected. As of June 25, 2002, the combined assets of the four pools was $4.1 million.

The Group Workers' Compensation Pool Insolvency Fund, as of June 30, 2002 had a balance of $152,051 and outstanding claims of $1.1 million. DOI has levied additional assessments to two of the four pools and to all remaining solvent pools; however, most of the pools protested the assessment and litigation is ongoing.

Summary

Legislative Audit Commission Resolution No. 121, adopted June 26, 2001, directed the Auditor General to conduct a management audit of the Department of Insurance, and any other State agency, with regard to their responsibilities pertaining to group workers' compensation self-insured pools. The resolution requested the following information regarding the pools:

- What activities were undertaken to regulate, oversee, manage or monitor the pools;
- What information was available to any State agency concerning the financial condition of the pools;
- What was the process for reviewing the information and what action was taken in response to the information;
- What methods are available to the State, and how effective are they, to identify and cure deficiencies in a pool's financial condition prior to liquidation; and
- What is the process for liquidating insolvent pools, including asset protection, allocation of losses and payment of claims.

Group Workers' Compensation
Self-Insured Pools

Thirty-nine group workers' compensation self-insured pools have received licenses to operate in Illinois. The principal State agency involved in the administration and regulation of the pools is the Department of Insurance including the Office of Special Deputy Receiver.

The four pools now in liquidation include Back of the Yards Management Association (BYRMA), IL Earth Care, IL Electrical and IL Environmental (Pools).

Each pool has an appointed board of trustees that exercises management control of the pool. Administration of the pool is generally delegated to an independent service company. Several of the boards of the four Pools currently in liquidation did not have full membership, were not meeting regularly, and had non-members on the board.

Three of the four Pools in liquidation had the same administrator. DOI revoked the administrator's license on November 4, 1999. Among other things, the Revocation Order alleged that the administrator failed to adequately document the basis of premium discounts given to some clients and that this jeopardized the financial status of the Pool. The administrator charged three of the Pools 39% of standard premium for administering the Pool. The other Pool was paying 14%.

Several of the Pools included members that did not have similar or homogeneous risks. Workers in restaurants and lumberyards were in the same pool. Having similar risks in the pools is important because it is easier to accurately predict loss experience when determining the basis for premiums.

Every pool is required by law to maintain reserves which are actuarially sufficient to provide payment of all losses and claims. Several pools had a negative surplus in the years preceding the receivership.

DOI has an adequate system of financial reporting and monitoring in place for the pools, and has since increased monitoring and now requires additional information regarding premiums, losses, expenses, investments, cash, and reinsurance. Since July 1999, DOI has issued corrective orders to seven pools and stipulation and consent orders to two pools. Three of those corrective orders went to the four pools now in receivership.

Once a pool has been placed in liquidation, OSD takes control of the pool and stops paying claims. An attempt is made to identify all potential assets. The pools currently in liquidation had no real property and most have very little cash or investments. Proofs of claims are mailed to all potential creditors. Claimants must return properly signed and notarized proofs to OSD by a specified date (bar date). OSD personnel are paid for their time on the pools directly from the remaining assets of the pools. OSD began the claim evaluation phase after the bar dates passed for the pools in liquidation, but by July 2002, the claims review had only been completed for one of the four pools. After the court has approved the amounts recommended for each claim, OSD determines a final distribution amount. If there are sufficient funds, then each claimant receives the amount approved by

the court. If not, then a percentage is determined so that each claimant receives a percentage of his or her claim.

OSD has issued $15.9 million in assessments and collection notices to the four pools in liquidations. However, only $4.5 million has been collected as of July 2002. OSD had disbursed a total of $3.1 in claim payments and expenses in administering the pools while in liquidation.

DOI sent a letter to the remaining 25 solvent pools assessing them a total of $1 million. Only $52,044 has been received. Three pools paid the special assessment, 20 filed for an administrative hearing, and two did not respond.

