

Business Insurance

June 7, 2010

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COURT HEARING PLANNED OVER RYAN SPECIALTY'S CRC HIRES / PAGE 3

INCREASE IN TERROR PLOTS RAISES CONCERNS ABOUT LOCAL GROUPS / PAGE 4

In Brief

'Very active' hurricane season predicted

This year's Atlantic hurricane season will be "very active," according to the Tropical Meteorology Project at Colorado State University. The project predicted 18 named storms will form this season. Ten of those storms will become hurricanes and five of those will become major hurricanes, forecasters said. In addition, the team predicted a "well-above-average probability" that a major hurricane will make landfall in the United States or Caribbean.

U.S. reinsurers' combined ratio deteriorates: Survey

U.S. reinsurers reported a 102.2% combined ratio in the first quarter of 2010, deteriorating from 95.5% during the same period last year, according to a survey of 19

See **IN BRIEF** page 21

INTERNATIONAL

ALG weighs options after AIA deal dies

IPO again possible after U.K. insurer withdraws offer

By JUDY GREENWALD

NEW YORK—With the collapse of American International Group Inc.'s \$35.5 billion deal to sell its Asian life insurance unit to Prudential P.L.C., AIG's remaining options include an initial public offering for AIA Group Ltd., finding another buyer or breaking up AIA and selling it piecemeal, observers say.

The deal's failure is seen as a blow to AIG's efforts to regain momentum by selling noncore assets to repay the federal government for its September 2008 bailout of AIG, observers say.

When the deal with London-based Prudential was announced in March, observers said the \$35.5 billion price was significantly more than the unit would have fetched only several months earlier, and described it as a ringing validation of AIG President and CEO Robert M. Benmosche's policy of not rushing to dispose of AIG's noncore assets (*BI*, March 8).

But in response to growing Pru-

AIA BY THE NUMBERS

Figures for first quarter 2010.

REVENUES: \$3.18 billion

PRETAX INCOME: \$658 million

OPERATES PRIMARILY IN: China, Singapore, Malaysia, Thailand, South Korea, Australia, New Zealand, Vietnam, Indonesia and India.

Source: SEC filings

dential shareholder unrest about the deal's price, Prudential indicated late last month that it was seeking a new deal. AIG responded with a curt statement: "We have signed an agreement with Prudential, and we expect them to use their best efforts to live up to it."

Last week Prudential said it planned to terminate the deal, despite being obligated to pay a £152.6 million (\$220.7 million) breakup fee.

In a subsequent letter to AIG

See **AIA** page 20

RISK MANAGEMENT



LANDOV

The official ball for the FIFA 2010 World Cup is pictured. There is \$650 million in coverage for postponement or relocation of the event, which starts this week.

Insurance, security in place as 2010 World Cup kicks off

By MICHAEL BRADFORD

JOHANNESBURG—Organizers are prepared with plenty of insurance and tight security to counter the risks of holding the 2010 FIFA World Cup, the first time the event is being held in South Africa.

The Fédération Internationale de Football Assn. is protecting its

investment with \$650 million in coverage to protect against postponement or relocation of the event, which runs June 11 through July 11. The bulk of the coverage, which will remain in place for the 2014 World Cup in Brazil, is reinsured by Swiss Reinsurance Co. and

See **CUP** page 19

FEDERAL LEGISLATION AND REGULATION

Lawmakers pull back support of COBRA subsidies

By JERRY GEISEL

WASHINGTON—Congressional support for once politically popular extensions of federal COBRA premium subsidies for laid-off workers

finally may be waning.

Facing a rebellion from party members concerned about costs, House Democratic leaders stripped numerous provisions from a tax bill passed prior to the Memorial Day

15 mos./65%

House Democratic leaders stripped numerous provisions from a tax bill passed prior to the Memorial Day recess, including one that would have extended the 15-month, 65% COBRA premium subsidy to employees involuntarily terminated through year-end.

recess, including one that would have extended the 15-month, 65% COBRA premium subsidy to

employees involuntarily terminated through year-end.

Due to that failure to act, the subsidy is not available to employees who lose their jobs after May 31.

It was the cost of the provisions, including the COBRA extension, that triggered opposition.

"While there were many worthwhile and important elements in this bill, it was not paid for and therefore I could not support it," Rep. Gerald Connolly, D-Va., said in a statement after the House approved the stripped-down bill.

"Congress needs to get serious about spending and the deficit,"

See **COBRA** page 21

SPOTLIGHT

PUBLIC ENTITY RISK MANAGEMENT

Budget cuts, lower tax revenues force public entity risk managers to get creative; risk managers at public universities address tough economy by focusing on efficiency; public entity risk pools retain members despite soft market; Q&A with new PRIMA president.

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UNITED IN AWARENESS

Terrorism
Crime
Kidnapping
Civil unrest
Regime instability
State impunity
Espionage
State corruptibility
Armed conflict

Only Aon provides crisis management solutions that shed light on security situations in individual countries around the world, including real-time information, safety advice and cultural awareness.

 Reduce your vulnerability and protect your business. Access our 2010 Terrorism Threat Map and explore related solutions via www.aon.com/terrorismmap



Business Insurance

Online features & highlights www.businessinsurance.com



VIDEO: BUSINESS CONTINUITY

In a new video, experts Ryan Pratt of Ernst & Young and Karen Avery of Marsh tell why you should have a business continuity plan in place.



COBRA SUBSIDY FAQ

Congressional support for once politically popular extensions of federal COBRA premium subsidies for laid-off workers may be waning. Editor-at-Large Jerry Geisel answers frequently asked questions about the COBRA provisions online. Go to the Online Features section of the home page.

Public Entity Risk Pools
Directory available under Lists & Data



SPOTLIGHT PODCAST

Listen to a full-length podcast of PRIMA President Laura Peterson's page 16 interview. Click through to the Spotlight section from the Audio page.

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MOST POPULAR STORIES Week of May 31, 2010

1. CRC files new suit against Ryan Specialty over raid
2. HHS releases draft application for early retiree claims
3. Rating agencies not 'underwriters,' judge rules
4. COBRA subsidies to lapse during congressional recess
5. U.S. fights Transocean's bid to limit liability
6. Berkshire confirms Buffett subpoenaed to testify
7. Alterra Capital names head of underwriting unit
8. Moody's reports liability limits of \$1.61B in oil spill
9. Insurance CEO of Bermuda-based Endurance retires
10. Group health insurance rates on the rise: Survey

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WEBINARS AND WEBCASTS

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MARINE & ENERGY

Gulf spill insurance exposure tops \$1.6B: Moody's

Rig owner, others covered for liability, but BP self-insured

By ZACK PHILLIPS

Offshore energy companies involved in the Deepwater Horizon oil spill have \$1.61 billion in liability insurance limits, according to Moody's Investors Service.

The Deepwater Horizon oil rig sank April 22 after an explosion on board that killed 11 workers. The operator of the rig, BP P.L.C., last week attempted another operation to stop the flow of oil from a leaking

well, which is gushing at least 12,000 barrels of oil a day into the ocean.

In a report released last week, Moody's said that Transocean Ltd., which owned the rig, carries \$950 million in liability limits; Cameron International Corp., which provided the blowout preventer, has \$500 million in liability limits; and Anadarko Petroleum Corp., which holds a 25% working interest in the project, has \$162 million in liability limits.

Transocean also had \$560 million in property coverage for the rig, which has been declared a total loss.

Smith International Inc. and Halliburton Co., both drilling service

providers, as well as Mitsui & Co. Ltd., which has a 10% working interest in the project, also have exposure to the loss, but Moody's said no information is available on those firms' exposure.

BP self-insured its liability and property exposure.

A.M. Best Co. on Wednesday revised its outlook on BP's captive, Jupiter Insurance Ltd., from stable to negative in light of the ongoing Deepwater losses. "Given the magnitude of this event, it is currently impossible to assess the impact on BP, both in terms of financial liabilities and reputational damage," Best

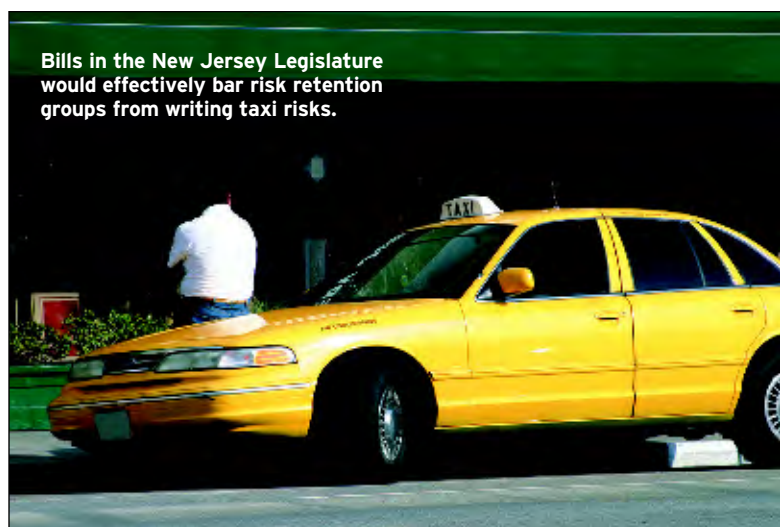
See **BP** page 20



AP PHOTO

A brown pelican was covered in oil along the Louisiana coast last week. BP is self-insured for liability and property exposures arising from the oil spill.

ALTERNATIVE RISK TRANSFER/CAPTIVES



Bills in the New Jersey Legislature would effectively bar risk retention groups from writing taxi risks.

New Jersey sets roadblock for RRGs insuring taxis

Legislation at odds with plans to lure captives, critics say

By RODD ZOLKOS

TRENTON, N.J.—Bills in the New Jersey Legislature aimed at making changes to state taxicab laws contain language that would block risk retention groups' ability to cover New Jersey taxi operators, and would seem to run counter to efforts to promote the state as a captive domicile.

The provision in question in Senate Bill 1823 and its companion bill in the state Assembly also appear at odds with the federal Liability Risk Retention Act of 1986 and a 2000 federal appellate court ruling related to a similar measure in Oregon.

"The bill as originally drafted was designed to protect passengers in taxicabs," including insurance requirements for cab operators, said Gregg Sgambati, founder and president of the Mahwah, N.J.-based New Jersey Captive Insurance Assn.

"Later an amendment was put in

to require that any insurance company from which a taxicab operation purchases coverage needs to be an admitted company and a member of the guaranty association," Mr. Sgambati said.

The guaranty association requirement effectively would rule out risk retention groups from covering taxi operators because a section of the LRRR stipulates that risk retention groups can't be required or permitted to be members of such state guaranty associations.

In a 2000 ruling in *National Warranty Insurance Co. vs. Mike Greenfield*, the 9th U.S. Circuit Court of Appeals upheld a lower court ruling that the LRRR pre-empted an Oregon law that would have blocked RRGs from selling reimbursement insurance policies to auto dealers in the state.

The Oregon law had required auto dealers selling service warranty policies to prove financial responsibility by purchasing reimbursement coverage from "authorized" insurers, which were required to be members of the Oregon Insurance

See **RRGs** page 17

REINSURANCE

Florida catastrophe reinsurance rates fall

Amid ample capacity, prices drop up to 15%, intermediaries report

By COLLEEN MCCARTHY

Reinsurance rates for June 1 renewals of catastrophe-exposed property in Florida have declined up to 15% due largely to ample capacity, separate reports concluded last week.

In addition, the state-controlled Florida Hurricane Catastrophe Fund, which has faced steep funding shortfalls in the past, is fully financed and able to meet its obligations to insurers should a major storm or storms strike the state, its advisory council said late last month. The fund provides reinsurance for insurers in the state, issued

through a mandatory layer and an optional layer, which is known as the temporary increase in coverage limit layer, or TICL.

According to a briefing from New York-based Guy Carpenter & Co. L.L.C., average property catastrophe reinsurance rates for Florida programs renewing June 1 fell 5% to 7% from a year ago. This year's terms had an average decrease of 5% to 7% in the lower layers, where capacity was less abundant, and a 13% to 15% decline in the upper layers, Guy Carpenter said.

The declines, measured on a year-over-year risk-adjusted basis, bring pricing about in line with 2008, particularly for upper layers, according to the briefing.

While Florida always is a challenge for firms placing reinsurance programs, declining pricing "is viewed as a very positive develop-

ment," said Lara Mowery, Minneapolis-based global head of property specialty at Guy Carpenter.

Separately, Chicago-based Aon Benfield Inc. last week said record levels of reinsurer capital saw rates for catastrophe-exposed Florida property decline an average of 10% to 15% for June 1 renewals, with greater variance based on reinsurers' view of cedents' credit quality.

In addition, reinsurers have had positive underwriting results during the past four years in Florida due to minimal catastrophes, Aon Benfield said.

Buyers typically turn to the private reinsurance market to secure coverage for layers in their program that sit just below or just above the mandatory coverage layer provided by the FHCF, experts said.

See **FLORIDA** page 19

SURPLUS LINES

CRC trying to block Ryan Specialty hires

By SALLY ROBERTS

CHICAGO—CRC Insurance Services Inc. and Ryan Specialty Group Inc. will plead their cases Friday in front of a federal judge in Chicago over whether more than 120 former CRC employees can join the rival wholesaler.

CRC is seeking a preliminary injunction against Chicago-based Ryan Specialty; its founder, Patrick G. Ryan; its subsidiary, RT Specialty L.L.C.; and more than 35 former CRC employees.

