

# STATE OF NORTH CAROLINA

**PERFORMANCE AUDIT**

**NORTH CAROLINA INDUSTRIAL COMMISSION**

**WORKERS' COMPENSATION PROGRAM**

**FEBRUARY 2013**

**OFFICE OF THE STATE AUDITOR**

**BETH A. WOOD, CPA**

**STATE AUDITOR**

**PERFORMANCE AUDIT**

**NORTH CAROLINA INDUSTRIAL COMMISSION**

**WORKERS' COMPENSATION PROGRAM**

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Beth A. Wood, CPA  
State Auditor

STATE OF NORTH CAROLINA  
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February 19, 2013

The Honorable Pat McCrory, Governor  
Members of the North Carolina General Assembly  
Ms. Staci Meyer, Chair of the North Carolina Industrial Commission

Ladies and Gentlemen:

We are pleased to submit this performance audit titled *Workers' Compensation Program*. The audit objective was to determine if the North Carolina Industrial Commission is effectively ensuring compliance with the North Carolina Workers' Compensation Act. The Commissioners reviewed a draft copy of this report. Their written comments are included in the appendix.

The Office of the State Auditor initiated this audit to improve methods to ensure compliance with the Workers' Compensation Act.

We appreciate the courtesy, cooperation, and assistance provided us during the audit by staff of the North Carolina Industrial Commission.

Respectfully submitted,

A handwritten signature in cursive script that reads "Beth A. Wood".

Beth A. Wood, CPA  
State Auditor

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### SUMMARY

#### PURPOSE

This audit evaluates whether the North Carolina Industrial Commission (Commission) is effectively ensuring compliance with the North Carolina Workers' Compensation Act. The report makes recommendations so the Commission, Legislature, and Governor can take appropriate corrective action.

#### RESULTS

The Workers' Compensation Act requires companies doing business in North Carolina to carry workers' compensation coverage, unless exempt.<sup>1</sup> The Act ensures that an employee or an employee's family will receive workers' compensation benefits if the worker is injured or dies on the job. The Commission is responsible for administering the Workers' Compensation Act, identifying noncompliant businesses, and assessing penalties for noncompliance.

However, the Commission does not have the complete, accurate, and reliable data necessary to proactively identify noncompliant businesses. The Commission could potentially match data from two sources, the Division of Employment Security (Employment Security) and the North Carolina Rate Bureau (Rate Bureau), to identify noncompliant businesses. Employment Security has information on the businesses that operate within North Carolina, and the Rate Bureau has data on which businesses have workers' compensation coverage. A match between the two data sources could help identify businesses within North Carolina that do not have workers' compensation coverage. However, significant differences in the data files prevent reliable data matching and identification of noncompliant businesses. During our audit the Commission started working with Employment Security and the Rate Bureau to obtain the necessary data; however, employees of noncompliant businesses will remain at risk until data improvements are achieved.

Additionally, the Commission does not use available data to investigate potential noncompliance with the Workers' Compensation Act. Specifically, the Commission does not follow up on workers' compensation insurance cancellations and lapses that the Rate Bureau reports to the Commission. For the 2012 state fiscal year, the Rate Bureau reported that 11,323 businesses either cancelled their coverage or let it lapse. Although some businesses may have obtained other coverage or had a change in circumstances so that workers' compensation coverage was no longer required, some of the cancellations may have resulted in businesses becoming noncompliant with the Workers' Compensation Act. Consequently, the lack of follow-up could leave North Carolina's citizens at risk unnecessarily.