Recommendations

1. **DOI should ensure that each pool maintains a board of trustees in accordance with each pool's trust agreement and should consider promulgating rules that require these boards to file meeting minutes and board resolutions with the Department so that their activities can be better monitored.**

Findings: Several of the boards for the four pools currently in liquidation did not have full membership, were not meeting regularly, had non-members on the board, and at least one did not receive information from the administrator. One board had no organizational meeting, did not elect officers, and had no formal minutes of meetings. DOI has little statutory authority over the boards, but it can order the removal of any pool officer and suspend the pool's license if the pool does not comply within 30 days. Having a vigilant board is an important management control to provide needed oversight in the administration of the pool.

Response: DOI agrees that pools should be monitored to determine whether they maintain an active board of trustees consistent with their pool trust agreements. DOI currently does this as part of its current examination scope. Illinois does not require standard insurance companies to file meeting minutes. Therefore, this requirement would be regulating less than ¼ of 1% of the insurance market beyond our current authority with respect to standard insurance companies.

2. **DOI should monitor and review the rate setting practices of group workers' compensation self-insured pools.**

Findings: Three of the four pools currently in liquidation had the same service agent. The agent allowed considerable undocumented rate discounts for jobs that experience higher loss ratios. On November 4, 1999, DOI revoked the administrator's license. The revocation order alleged that the agent failed to adequately document the basis of premium discounts given to some clients and that this jeopardized the financial status of the pool.

Rate setting can be a major factor in the financial success or failure of a pool. Determination of pool participants' standard premium and risk classification is to be done in accordance with the National Council on Compensation Insurance Workers' Compensation Manual. When determining a final premium, experience modification factors must be considered and any discounts applied to the standard premium. Insurers should take into account the employer's experience or losses over the last several years.

Response: The Department agrees that rates of pools should be monitored. The Department currently monitors them internally as part of the financial analysis of pools as well as in the examination process under the standards of Section 5/456 of the Illinois Insurance Code. Even before 2001, when the Department was given expanded authority regarding solvency regulation, rates were often taken into consideration.

Although Illinois is a so-called use and file state, i.e., requires no prior approval of such rates, when the actuarial unit became aware of a proposed rate decrease in 1996 by Back of the Yards Risk Management Association, a letter was sent to the pool stating that their proposed rate decrease was unacceptable to the Department of Insurance. The Department also has identified records showing that rates were reviewed for Illinois Electrical Employers' Workers' Compensation Association in 1995, for Illinois Cooperative Workers' Compensation Group in 1993, and for Homebuilders of Illinois in 1996.

Property and casualty insurance companies across the nation are subject to extensive review and monitoring of rates. Even with this regular and stringent rate regulation, companies become insolvent. For instance, in Pennsylvania, a state which requires prior approval of loss costs, an estimated $1.05 billion insolvency occurred when Reliance Insurance Company was determined financially impaired.

3. DOI should review administrative service agreements between the pools and their prospective administrators for reasonableness of administrative fees.

Findings: Three of the pools currently in liquidation were charged 39% of standard premium for administering the pool. The other pool in liquidation was paying 14%. DOI officials did question the administrator about the higher administrative charges when a complaint was filed, but prior to 1999 DOI had no authority to disapprove charges.

Response: DOI agrees that under the current law, such fees can and should be reviewed for approval or disapproval under Sections 141.1 and 141.2 of the Illinois Insurance Code. This review is currently done by internal analysis of filings and as part of the ongoing examination process.

Prior to the existence of authority to disapprove such fees in 2001, at least one such agreement for a pool administered by E. C. Fackler was reviewed by the actuarial section prior to 1998, as documented by a note from a member of the actuarial section. The current Illinois law requires that these contracts for insurance companies be filed with the DOI, unless they are with "affiliated companies on a "pooled" funds basis or service company management basis, where costs to the individual member companies are charged on an actually incurred or closely estimated basis.