Among other things, CRC is seeking to restrain its former employees, who resigned last month, from being employed or associated with any entity in competition with CRC in the state of Illinois, and from soliciting CRC's employees and customers for two years, as stipulated in employees' respective employment contracts.

"If CRC's former employees are not enjoined from violating the noncompete, nonsolicitation and nonaccept



Mr. Ryan

provisions in their employment agreements and if RTS, RSG and (Mr.) Ryan are not enjoined from soliciting and accepting CRC's clients, CRC's very survival is in jeopardy," CRC said in its motion.

CRC turned to U.S. District Court in Chicago last week after an Alabama circuit court judge ruled May 28 that the court did not have jurisdiction over Ryan Specialty, Mr. Ryan and RT Specialty because the alleged wrongdoing did not occur in Alabama, where CRC is based.

However, the Alabama judge ruled that the court does have jurisdiction over Ed McCormack, who also was

named in CRC's suit. Mr. McCormack is a Chicago-based attorney who worked for CRC on several matters while in private practice before joining Ryan Specialty as a managing director this year. CRC contends that after obtaining knowledge of CRC's business opera-

See **CRC** page 20

HEALTH CARE REFORM

Health insurance industry wants to work with reform law

Speaker tells forum attendees it's time to be 'reliable, effective'

By JOANNE WOJCIK

COLORADO SPRINGS, Colo.—The health insurance industry is committed to making health care reform work despite its objections to the federal law, an executive of America's Health Insurance Plans told members of the Council of Insurance Agents & Brokers.

Mike Tuffin, executive vp of AHIP and keynote speaker at the CIAB's 9th Annual Employee Benefits Leadership Forum last week, said

AHIP also hopes the midterm elections change the complexion of Congress and shift the Obama administration's stance to be more aligned with that of the health insurance industry.

However, it is unlikely that the law, which was passed in Congress on partisan votes without the support of the majority of U.S. residents, will be repealed, he said at the Colorado Springs, Colo., gathering.

"Health care reform is not over. This is the only the end of the beginning," Mr. Tuffin said. "Whether we like it or not, the bill was passed. Now we must be reliable and effective implementation partners. We need to stay engaged.

'Whether we like it or not, the bill was passed. Now we must be reliable and effective implementation partners.'

Mike Tuffin,
America's Health Insurance Plans

The single-payer and public-option supporters have not given up," he warned.

The single-payer and public-option provisions gained favor in

the U.S. House but lacked sufficient support to pass the Senate.

To demonstrate aspects of the law that the industry could influence, Mr. Tuffin pointed out that the massive bill contains at least 900 references to "the secretary shall," which may provide some flexibility in the direction of the regulations that the secretary of the Health and Human Services Department will set to implement the law's provisions.

"We will continue to speak out, but we will also try to minimize the disruption," Mr. Tuffin said.

An area that AHIP pledges to persuade regulators to address is cost containment, which its members and employer customers feel was

inadequately addressed in the health care reform law.

"The business community pays for health care in this country. We need to work with them to help them explain to lawmakers why it's necessary to focus on costs," Mr. Tuffin said. "If you're not bending the cost curve and you add 30 million new people to the system...we're just shuffling deck chairs on the Titanic."

Throughout the health care reform debate, insurers were blamed for the high cost of health insurance, "but that's not the problem," he said. "We pay more for health care services than any

See **FORUM** page 6

Questions Answers

Endurance Specialty Holdings Ltd. has a new CEO, David Cash, after the announcement this year of the retirement of Kenneth LeStrange, who led Endurance since its founding in 2001. Mr. Cash spoke with Business Insurance Editor Regis Coccia about his plans for the Bermuda-based company, which writes insurance and reinsurance on a variety of specialty lines.



Endurance stays course

Where would you like to take Endurance?

It's tempting to strike off in a new direction, but the path we've taken to date is one we want to continue, with some course correction due to market conditions. Half of our business is reinsurance and the other half insurance, and we expect that to continue. We have strong U.S. and Bermuda presences and we're active internationally in the reinsurance market. We currently offer a wide range of both insurance and reinsurance products and are looking to continue growing these areas organically. We can do that without the need for new infrastructure to support our business.

Which business areas is Endurance focusing on?

In primary insurance, we have four businesses. Our agricultural specialty subsidiary writes small risks and is the fifth-largest crop insurance writer in the U.S. We have a middle-market or medium-sized commercial business, which we plan to grow by adding additional products and lines of business. Third is our Fortune

1000 business, where we provide casualty coverages to North America's largest companies. Here our core business is underwriting excess casualty, professional liability and health care liability coverage on an excess basis. Prospectively, our challenge in this area is to penetrate more fully this customer segment. And finally we have a program business, which we see as a beachhead for further developing a middle-market retail and independent agent-driven business.

Our reinsurance business already has a broad range of product lines, including specialty areas such as property catastrophe, surety, aerospace and marine, that we will continue to grow organically. Another priority for us is to further expand internationally. To that end, at the Jan. 1 renewals, we grew our reinsurance book by 30% year-on-year, with significant contribution to that growth coming from our international operations in Singapore and Zurich. We were able to build on relationships that our Bermuda cat team had in Europe and Asia as well as gain new clients in

See **CASH** page 17

TERRORISM

Terror threat changes as local groups spread

Despite rise in activity, demand for coverage appears to wane

By ZACK PHILLIPS

International terrorist groups like al-Qaida are less effective now than previously, but local terrorist groups are on the rise, according to an Aon Corp. report released Wednesday.

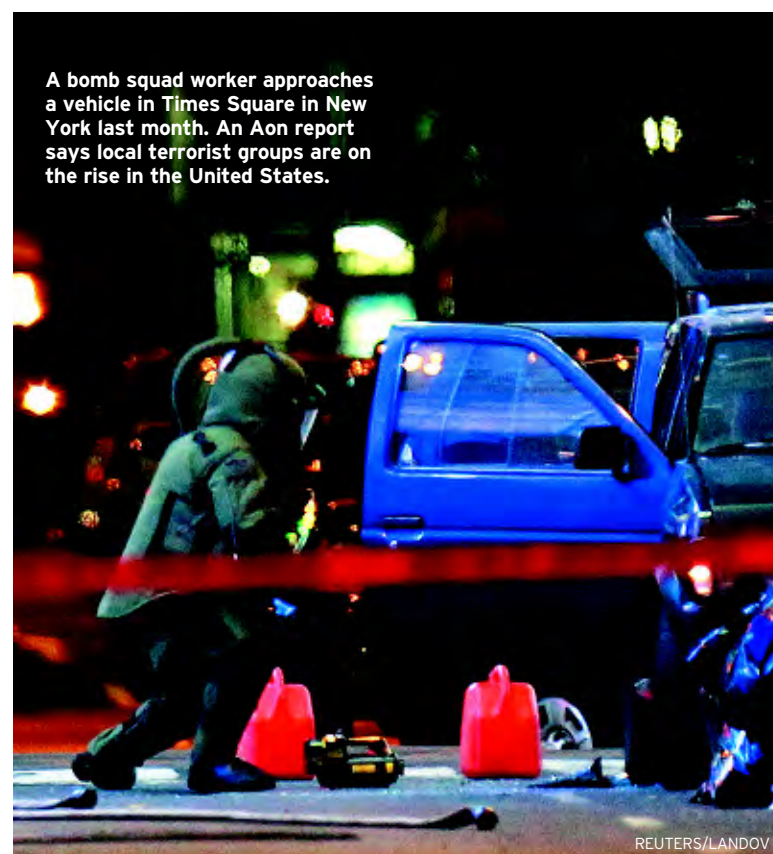
The Chicago-based broker's 2010 Terrorism Threat Map, created in collaboration with London-based consultant Janusian Security Risk Management P.L.C., found the threat of terrorism has increased in the United States.

Meanwhile, reinsurance broker Guy Carpenter & Co. L.L.C. said in a separate report that reinsurers would like to place more terrorism business, but the demand for standalone terrorism coverage is on the wane.

Aon's map is based on a database that monitors news of attacks, thwarted plots, terrorist communiqués and government countermeasures. The findings represent a snapshot of the security situation in each country and are not intended to be predictive, Aon said.

Each country is categorized based on its current threat level: low, guarded, elevated, high and severe.

See **TERROR** page 18



A bomb squad worker approaches a vehicle in Times Square in New York last month. An Aon report says local terrorist groups are on the rise in the United States.

REUTERS/LANDOV

Free webcast on Northeastern hurricane risks

A major hurricane in the Northeastern United States could prove to be more damaging than a similar one in Florida or the Gulf Coast.

In fact, Alfred P. Tobin, managing director and national property practice leader for Aon Risk Services in New York, said a repeat of the 1938 Long Island Express that struck New England could cause \$50 billion in insured losses. That would be more than the losses from Hurricane Katrina in 2005.

Mr. Tobin offered that assessment during *Business Insurance's* "Storm Warning: Is the Northeast Prepared for a Hurricane Risks?" webcast last week, one day after the Atlantic hurricane season began on June 1. Forecasters have been unanimous in predicting an unusually active season this year.

But panelists pointed out in the webcast that risk managers can take steps ahead of a storm to help mitigate its impact, and provided guidance on preparing for a hurricane.

"It is really critical that you understand what your values are, where they're located and what their susceptibility is to loss," and then to run models similar to those used by insurers to understand how the underwriters view your risk, Mr. Tobin said.

"Expect that a hurricane will strike the Northeast again," said Darren R. Perry, line of business director-property for Zurich Services Corp. in Schaumburg, Ill. Consider upgrading existing buildings to current wind codes, he said.

"One of the main things is to develop a written contingency plan" before a hurricane strikes, said Richard E. Lafayette, managing director and executive general adjuster for Crawford & Co. Global Technical Services in Atlanta. This includes simple but sometimes overlooked activities such as obtaining, fueling and performing maintenance on emergency generators, he said.

The entire webcast can be accessed for free online at www.businessinsurance.com/section/webinars.

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Forum: Industry wants to work with law

CONTINUED FROM PAGE 4

other nation.”

While the cost of U.S. health care has continued to climb, the net cost of providing health insurance has declined, he said.

For example, the percentage of premiums allocated for administration has fallen from an average of 13.67% in 2003 to 11.15% in 2009, according to data Mr. Tuffin presented.

As part of its regulator education campaign, AHIP proposes a seven-point plan much like its suggestions prior to finalization of the federal law:

- Create cost and quality transparency so patients and doctors can make the safest, high-quality and most cost-effective decisions;
- Coordinate and manage care of patients with chronic conditions;
- Pay doctors and hospitals for quality and value rather than volume;
- Advance evidence-based medicine;
- Promote prevention and wellness;
- Reform medical liability;
- Transform administration to improve efficiency and reduce medical errors.

“Nobody’s talking about cutting health care spending. We’re talking about slowing the trajectory,” Mr. Tuffin said. “If we could bend that health care cost curve by 1% or 1.5%, you’re talking trillions of dollars” that could be saved.

AHIP also is committed to strengthening the legislation’s individual mandate. Under the legisla-

Group health insurance rates on the rise: Survey

Group health insurance rates for small and midsize employers are surging for 2011 renewals, according to a survey by the Council of Insurance Agents & Brokers.

Rather than absorbing the costs, most employers are changing their plan designs and passing on some of the increased costs to their employees, according to the CIAB’s “June Employee Benefits Market Survey” released last week at the group’s Employee Benefit Leadership Forum in Colorado Springs, Colo.

Of the member benefits brokers responding to the survey, 86% said health insurance prices increased for small accounts, defined as those with 50 or fewer employees. More than half of the increases are in the range of 11% to 20%.

Brokers said 58% of medium-size accounts, defined as those

with 51 to 500 employees, are seeing increases in the range of 6% to 15%.

Large accounts, defined as those with 501 or more employees, also are seeing higher rates for group coverage being renewed for 2011. Fifty-one percent are seeing increases in the range of 6% to 15%.

In response to the premium hikes, employers of all sizes are changing their plan designs. In many cases, they are shifting some of the costs to employees through higher deductibles, copayments and premium contributions, according to the survey.

Some brokers also say they are seeing greater adoption of consumer-driven, high-deductible health care plans.

The survey is available online at <http://www.ciab.com/LinkClick.aspx?fileticket=SOfsREMwP4Y%3d&tabid=75>.

—By Joanne Wojcik

tion, individuals who do not purchase insurance will be forced to pay the lesser of \$695 or 2% of income.

“Although I recognize that we

live in a country where people don’t like the government to tell them what to do, there has to be a better incentive to get more people in the system,” Mr. Tuffin said.

Commentary

RIMS optimistic as it heads to Capitol Hill

As risk managers gather this week for the Risk & Insurance Management Society Inc.’s annual “RIMS on the Hill” legislative conference, they can be optimistic about the workings of Washington. Given the climate on Capitol Hill, that’s really saying something.

But absent something unforeseen happening, two of RIMS’ paramount federal legislative goals could become reality by early this summer.

One goal may be realized because the financial services regulatory reform bill being hammered out by House and Senate conferees will contain language that would make it easier for qualified risk managers to access the surplus lines insurance market. This has long been a goal of RIMS and other groups such as the Council of Insurance Agents & Brokers.

Although the measure—the Nonadmitted and Reinsurance Reform Act—received House approval several times in recent years, the Senate never took it up until senators debated the comprehensive financial services reform bill.

