

Commission Meeting Minutes
June 10 ,2025
Office of State Fire Marshal
Raleigh, NC

In Person:

Sherriff Len Hagaman
Charlie Eaton
Gina Cleary

Present Via Zoom Call:

Michelle O'Connor
Tom Anderson
Jackie Ireland
Will Polk
Robert Broome

Not Present:

Owen Thomas
James Avens

Others Attending:

Latarsha Silver (OSFM-In Person)	Earl McDuffie (NCAIA-In Person)
Elizabeth Hale (NCAIA-In Person)	Ronae Bennett (OSFM- in Person)

Call to Order and Roll Call

Meeting was called to order at 10:02am by Jackie Ireland. Latarsha Silver called attendance. See above for attendance. Quorum requirements have been met.

Minute Approval (Jackie Ireland)

Motion called for approval of meeting minutes for the previous meeting held on March 11, 2025. There was no quorum at the previous meeting, so minutes were approved from meeting on December 10, 2024, and March 11, 2025.

Jackie Ireland called to motion minute approval for December 10th, 2024.
Sherriff Len Hagaman motioned to approve the minutes.
Michele O'Connor second the motion.

Voted to approve the minutes

Jackie Ireland called to motion minute approval for March 11th, 2025.
Will Polk motioned to approve the minutes.
Sherriff Len Hagaman second the motion.

Meeting

OSFM (Latarsha Silver)

All POELIC commission members are up to date on ethics education and SEI training.

OSFM, North Carolina Association of County Commissioner, and commissions have opened an emergency training center in Stanley County. The emergency training center is the only of its kind in the United States. It is in conjunction with the county and Office of State Fire Marshal. There will be a field trip to visit the training facility this upcoming Thursday. The training facility, property and buildings have been insured and everything is moving forward. Updates on the training facility can be found on the OSFM website for emergency training; there are live updates. Legislature approved this facility, and Brian Taylor is taking the lead on this. This facility is up and running and the first training was in early May.

NCAIA (Elizabeth Hale)

POELIC received a quote from a new carrier for the second layer of excess liability. This company offered \$2.5M in coverage with an annual premium of \$600,000. Lastly, Kinsale offered \$5M in excess liability coverage for an annual premium of \$226,000. Kinsale has pulled out of the public entity market completely. There are three options that NCAIA is exploring: first, changing to a more standard public entity form. Second, request Ambridge to invite a new carrier and quota share so we will have two or more carriers to help with increasing the aggregate. Ambridge will still be the primary carrier and manage the policy but will feel more comfortable sharing the exposure of a \$10M policy if there is quota share. Lastly, accepting the quote for \$600,000.

POELIC currently has the first layer of excess liability with Ambridge. Ambridge has an aggregate of \$5M and Kinsdale would kick in as the second layer of excess liability. Kinsdale is out as of February 1, 2025, and we only have the primary layer at this moment. We are exploring options for another second layer.

The group inquiries about raising the limits of the underlying policy to ensure employees are adequately covered.

A decision was made by POELIC in 2018 to reduce the per occurrence limit to \$2M by suggestion of Amar Majmundar at DOJ after recognizing a trend of increasing lawsuits naming employees because of deeper pockets compared to naming the DOT, which has a \$1M cap. He recommended reducing limits.

There are more than a few reasons why underwriters are declining coverage. The excess aggregate doesn't exist as a line to shop. We created this line by describing to carriers the type of coverage we were seeking. Public entity is a scary word in the insurance market. Next, the policy is written as per occurrence for claims and claims made. There is no TPA for this policy's \$1M primary layer, meaning we cannot provide good claim data and insurance companies cannot see what type of program they are

insuring. OSFM and NCAIA have had discussions about acquiring a TPA for this reason. It could make the state look more attractive to insurance companies.

The group discusses the question “Are there other states that use non manuscript policy?” Yes, NCAIA is looking into this and received five different policy forms to begin lining them up against each other for comparison. Stewart Powell agrees having the standard public entity form is the best route no matter what. There is an option of switching from occurrence to claims made. It is less attractive for the state, but we could not think of any reason we would stick with the standard manuscript form. Identifying the differences in the forms will be the next step in determining what coverages and advantages the state would lose if changing to a standard form.

The group discusses the question “Law enforcement liability is still in an occurrence space in the market. Public official policies are in a claim made space in the market. Have we looked at this to delineate those two coverages and have discussions about keeping law enforcement on an occurrence policy and switching public officials to a claim made policy? The League and County currently do this and don’t have a lot of excess liability. The excess delineates between the two, law enforcement and public officials. The tricky part is that local governments’ liability and immunity are different. You would have to adjust for that.”

This person will share the form used in the market for these policies.

This is an option to explore. There would need to be two separate policies. We could entertain having two different forms for two different policies. This policy was originally written for law enforcement, but it has grown to cover all types of professions. Public officials tend to have a claim made policy and law enforcement tend to have an occurrence policy. This could be another way to ask underwriters to look at this. We can explore if this is a viable option.

Pros and Con for per occurrence vs. per claim

Occurrence is always better for consumers because there is no end date on coverage. It only depends on claims date or date of loss, and it does not matter when claim was discovered. Claim made typically has a definitive timeline. Once the consumer is aware of a loss, it must be reported within a specific time. Once you convert from an occurrence policy to a claim made policy, a retroactive date must be set. A retroactive date is the starting point for claims that occur when the policy is switched from occurrence to claim made. Occurrence should be good for its entirety. The retroactive date will be a start date for claims made moving forward. The claim would have to occur after a retroactive date and be reported within that window.