4. DOI should promulgate rules that define the term "homogeneous" for pool membership before issuing any new certificates of authority. DOI should also monitor pools for members that do not have homogenous risks.

Findings: One of the pools in liquidation had members from all over the State with risks as different as fast food restaurants and lumberyards. Another pool's members included a moving company, a sign and banner painting company, a temporary help service, and company that installed heavy machinery.

Although pools are required to submit the applications of new members within five days of accepting them into the pool, DOI does not track members of these pools or the amount of payroll. Additionally the statutes and rules do not define homogeneous.

Response: The DOI is in general agreement with this recommendation and has provided information regarding post 2001 efforts to resolve an issue regarding non- homogeneous risks presented by a currently solvent pool. The circumstance presents the difficulty associated with enforcement. Assuming the pool does not become insolvent the remedy available is provided by Section 107a.15 of the Illinois Insurance Code which allows the DOI to issue a compliance order. If the order is violated, the pool would then be considered "hazardous" and ultimately subject to liquidation.

This is a one size fits all penalty, which our experience in receiverships indicates will be very difficult if not impossible to enforce in the absence of an insolvency.

Auditor Comment: If, in the Department's experience, it would be impossible to enforce these provisions, we are unaware of any alternative legislative proposals put forth by the Department to rectify this situation.

5. DOI should ensure that pools maintain $10,000,000 of gross annual payroll and should promulgate rules that set forth a process to follow in the event that a pool has less than the required payroll.

Findings: Several pools that no longer write new business but still hold valid licenses do not have $10 million in gross annual payroll. The amount of payroll is used as an indicator of the financial strength of the pool in the statues and rules. Pools with larger payrolls can more easily absorb and spread risk in the event of a substantial claim.

Response: DOI agrees that payroll status must be monitored and does so by written interrogatories to the pools which showed that the 11 active pools met this requirement. We believe there is little utility in rulemaking to establish a remedy here in that the statutory remedy of Section 107a.15 would already be applicable. [See, also, DOI Response #4, above]. The DOI suggests that a more flexible statutory authority, including the ability to impose civil forfeitures would be more appropriate.

Auditor Comment: Twelve of the remaining 23 pools that continue to hold a certificate of authority either had less than the $10 million payroll or did not disclose the amount of

payroll in their annual statements for the year ended December 31, 2001. Given that these pools still hold a certificate of authority, but have less than the statutorily required $10 million in payroll, administrative rules may be desirable to address this situation. If the Department is suggesting that they need more flexible statutory authority, the Department provided no documentation of legislation proposed to rectify this problem.

6. DOI should take available regulatory actions to ensure that each group workers' compensation self-insured pool maintains adequate reserves.

Findings: Several pools had a negative surplus in the years preceding the four pools being placed into receivership. This included pools that are currently in liquidation as well as some that are still in operation. By the end of 1998, there were eight pools with negative surplus. This number dropped to three in 2001, but four pools were in receivership by that time. According to DOI officials, the current requirement means that no pool can have less than a $0 surplus. All three of these pools are no longer writing new business.

Response: Although this recommendation is obviously well intentioned, it is technically impossible to "ensure" reserve adequacy. Nor can static dollar values or ranges be assigned as standards. As stated under **"Regulatory Resources and 'Ensuring' Solvency,"** (see pages 106-112 of the audit report) reserves are estimates of future losses. As the workers' compensation market changes and as litigation changes, the reserves will also change. Because the workers' compensation Pools are relatively small, have no other lines to counteract bad loss years in the workers' compensation line, and have no positive surplus requirement, one large claim could literally cause an insolvency. Such an instant is impossible to "ensure" against.