The measure enjoyed wide support, little opposition and should have become law years ago. Fortunately, it now is on the verge of doing so as part of whatever bill emerges from the House-Senate conference committee.

Another longtime risk management goal, the creation of a federal insurance office within the Treasury Department to provide expertise on insurance matters at the federal level, also appears likely to become reality. The Senate and House versions of reform treat the office somewhat differently, but not so differently that an Office of National Insurance shouldn’t come into being if financial services regulatory reform becomes law.

Admittedly, both bills’ language would set up a federal insurance office with less power than a lot of risk managers, brokers and insurers would have liked. But as is often the case with legislative matters involving the property/casualty insurance industry, the industry itself remains split over how much power, particularly to pre-empt state insurance laws and regulations, any federal insurance office should exercise.

Still, simply bringing a federal-level insurance office into being would represent a major victory for risk managers. For the first time, federal decisionmakers would have a central repository of insurance knowledge they



MARK A. HOFMANN

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could tap. Imagine how valuable such an office would have been in the days after the terrorist attacks of Sept. 11, 2001, as Congress and the White House struggled to craft a plan that would provide a terrorism insurance backstop that would respond to losses from future catastrophic terrorist attacks.

That was one of the arguments the chairman of the House Financial Services Committee’s

Two of RIMS’ paramount federal legislative goals could become reality by early this summer.

Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises—Rep. Paul Kanjorski, D-Pa.—made when he first introduced a bill to create a federal insurance office. To have the expertise at the federal level to fill the insurance information gap in the wake of a major terrorist attack was a good argument then, and it’s just as good an argument now.

While the powers granted to the new office would fall short of what risk managers and other proponents of greater federal oversight of insurance desired, the entity established in the name of financial services regulatory reform is a platform that may be used to build additional reforms in the future. The fact that it took years to get something as common-sensical as surplus lines reform through both houses underscores that insurance regulatory reform is a long-term undertaking.

Remember what Tom Petty sings: “The waiting is the hardest part.” The near-certainty that surplus lines regulatory reform and an Office of National Insurance will come into being shows the wait can be most worthwhile.

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WHAT ARE THEY SAYING?

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Business Insurance OPINIONS

Health reform success depends on employers

IT IS PROBABLY too soon for federal legislators to start considering health care reform Round 2, but that doesn't mean further legislative action will not one day be necessary if the original health care reform law is to succeed.

Clearly, the law will do much to expand access. Millions of low-income Americans will be eligible for federal health insurance premium subsidies, while many others will gain coverage through reform provisions banning pre-existing medical condition exclusions and requiring employers to extend coverage to employees' adult children up to age 26.

Where the law falls way short is its lack of effort to contain costs. We see little, if anything, in the law that will restrain medical providers from demanding and obtaining big rate increases or, for that matter, encouraging them to deliver care in a more cost-efficient way.

At the same time, provisions in the law, such as those that slash projected increases in Medicare payments to providers, almost certainly will result in more provider cost-shifting to the private sector, raising costs even more for employers and stretching their ability to pay for coverage.

Ultimately, the success of the law hinges greatly on keeping employers in the game. If employers drop out because providing coverage no longer is affordable, the costs to the government to subsidize premiums for the millions of employees and their families losing employment-based coverage will explode and result in tax hikes that will not be politically sustainable.

Obviously, lawmakers one day—sooner rather than later—will have to consider ways to prevent that scenario from developing.

Where the law falls way short is its lack of effort to contain costs.

N.J. should reject effort to limit use of RRGs

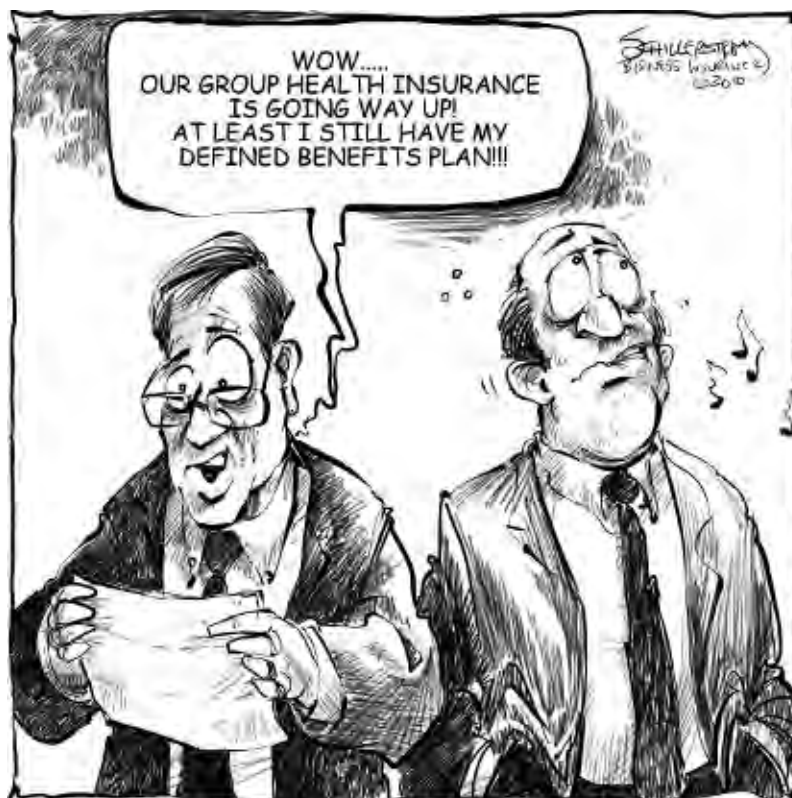
AN ATTEMPT by New Jersey legislators that would effectively bar taxicab firms in the state from buying liability coverage through risk retention groups likely won't stand up to legal challenges and, if it does, likely would add to insurance costs for taxi firms in the state.

As we report on page 3, a bill pending in the New Jersey legislature would require taxi operators to buy coverage from insurers that are members of the state guaranty association. Because RRGs can't, under federal law, be members of guaranty associations, the New Jersey measure would eliminate RRGs as a market option for taxi operators.

Clearly, that is discrimination. Indeed, a decade ago, the 9th U.S. Circuit Court of Appeals ruled that similar requirements in Oregon were pre-empted by the Liability Risk Retention Act of 1986. The decision was a clear affirmation that states cannot discriminate against RRGs as a class. Given that ruling and the language of the federal law, we have no doubt that if the New Jersey measure were enacted, it too would be ruled illegal by courts.

Secondly, we question the necessity of the New Jersey measure. RRGs are a well-established and well-regarded alternative to the traditional insurance market that help increase competition and reduce insurance costs, which are especially high in New Jersey.

Passing legislation restricting RRGs from providing companies in New Jersey with much-needed coverage would be a futile backwards step by state lawmakers. We hope New Jersey lawmakers recognize that and reject the anti-RRG bill.



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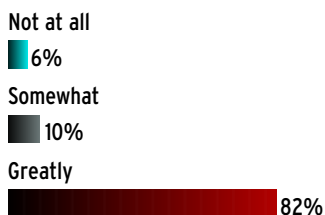
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NEXT WEEK'S QUESTION

Q: Would you want to be BP's risk manager?

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Market Moves

Sedgwick CMS buyout completed for \$1.1B

MEMPHIS, Tenn.—Two private equity firms and the management of Sedgwick Claims Management Services Inc. have finalized their \$1.1 billion buyout of Sedgwick CMS from its previous private equity parents.

Stone Point Capital L.L.C., Hellman & Friedman L.L.C. and Seg-

wick CMS' management acquired 100% ownership of Sedgwick Holding Inc. from Fidelity National Financial Inc., Thomas H. Lee Partners L.P. and other minority shareholders, the Memphis, Tenn.-based third-party administrator said in a statement.

"The arrangements and approvals...proceeded smoothly as anticipated; and our organization's service teams have continued their uninterrupted focus on the delivery of highly responsive, cost-effective claims and productivity management solutions," David A. North, president and CEO of Sedgwick CMS, said in a statement.

Sedgwick CMS is the largest TPA in the United States, based on \$600.6 million in 2009 revenue

from self-insured clients, according to *Business Insurance's* 2010 ranking.

Belfor establishes Latin American headquarters

SANTIAGO, Chile—Belfor USA has established its Latin American headquarters in Santiago, Chile.

The office will facilitate emergency response operations throughout Latin America, the Birmingham, Mich.-based property restoration company said in a statement.

Belfor said it coordinated operations through its Santiago office during the Chilean earthquake in March.

Belfor, which operates in 28 countries, offers emergency response, reconstruction, structural

cleaning and decontamination, and contents restoration among its disaster restoration services.

The office is at Ave. Nueva Tajar 481, Torre Sur Oficina 1101, Las Conde, Santiago, Chile. The phone number is (56)-2-714-6166.

MGA Aran Insurance acquires two providers

ROCKVILLE CENTRE, N.Y.—Aran Insurance Services Group has acquired MiniCo Insurance Agency L.L.C. and Health Reinsurance Management Partnership.

In a statement, Aran said it acquired the Danvers, Mass.-based health care reinsurance provider as well as the Phoenix-based insurance agency operations and publishing

division of MiniCo Inc. as part of a strategic expansion of its insurance and financial product offerings.

Terms of the acquisitions were not disclosed.

Both acquired companies will continue to do business under their established monikers at their current locations, the Rockville Centre, N.Y.-based managing general agency said in the statement.

"These actions represent further steps toward our goal of building a suite of diversified insurance products that will serve the United States and Canadian markets," John LaCava, president and CEO of Aran, said in the statement.

Law firm relocates Chicago headquarters

CHICAGO—Childress Duffy Goldblatt Ltd. has moved its Chicago headquarters.

The Chicago-based law firm that specializes in insurance recovery, risk management and asset protection has moved to 500 N. Dearborn St., Suite 1200, Chicago, Ill., 60654.

Childress Duffy Goldblatt, which has Florida offices in Miami, Tampa and Naples, said its phone and fax numbers will remain the same.

For more information, call 312-494-0200 or visit www.cdglawyers.com.

Bollinger acquires Gilmore Agency

SHORT HILLS, N.J.—Bollinger Inc. has acquired Succasunna, N.J.-based James E. Gilmore Agency Inc.

Founded in 1966, Gilmore Insurance provides commercial, personal and employee benefits insurance services to nearly 400 business clients and 1,100 families and individuals, according to a statement.

James F. Gilmore, previously president of Gilmore Insurance, joins the Short Hills, N.J., agency as senior vp.

"While our name will change, our customers will receive the same excellent customer service, along with a broader selection of insurance products and markets," Mr. Gilmore said in the statement. "We strongly believe that the resources realized from this new relationship will greatly benefit our clients."

Bollinger said Mr. Gilmore and his staff will relocate to its Short Hills headquarters.

The deal, for which terms were not disclosed, is Bollinger's 44th agency acquisition in recent years, the company said in the statement.

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Penny-pinching to stay in budget

By **RUSS BANHAM**

As economic problems continue to depress tax revenues, public entity risk managers are working to find creative ways to protect organizations with less money to buy coverage.

While the soft property/casualty insurance market is providing some relief of the general budget squeeze, risk managers are restructuring their programs to ensure that crucial coverages remain in place and are outsourcing more services as their own staffs are cut back.

When Scott Clark joined Miami-Dade County Public Schools' risk and benefits department 25 years ago, Florida's tax coffers contained sales tax and property tax dollars in a 3-to-1 ratio, respectively. Throughout the years, this ratio reversed with devastating consequences: Falling home values in the hard-hit state took a financial toll on its aggregate property tax volume, requiring sharp cuts in the budget.

"We had to take \$700 million out of Miami-Dade's budget, and some of it fell in my lap," said Mr. Clark, risk and benefits officer for the school system in Miami.

Like other public entity risk managers, he is caught in a delicate balancing act—

effectively managing exposures with less money to do it.

Although Florida was at the center of the real estate crisis, even relatively stable Nebraska's state risk management department caught a bullet. "We've endured several rounds of budget cuts in the 3% to 5% range in the last two years," said the state's risk manager, Laura Peterson, in Lincoln, Neb. "It's a challenge."

Tax collections in the United States were down 16.6% from June 30, 2008, to June 30, 2009, the biggest plunge in nearly half a century, according to statistics compiled by the Nelson A. Rockefeller Institute of Government, a public policy institute in Albany, N.Y. Falling home values, incomes and sales as a result of the recession are the main reason for the fall, according to the Rockefeller Institute. States, cities, counties and other local municipalities are responding by paring services, reducing employment and restricting budgets.

But local authorities should be wary of how this affects risk management and insurance, said John Hayden, executive vp at Willis Group Holdings P.L.C. in Columbus, Ohio, where he heads the brokerage's national pooling practice. Cutting into an insurance program's coverages and finan-

cial limits to save a few dollars could backfire into uninsured or underinsured losses down the line, he said.

The soft property/casualty insurance market has helped risk managers cope with budget cuts as their premiums largely have remained flat or fallen. However, "the market may be easy today, but it won't be forever," said Mary Breighner, vp and public entity practice leader at Factory Mutual Insurance Co., which does business as FM Global. "Risk managers need to be viewing their current programs in terms of helping their cities, counties and states prepare for the next hard market."