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<sup>1</sup> Employers are exempt from the Workers' Compensation Act if they employ fewer than three employees (no exemption applies if activities involve the use or presence of radiation), are in the agriculture or domestic service business and employ fewer than 10 employees, or operate a sawmill or logging company with fewer than 10 employees. In addition, there are exceptions for employees of certain railroads, Federal government employees, and incarcerated prisoners.  
<http://www.ic.nc.gov/ncic/pages/statute/97-2.htm>  
<http://www.ic.nc.gov/ncic/pages/statute/97-13.htm>

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Lastly, the Commission has not strictly enforced penalty assessments and collections on businesses that fail to comply with the Workers' Compensation Act. As a result, the Commission has not only failed to punish noncompliant businesses, but North Carolina schools may have been deprived of millions of dollars of needed funds. In state fiscal year 2011, the Commission assessed \$79,025 in penalties of which it collected \$59,925. In May 2012, the Commission changed its procedures and began assessing penalties as soon as a potential uninsured case was identified by its Claims Department. However, nothing prevented the Commission from operating that way in the past. As a result of the operational change, assessed penalties increased to \$6.5 million (8,125% increase) in state fiscal year 2012, of which \$106,334 (2%) has been collected. Because state law requires the "clear proceeds" of penalties assessed and collected by the Commission to be remitted to the Civil Penalty and Forfeiture Fund and "faithfully used exclusively for maintaining free public schools," lax penalty enforcement by the Commission deprives schools of needed funds.

### **RECOMMENDATIONS**

The North Carolina Industrial Commission should continue working with the North Carolina Rate Bureau and the Division of Employment Security to obtain the complete, accurate, and reliable data necessary to perform data matching and identify noncompliant businesses. To identify best practices and ideas for improvements, the Industrial Commission should also consider contacting other states that have a data matching program.

The Commission should implement policies and procedures to follow-up with businesses that cancel their workers' compensation coverage or let their coverage lapse. If there is not a valid reason for the cancellation or lapse, penalties should be assessed in accordance with state law.

The Commission should consider stricter enforcement of penalty assessments and collections in accordance with its authority under state law.

### **AGENCY'S RESPONSE**

The Agency's response is included in the appendix.

## **INTRODUCTION**

### **BACKGROUND**

*North Carolina General Statute Chapter 97* is known as “The Workers’ Compensation Act.” The Workers’ Compensation Act requires companies doing business in North Carolina, unless exempt, to maintain worker’s compensation coverage for possible compensation liability to their employees. Companies can comply by maintaining workers’ compensation insurance, self-insuring, or becoming a member of or contributing to a self-insured fund.

*North Carolina General Statute 97-77* created the North Carolina Industrial Commission (Commission) to track compliance with the prompt payment of compensation and to expeditiously resolve requests for, or disputes involving, medical compensation under the Workers’ Compensation Act. The majority of workers’ compensation claims are resolved and processed without the need of a formal hearing. Contested cases are heard initially by Deputy Commissioners in the county where the injury occurred. Deputy Commissioners’ decisions may be appealed to the Full Commission, which is comprised of a panel of three Commissioners. The Commission consists of a Chairman and five Commissioners who are appointed to six-year terms by the Governor. The Full Commission’s decisions can be appealed to the N. C. Court of Appeals.

In fiscal year 2012, the Commission reports that it processed 63,193 injury reports, held 8,523 mediations, heard 1,567 cases, and investigated 331 non-insured criminal cases.

### **OBJECTIVES, SCOPE, AND METHODOLOGY**

The audit objective was to determine if the North Carolina Industrial Commission is effectively ensuring compliance with the North Carolina Workers’ Compensation Act.

The Office of the State Auditor initiated this audit to improve the methods used to ensure compliance with the Workers’ Compensation Act.

The audit scope included policies and procedures in place at the Commission to monitor compliance with the Workers’ Compensation Act for the audit period July 1, 2011 through June 30, 2012. We conducted the fieldwork from August 2012 to September 2012.

To determine if the Commission monitors whether businesses maintain the required workers’ compensation coverage, we reviewed the Commission’s policies and procedures and observed operations. In addition, we attempted to identify and quantify the number of potentially noncompliant businesses by comparing businesses who are filing their Employer’s Quarterly Tax and Wage Report with the Division of Employment Security to businesses who are carrying workers’ compensation coverage.

