



State of Utah

SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

Insurance Department

JONATHAN T. PIKE
Insurance Commissioner

Bail Bond Oversight Board Meeting
(<https://insurance.utah.gov/licensee/other/bail-bond/board>)

Date: January 11, 2023

Place: In Person

Virtual

Time: 12:00 Noon

Taylorsville SOB
4315 S. 2700 W.
Parley's Canyon Room
Taylorsville, UT 84129

Google Meet

ATTENDEES

BOARD MEMBERS

xClay Carlos (Chair)
xDominic Sanone (Co-Chair)
Lt. Kacey Bates
Chad Woolley

xTony Choate
Bonnie Johnson
xCurt Oda
xReed Stringham (Non-Voting)

DEPARTMENT STAFF

xJon Pike, *Insurance Commissioner*
Randy Overstreet, *Licensing Manager*

xTracy Klausmeier, *P&C Dir.*
xSteve Gooch, *PIO Recorder*

xPatrick Lee, *Finance Dir.*
xPerri Babalis, *AG Counsel*

PUBLIC

Ethan Harris
Patty Reed
Gerald Conder
Steve Brown
Ali Jensen
Dyon Flannery

Katie Crane
Terry Smith
Wayne Carlos
Vivian White
Christie Ellis
Josh Massey

Todd Harris
Melody Jenkins
Ernesto Hermozillo
Mike Weddington
Kathleen Morgan

MINUTES — Approved

General Session (Open to the Public)

- Welcome / Clay Carlos, Chair (12:05 pm)
- Telephone roll call
 - Attendance code #1: **100618**
 - Tony arrived during New Business.
- Adoption of Minutes for October 12, 2022 meeting
 - No quorum present; see "Old Business".

Executive Session - If Needed (Closed to the Public)

General Session (Open to the Public)

- **Approve Recommended Actions from Executive Session** – Not needed
- **Summary of Reports**
 - Quarterly Accounting for Bail Bond Administration Account / Patrick
 - This quarter there were no new revenues, and expenditures of \$977.45, and a total of \$2,651.29 for the first two quarters of the fiscal year.

- The balance in the account is \$40,678.20.
- **New Business**
 - Comments on elimination of Bail Bond Board / Jon/Reed
 - Clay says that the government looking at eliminating boards and commissions is a fair practice, but he hasn't come across anyone who agrees with dissolving the BBB. He believes this meeting is an opportunity for the industry to have a voice. He's not certain it will be persuasive, but this is the opportunity.
 - Reed says the Commissioner and he are interested in the industry's comments. He thinks the discussion should not be about the importance of the UID to work with the industry — that's a given, and the UID wants that to continue. For a long time, the UID has informal advisory committees with other lines of insurance. There are informal committees with property & casualty, health, and life. The committees function really well and a lot of engagement with the industry.
 - Reed included an agenda for the P&C Advisory Council to show how the UID would work with the bail industry on an informal basis. The UID will continue working with the industry, but the question is whether the BBB is the best way to do it, and if the BBB offers any advantages over an informal advisory council. Reed says the informal councils don't have motions or minutes; there is discussion about problems, solutions, and things that can be done to better regulate the industry. The question is what the BBB offers that can't be done with an informal advisory council, if the legislature decides to eliminate the BBB.
 - Curt notes that Dominic wrote a letter about the issue. He asks Dominic to read the letter. Curt also notes that he's in the P&C industry and has attended some advisory council meetings because of consumer concerns, and there is disfunction because vendors like body shops, disaster repair companies, and windshield companies, feel like the UID has neglected their needs and has taken the industry's side. He agrees, and says the bail industry needs to be careful and make sure its goals and strategies are outlined clearly, if the BBB is eliminated. There are too many judiciary issues to let this important subject slide. Clay agrees.
 - Dominic says his problem with eliminating the board is that the industry is so small. He says that everyone who attends P&C council meetings are all P&C people who understand the issues; if the BBB and UID people are lost, the bail industry will have to start over with educating everyone on bail issues because the industry is so small. It's a horrible idea to eliminate the board because it will be a cluster without board members' and Perri's expertise. We've come too far over a long time to just trash it.
 - Dominic reads his letter. Please refer to the meeting recording for the text of the letter.
 - Curt says the bail bond side of surety is generally considered the bastard child of surety. It's an outlier that is different from most P&C products. It's similar to other surety products, but it is accountable to the taxpayer to make sure the accused shows up to court and isn't a burden to the taxpayer for recovery. It's an issue that needs to be treated on its own, not like a regular surety issue. Clay agrees and says he has never met a non-bailbondsman who understands the business. He believes a committee could serve the purpose of advising the UID about how bail bonds work, and he's not opposed to a name change because he's not sure the BBB is an actual "oversight board." He agrees the BBB isn't what it once was, but it will be something different in the future. The industry is in a lull and the board may seem unproductive, but in the past it has been vital to the whole state. It's been invaluable to get together to have a dialogue about where the industry has been and where to go. He reminds the UID that the industry needs the BBB as protection from itself. The last thing the industry needs is for the strongest operator to become the biggest influence on the UID without the rest of the industry understanding that that's what's going on. The BBB is an open forum for the industry to see what's going on; nothing should happen behind closed doors, and without the BBB he thinks that would be the method of operation.
 - Commissioner Pike says he still hasn't heard something that articulates what would be lost by shifting from a formal board to an advisory committee. He hasn't heard anything that can't be