For the most part, public entity risk managers are not gutting their insurance programs to address budget shortfalls; they're focusing instead on reducing service-related costs. "We haven't seen major changes in limits or retentions across the country, but certainly this is something always on the table," said Brad Harnes, Houston-based managing director of Marsh Inc.'s national public entity practice. "Rather, they're doing things like staff reductions, outsourcing services and cutting training programs."

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Public Entity
Risk Management

SPOTLIGHT

**BI RANKING:
LARGEST PUBLIC
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**BE WARY OF DEALS,
PUBLIC ENTITY RISK
POOLS ADVISED**
PAGE 16

LARGEST EMPLOYEE BENEFIT & PROPERTY/CASUALTY PUBLIC ENTITY RISK POOLS

Ranked by 2009 member contributions

POOL NAME	2009 MEMBER CONTRIBUTIONS
Self-Insured Schools of California	\$998,549,889
California State Assn. of Counties Excess Insurance Authority (CSAC EIA)	\$385,777,550
Alliance of Schools for Cooperative Insurance Programs (ASCIP)	\$167,889,884
Southern California Schools Employee Benefits Assn. Joint Powers Authority	\$118,000,001
Schools Insurance Authority	\$45,925,876

Source: BI survey

LARGEST PROPERTY/CASUALTY PUBLIC ENTITY RISK POOLS

Ranked by 2009 member contributions

POOL NAME	2009 MEMBER CONTRIBUTIONS
Protected Insurance Program for Schools (PIPS)	\$189,625,839
Municipal Excess Liability Joint Insurance Fund	\$188,282,000
Texas Municipal League Intergovernmental Risk Pool	\$152,768,310
Texas Assn. of School Boards Risk Management Fund	\$85,100,000
Housing Authority Insurance Group ¹	\$84,034,969

¹ Includes Housing Authority Property and Housing Authority Risk Retention Group
Source: BI survey

LARGEST EMPLOYEE BENEFIT PUBLIC ENTITY RISK POOLS

Ranked by 2009 member contributions

POOL NAME	2009 MEMBER CONTRIBUTIONS
New Hampshire Local Government Center (LGC) HealthTrust L.L.C.	\$366,094,747
Vermont Education Health Initiative	\$211,862,041
Municipal Reinsurance Health Insurance Fund	\$160,000,000
Texas Assn. of Counties Health & Employee Benefits Pool	\$132,417,951
Texas Municipal League Intergovernmental Employee Benefits Pool	\$98,484,633

Source: BI survey

Largest public entity risk pools

Ranked by 2009 member contributions

Rank	Pool name/Address	Phone/Web site	2009 member contributions	2009 pool members	Type of pool	Principal officer
1	Self-Insured Schools of California P.O. Box 1847, Bakersfield, Calif. 93303-1847	661-636-4710 sisc.kern.org	\$998,549,889	364	Employee benefits & property/casualty	Russell E. Bigler, CEO
2	California State Assn. of Counties Excess Insurance Authority (CSAC EIA) 75 Iron Point Circle, Folsom, Calif. 95630	916-850-7300 www.csac-eia.org	\$385,777,550	221	Employee benefits & property/casualty	Michael Fleming, CEO
3	New Hampshire Local Government Center (LGC) HealthTrust L.L.C. 25 Triangle Park Drive, P.O. Box 617, Concord, N.H. 03302-0617	603-224-7447 www.nhlgc.org	\$366,094,747	340	Employee benefits	Maura Carroll, interim executive director/fund administrator
4	Vermont Education Health Initiative 79 River St., Suite 301, Montpelier, Vt. 05602	802-223-5040 vehi.org	\$211,862,041	280	Employee benefits	Joseph Zimmerman, president
5	Protected Insurance Program for Schools (PIPS) P.O. Box 4328, Torrance, Calif. 90510	310-212-0363 www.pipsjpa.org	\$189,625,839	414	Property/casualty	Steve Hovey, president
6	Municipal Excess Liability Joint Insurance Fund 250 Pehle Ave., Suite 701, Saddle Brook, N.J. 07663	201-587-0555 www.njmel.org	\$188,282,000	19	Property/casualty	David N. Grubb, executive director
7	Alliance of Schools for Cooperative Insurance Programs (ASCIP) 16550 Bloomfield Ave., Cerritos, Calif. 90703	562-404-8029 www.ascip.org	\$167,889,884	170	Employee benefits & property/casualty	Paula Tanguay, CEO
8	Municipal Reinsurance Health Insurance Fund 250 Pehle Ave., Suite 701, Saddle Brook, N.J. 07663	201-587-0555	\$160,000,000	4	Employee benefits	Paul Laracy, executive director
9	Texas Municipal League Intergovernmental Risk Pool P.O. Box 149194, Austin, Texas 78714-9194	512-491-2300 www.tmlirp.org	\$152,768,310	2,654	Property/casualty	R. Marvin Townsend, executive director
10	Texas Assn. of Counties Health & Employee Benefits Pool P.O. Box 2131, Austin, Texas 78701	512-478-8753 www.county.org	\$132,417,951	185	Employee benefits	Jim Jean, director-program administration

Source: BI survey

Researched by Kevin Edison and Karen Tucker

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Public universities cope with budget, demands

Rely on state funding to operate

By MARK A. HOFMANN

It's not easy being a public university risk manager even in the best of times, and today's situation is far from the best of times.

While tight budgets and downsizing have hit risk management departments of all kinds, public university risk managers also must deal with the expectations of stakeholders that include the entire population of a state. They have reasonable demands, such as transparency about how tax dollars are spent, and perhaps less reasonable demands, such as unfettered access to university property.

Because the universities are public institutions, questions involving conflicting constitutional rights can lead to litigation and expense—a situation not faced by their private counterparts (see related story).

While public universities face “many of the same risks their private counterparts face,” they also have some advantages over their private counterparts, said John McLaughlin, managing director-higher education practice for Arthur J. Gallagher & Co. in Itasca, Ill.

In some cases, state law caps the liability public universities face, he said. In some cases, risk financing is handled by the state.

“Public institutions have historically enjoyed the benefit of state immunities,” said Constance Neary, vp-risk management for Chevy

Chase, Md.-based United Educators Insurance, a reciprocal risk retention group that provides coverage for more than 1,160 members. “Good lawyers can plead around immunities; and given our litigation environment, I think we've seen public institutions rethink the strength of that immunity. Immunities represent shifting sands,” she said.

Throughout higher education, the effect of the economy is the single biggest factor that's facing universities, Mr. McLaughlin said. Public universities clearly are affected by reduced state funding and forced furloughs, he said.

“Our biggest challenge is the state budget,” said Grace Crickette, chief risk officer for the University of California in Oakland. “Our fundamental fiscal problem is the disinvestment by the state of California in the University of California. In 1980, higher education made up 17% of the state budget; now it's 9%.”

“We practice enterprise risk management. From an ERM standpoint, it impacts all of areas of risk, it impacts our strategic risks, our operational risks, reporting risk and compliance risks,” she said.

Public universities “rely on X number of dollars from the state,” said William K. Austin, a consultant with Austin & Stanovich Risk Managers L.L.C. in Providence, R.I. When state budgets are short of funds, they reduce support for pub-



MICHAEL MARCOTTE

‘A lot of people think because they pay their state taxes, they are entitled to use our gymnasiums, libraries and other facilities as if they owned them. This causes us a lot more traffic and creates some premises liability exposures for us.’

Gary Langsdale,
Pennsylvania State University

lic education. “As you reduce the budget, you also reduce the amount of funds available for repair, thereby increasing third-party exposures to things like slips, trips and falls,” Mr. Austin said.

“Obviously, the financial situation has affected us as well,” said Steve Kenny, director of risk management services at the University of North Carolina at Chapel Hill. “We do receive some support from the state and some of that was cut last year, and we're also expecting more cuts this year.”

“When we have these budget cuts, it has an effect on our ability to manage risks,” said Mr. Kenny. “We've had to re-evaluate how we purchase our insurance. We're assuming more risk, whereas we would have purchased insurance in the past or maybe taking a higher deductible,” he said.

“Despite our economic situation, safety is still a top priority,” Mr. Kenny said.

“We have had to become much more efficient and drive savings wherever possible,” Ms. Crickette said.

Her department has “reduced our cost of risk in our risk services program by over \$420 million over the last five years. Even though we are facing these budget cuts, we've invested in loss prevention of both traditional and ERM programs and that has helped us save money.”

“Keeping in mind that Penn State is not owned by the state, but we receive some money from the state, we are impacted but not as strongly as the true state-owned universities are,” said Gary Langsdale, risk officer for Pennsylvania State University in State College, Pa. “But a dollar is a dollar and every dollar we lose” because the state is hurting financial-

ly hurts the school as well, he said.

He said the school is expected to continue its mission even in the face of budget shortfalls.

Mr. Langsdale noted that Penn State is a land-grant college, which means its risk management program covers the state agricultural extension service, for which many officers “are looking for programs to fund themselves,” he said. “They may inadvertently create new risks with new programs.”

An ongoing challenge for public universities is that the public expects access to school facilities.

“A lot of people think because they pay their state taxes, they are entitled to use our gymnasiums, libraries and other facilities as if they owned them,” Mr. Langsdale said. “This causes us a lot more traffic and creates some premises liability exposures for us.”

“We're obviously a very large decentralized university,” said UNC's Mr. Kenny. “We have many employees that have risk management or safety compliance-type responsibilities. One of the biggest challenges is just making sure that we're handling our risk management, compliance and governance in some type of effective, efficient fashion.”

“Our stakeholders are essentially the entire citizens of the state,” Mr. Kenny said. “They demand transparency. They demand that we be good stewards of their property, their assets.”

He added that the North Carolina state university system has 16 campuses and only three or four have dedicated risk managers.

“We share information. We all take the stance that we're all in this together,” Mr. Langsdale said.

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Constitution binds institutions

Public and private universities may be alike in many ways, but some of the exposures that public schools face don't exist for their private counterparts.

“When it comes to claims, one big differential is that the public educational institution is subject to constitutional obligations,” said Constance Neary, vp-risk management for Chevy Chase, Md.-based United Educators Insurance, a reciprocal risk retention group with more than 1,160 members that provides insurance coverage to educational institutions.

“It's the public institution that's going to see claims for First Amendment violations, freedom of religion and equal protection. They often involve very strongly held principles and can result in heated and lengthy litigation,” Ms. Neary said.

For example, the U.S. Supreme Court heard arguments in April whether University of California's Hastings College of the Law in San Francisco could refuse to fund the campus chapter of the Christian Legal Society under an

anti-discrimination policy. The school said it could because the group excluded students who refused to sign a statement of faith from being voting members. The group sued, holding that its First Amendment rights were violated.

“Another area where there is a unique challenge for public institutions is open records laws,” said Ms. Neary. “Every state has them, and under those laws, things like compensation levels, payments and settlements can all make it into a public record. This is particularly challenging when the public institution is thrown into the litigation context.”

She also noted economic conditions mean public colleges are affected greatly by the political process.

“State legislators can cap tuition levels, can make it much more difficult for institutions to chart a course or control their own destiny. Definitely, the political climate is something that a public institution has to think harder about” than its private counterpart, she said.

—By Mark A. Hofmann

Public: Tight budgets force balancing act

CONTINUED FROM PAGE 11

Nebraska's Ms. Peterson restructured the state's risk management training in an effort to reduce costs. "We went to the various state agencies and said, 'Dollarwise, what are the biggest losses you're experiencing in terms of frequency and severity?' and then tailored our training programs to these issues," she explained. "Instead of cutting risk management training across the board, we've maintained the programs that had the most impact on our bottom line."

Miami-Dade Schools' Mr. Clark swallowed stronger medicine. "I lost my entire loss prevention staff—four risk management professionals that either retired or were dispersed elsewhere," he said. "That saved us \$200,000, but as I told my superintendent, 'a \$200,000 savings isn't worth spit if we have a bad accident.' Still, I've been able to squeeze the balloon pretty successfully."

Mr. Clark's department has been able to reduce costs in several areas, including employee benefits. On Jan. 1 for instance, Mr. Clark restructured the county's employee health care program from a fully insured program to a self-insured one. Employees must share more in the cost of insuring their dependents, depending on their salaries. Based on five salary ranges, premium sharing is more for those with higher salaries. The restructuring saved \$700 million, though Mr. Clark acknowledged the county absorbed more risk. "We went with a conservative actuarial analysis to ensure we were properly and adequately funded," he said. "We also bought two different types of stop-loss reinsurance—one covering each individual in the program and the other, an aggregate protection."

Ironically, savings also came from the reduction in Florida's real estate values, helping Mr. Clark renew the county's property windstorm program with \$350 million in coverage—up by \$30 million—for \$1.6 million less in premium.

The move resulted from the lower value of county-owned buildings and a light hurricane season last year. "I also tap every market with available windstorm capacity in Florida, whereas in the past we used to put large coverage amounts with one or two carriers," he said. "We have significant disaster preparedness and recovery programs here so the carriers are comfortable competing for participation."

He further negotiated caps on the commission paid to the broker on the property program, and invested the \$50,000 in savings in extra loss prevention services. It took some of the sting out of losing his loss prevention staff, Mr. Clark said.

He also undertook the first external appraisal in 25 years of the county's 350 properties, based on the cost of construction in today's dollars. "Moving forward, I know now my property values are accurate for insurance purposes," he said.