To determine if the Commission actively enforces the payment of penalties by employers who do not carry the required workers’ compensation insurance, we reviewed the Commission’s policies and procedures and observed penalty enforcement and contempt hearings. We also

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identified businesses that cancelled their workers' compensation coverage or let their coverage lapse during the audit period.

Because of the test nature and other inherent limitations of an audit, together with limitations of any system of internal and management controls, this audit would not necessarily disclose all performance weaknesses or lack of compliance.

As a basis for evaluating internal control, we applied the internal control guidance contained in professional auditing standards. As discussed in the standards, internal control consists of five interrelated components, which are (1) control environment, (2) risk assessment, (3) control activities, (4) information and communication, and (5) monitoring.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We conducted this audit under the authority vested in the State Auditor of North Carolina by *North Carolina General Statute 147.64*.



## FINDINGS AND RECOMMENDATIONS

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### 1. LACK OF DATA LEAVES CITIZENS AT RISK

Data matching could help the North Carolina Industrial Commission (Commission) identify noncompliant businesses, but data improvements are needed to enable reliable data matching. Until improvements are made, North Carolina's citizens remain at risk.

#### **Data Matching Could Help Commission Perform Its Regulatory Function**

The Commission is the regulatory agency responsible for ensuring compliance with the North Carolina Workers' Compensation Act. The Act gives the Commission the authority to resolve workers' compensation disputes, issue subpoenas, order testimony to be taken by deposition, order parties to participate in mediation, require proof of workers' compensation insurance, and assess penalties for failure to maintain coverage.

Regulatory agencies are responsible for identifying noncompliant entities. The National State Auditors Association states that regulatory agencies should "develop a systematic process for monitoring regulated people's/entities' activities to ensure that they are following the applicable requirements and that the public is adequately protected."<sup>2</sup>

To accomplish the regulatory task of identifying noncompliant businesses, agencies in some states are using data matching. For example, Florida, South Carolina, Utah, and Wisconsin state agencies use data matching to identify businesses that may not be in compliance with the states' worker compensation laws.

Data matching involves comparing records from two or more sources. For example, a state agency could use one data source that identifies businesses that have workers' compensation and a second data source that identifies all businesses operating in a state. A comparison between a list of businesses that have workers' compensation and the list of all businesses in the state will provide a list of potentially noncompliant businesses for further investigation.

The Commission has at least two data sources available for data matching. The North Carolina Rate Bureau (Rate Bureau) is one source of data available to the Commission for identifying businesses that have workers' compensation coverage because insurance carriers are required to submit workers' compensation policy data to the Rate Bureau. Furthermore, the Division of Employment Security (Employment Security) is a second source of data available to the Commission for identifying businesses that operate within North Carolina because businesses are required to file their Employer's Quarterly Tax and Wage Report with the Employment Security.

#### **Data Improvements Are Needed to Enable Reliable Data Matching**

However, the Commission cannot use its available data sources to reliably identify potentially noncompliant businesses because the Rate Bureau and Employment Security data files do not share a unique identifier that would allow the Commission to compare

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<sup>2</sup> NSAA, Carrying Out a State Regulatory Program, 2004

## FINDINGS AND RECOMMENDATIONS

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the files and reliably identify noncompliant businesses. Also, the Rate Bureau and Employment Security data files differ significantly in the file layout.

For example, the Commission cannot match the Rate Bureau and Employment Security data files based on federal employer identification or Social Security numbers because neither entity makes this information a mandatory requirement for businesses. Because not all federal employer identification or Social Security numbers are populated in the data files, the Commission cannot perform a reliable data match to identify potentially noncompliant businesses.

Additionally, the Commission cannot match the Rate Bureau and Employment Security data files based on the business name and address because the file layouts in the two systems differ. For example, the Rate Bureau has one name and one address field in its data file. But the Employment Security has four name/address fields in its data file. Furthermore, the name/address fields in the Employment Security system are not used consistently. The second name/address field could consist of a trade name or an address depending on whether or not the business has a trade name. Consequently, accurately and reliably matching the data files based upon the business name and address is difficult and labor intensive.