Moreover DOI has, both before and after the statutory changes of 2001, taken all available regulatory actions to address reserve inadequacies. This was, and is, done using a standard of review comparable to that permitted today by Section 5/378 of the Illinois Insurance Code, which states in part, "every such company shall, at all times, maintain reserves in an amount estimated in the aggregate to provide for the payment of losses and claims incurred, whether reported or unreported, which are unpaid and for which such company may be liable…"

The remedies of revocation of authority and liquidation existed prior to 2001. But in contested circumstances they required a very high burden of proof, and challenges to DOI's legal authority may have been made. Today's remedies have been expanded by authority to enter corrective orders and limitations on continued operations—with or without the consent of the deficient pool. This is significant in view of DOI's need to rely on pool records and the difficulties of proof regarding the adequacy of reserves when a pool's management and independent actuary are prepared to assert that their reserves are adequate.

At least as far back as 1995, DOI has requested the actuarial workpapers of the opining actuary from pools with questionable reserves. Forecast models and loss runs have also been reviewed by DOI. Even with these reviews being performed, the volatility

associated with pool loss reserves is so great that reserve inadequacies are impossible to "ensure" against.

Auditor Comment: The auditors' recommendation merely reiterates the mandate given to the Department directly by the legislature in 1980. Prior to January 1, 2001, the pooling law required that every group self-insurer maintain at all times reserves which are actuarially sufficient, as determined by the Director of Insurance, to provide for the payment of all losses and claims incurred. It also stated that the Director of Insurance shall audit, as he deems necessary, the reserves of group self-insurers to "ensure" their sufficiency.

7. The Illinois Department of Insurance should conduct all required financial examinations and adopt them in a timely manner to comply with statutory requirements.

Findings: Financial examinations of the pools were not filed in accordance with statutory requirements. DOI provided complete data for 36 examinations of pools that had been performed since 1995. Of the 36 examinations:

- 10 were adopted within 60 days;
- 10 took longer than 60 days to be adopted;
- 13 were never adopted; and
- 3 were not yet completed.

Two of the four pools in liquidation had examinations that were adopted by the Director of Insurance. Illinois Earth Care and Illinois Environmental were both examined for the period ended December 31, 1993, prior to the statutory requirements for examinations. These examinations were not adopted until June 1996. Both were examined for the period from January 1, 1994 to December 31, 1997; however, the reports were never filed. Instead of adopting the Illinois Environmental examinations, the Director issued a corrective order in February 2000. The pool was ordered into conservation in July 2000. DOI issued corrective orders for Earth Care in July and August 1999. The pool was ordered into conservation in August 1999. Illinois Electrical was also examined, but never had a final report filed. A corrective order was issued in August 1999, and the pool was ordered into rehabilitation in December 1999. BYRMA was not examined before entering conservation in April 1999.

Response: Records of the DOI indicate that its examinations have exceeded the statutory requirements with respect to their timing in that this regulatory tool was applied prior to the receipt of statutory authority to require full financial examinations by the adoption of P.A. 89-97 which became effective July 7, 1995. Moreover, the only examination reports which were not filed within the 60-day timeframe established by P.A. 89-97 were reports on pools which the DOI believed to be in financial difficulty, and demonstrated anomalous financial information for which adoption was not appropriate.

Also, DOI resources for supervisory review of the reports were also quite limited as has been mentioned previously in this document. Regardless of the reasons for such delays, the pools were made aware of appropriate findings, both major and minor, so

corrective action could be taken. It is DOI's view that it is better to take greater time in adopting the exam reports, resulting in a better work product, than to shortcut the process and adopt an inferior or inadequately reviewed report.

In particular the inferences and finding of Exhibit 3-7, at page 43 (restated in the findings above) of the audit report are simply incorrect and misleading. The exhibit also shows that 13 final reports were never adopted; however, seven of those reports were not adopted for valid reasons, and the other six exams were terminated so no report was necessary to wit:

- Seven of the exams from July 1995 – CY1998 were exams of Fackler pools which were not adopted because DOI brought a revocation action against Fackler as a service company. He ceased doing business in Illinois before the reports could be adopted. Since Fackler no longer existed, adoption of the reports was unnecessary and could not be completed in accordance with statutes.
- One examination referenced was rescheduled to the next year, so the exam begun in CY1999 was not conducted at all, but was done in the year 2000 and completed later, within statutory limits.
- Five of the exams referenced as begun in 2000 were related to warrants issued on Fackler pools at the time Fackler was ceasing to do business. The warrants were issued just for the purpose of having an examiner on-site to monitor the pools until a decision could be made on their fate. No exams were actually conducted or intended so no reports were ever prepared.