In Nebraska, Ms. Peterson resisted hiking the state's self-insured retentions on its all-lines aggregate program, although she added a "corri-

dor deductible"—a one-time \$300,000 payment in the event of a per-occurrence loss. The retention reduces the county's premium, while the corridor deductible limits its risk of financial loss. "If we endure a \$1 million auto accident loss, with the corridor deductible the entire amount would be paid by the carrier," she said. "The next time a big claim came in, we'd be on the hook for the \$300,000."

Bill Jemison, risk manager at Metro, a regional government in the Portland area of Oregon, also is doing more with less. "Metro endured a 5% to 8% decrease in revenue in the last fiscal year, but it hasn't hit risk man-

agement too hard," said Mr. Jemison, who is based in Portland. "We've been fortunate in receiving two long-term policyholder dividends—one for \$160,000 on our workers compensation program and the other, a \$60,000 credit from FM Global toward our property program. That's helped at a time when there's not much else we can do, insurance-wise."

Mr. Jemison increased the deductibles on most of Metro's insurance programs four years ago. For example, its self-insured retention on property jumped from \$100,000 to \$500,000, and its self-insured retention increased from \$500,000 to \$1 million. "I've run through the easy

fruit on the tree," he said. "I can't see going any higher."

Other public entities are pursuing similar cost-cutting initiatives and premium-reduction strategies.

William F. Becker, executive vp, public administration and education, at Aon Risk Services in Washington, said different public entities in a state can pool their risks to garner economy-of-scale premium discounting.

"We just worked with two entities in Virginia that combined their property programs, took this volume to the marketplace and were able to maximize cost savings through the consolidation," he said. "In addition to lower rates, they achieved significant increases in the sublimits, decreases in the deductibles, and some coverages like

terrorism insurance that were previously excluded in one of the programs are now included in both."

Brokers say they are providing other ways for public entities to balance cost and risk, such as reaching out to carriers not just for the lowest price but for their value-added services, replacing classroom training with less expensive online courses, staying on top of exposure changes in property and workers comp programs, and outsourcing risk management services to third parties at less cost than conducting the work internally.

Russ Banham is a veteran business journalist, author of 21 books and former insurance editor at the Journal of Commerce.

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Questions Answers

Laura Peterson will begin her term as president of the Alexandria, Va.-based Public Risk Management Assn. during PRIMA's annual conference in Orlando, Fla., this week. Ms. Peterson is risk state manager and agency general counsel for the state of Nebraska in Lincoln. She recently spoke with Business Insurance Senior Editor Mark A. Hofmann about her objectives as PRIMA president and the challenges facing public sector risk managers.



New leader looks ahead

Q: What issues and initiatives do you plan to promote during your term as PRIMA president?

Given the economy right now, the first goal I have as PRIMA president is to ensure the continued financial stability and viability of PRIMA itself, so that we can continue to help our members. I'd like to do what PRIMA can to ensure that every member, organization and even non-member public entities understand the importance and contribution of their risk programs to their government, to their citizens and to their bottom line of government. That includes helping risk managers find a seat at the decision-making table, a seat with the organization's decision makers, so that risk can really be considered as an important part of the operations of government.

And to continue what I think PRIMA already does a good job of—to provide resources and training, especially in the most efficient and convenient way possible.

Q: Are you seeing more of an emphasis on enterprise risk management in the public sector?

I think that enterprise risk management is something that we continue to investigate as risk managers and apply as appropriate and as we can. I think there's a little bit of an extra challenge in applying an enterprise risk management concept to government, where oftentimes you have independent, autonomous departments. There's no one person who can mandate or tell people, "You know, this is what we're going to do on an enterprise-wide basis." But I do think that the more risk managers are brought into the fold of important decisions in the organization, the more risk becomes operational, the easier it is to move towards sort of an enterprise risk management model. It's certainly something that the risk managers are becoming more and more aware of and have to consider.

Q: What are the greatest challenges facing public-sector risk managers today?

First and foremost, undoubtedly the biggest challenge is the current state of the economy. Right now, public entity risk managers are challenged in every way by the economic challenges of our governments and the citizens that participate in those governments. I think that governments, in my experience at least, are sometimes slower to recover from economic challenges than maybe some private-sector entities. I think these challenges manifest themselves in ways that you might think of such as, yes, risk management programs, like every other government program, are seeing shrinking program budgets, possibly shrinking staff and obviously the call to "do more with less."

But I think it also manifests itself in ways that people don't think of. As government departments look for innovative ways to fill their own budget gaps, they may have ideas that represent some cash savings to them. But if they truly were considering their total cost, including the cost of risk of that alternative delivery method or that alternative way of doing business, sometimes the total cost of their great idea to save money can be greater than their originally planned delivery.

We've had departments who said they're going to replace some of their labor, doing some things in our buildings with individuals who have been ordered by the court to do community service in lieu of a sentence of jail time. While that sounds like a great idea because it's free labor, it comes with some requirements for providing workers compensation coverage for those individuals, or providing a specific kind of supervision for those individuals at odd hours.



Public risk pool members focus on prices during renewals

Price-sensitive entities may be sacrificing coverage for lower cost

By **RODD ZOLKOS**

Most public entity risk pools are retaining members and some are gaining new ones, even as a competitive pricing environment is forcing many to respond to private insurers' efforts to poach pool business.

At the same time, the ongoing soft market is allowing pools to save on reinsurance costs, savings that can be passed along to their members.

But, given the economy, those members are extremely cost-conscious, often making price the key driver as pool members look to renew coverage, many say.

"Probably the most critical thing is, because of the state of the economy, everyone is extremely cost-conscious," said Harold Pumford, CEO of the Prague, Okla.-based Assn. of Governmental Risk Pools.

Cost "is making a much more significant difference than it has in the past," Mr. Pumford said, adding that most AGRIP member pools report retaining or adding new members during the past year.

"From what I'm hearing from the other pool administrators that I work with on a regular basis and others that work with pooling groups is that the pool financials are performing well," said Shawn Bubb, director of insurance services at the Montana Schools Group Insurance Authority in Helena, Mont.

However, "What was interesting is that there's still come craziness" on the part of insurers, Mr. Bubb said. "There is quite a bit of competition for that primary insurance dollar."

Pat Shaver, executive director of the Schools of Ohio Risk Sharing Authority in Columbus, Ohio, said at times he sees schools in the state trade coverage for price, though they're not always aware that they're doing so.

"I've seen market cycles over a 30-year career, but the thing I find unusual and somewhat disturbing this year is that schools are going with considerably less coverage in order to save nickels and dimes," Mr. Shaver said. "There are proposals out there with much less coverage and saving 3%, 4%, 5% in premiums."

Because many school treasurers the SORSA pool works with aren't insurance experts, Mr. Shaver called the low-price insurance deals offered by many private insurers "very much a buyer-beware environment."

"I'm spending a whole lot of my time fending off competition from private insurers because price is the

only thing they're putting on the table right now," Mr. Shaver said.

As part of that effort, he's helping school officials compare the pool's offerings with those presented by private insurers seeking their business. "We're doing more and more of that," Mr. Shaver said. "We just want to make sure that coverages are apples to apples."

Paul J. Miola, executive vp in the public entity division of Arthur J. Gallagher Risk Management Services Inc. in Marlton, N.J., said the competitive environment also affects the way his firm does business with pools.

"We're trying to stay close to our members," he said. "We're meeting with our committees. We're also visiting all the members who are up for renewal, visiting them personally to make sure that we know their concerns."

"Obviously, pricing's always an important factor, but when they look at another program, they need to make a full comparison of coverage, pricing, dividends, services,

'I've seen market cycles over a 30-year career, but the thing I find unusual and somewhat disturbing this year is that schools are going with considerably less coverage in order to save nickels and dimes.'

Pat Shaver, Schools of Ohio Risk Sharing Authority

etc.," Mr. Miola said.

Many pools are looking to enhance services offered to members as a way to add value and retain business.

"They're continuing to add additional services, particularly in the employment, driving and online training areas," Mr. Pumford said. "Programs such as preadvice for personnel actions, more driver simulators are being made available. Several pools have partnered with companies to add online training programs specific to their state."

At the SORSA pool, "We have what we call a legal help desk that schools can use whenever they face a dicey situation," Mr. Shaver said. In the current economic environment, he said he sees member schools increasingly using the free legal service as an alternative to paying for advice. "That's one of the things that's helping us in a competitive environment," Mr. Shaver said.

Lynn McNamara, executive direc-

tor of CityCounty Insurance Services in Salem, Ore., said her pool is beginning to offer some of the member training it provides online.

"We just went into e-learning," Ms. McNamara said. "A lot is focused on the safety side."

"We do a tremendous amount of training already," she said, adding that online training is particularly useful now because many pool members find it difficult to justify the expenditures associated with traveling for training.

Price-sensitive buyers

But Mr. Bubb said that while there is some focus on adding services to retain members, municipal entities are so price-sensitive in this climate "that if you offered someone two packages, one with all kinds of services and one that's \$5,000 less than the one with all the bells and whistles, people will take the one that's \$5,000 less over the one with the nice package of services."

"Pricing is really driving the day right now," he said. "It's been a real interesting time to watch. I'm looking forward to when the story line changes because it's been like this for a while now."

Although it hasn't reached that point yet in Montana and the western states, Mr. Bubb said pricing has gotten so competitive in some areas that there is business "you just have to walk away from at that price." But, from what he's seeing, "it's really only the toughest risk at the highest level that pools are really showing that pricing discipline," he said.

Aside from pricing, other issues facing pools are questions over whether pools or their individual members should be considered responsible reporting entities under federal Medicare secondary-payer requirements and how federal health care reform might affect pools.

AGRIP recently appointed a committee to study health care reform to identify areas that might affect pools differently than other entities.

Another issue facing many pools is the fact that senior management, which oversaw a rise in the use of pools in the 1980s, are reaching retirement age.

"We're going through quite a bit of transition at this time at the senior pool management level," Mr. Pumford said. "Several of us are at or past retirement age. A lot of us that were at the beginning are now ready to turn the reins over to other people."

In many cases, those executive positions are being filled in-house, the AGRIP CEO said. "There have been several in-house promotions where someone has prepared to take the position," he said. "We don't really see so much people moving pool to pool, but there has been some movement."

Cash: Staying the course

CONTINUED FROM PAGE 4

Europe based on existing relationships with our Zurich office.

How does Endurance see opportunities in the middle market?

The middle market will be a priority for us. Our underwriting model is already very successful for middle-market risks. We entered the U.S. middle market through the excess and surplus lines platform, writing slightly higher hazard and larger risks. We've historically concentrated in the specialty area, so the strategic issue we face is how deeply we want to penetrate that space in the middle market. It's a natural segment of business for us to grow into over time.

Endurance has maintained an "excellent" rating from Standard & Poor's Corp. on enterprise risk management. What drives Endurance's approach to ERM?

A substantial portion of our business comes from excess and catastrophe coverages, which tend to have higher margins, but also greater risk concentrations and volatility. Our core strategy is to take these higher risk concentrations and the excess exposure associated with them, and help clients better manage risk across all business lines by applying a risk-based underwriting strategy that is balanced with disciplined risk management.

At Endurance, we place a significant focus on being aware of where we have concentrations of business. There are two aspects to this activity. The first aspect is that of accurately modeling and reporting risk concentrations to ensure the company understands what risks it holds and is in position to manage the size of those risks. The second aspect of enterprise risk management is having a robust governance structure through which these risks are measured, monitored, audited and controlled. This second component of ERM is arguably tougher than the first. I firmly believe ERM is here to stay and, over time, the pressure will be on companies to integrate risk measurement and risk governance. Those companies who do that will be more successful.

RRGs: N.J. bill would limit cover options

CONTINUED FROM PAGE 3

Guaranty Assn.

The guaranty association language in the New Jersey bill would violate the LRRRA, said Robert H. Myers Jr., partner in the insurance group of Morris, Manning & Martin L.L.P. in Washington and general counsel of the National Risk Retention Assn.

"The National Warranty case is evidence of that," he said. "I think the language of the act is pretty darn clear."

At least three risk retention groups write taxicab coverage in New Jersey, Mr. Sgambati said. "We can only believe the legislators,

however it came about, believed (the amendment) was a way to provide additional protection to passengers who have to make a claim against an insurance company," he said.

But, he said, if the bill were enacted as worded, "It would appear to take the risk retention groups out of the world of insuring taxicabs in New Jersey." And, the NJCIA president said, such a measure could be counter to efforts to promote New Jersey as a captive domicile.

"Anytime you're taking a risk retention group—which is a form of a captive insurance company—out of the picture of doing business in

the state, it could send the wrong message to captive managers who might one day promote New Jersey as a domicile and to the industry as a whole," Mr. Sgambati said.

The bill was held back from presentation and voting at the May 27 meeting of the Senate Transportation Committee and, with the Legislature set to begin its summer recess at the end of June, it's possible that it won't be taken up again until fall. "We're going to continue to pursue this with legislators," Mr. Sgambati said. "The risk retention groups involved have also had their attorneys in the picture."

Though previous efforts to form a

captive domicile in New Jersey have been unsuccessful, captive legislation was introduced again this year, with the Assembly's Financial Institutions and Insurance Committee voting in late May to move a bill to the full Assembly for a vote. The Senate version of the bill remains in that chamber's Commerce Committee, but Mr. Sgambati said he's "quite optimistic" a New Jersey captive law will be enacted this year.