### **Citizens At Risk Until Data Improvements Are Achieved**

During our audit, the Commission began working with the North Carolina Rate Bureau and the Division of Employment Security to obtain the data necessary to perform data matching and identify noncompliant businesses.

However, the Commission still does not have the data necessary to proactively identify noncompliant businesses.

Consequently, employees of a noncompliant business are not likely to learn that they do not have workers' compensation coverage until after the employee suffers loss and files a claim. The Commission's current policies and procedures only identify noncompliant businesses after an employee is injured or dies.

The number of citizens at risk could be significant. In April 2012, a local newspaper estimated that there were approximately 30,000 businesses operating in North Carolina without workers' compensation coverage.<sup>3</sup>

***Recommendation:*** The North Carolina Industrial Commission should continue working with the North Carolina Rate Bureau and the Division of Employment Security to obtain the complete, accurate, and reliable data necessary to perform data matching and identify noncompliant businesses. To identify best practices and ideas for improvements, the Industrial Commission should also consider contacting other states that have a data matching program.

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<sup>3</sup> Raleigh News & Observer, [When N.C. employers dodge workers' comp costs, employees pay the price](#), April 4 2012

## FINDINGS AND RECOMMENDATIONS

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### 2. LACK OF FOLLOW-UP LEAVES CITIZENS AT RISK

The North Carolina Industrial Commission (Commission) does not use available data to investigate potential noncompliance with the Workers' Compensation Act. Specifically, the Commission does not follow up on workers' compensation insurance cancellations and lapses in coverage. Follow-up is a compliance enforcement best practice. The lack of follow-up could unnecessarily leave North Carolina's citizens at risk.

#### **No Follow-up On Data That Indicates Potential Noncompliance**

The Commission receives data from the North Carolina Rate Bureau (Rate Bureau) about businesses that cancel their workers' compensation insurance coverage or let their coverage lapse. For the 2012 state fiscal year, the Rate Bureau reported that 11,323 businesses either cancelled or let their coverage lapse.

However, the Commission does not have procedures in place to follow up on businesses reported to have cancelled their coverage or allowed their coverage to lapse.

For example, the Commission does not:

- Send letters requesting proof of coverage to the business;
- Send follow-up letters if no response is received after an appropriate period;
- Assess penalties after several follow-up attempts if no response is received;
- Require the employer to attend a hearing to provide evidence of coverage.

#### **Compliance Enforcement Best Practices Require Follow-up**

Follow-up on reported noncompliance is part of a good regulatory enforcement process.

The Commission is the regulatory agency responsible for ensuring compliance with the North Carolina Workers' Compensation Act. The Act gives the Commission the authority to require proof of workers' compensation insurance and assess penalties for failure to maintain coverage.

Regulatory agencies are responsible for ensuring compliance. The National State Auditors Association states that regulatory agencies should "develop a systematic, fair, and progressively stringent enforcement process to ensure that the public is adequately protected."<sup>4</sup>

The National State Auditors Association identifies the following procedures as part of a good enforcement process:

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<sup>4</sup> NSAA, Carrying Out a State Regulatory Program, 2004

## FINDINGS AND RECOMMENDATIONS

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- “Track and flag people/entities that have not come into compliance after problems or violations were identified, including those operating without a required license or permit.
- Formally notify these people/entities of the enforcement actions that are going to be applied, the basis for the enforcement action(s), the applicable timeframes, and their right to appeal.
- Take appropriate, consistent, and timely enforcement actions that address the violations cited against these people/entities (including collecting any fines levied).
- Follow-up as needed (i.e., through written reports, the inspection process, special investigations, etc.) to determine whether the problem has been corrected or whether additional enforcement action is needed.”

Based on agency reported practices, several states have strong workers’ compensation enforcement processes. For example, Florida, South Carolina, Utah, and Wisconsin report using compliance inspections, data matching programs, and automated follow-up systems to enforce workers’ compensation regulations. Additionally, Florida and South Carolina maintain a system for tracking repeat violators.