Moreover, the Auditor General's *Financial and Compliance Audit* conducted for the two years ended June 30, 1999 tested specifically, Workers' Occupational Diseases Act 820 ILCS 305/4a(7). The report states the following on page 130:

"Tests included, but were not limited to:

1. Interviews with the Department personnel to determine the activities carried out to comply with the mandates;
2. Tests to support the existence of activities as described by the Department personnel; and
3. Reviews of applicable reports, files, and transactions to support compliance with mandates.

There were no instances of noncompliance noted."

DOI agrees that financial examinations of insurance entities provide several benefits and provide more insight into whether information that the entity has filed with the DOI is accurate.

Auditor Comments: As a result of issues identified during the audit, DOI recently updated its examination report processing policies and procedures in November 2002. The statutes requiring the exams include specific time frames for filing and adopting examination reports.

Information provided by the Department to the auditors shows that all seven of the examinations referred to in the first bullet (see DOI response) were sent to the applicable pools on October 21, 1999 and sent to Springfield for adoption on November 22, 1999. The Department filed an order of revocation against the administrator of the pools on

November 4, 1999. However, the administrator did not surrender his license until July 31, 2000, over eight months after the examinations were sent to Springfield for adoption.

According to exam information provided by the Department as of February 14, 2002, the exam referenced as begun in CY1999 was started in September 1999. No other dates were provided. Another exam for the same pool is listed. However, there is a different warrant number and no start date.

Information provided by the Department to the auditors shows that all five of the exams referenced as begun in CY2000 were started in July 2000. It also states that no reports were filed, only internal memos. The administrator of the pools also voluntarily surrendered his license in July 2000. The Department's explanations regarding these examinations were added to the audit report.

The testing performed as part of the financial and compliance audit was a more limited review than was conducted as part of this management audit.

8. DOI should continue to issue corrective orders and assessment orders to pools in hazardous financial condition. DOI should also monitor the collection of assessments.

Findings: Since July 1999, DOI has issued corrective orders to seven pools and stipulation and consent orders to two pools. Eight assessment orders have been issued by DOI since May 2001. DOI does not require pools to submit copies of board resolutions, which would document the initial process of assessing members. In short DOI may never know whether the assessment it orders is carried out.

Response: DOI has used and will continue to use all means, including corrective orders and assessment orders, to attempt to alleviate a potentially troubling situation or to address an issue. Moreover, DOI has records reflecting the subsequent monitoring of assessment and corrective orders.

Contrary to the inference of the audit report other means available to DOI are and will continue to be relied upon for compliance and to address hazardous conditions as they arise. These include testing analysis, stipulation and consent orders, meetings with service companies or pools to discuss options, information requests, telephone conferences, examinations and correspondence with the service company or pool addressing issues and suggesting corrective actions. The records of the Department indicate that such efforts were made in the case of at least three pools and as early as 1993, prior to issuance of corrective orders or assessments.

Prior to 2001, and in the absence of statutory authority to require compliance with corrective orders, DOI attempted to use such orders to achieve obviously needed changes in the hope that the actions ordered would be agreed upon. In the absence of other viable remedies, this was a last resort. In most cases, the corrective orders were in fact uncontested. According to records in the files of our actuarial section, DOI even considered the levy of fines, at some time prior to 1998, but was unsuccessful for the reasons set forth above under "**Regulation and Authority of the DOI"** (see pages 96-106 of the audit report)**.**

Nevertheless, the form of penalties allowed under the law today is more often than not an all or nothing proposition. That is, there is still a lack of flexibility in the enforcement powers allowed to the DOI. Trustees and administrators realize full well that it is unlikely that a court will permit us to revoke authority or liquidate these entities on the basis of untimely filings, poor record keeping, or technical violations of previously issued orders.