Formed in December 2009, the NJCIA is actively recruiting members. "We're standing by and starting to nurture the community, creating networking events," Mr. Sgambati said. "The association usually comes after the legislation," he said. "We're doing things a little differently."

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Live Online: Thurs. June 17, 2010 | 2 p.m. Eastern | Free of Charge

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Join Zurich Insurance in this complimentary webinar to help define the links in your supply chain and help you maintain sustainability and profitability. The webinar will also review how your business continuity management approach and business impact analysis can help increase the chances that a manufacturing business, or any business, will be able to recover faster after an interruption. The webinar will be presented by Cal Beyer, Zurich North America Commercial, Head of Manufacturing, and Linda Conrad, Zurich Services Corporation, Director of Strategic Risk Management. Roberto Cenicerros, Senior Editor of *Business Insurance*, will moderate the webinar.

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Storm Warning: Is the Northeast Prepared for Hurricane Risks?

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With the 2010 hurricane season officially underway June 1, many risk managers with coastal property are making their annual review of their loss control, catastrophe planning and insurance readiness. But what about in the Northeastern United States, where some of the country's greatest population density and infrastructure are located? Although hurricanes don't make landfall in the Northeastern United States as frequently as they do in the Southeast and Gulf Coast, they are potentially very costly. Catastrophe modeler AIR Worldwide estimates that if the "Long Island Express" hurricane of 1938 happened today, it would cause \$33 billion in insured damage.

To help risk managers and loss control professionals prepare for this threat, please join Richard Lafayette, VP and Managing Director of Crawford & Co.'s Global Technical Services Division; Darren R. Perry, Vice President of REI Engineers; Al Tobin, Managing Director and leader of Aon Risk Service's property practice; and *Business Insurance* Senior Editor, Mark A. Hofmann as they explore this risk and answer audience questions.

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Terror: Threat changes as local groups spread

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While the United States remains in the "elevated threat" category as it was in 2009, it has moved to the higher end of that spectrum. Since early 2009, there have been eight significant Islamist-related attacks and plots in the United States, Aon said.

"The U.S. has done a good job of erecting the kind of defenses that make it more and more difficult for violent extremists to operate in the country, but in a free society (terrorists) can find a way," Richard Myers, retired chairman of the U.S. Joint Chiefs of Staff and a member of Aon's board of directors, said at a press conference in New York.

Aon officials said the United Kingdom, categorized near the bottom of the "high threat" group, is in a similar situation as the U.S.

Local groups increase

Globally, al-Qaida's ability to mount large-scale attacks has diminished, but the appearance of local terrorist groups has increased, Aon said. The local groups have nationalist, far right-wing or far left-wing agendas, and often confine their activities to their home area. That contrasts with al-Qaida, which has sought to expand its operations

HIGHEST RISK

Countries where terrorism is a "severe threat"

- Afghanistan
- India
- Iraq
- Pakistan
- the Palestinian Territories
- Somalia
- Yemen

Source: Aon Corp.

around the world, officials said.

"We're seeing the spread of Islamist ideology but into more defined pockets around the world," said David Claridge, London-based managing director of Janusian.

The Terrorism Threat Map identifies seven countries as under "severe threat" of terrorism (see box).

In addition to the United Kingdom, 19 other countries are rated as having a "high threat" of terrorism,

including Colombia, Israel, Nigeria, the Philippines, Russia, Saudi Arabia, Thailand and Turkey.

Aside from the United States, more than two dozen other countries classified as having an "elevated threat" of terrorism include France, Germany, Mexico and Sudan.

Fourteen countries saw their threat level decrease compared with Aon's 2009 map, while 16 countries saw their threat level increase.

Meanwhile, the Guy Carpenter report found that 83% of the reinsurers that responded to an informal survey in September said they "are actively seeking new or expanded terrorism transactions." But the survey found that demand for standalone coverage is continuing to drop.

Other priorities for the reinsurance budget and the passage of time since the last major terrorist strike were cited in the report as possible reasons for the drop-off.

The report also cited a finding it called "somewhat surprising": the availability of coverage for nuclear, biological, chemical and radiological exposures through about two-thirds of the markets, with roughly one-third of the markets considering pandemic covers.

Aon's report is available free with registration at www.aon.com/terrorismmap. Guy Carpenter's report is available at www.guycarp.com.

Mark A. Hofmann contributed to this article.

UP Comings & Goings CLOSE



ROBERT ALLEN

NEW JOB TITLE: Singapore- and Los Angeles-based partner at Mercer L.L.C.'s global health management practice.

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INDUSTRY OUTLOOK: I think that the outlook is exciting. There are a lot of changes that we are seeing both in the U.S. market and abroad. There are a great number of opportunities whenever we see change, in terms of both the economy and health policy, and changes in terms of legislative mandates. I think the outlook is strong. I think there will be increasing pressure to be innovative...a need to reinvent the way we've done things.

WHY CHOOSE INSURANCE: It wasn't necessarily a career choice in the explicit sense; it was an evolution. Because I was in leadership positions from the beginning of my career—clinical in the university setting and administration in the hospital setting—I saw the advent of managed care. Being where I was, I was recruited by the CIGNA (unit) in Arizona to help develop a relatively new utilization management program as well as coordinate with their staff model. In the insurance industry, I found a great need for people who have the ability to cross both the business as well as the clinical spectrum. For me, this has been a really exciting career path. (As a medical doctor,) I do love patient care, though.

OUTSIDE THE INDUSTRY, A DREAM JOB: I have always been very fascinated and passionate about the plight of people worldwide when it comes to health issues and so, for me, being part of a nongovernment organization and working to address global health care and bring more equity worldwide to health care would be a phenomenal. Not exactly bringing world peace, but close.

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Cup: FIFA cover omits cancellation

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Munich Reinsurance Co.

FIFA did not purchase insurance to cover cancellation of the World Cup. The organization chose not to cover that risk because "even if the event is delayed for any reason, it is extremely unlikely that it would be called off," a spokesman said in an e-mail.

Insurance and security in South Africa will be in place for 64 matches played in nine cities during the monthlong World Cup centered in Johannesburg. Estimates of the number of visitors have ranged as high as 450,000 to watch the games.

The South African government has assured fans that enhanced security will keep them safe at World Cup venues. Concerns grew recently based on a report that an al-Qaida operative in Iraq had been detained on suspicion of planning an attack at the event.

Such threats are not uncommon, said Hans J.R. Steffen, Swiss Re's Zurich-based expert for large events.

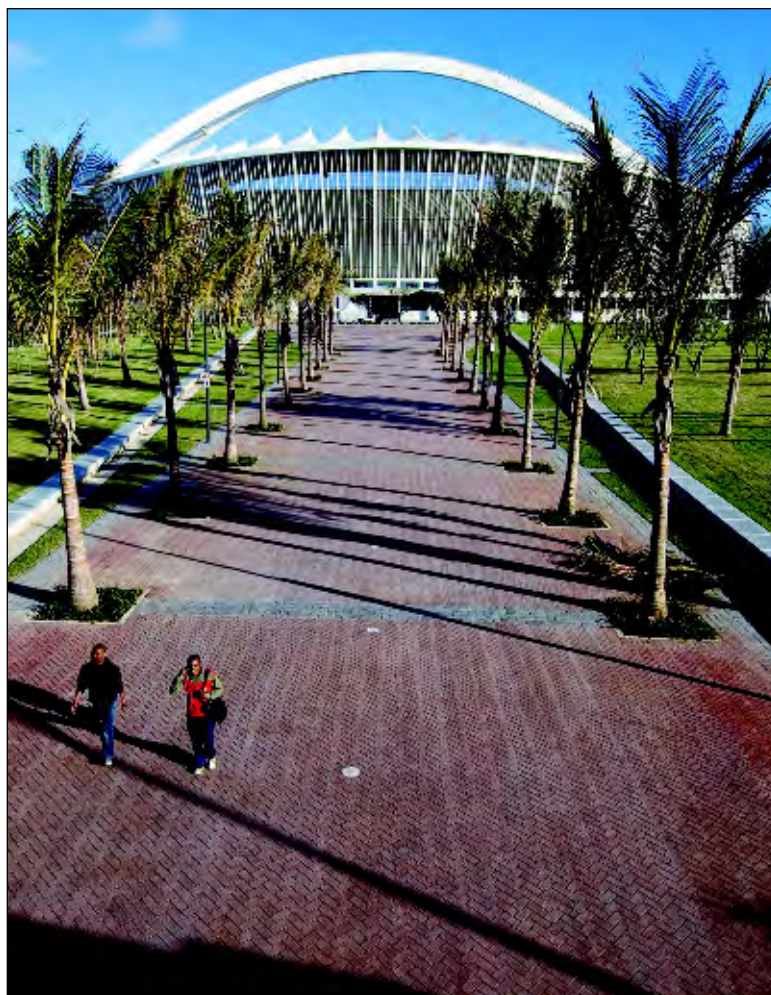
"These are threats that are faced by all major events," Mr. Steffen said. "This threat is not any bigger than those at other, previous events."

He said South African police and security agencies have taken all necessary precautions to keep the event safe.

"The location does not necessarily represent any unusual exposures," said Jonathan Cole, a London-based partner with Jardine Lloyd Thompson Ltd. "Underwriters' main concerns focus around the infrastructure, terrorism and civil commotion," he said in an e-mail.

The insurance market's confidence, though, has not been shared by everyone participating in the World Cup.

Claus Wunderlich, owner of Die Sport Assekuranz, a Reutlingen, Germany-based broker, said he has been approached by soccer players interested in kidnap and ransom insurance to cover them during the World Cup (see story). He would



REUTERS/LANDOV

Durban, South Africa, is one of nine cities in the nation that are hosting the FIFA World Cup that begins June 11 and runs through July 11.

not divulge whether any such coverage was placed.

South Africa has stepped up its border security and is working with international agencies to gather intelligence regarding potential threats, the 2010 FIFA World Cup Organizing Committee said. Police will deploy 41,000 officers to maintain order and about \$85 million will be spent on 10 water cannons, 100 BMW automobiles to patrol highways, 300 mobile cameras, unmanned surveillance aircraft, helicopters and other security equipment.

"The police force is ready," South Africa Minister of Police Nathi Mthethwa said in a mid-May statement regarding World Cup security. "Police will be everywhere, ready for any eventuality. This is the epitome of our security plan; we will cover every corner because we do not have any no-go areas," he said.

While no country can "stand boldly and pronounce that it is

immune from terrorism, what becomes critical is, should such an act occur, how do we respond? What makes us even more alert in our security planning is that South Africa will be hosting the whole world and therefore we will take no chances," Mr. Mthethwa said.

Mr. Steffen said South African police and security forces are especially vigilant partly because the African continent is hosting the World Cup for the first time. "Imagine how much people want these games to happen without any interruption or disruption," he said.

Very 'important' event

South Africa has hosted other large events, such as the All-Africa Games in 1999 and the Cricket World Cup in 2003. But the FIFA World Cup stands apart in its prominence, said Mr. Steffen.

"The World Cup is definitely a very big and important event for South Africa," he said.

Players buy disability protection

JOHANNESBURG—Some highly paid soccer players who fear injuries in the 2010 FIFA World Cup are taking no chances that their income could be hurt.

Die Sport Assekuranz, a Reutlingen, Germany-based broker that specializes in sports and entertainment insurance, has placed coverage for players to protect their paychecks should they be injured during the competition that runs from June 11 to July 11 in South Africa.

If purchased individually, coverage provides limits of up to €40 million (\$50.3 million) per player in cases of permanent total or temporary total disability, said Claus Wunderlich, owner of Die Sport Assekuranz.

Limits of up to €400 million (\$502.3 million) are available if a soccer club buys coverage for its entire team, he said.

Mr. Wunderlich did not identify players covered by the disability insurance.

The coverage is primarily written by Greenwich, Conn.-based W.R. Berkley Corp., Mr. Wunderlich said.

"If we need more coverage, there are three or four other insurers" that can provide capacity, he said.

—By Michael Bradford

FIFA's coverage protects the Zurich-based organization from losses should the World Cup be postponed or forced to relocate because of terrorism, war, natural disasters or civil unrest, Mr. Steffen said.

Cancellation is the biggest exposure that FIFA and other stakeholders face with regard to the World Cup, Mr. Steffen said. While property/casualty, personal accident and other exposures are among those

that generally are thought of first, "the biggest one is cancellation," he said.

Though FIFA did not buy coverage for that exposure, many others facing losses if the event is canceled did buy cover that would respond, sources said.

Munich Re estimated in its 2009 annual report that the total demand for cancellation insurance could be around \$5 billion.

Cancellation of the event would mean heavy losses for many organizations with ties to FIFA and the World Cup, Mr. Steffen said. Broadcasters, hotels, restaurants, travel agents, souvenir sellers and others would be hit with losses.

Television broadcast rights represent the largest share of exposed revenue for FIFA, a Munich Re spokesman said. The contracts to televise about 100 hours of live soccer involve "huge sums of money," he said.

"Swiss Re and Munich Re are the main providers" of coverage written for FIFA, Mr. Steffen said, with various international and local insurers providing following capacity.

Munich Re said in the annual report that its share of the coverage is the largest at around \$350 million.

Mr. Steffen did not say exactly how much of the coverage Swiss Re will provide, but said it is a "three-digit million" amount.

German reinsurer Hannover Reinsurance Co. confirmed it will provide a portion of the coverage, but a spokeswoman said its participation is "quite marginal."