Moving from an occurrence policy to a claim made policy is a good spot to be in but you don’t want to change from claims made back to occurrence; the insured would lose some coverage for period and a lot of money to buy that coverage to fill the gap but in the state’s position moving from occurrence to claims made is easier and would probably drop the price but it’ll take some thought. We’ll have to compare the quorums.

This may bring in other insurance carriers that could be interesting but may take extra steps and probably strengthen the need for better data.

The Leage and County do very similar things. They converted a few years back. They had all occurrence policies, but the market has forced them to change the non-law enforcement (public officials) to claims made. There was a credit at the beginning of the change to the claim made policy and that was a benefit, but the insurance premiums eventually creep back up.

There is a concern about increasing the aggregate because a series of bad lawsuits in one year could pose an issue and that state could not have enough coverage.

A bigger issue would be a frequency of either. Occurrence follows individual because if you have a series of incidents in a singular year that outweigh your aggregate it could be a bad event with multiple individuals. The defense cost could drain the aggregate but depending on the language it could be defined as one occurrence with multiple parties involved. Negligence claims are now referred to the industrial commission which works in our favor. More claims that can be moved to the industrial commission alleviates the need for this policy.

Jackie Ireland suggests taking a step back to take these insurance needs to the open market not using any forum but allowing insurance companies to use whatever is their own. Then compare any offers to the current coverage and take it to the DOJ. If companies want to offer a claim-made policy, then it is mute. There are benefits on both sides but if companies want a claim-made policy it just puts more work on this commission and that is not an issue. It is hard to spend that amount of money on this policy. For reference in 2011, Lexington Insurance Company wrote a \$10M occurrence with a \$25M aggregate and an annual premium is \$540,000. The state has done more legislatively to provide some safety for employees than in those days. Law enforcement wasn't separate I think but maybe medical was separate. The commission should not spend a lot of time comparing but instead go to the market and see what they have to offer. This search should be expedited.

Elizabeth Hale clarified asking to confirm you want NCAIA to go out to market right now and forget about the proposed date of February 1, 2025, if there is someone offering an adequate coverage at an adequate price then the commission will move away from Ambridge and set a policy start date of June 1, July 1 or August 1.

Jackie Ireland confirmed yes, Ambridge can't fault the commission for this. It is the commission's responsibility to explore all options and with the current limits, there is still exposure. Include Ambridge in this search and allow them to post their best offer not based on the previously discussed form.

Jackie Ireland suggests a motion to go to the market seeking alternative proposals not utilizing the current form and seeking additional limits and attempting to have that with a September 1, 2025 start date.

Charles Eaton motioned to approve.
Sherriff Len Hagaman second the motion.

Motion passed.

Attorney General's Office (Gina Cleary)

Total notifications

- Total notification between March 12, 2025 to June 10, 2025, is 4.
- Total Dismissed or settled between March 12, 2025, and June 10, 2025, is 1.
- Total notification for 2024 is 21.
- Total notification for 2025 is 8.
- Total dismissed or settled for the year of 2024 is 13
- Total dismissed or settled for the year of 2025 is 4.

No update on these claims being taken to industrial commission.

NC Association of County Commissioners (Charlie Eaton)

There are no declinations through May. NCACC is in the process of wrapping up the July 1 common renewal and will retain all county membership; the renewal looks good. We have had concerns with some litigation. We've seen not only public reaction but the reaction of judges in charge of cases. The judges tend to take the plaintiff's side. It's starting to calm but there have been some favorable rulings recently. In the law enforcement area, it will be challenging for a while, and we expect claim value to remain relatively high. The challenge in staffing, finding staff but also quality staff. It can exasperate situations when you have something go wrong and it makes it harder in intense situations. It's a challenging time for law enforcement but we're seeing it creep into EMS, financial officers, human resource officers, social service, and all public officials. The overall population for employment is down and employers are fighting for the same shrinking pool of people. The main public sector people are interested in are nonprofits. There are programs to scout young people down to middle school. NCACC is taking MPA graduate students and taking them in association staff and sending them out to counties. We're trying but there is only so much you can do with a budget. There is a shortage of people willing to go to work or maybe too many baby boomers retiring.

NC League of Municipalities (Tom Anderson)

James Avens that serves on the board for Police Chiefs & NC Police Executives Association, is now the Police Chief of Matthews.

No declinations and NCLM is in a healthy renewal. Retention is looking very high. Law enforcement claims are most challenging. The constitutional claims are constant, but NCLM has been able to hire another public safety consultant, and they are dedicated to western North Carolina, so it's split between east and west. He came on board May 5, 2025, and he's retired deputy commissioner for DOI over CID division.

NC Police Chiefs & NC Police Executives Association (James Avens)

Absent

NC Sheriffs' Association (Sherriff Len Hagaman)

Proud to report they are fully staffed.

Other Business

Commend Tarsha and Liz on Risk management conference. Well attended and great subject matter. The primary goal was to get people together and the goal was accomplished.

Adjournment

Jackie Ireland motioned to adjourn.

Charlie Eaton second.

Vote: 8 in favor /0 opposed/ 2 absent

Meeting stands adjourned at 11:01am.