accomplished in an informal council. Reed agrees and says meetings would still be open, still would talk about the regulation of bail, and still would take comments from the industry. He doesn't see anything unique about the BBB other than taking and approving minutes, and hearing a financial report. The UID can put financial reports on the website too. Commissioner Pike notes the Utah Health Insurance Association (UHIA) takes minutes that are provided to the UID, and that could be done with bail too. Curt says he would request that minutes be taken to avoid arguments. Commissioner Pike says with UHIA, the industry does the minutes, the UID looks at them, and the UHIA votes on them, but it all happens without the Open and Public Meetings Act (OPMA) requirements. Reed notes that action wouldn't require a quorum, which was an issue that arose with the BBB earlier in this meeting.

- Clay says the industry isn't worried about the past or present, but the future. The industry and BBB meetings may seem boring today, but there was more of an oversight and advisory function in the past. The industry anticipates that it will come back at some point, perhaps with a new governor. He says if the UID isn't going to take this out of the bill, the industry will take it up with a legislator. There is opposition to this in the industry and will act on it.
- Reed asks about the issue with the future and why the BBB is needed to face it. Clay says the industry has viewed the board as a way to protect the industry against unfair regulation and to be oversight for the industry. Previously, the board would hear about all market conduct complaints, would hold an executive session, and the BBB would decide what would happen. The industry was good with that, because the industry believed the industry would make a better decision than the regulator would without industry input. The BBB no longer has those teeth, and that's fine in light of what the BBB has been used for, but things change. There was a time of prosperity where the BBB was beneficial, other times where the BBB was predatory, and now a time where the BBB is boring. He expects to move back toward the fruitful days of the BBB where the industry is more in control than the regulator. He says it's not a desire for independence, just a recognition that nobody understands the industry. Reed says that's true, and the UID values working with the industry because they know more. The UID won't assign people to the advisory board that don't know anything — Reed, Perri, and Tracy will still be involved. The UID is just recommending an informal process.
- Wayne Carlos says the idea of eliminating the BBB doesn't make any sense, but the opportunity to have an advisory committee is something to look at. From an industry standpoint, they would like to talk to the industries that have advisory committees to see how it works for them. More information and being educated where we're heading needs to happen. He says maybe a hybrid is what needs to happen, that include changes to strengthen the BBB but also take away some of the problems. Reed is happy to let the industry know when the next informal advisory committee meeting is, so the industry can participate and check it out. They would be able to see how the industry and UID work on the same problems, but without the constraints of a statutory board. Reed will let Clay know when the next one is so they can participate.
- Curt asks when the deadline is for the UID's bill. Commissioner Pike says the legislature asked for possibilities some time ago, and the UID responded. It's up to the legislature now. There are over 400 boards and commissions in the state, and both the Governor and legislature have said if there's not a clear purpose that couldn't be done in another way, consider doing away with the board or commission. The BBB and the Title & Escrow Commission are the only statutory board and commission the UID has, along with 3 informal councils. He says the industry decides with the UID how often they want to meet, and don't have to worry about changing the statute. The industry can invite whoever they want to make sure they're addressing the issues of the industry. Commissioner Pike says he doesn't see a huge difference in the capability of the BBB vs. an informal council. The same things will go on, it's just less onerous in terms of requirements.
- Reed says the UID will definitely meet with the industry because it's in the best interests of the UID and the industry.