FIFA's coverage was placed by Erwin Himmelseher Assekuranz-Vermittlung GmbH & Co., a Cologne, Germany-based broker.

FIFA returned to traditional markets for insurance after a pioneering 2003 move in which it purchased a \$260 million catastrophe bond to cover the cancellation exposure of the 2006 World Cup in Germany. It was the first such bond to transfer the risk of staging a sporting event to the capital markets and was the first to cover the risk of terrorism.

FIFA said it turned to the capital markets in 2003 because prices were high in a tight marketplace after the 2001 terrorist attacks in the United States. With insurance prices declining since then, the organization decided to transfer the risk to insurers for the 2010 and 2014 events.

Florida: Reinsurance prices falling and state fund's finances improve

CONTINUED FROM PAGE 3

"The (Florida) reinsurance market continues to be very functional," said Dennis Burke, vp, state relations with the Reinsurance Assn. of America in Washington. "Private reinsurers have abundant capacity and they continue to want Florida cat risk," he said.

The TICL layer, implemented as a temporary solution several years ago, is being phased out by 2014, and its capacity will be reduced by \$2 billion a year. Last year, concerns about the TICL layer's viability to pay claims in the uncertain bonding environment, and rating agen-

'The (Florida) reinsurance market continues to be very functional. Private reinsurers have abundant capacity and they continue to want Florida cat risk.'

Dennis Burke, Reinsurance Assn. of America

cies' treatment of the TICL layer within the reinsurance structure sent many buyers to the open market to secure this part of their program, Ms. Mowery said.

"This year we saw a continuation of that trend," she said.

Late last month the FHCF adviso-

ry council said easing credit markets and the FHCF's reduced capacity would allow Florida to meet all the state's maximum claims-paying capacity for the upcoming hurricane season.

According to FHCF data, the fund has a potential obligation of rough-

ly \$25.5 billion this year. Current capacity includes \$6 billion in cash reserves and \$3.5 billion in pre-event notes. In addition, officials estimate \$15.94 billion could be borrowed to supplement the fund due to improved municipal bond market conditions.

"We're in better shape than we have been in a long time," said Sam Miller, executive vp of the non-profit Florida Insurance Council.

In 2009, FHCF officials said the fund had a potential shortfall of \$18.4 billion because it could only sell \$3 billion in post-event bonds. However, the state was spared major catastrophe losses last year.

While the situation heading into the hurricane season appears positive, "there are still some dark clouds over Florida" as political and economic factors weigh heavily on the industry, Mr. Miller said.

Last week, Florida Gov. Charlie Crist vetoed a property insurance reform bill that had wide industry support, citing concern the legislation would make it easier for insurers to increase residential premiums in Florida.

Florida Insurance Commissioner Kevin McCarty had said the bill would add regulatory tools to ensure the solvency of private insurers.

AIA: Collapse of deal forces examination of other options

CONTINUED FROM PAGE 1

employees, Mr. Benmosche said the insurer still has "several options to consider regarding AIA," but he did not elaborate. He said AIG remains focused on monetizing AIA as well as its American Life Insurance Co. unit "as quickly as possible" and "on appropriate terms" due to the units' "unique strengths."

AIG reached agreement in March to sell ALICO to New York-based MetLife Inc. for \$15.5 billion (*BI*, March 15). That deal is expected to close by year-end.

Reacting to the developments, Bill Bergman, an analyst with Morningstar Inc. in Chicago said, "The fact that they had enough room to do what they did (in refusing to lower the price) suggests there may be better alternatives behind the scenes that we don't know about."

"There must be something going on, given that the board felt confident enough to reject the bid," said Clark Troy, Chapel Hill, N.C.-based senior analyst with research and consulting firm Aite Group L.L.C. "But whether it comes to fruition or not is very difficult" for an outsider to determine, he said.

John Wicher, principal with John Wicher & Associates Inc. in San Francisco, said AIG's board is "continuing to show the discipline which they've shown over the last year in not being unduly pressured by the various shareholders, includ-

ing the government, to raise capital and possibly doing that at the expense of realizing full value."

Mark Purowitz, a partner with Diamond Management & Technology Consultants Inc. in New York, agreed that AIG is in no rush to act.

"I don't think you can replicate the AIA franchise today," Mr. Purowitz said. "It's a unique franchise in the marketplace, which is why I think Prudential and others were very interested in acquiring it in the first place, so I think that AIG is going to hold out for what it thinks is the fair value of that unique franchise."

Meanwhile, AIG's stance on the Prudential deal likely had the Treasury Department's blessing, said Mark Rouck, senior director at Fitch Ratings in Chicago. "As a majority shareholder, I think they have a lot of input into what goes on," he said.

It was reported last week that AIG's bankers estimate AIA could be worth between \$32 billion and \$36 billion after an IPO, but some observers say any option is unlikely to earn the \$35.5 billion AIG would have gained in the original Prudential deal.

"I am not overly optimistic they will realize" that total, "particularly with such a high cash component as was contained in the Prudential deal," said Cathy Seifert, an equity analyst with Standard & Poor's Corp. in New York.

Under revised terms on which AIG and Prudential had agreed, the

deal would have involved \$23 billion in cash.

Some observers say an IPO is the most likely approach.

A buyer willing to pay \$35.5 billion "seems unlikely," said Cliff Gallant, an analyst with Keefe, Bruyette & Woods Inc. in New York. But with an IPO, "a year from now AIA could be an independent company and doing very well."

However, volatility in the Asian equity markets could delay an IPO, Mr. Troy said.

Mr. Wicher said another buyer is a real possibility, but "there are only so many companies of sufficient size to complete a deal like this." Generally, a "private transaction will have a higher valuation than an IPO" because of the synergies involved.

Mr. Purowitz said a buyer must "be someone with a significant enough capitalized structure to do a deal of that magnitude, and there are very few in the industry that could do something like that. It all depends on whether or not it is a strategic fit into an Asian expansion strategy," he said. He did note that "AIA has been extremely profitable for AIG in the past."

Mr. Troy said possible bidders include the state-owned insurers in China, Singapore and Qatar and Toronto-based Manulife Financial Corp. In a statement, Manulife said it does not comment on acquisitions.

Some observers say breaking up the



AP PHOTO

Prudential P.L.C., led by Group Chief Executive Tidjane Thiam, has called off a deal to buy AIA Group Ltd.

unit also is a possibility. It was reported last week that Trieste, Italy-based Assicurazioni Generali S.p.A. may be interested in buying parts of the operation. In a statement, Generali said it is "still premature to talk about it."

"The whole Asia market is viewed as high-growth, high-margin," said Stewart Johnson, a portfolio manager with Stamford, Conn.-based Philo Smith & Co. "There's certainly companies that want to expand into Asia or build existing businesses. But requiring one company to purchase the entire entity would limit your purchasers."

Many observers describe the collapse of the Prudential deal as a setback for AIG.

"They had hopes they were going to have a nice amount of cash coming to the door, and that would have been great to pay back the taxpayer and to move on to a stabilized company," Mr. Gallant said.

"I think the process of turning around AIG is not going to be this sort of smooth, linear progression," Ms. Seifert said. "It's going to be a series of fits and starts and a series of taking one step forward and two steps back," she said. "The key, at this point, is it's important they consummate a sizeable deal in terms of gaining momentum and in terms of the management team getting credibility," she said.

"But clearly, you'd like to see momentum on the upswing more consistently, and this is definitely a disappointment," Ms. Seifert said.

Meanwhile, S&P last week said AIG and its insurance subsidiaries' ratings remain unchanged. "We believe the sale of AIA will now take longer than AIG previously anticipated and poses increased execution risk because of the volatile conditions in the capital and equity markets," the rating agency said.

S&P said AIG has an A- rating with a negative outlook, while most of its insurance subsidiaries have an A+ rating with a negative outlook.

In addition, New York-based Moody's Investors Service affirmed its long-term A3 issuer rating and its prime-1 short-term issuer rating. The rating outlook remains negative.

BP: Insured spill losses top \$1.6B

CONTINUED FROM PAGE 3

said in its report.

However, Best affirmed the financial strength rating of "A+" for Jupiter, saying the captive's financial position is likely to remain strong.

"Although Jupiter has established loss reserves at its policy limit of \$700 million, risk-adjusted capital still soundly supports the rating level," the report said.

Moody's said that if BP had not self-insured, the commercial insurance and reinsurance industry's exposure to the loss would have been even higher than current estimates, which put total insured losses for the event between \$1.4 billion and \$3.5 billion.

So far, 14 insurers and reinsurers have released loss estimates for a total of \$611 million in expected losses, Moody's said. Those companies are Swiss Reinsurance Co. Ltd., Munich Reinsurance Co., PartnerRe Ltd., Hannover Reinsurance Co., Validus Holdings Ltd., Catlin Group Ltd., Lancashire Holdings Ltd., Chaucer Holdings P.L.C., Montpelier Re Holdings Ltd., Amlin P.L.C., Transatlantic Holdings Inc., Hiscox Ltd., RJ Kiln & Co. Ltd. and Beazley P.L.C.

Moody's said some prominent



AP PHOTO

As oil from the Deepwater Horizon spill reached beaches in Florida and Alabama, workers deployed containment booms off Orange Beach, Ala., late last week.

Bermuda insurers and reinsurers have not released loss estimates, indicating that they expect their exposure to be below the U.S. Security and Exchange Commission's reporting requirement threshold, typically around \$25 million.

With cleanup costs already

approaching \$1 billion, this spill will be far costlier than the 1989 Exxon Valdez spill, Moody's said.

Meanwhile, Moody's said property insurance rates for offshore oil companies have increased 15% to 25% for shallow water projects, and 50% or more for deepwater rigs.

CRC: Wholesaler trying to block Ryan Specialty hires

CONTINUED FROM PAGE 3

tions, Mr. McCormack breached his fiduciary duty by going to work for Ryan Specialty and assisting in efforts to hire CRC's employees.

In an e-mail, CRC Chairman and CEO Tom Curtin said the Birmingham, Ala.-based wholesaler will continue to pursue litigation against Mr. McCormack in Alabama and is appealing the court's jurisdictional decision regarding Ryan Specialty, Mr. Ryan and RT Specialty.

CRC also is "vigorously defending" the suit filed against it on May 4 by 22 former CRC employees in Cook County Circuit Court in Chicago, Mr. Curtin said. The departing employees are seeking a declaration that restrictions in their employment agreements are unlawful and contrary to public policy.

In regards to the hearing this week, Mr. Curtin said: "CRC looks forward to sharing all of the facts with the court at this hearing and trusts that in the interim the former CRC employees will abide by their employment agreements."

Ryan Specialty Group said it also looks forward to presenting its case to the judge.

In an interview, Mr. Ryan said he's always felt that "it's wrong" to bind people by broad noncompete agreement and preclude them from working in the industry that they want to work. "I've always felt that

if people want to leave, they should be able to leave," he said.

Despite reports that he and his firm "raided" CRC, Mr. Ryan said that wasn't the case.

"The reality is, many of the senior (CRC) people in leadership positions were looking to leave," Mr. Ryan said. "They wanted to leave BB&T (Corp.), which owns CRC, because they said they had problems being owned by a large bank that also owns a large retail broker," he said. "Independence for wholesalers who are part of an organization that has retail brokerage business is a big thing...because they are competing with their clients."

"We're not targeting CRC in any way," Mr. Ryan said. "We're hiring people from all different backgrounds...and building our business in a broad way."

RT Specialty's Chicago office opened its doors for business June 4 as the 30-day notice of resignation period of the former CRC employees expired. RT Specialty also has offices in California and Philadelphia, staffed with former CRC employees.

"Despite the recent departures from CRC to RT Specialty, CRC remains focused on its clients. We are grateful for their loyalty and dedicated to continuing to provide the same excellent service clients have come to expect from CRC," Mr. Curtin said in the e-mail.

News In Brief

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reinsurers by the Reinsurance Assn. of America. The combined ratio reflects a 72.8% loss ratio and a 29.5% expense ratio. Net premiums written totaled \$6.4 billion during the period, down from \$7 billion in 2009. Policyholder surplus in the first quarter of 2010 totaled \$101.3 billion, up from \$77 billion at year-end 2009, the RAA said.

Court invites appeal in greenhouse gas suit

The 5th U.S. Circuit Court of Appeals ruled last week that, because of recusals, it lacked a quorum of judges to rehear an appeal of *Ned Comer et al. vs. Murphy Oil USA Inc. et al.* and invited the plaintiffs and defendants to petition the U.S. Supreme Court to hear the case. The suit, filed by coastal landowners alleging that greenhouse gases emitted by chemical and energy companies intensified Hurricane Katrina, has been seen as an indicator of whether the federal courts will permit suits alleging nuisance. In 2009, a three-judge panel of the 5th Circuit ruled the case could proceed.

P/C insurer reserve releases less likely

U.S. property/casualty insurers are less likely to release large amounts of reserves as they have in recent years as underlying business conditions deteriorate, Standard & Poor's Corp. said in an analysis. In an article, "Why U.S. Property/Casualty Insurers Might Have to Put the Brakes on Reserve Releases," S&P said insurers' operating profit has weakened due to declining payrolls, sales of insurance products, reduced investment income, soft insurance pricing and excess capacity.