### **Citizens At Risk Until Follow-up is Implemented**

Because the Commission does not follow up on businesses reported to have cancelled their coverage or allowed their coverage to lapse, employees of a noncompliant business are not likely to learn they do not have workers’ compensation coverage until after the employees suffer a loss and file a claim.

The number of citizens at risk could be significant. As noted above, the Rate Bureau reported that 11,323 businesses either cancelled their coverage or let it lapse during the 2012 state fiscal year. Some businesses could have gone out of business, purchased other coverage, or had a change in circumstances so that workers’ compensation coverage was no longer required. However, some of the cancellations may have resulted in businesses becoming noncompliant with the Workers’ Compensation Act. If so, employees of those noncompliant businesses have been placed at risk.

***Recommendations:*** The Commission should implement policies and procedures to follow up with businesses that cancel their workers’ compensation coverage or let their coverage lapse. If there is not a valid reason for the cancellation or lapse, penalties should be assessed in accordance with state law.

### **3. LAX PENALTY ENFORCEMENT DEPRIVES SCHOOLS OF FUNDS**

The North Carolina Industrial Commission (Commission) has not strictly enforced penalty assessments and collections on businesses that fail to comply with the Workers’

## **FINDINGS AND RECOMMENDATIONS**

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Compensation Act. As a result, the Commission has not only failed to punish noncompliant businesses, but North Carolina schools may have been deprived of millions of dollars in needed funds.

### **Penalty Assessment and Collection Not Strictly Enforced**

Prior to May 2012, the Commission did not assess penalties as soon as a potential uninsured case was identified by the Commission's Claims Department. Penalties were only assessed after a worker was injured and the case was heard at a non-insured penalty hearing. The Commission then used the penalties as leverage to negotiate with the non-insured employer and obtain benefits for the injured worker. If an agreement was reached with the employer, the penalties were waived.

Consequently, noncompliant businesses have had little to fear from breaking the law because very few penalties have been assessed and collected by the Commission. In state fiscal year 2011, the Commission assessed \$79,025 in penalties of which it collected \$59,925.

In May 2012, the Commission changed its procedures. The Commission began assessing penalties as soon as an injury report is received and a potential uninsured case is identified by the Commission's Claims Department.

As a result, there has been a significant increase in assessed penalties. Assessed penalties increased from \$79,025 in state fiscal year 2011 to \$6.5 million in state fiscal year 2012, an increase of 8,125%.

However, only \$106,334 (2%) of the \$6.5 million has been collected. Table 1 below shows the penalties assessed and collected in state fiscal years 2011 and 2012.

**Table 1**

|                     | SFY 2011 | SFY 2012      |
|---------------------|----------|---------------|
| Penalties Assessed  | \$79,025 | \$6.5 million |
| Penalties Collected | \$59,925 | \$106,334     |
| Percent Collected   | 75%      | 2%            |

**Source:** Industrial Commission and auditor calculations.

### **School System Potentially Deprived of Millions of Dollars**

Lax penalty enforcement not only fails to protect employees and punish noncompliant businesses, but it also hurts North Carolina schools by depriving them of needed funds.

## FINDINGS AND RECOMMENDATIONS

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*North Carolina General Statute 97-94.(b)* gives the Commission authority to assess penalties for noncompliance with the Workers’s Compensation Act. The statute also requires the Office of the Attorney General to enforce the penalty. *North Carolina General Statute 97-101* also gives the Commission the authority to initiate civil action to collect fines or penalties.

Furthermore, penalties assessed and collected by the Commission are to benefit the school system. *North Carolina General Statute 97-94.(b)* requires the “clear proceeds” of the penalties to be remitted to the Civil Penalty and Forfeiture Fund. And *North Carolina General Statute 115C-457.1.(b)* says the “Fund and all interest accruing to the Fund shall be faithfully used exclusively for maintaining free public schools.”