The current situation permits those responsible for the operations of the pools and service companies to avoid the threat of civil penalties to which those responsible for the operations of standard insurers are subject. DOI strongly suggests that, at minimum, the legislature should subject both trustees, pool administrators and service companies to the civil forfeiture remedy provided for by Section 403A of the Illinois Insurance Code.

Auditor Comments: Although the Department "strongly suggests" to the auditors that the legislature should subject pool trustees and administrators to civil forfeiture, the Department did not provide any documentation to show that they have taken any action to make such a suggestion to the General Assembly in the form of legislation.

9. DOI should:

- **Consider whether the statutory percentage of semi-annual assessment paid by the pools should be increased to raise the fund's balance and seek legislation to assist in preventing future shortfalls; and**
- **Ensure that each pool is paying the correct amount of semi-annual assessment and that it is collected in a timely manner.**

Findings: The Insolvency Fund balance as of June 30, 2002 was $152,051. The estimated amount of outstanding claims against the fund was $1.1 million, with some claims outstanding since November 2001. The semi-annual assessments, in some cases, were not being paid in a timely manner. For example, the semi-annual assessment for the first of FY01 (July 2000 – December 2000) was not paid until at least August 2001 for 20 pools.

Response: Prior to 2001 this percentage assessment was applied to indemnity payments, while effective January 1, 2001 this percentage is applied to medical and indemnity payments. Based upon the amount of semi-annual assessments collected to date, this percentage would have needed to be raised from .5% to roughly 8.22% in order to cover the $18 million in insolvencies currently in liquidation. Even guarantee funds put a maximum of 2% of annual premiums on their assessments.

Simply put the pool's Insolvency Fund cannot be made to function in a way that protects workers from the current problem while at the same time allowing for continued cheaper coverage. These entities operate under the statutory framework akin to Lloyd's of London; one that relies upon the ability to collect various forms of assessments against members and pools to cover fund liabilities. But all evidence suggests that, unlike the centuries old Lloyd's market, the ability of the pools to collect adequate assessments as required is impossible either due to the inability to pay or the reliance upon due process rights to litigation to delay payment indefinitely. Many of the assessment "payers" have gone so far as to file suit to challenge the constitutionality of the very statute that allows

them to exist. The DOI has proposed legislation to resolve the immediate funding problems if not future problems. We have discovered no new solutions, but we do not consider it prudent to permit the current pools to expand either in number or membership unless and until such solution is found, and would support legislation which so limited new formations and/or sales.

The other recommendation is the DOI "ensure" that each pool is paying the correct amount of semi-annual assessment and that it is collected in a timely manner. Fulfillment of this recommendation, assuming it can be done, would require significant DOI personnel time which may be better spent elsewhere. As far as we know, it would require special semi-annual audits of claim files by examination staff familiar with workers' compensation awards. Based on the amount of business written by the self-insured workers' compensation pools compared to the rest of the insurance industry the DOI regulates, these entities require an inordinate amount of administrative time already and the DOI simply does not have the staff to accomplish this. We believe that any such recommendation should be accompanied by a fiscal impact statement.

But were the DOI given the authority to impose civil forfeitures, the threat of possible fines and the inclusion of a review of assessment payments in the scope of examinations could prove effective in addressing this problem.

Auditor Comments: At the exit conference on November 13, 2002 we asked for any documentation showing that the Department had taken steps to introduce additional legislation to correct the perceived 'shortcomings' in the law. The Department did not provide any such documentation.

DOI receives regular reports from group workers' compensation self-insured pools that could be used to collect the information needed to carry out this recommendation. We do not see requesting and/or reviewing reports that show the amount of claims paid as an overly burdensome or time-consuming process.