Allied World, Chubb launch Lloyd's syndicates

Allied World Assurance Co. Holdings Ltd. and Chubb Insurance Co. of Europe S.E. have launched Lloyd's of London syndicates. Allied gained Lloyd's approval for syndicate 2232 and will begin underwriting business this month. Capita Managing Agency Ltd. will manage the syndicate and is authorized by the U.K. Financial Services Authority. Chubb has

received approval from the Lloyd's Franchise Board to establish Chubb 1882. The syndicate will be managed by Chubb Managing Agent Ltd., which also has FSA authorization.

HHS drafts application for early retiree claims

A draft application by the Department of Health and Human Services details the kind of information that regulators will seek from employers applying for federal reimbursement of health care claims incurred by early retirees and their dependents. That reimbursement is authorized by the Early Retiree Reinsurance Program established as part of the new health care reform law.

Court urged to not review city's health care law

The Obama administration urged the U.S. Supreme Court not to review a 2008 appeals court ruling that upheld San Francisco's controversial health care spending law. Last year, the U.S. Supreme Court asked the Justice Department for its opinion on whether it should review the 9th U.S. Circuit Court of Appeals decision. In a brief filed last week by members of the Justice Department, the Obama administration said the Labor Department began to "re-examine" its views after the appeals court ruling. The brief noted that since the 2008 ruling, Congress has passed comprehensive health care reform legislation which "significantly reduces the potential that state or local governments will choose to enact health care programs" like San Francisco's and "may also affect the question whether such programs are pre-empted by federal law." Just as the Labor Department decided that regulatory action on the pre-emption issue is premature, the Supreme Court's "review of the issue is not warranted at this time," the brief said.

Noted

CIGNA Corp. has named Bertram L. Scott to the new post of president of U.S. commercial markets, effective June 28. Mr. Scott, who will be based in Bloomfield, Conn., will oversee U.S. products; marketing; national accounts; and regional, select and senior segments....**Endurance Specialty Holdings Ltd.** said Michael P. Fujii, global CEO of insurance operations, has retired from the company effective immediately....**American International Group Inc.** hired Robert Bleimeister and Mitchell Schultz to overhaul AIG's human resources unit and pay practices.

COBRA: Lawmakers pull back support

CONTINUED FROM PAGE 1

Rep. Connolly said.

In the Senate, Democratic leaders pared back the COBRA subsidy provision by a month to bring down the cost of the nearly \$8 billion extension. Under the revised version, the COBRA subsidy would be available to employees laid off through Nov. 30, compared with Dec. 31, under the original version.

Even with that and other costly provisions being cut back, the Senate declined to take up the broader bill before recessing, a sign, observers say, that the measure lacked the 60 votes needed to stop floor debate.

The House's jettisoning of the COBRA subsidy provision is a dramatic contrast to legislators' prior endorsements of subsidy extensions.

Three times—last December, then in March and April—Congress approved measures to extend the subsidy, with little opposition. The subsidy first was put in place as part of a massive economic stimulus bill federal lawmakers approved in February 2009.

Last December, the subsidy was extended to 15 months, while the measures passed in March and April extended the subsidy by one and two months respectively.

No legislator has publicly opposed the COBRA subsidy. Instead, the opposition is grounded in taking action on measures that would expand the deficit.

"As the election approaches, there is a growing concern in Congress" about the public nervousness about the deficit, said Helen Darling, president of the National Business Group on Health in Washington.

"It is not as easy as it was a year ago," during the depths of the recession, for legislators "to write a blank check," she added.

"There is a greater reluctance in Congress to pass unpaid-for items" such as COBRA subsidy extensions, said Gretchen Young, vp-health policy for the ERISA Industry Committee in Washington.

Still, no one says subsidy extension measures are dead. Some observers say that rather than passing multi-month extensions, legislators might pass shorter extensions, which individually have lower price tags than longer extensions.

"You might have a series of one-month extensions," said Chantel Sheaks, a principal in the Washington office of Buck Consultants L.L.C.

COBRA SUBSIDY HISTORY

How the federal subsidy of COBRA premiums was established and extended.

FEBRUARY 2009: President Barack Obama signs into law an economic stimulus bill, the American Recovery and Reinvestment Act of 2009, that includes a nine-month, 65% COBRA premium subsidy for employees involuntarily terminated from Sept. 1, 2008, through Dec. 31, 2009. Congressional analysts estimate the subsidy will aid more than 7 million workers and their families and cost about \$25 billion.

DECEMBER 2009: The president signs legislation that extends and expands the subsidy to employees laid off through Feb. 28, 2010, for up to 15 months.

MARCH 2010: The president signs a bill to extend the subsidy through March 31. Other provisions clarify that employees who first lost group coverage due to a reduction in hours and then were terminated after the enactment of the bill are eligible for the subsidy, if certain conditions are met. Later, the Senate passes a tax bill to extend the subsidy through Dec. 31, but the House takes no action.

APRIL 2010: The president approves a bill extending the subsidy through May 31.

MAY 2010: House passes a tax bill that the Senate approved in March, but strips a provision to extend the subsidy through Dec. 31. Senate Democratic leaders shorten the extension to Nov. 30, but the Senate takes no action before a weeklong recess.

If that scenario develops, employers and employees would face the uncertainty each month about whether the subsidy will be continued.

Still, that uncertainty would pale in comparison to the problems employers faced shortly after the passage in February 2009 of the original COBRA subsidy legislation, which was embedded in the American Recovery and Reinvestment Act of 2009.

That provision went into effect almost immediately and was

retroactive, requiring employers to locate employees laid off as far back as September 2008 to tell them that they had a new right to COBRA, with the federal government now picking up 65% of the premium.

At the same time, in the absence of regulations, employers had to take their best guesses in interpreting the law, such as whether a lay-off would be considered an involuntary termination of employment, the only situation qualifying for the subsidy.

"Administratively, there were some real headaches at the beginning," said Ms. Young of the ERISA Industry Committee.

But the speedy development of guidance from federal regulators soon eased administrative issues, while COBRA administrators revamped their own systems to handle beneficiary notification and premium payments.

At the same time, the subsidy has enabled millions of individuals to retain employment-based coverage that likely would have been unaffordable without the subsidy.

Surveys conducted by Hewitt Associates Inc. of Lincolnshire, Ill., found a doubling of average COBRA opt-in rates for laid-off employees after the enactment of the subsidy legislation.

From March 1, 2009, when the subsidy first generally became available, through Nov. 30, the monthly COBRA enrollment rate for eligible laid-off employees averaged 39%. That compares with an average monthly rate of 19% from Sept. 1, 2008, through Feb. 28, 2009, the Hewitt survey of 200 large employers found.

It isn't known how much this surge of enrollment has cost employers. A general rule of thumb is that individuals enrolled in non-federally subsidized COBRA incur \$1.50 in claims for every \$1 in premium they paid. That is because the high cost of coverage—monthly premiums for single coverage often are about \$400 a month for individual coverage and \$1,200 for family coverage—results in a disproportionate number of enrollees who are above-average users of health care services.

Benefit consultants say the federal premium subsidy has reduced adverse selection, but employers still pay out more in claims than they collect in premiums.

"Certainly, employers are paying more," Ms. Sheaks said. Even if adverse selection decreases, that will be offset by a higher opt-in rate, she said.

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STUDENT TOWS SPAT TO FACEBOOK

A Kalamazoo, Mich., towing company is suing a Western Michigan University student who created a Facebook page criticizing T&J Towing that the company alleges is defamatory.

Justin Kurtz, 21, devised the page after T&J Towing hauled his car away from his apartment complex in January even though he had a permit to park there. The towing company said the permit was not clearly visible.

After more than 800 people signed up as fans on Kalamazoo Residents Against T&J Towing in just two days in February—some sharing their adverse experiences—the towing company filed suit in Kalamazoo County, Mich., seeking \$750,000 in damages. The fan base had grown to 12,000 as of last week.

The company asserts that the negative publicity generated by the Facebook page is costing it business and damaging its reputation.

First Amendment lawyers reportedly view the litigation as the latest incarnation of a longtime legal maneuver known as “strategic lawsuit against public participation,” or SLAPP, in which businesses file defamation suits against individuals who criticize them.

In this case, however, Mr. Kurtz is fighting back. He filed two countersuits that contend the page is protected by the freedom of speech constitutional guarantee. The suits, which seek to recover legal defense costs, reportedly say the company’s business practices—not the Facebook page—caused the towing company to lose business.

“Social networking has put the little guy and the big guy on the same footing,” University of Detroit Mercy marketing professor Mike Bernacchi told the Detroit Free Press.

APPEARANCE TAKES ON PERFORMANCE



COURTESY OF THE OFFICE OF JACK TURNER/VILLAGE VOICE

Debralee Lorenzana alleges she lost her Citibank job because her figure was too “distracting.”

Can a banker be fired for being too hot?

One former Citibank N.A. banker alleges this is what happened to her and is pursuing an arbitration hearing in the matter.

According to the Village Voice, the 5-foot, 6-inch, 125-pound Debralee Lorenzana alleges she was fired last year from her job as a banker at a Citibank branch in New York after her bosses told her they could not concentrate on their work because her appearance was too distracting.

They ordered her to stop wearing pencil skirts, three-inch heels or fitted business suits, the 33-year-old single mother told the newspaper. She said when she pointed out female colleagues who wore far more revealing clothing, “they said their body shapes were different from mine, and I drew too much attention.”

In her suit, she said her bosses told her that “as a result of the shape of her figure,” such clothes were “‘too distracting’ for her male colleagues and supervisors to bear.”

Responding to the suit, Citibank said “Ms. Lorenzana has chosen to make numerous unfounded accusations and inaccurate statements” against the bank and several of its employees.

“While we will not discuss the details of her case, we can say her termination was solely performance-related and not at all related to her appearance or attire,” the bank said in a statement. “We are confident that when all of the facts and documentation are presented, the claim will be dismissed.”

Business Insurance END PAGE

Contributing: Jeff Casale, Judy Greenwald, Joanne Wojcik



“American Idol” winner Jordin Sparks is joining Allstate in an “X the TXT” safety awareness campaign.

Anti-texting drive adds star power

A lot of attention and star power has been spent on getting people to stop texting while they drive, including Grammy-nominated singer and “American Idol” winner Jordin Sparks.

Ms. Sparks is teaming with Allstate Corp. for a summer tour and advertising campaign that asks teens and their families to “X the TXT” behind the wheel. The “Battlefield” tour will make 29 stops and concertgoers will have the opportunity to pledge not to text and drive by adding their thumbprint to a traveling banner at Ms. Sparks’ shows.

Northbrook, Ill.-based Allstate’s “X the TXT” movement began in November with a 30-city tour of live events, a Facebook virtual pledge page and a petition urging Congress to address the

issue of texting while driving.

Recently, an Allstate Foundation study found that 49% of driving teens admit to being extremely distracted by texting and instant messaging while driving. A study by the National Highway Traffic Safety Administration reports driver distraction contributes to 25% of all police-reported traffic crashes.

“Texting while driving is the equivalent of drinking four beers,” Joan Walker, senior vp of corporate relations at Allstate, said in a statement. “It is time to put an end to this deadly practice.”

In April, Oprah Winfrey partnered with Governors Highway Safety Assn. in a “No Phone Zone” campaign to raise awareness of the dangers of texting while driving.

Google map walking tour set a trap, suit alleges

A Park City, Utah, woman is seeking to blame Google Maps’ walking directions instead of her common sense when she was struck by a car while walking on a highway.

Lauren Rosenberg filed a lawsuit in a Utah federal court late last month against Google seeking more than \$100,000 in compensation for giving her walking directions that led her onto a busy state highway where there was no sidewalk.

According to several reports and the court documents, Ms. Rosenberg wanted to get from 96 Daly St. to 1710 Prospector Ave., Park City, and downloaded walking directions via Google Maps on her BlackBerry. When she reached the intersection of Main Street and Deer Valley Road, she thought there was a sidewalk on the other side of Deer Valley Road and proceeded to cross the street, where she was hit.

“With full knowledge that Deer Valley Road aka State Route 224 is a rural highway exhibiting vehicles traveling at a high rate of speed, and devoid of pedestrian sidewalks, Google failed to warn (Ms. Rosenberg) of said known dangers, and instead instructed her to use that dangerous path for her trip,” the complaint said.

Ms. Rosenberg’s attorney, Allen K. Young, a partner for the Provo, Utah-based firm Young, Kester & Petro, told the Associated Press that “there’s enough fault to go around,” seemingly at least semi-acknowledging that Ms. Rosenberg should have perhaps exercised some common sense, but that “Google had some responsibility to direct people correctly or warn them.”

“They created a trap with walking instructions that people rely on,” he told the AP. “She relied on it and thought she should cross the street.”

Google has said it offers text warnings on PDAs and desktops, according to reports. Google said that since 2008 it has offered warnings on devices such as BlackBerry devices, but the mobile beta warning usually is shorter due to its screen size.

Ms. Rosenberg is also seeking compensation in excess of \$100,000 from the driver that struck her for medical expenses, lost wages and punitive damages.

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For over 40 years, Lexington Insurance Company has been first to market with innovative solutions to new and complex risks. Today, we are America's top surplus lines insurer and a leading U.S.-based property and casualty carrier, offering cutting-edge protection for everything from tough liability risks to sophisticated property exposures. For updates on today's rapidly changing risk landscape—and how we are responding—tune in to our ongoing Lexcasts® series at www.lexingtoninsurance.com

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