As noted above, the Commission changed its procedures in May 2012 and increased penalty assessments by 8,125% to \$6.5 million from state fiscal year 2011. Nothing prevented the Commission from doing that in the past.

Consequently, stricter penalty enforcement of penalty assessment and collection in the past could have resulted in millions of dollars being transferred to North Carolina schools.

For example, other states have experienced workers’ compensation penalty collection rates ranging from 31% to 75%. Table 2 below shows the range of penalties assessed and collected in some states.

**Table 2**

|                     | Florida        | Utah          | Wisconsin     | South Carolina |
|---------------------|----------------|---------------|---------------|----------------|
| Penalties Assessed  | \$40 million   | \$5.9 million | \$4.6 million | \$2.8 million  |
| Penalties Collected | \$12.2 million | \$2.3 million | \$2.2 million | \$2.1 million  |
| Percent Collected   | 31%            | 40%           | 48%           | 75%            |

**Source:** Interviews, annual reports, and auditor calculations.

Applying those collection rates to the \$6.5 million that the Commission assessed for state fiscal 2012 would result in \$2 million to \$4.9 million being collected for North Carolina schools.

**Recommendation:** The Commission should consider stricter enforcement of penalty assessments and collections in accordance with its authority under state law.

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Pat McCrory, Governor

Staci Meyer, Chair



Bernadine S. Ballance, Commissioner  
 Linda Cheatham, Commissioner  
 Danny L. McDonald, Commissioner  
 Tammy R. Nance, Commissioner  
 Pamela T. Young, Commissioner

## North Carolina Industrial Commission

February 15, 2013

VIA ELECTRONIC AND HAND DELIVERY

The Honorable Beth A. Wood, State Auditor  
 Office of the State Auditor  
 2 South Salisbury Street  
 Raleigh, North Carolina 27699

Dear Auditor Wood:

We have reviewed the February 2013 report of your findings and recommendations following your Performance Audit of the North Carolina Industrial Commission – Workers' Compensation Program. We would like to express our appreciation for the professionalism with which your auditors conducted the investigation, and for the information and recommendations for improvement they shared with our staff during the course of the audit. The Industrial Commission has begun and will continue to take corrective action on all issues identified in your report. The following represents the Industrial Commission's formal response to your report's Findings and Recommendations:

***Finding # 1:*** *Data matching could help the North Carolina Industrial Commission identify noncompliant businesses (that fail to obtain required workers' compensation insurance), but data improvements are needed to enable reliable data matching. Until improvements are made, North Carolina's citizens remain at risk.*

***Recommendations:*** *The North Carolina Industrial Commission should continue working with the North Carolina Rate Bureau and the Division of Employment Security to obtain the complete, accurate, and reliable data necessary to perform data matching and identify noncompliant businesses. To identify best practices and ideas for improvements, the Industrial Commission should also consider contacting other states that have a data matching program.*

**Industrial Commission Response:** The Industrial Commission agrees with this finding and the recommendations and has begun and is continuing to work on all issues identified. The Industrial Commission has been actively working with the Government Business Intelligence Competency Center (GBICC) and SAS to develop a data matching program that will allow the identification of potentially non-insured employers before an injury occurs, as well as to facilitate the automation of the initial contact, penalty assessment, penalty collection, and tracking to ensure that employers required to carry insurance continue to do so, and that those



that do not are promptly identified and penalized. The Industrial Commission, along with the North Carolina Rate Bureau (NCRB), has been working with the GBICC to finalize agreements for sharing “the complete, accurate and reliable data” that the report acknowledged the Commission has been lacking and which is necessary to proactively identify noncompliant businesses. GBICC is currently working with the Division of Employment Security (DES) on a separate project and is helping to facilitate access to DES data. Finally, as an adjunct to our efforts to develop an effective data matching system, the Industrial Commission has instituted a state-wide education campaign in an effort to ensure that all employers doing business in North Carolina understand their obligation to carry workers’ compensation insurance.