- Commissioner Pike says the UID can't know independently what the industry does, but the way to fix that is to stay in communication and ask questions. Even if staff turns over, over the years, we can still have continuity of knowledge to make sure people know what's happening. He notes that this idea isn't an effort to do less, it's doing it in more of a flexible manner.
- Commissioner Pike hopes to do more in-person meetings and visits with people in the industry now that COVID is calming down. It's easier to resolve big problems if you've sat with people vs. just seeing their name on a piece of paper. Knowing people helps him to be their advocate and not just a regulator.
- Dyon Flannery is surprised by the tone the meeting has taken lately. When the industry came together with the legislator and tried to implement bail reform and then repealed it, it was shocking because the word "bail" was eliminated from statute close to 100 times. The industry has become defensive because it feels like they've been shut down nationwide. Now that crime is out of control and they realize bail did a good job and has value to the system, things have changed. For many years, bail was part of the system that helped the criminal justice system work, but now it's gone political. She appreciates the open forum for having these discussions, and she appreciates Reed because he's taken the time to try to understand bail over the years. She's had to explain to judges how bail works, because you don't get it unless you do it. She has appreciated having the BBB as a place to be heard. In some states, the insurance department works with the industry to write statutes to encourage the industry to do well. The bottom line is the industry wants open communication to work with the UID and expects to be stronger in the future.
- Clay says he's viewing this defensively too because his business is like a family farm. He didn't start the business, but his family has been running it for many years, and he's now the steward of it. He believes wholeheartedly in what they do. He knows it's good for the taxpayer and the criminal. He's defensive because the words "elimination" and "bail" makes it seem the state of Utah is spreading salt on his farm. Yes, he still has the farm, but what is he going to grow in the future? He's blue in the face from defending the industry and what he does every day. We can talk in the room all they want, but it's not going to make one bit of difference. What will help is getting lobbyists involved to help, and the industry has engaged its lobbyist.
- Curt says he's looking at it from judicial prudence and being responsible for taxpayers. Time and time across the country, no bail makes people commit crimes. The number of skips and no-shows has gone from 300k to over half a million over the last few years. There are prosecutors that want to eliminate bail even in Utah, but they don't understand the fiscal responsibility to the taxpayer. If the BBB goes to an informal council, he's afraid that it will get overrun by a few strong personalities, like the P&C council. Commissioner Pike and Reed haven't seen that. Reed says the meeting Curt has been talking about wasn't the P&C advisory council but a separate meeting. He says they should come to a meeting to see what it's like.
- Clay says his concern is that the BBB is the only forum that should be happening for industry business. If anything is happening outside the BBB, that's being done behind the industry's back. Reed says the UID wouldn't want to do that. Clay says there are some actors in the industry that would come separately to the UID to try to get the UID to do things. Reed says that can already happen. Industry people can call the UID any time to discuss things with them. Clay says having the BBB in place requires things to go before the board.
- **Old Business**
 - Adoption of Minutes for October 12, 2022 meeting
 - **Motion by Curt to adopt minutes. Seconded by Tony. Motion passes 4-0.**
 - YEA: Curt, Tony, Dominic, Clay
 - NAY: None
- **Other Business**
 - Requirement to attend a meeting / Curt

- Curt asks if eliminating the BBB and moving to an informal council will eliminate the requirement for industry owners to attend a meeting. Reed says that's correct. Curt asks what would happen with CE. Clay says he would rather sit for an hour-long boring meeting than take a CE course. Dyon asks who would educate the industry and on what. Clay says that was the dilemma that came up when they tried to start a CE program, and that's why there's the meeting requirement now.
 - Tracy says bail is a limited line license, and none of them have a CE requirement. That means there would be no CE requirement added, it would be one less thing agencies have to do.
- **Adjourned** (1:01 pm)
 - Attendance code #2: **201742**
 - **Motion by Tony to adjourn. Seconded by Curt. Motion passes 4-0.**
 - YEA: Clay, Curt, Tony, Dominic
 - NAY: None
 - **Next Meeting: April 12, 2023** — Big Cottonwood Room, Taylorsville State Office Building

2023 Meetings (Noon to 1:30pm)

January 11, 2023	April 12, 2023	August 9, 2023	October 11, 2023
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