***Finding #2:*** *The North Carolina Industrial Commission does not use available data to investigate potential noncompliance with the Workers’ Compensation Act. Specifically, the Commission does not follow up on workers’ compensation insurance cancellations and lapses in coverage. Follow-up is a compliance enforcement best practice. The lack of follow-up could unnecessarily leave North Carolina’s citizens at risk.*

***Recommendations:*** *The Commission should implement policies and procedures to follow up with businesses that cancel their workers’ compensation coverage or let their coverage lapse. If there is not a valid reason for the cancellation or lapse, penalties should be assessed in accordance with state law.*

**Industrial Commission Response:** The Industrial Commission agrees with this finding and the recommendations. The Industrial Commission is actively working on analysis and tracking mechanisms for monitoring insurance cancellations and lapses as part of the project with GBICC and SAS referenced in the response to Finding #1. While NCRB data alone can help monitor cancellations, matching with DES data to determine if employers have gone out of business or decreased their number of employees below the statutory threshold will help the Industrial Commission use its resources as efficiently as possible.

As noted above, the Industrial Commission is developing and putting in place procedures to contact identified employers, perform necessary follow-up and investigation, and assess penalties. As stated above, with the assistance of GBICC and SAS, the Commission plans to automate as much of the initial contacts and follow-up as possible.

***Finding #3:*** *The North Carolina Industrial Commission has not strictly enforced penalty assessments and collections on businesses that fail to comply with the Workers’ Compensation Act. As a result, the Commission has not only failed to punish noncompliant businesses, but North Carolina schools may have been deprived of millions of dollars in needed funds.*

***Recommendation:*** *The Commission should consider stricter enforcement of penalty assessments and collections in accordance with its authority under state law.*

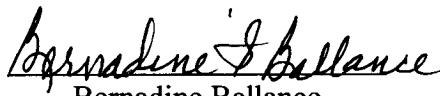
**Industrial Commission Response:** The Industrial Commission agrees with this finding and the recommendation. The Industrial Commission has developed and is utilizing penalty enforcement hearings and contempt hearings to exhaust its administrative collection efforts. These collection efforts are ongoing with regard to that portion of the \$6.5 million in penalties


which has become final following the hearings and appeals the employer must be afforded as a matter of due process. A portion of the \$6.5 million in penalties that was noted in the audit is not yet final because the employer has appealed. In addition, in many cases, enforcement of the penalties has been put on hold pending the employer's agreement to pay the injured worker all or a portion of his lost wage benefits and medical bills. N.C. Gen. Stat. Section 97-94(e) allows the Commission to suspend collection of penalties if the employer pays the compensation due the injured employee. In our discussions with Wisconsin and South Carolina, we learned that they have non-insured funds which pay the injured worker and eliminate the necessity of using the penalties assessed as leverage to get the employee paid.

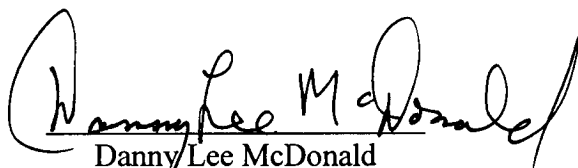
The Commission will work with the Office of the Attorney General pursuant to N.C. Gen. Stat. Section 97-94(b) to develop additional procedures to strengthen our penalty enforcement and collection efforts, including identifying all legally-available collection techniques and exploring the possibility of entering into collection contracts with third parties.


Should you need additional information, please feel free to contact Staci Meyer at 807-2525 or Meredith Henderson at 807-2575. Thank you for the work you have done on behalf of the people of North Carolina.

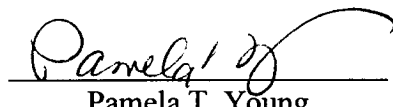
  
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This audit required 1,483.5 audit hours at an approximate cost of \$113,536. The cost represents 0.82% of the North Carolina Industrial Commission's (NCIC's) total expenditures of \$13.8 million in fiscal year 2012.