

Unions protest, city demands \$282K insurance refund

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PORTSMOUTH — Current and retired city employees gathered Wednesday in front of City Hall to protest the "misuse and redirection" of public health insurance funds by the nonprofit Local Government Center.

Moments later, City Manager John Bohenko told the Herald the city has asked the LGC to return to Portsmouth \$282,436 in workers' compensation contributions.

In a letter provided to the Herald and dated Oct. 29, City Attorney Bob Sullivan wrote to the LGC, saying the city "now understands" the LGC used some public money "to fund programs other than health insurance." Sullivan wrote that the city came to that understanding as a result of an Oct. 28 secretary of state investigatory report and asked the \$282,436 in workers' compensation funds be credited to Portsmouth within 60 days.

Sullivan also asked the LGC for a refund of "all monies paid on behalf of the city as part of the health insurance premium that were not used for health insurance."

"Coincidence? I think not," said Portsmouth firefighter Bill McQuillen on the timing of the city's request for the funds to be returned. McQuillen belongs to the union that pushed successfully for the secretary of state to investigate.

McQuillen and Rick Condon, president of the Portsmouth Professional Fire Fighters union, were joined at City Hall for the protest by other firefighters, police officers, public works employees and current and retired teachers. Condon announced the solidarity was to "publicly express our dissatisfaction and anger" with LGC management, as well as with Bohenko as a former LGC board member and Portsmouth human resources manager Dianna Fogarty as a current LGC member.

"The LGC has admitted in the past that they use health insurance money to subsidize workers' compensation, yet these two city officials, who are privy to this information, have said nothing," Condon said.

He called Fogarty a "rubber stamp on these votes," which "allowed the taxpayers and the employees to be overcharged for the last four years."

A report released last week by the Secretary of State's Bureau of Securities Regulation found the LGC "may not be returning surplus funds to cities and towns as required under state law." Meanwhile, the LGC also formed "shell companies" that remain under investigation and spent member contributions on "a range of items from caterers and hotels to entertainment and charitable contributions," according to the state findings.

The LGC was formed as an insurance pool for contributing municipalities to achieve favorable health insurance rates. It is funded with tax dollars and employee contributions, with Portsmouth as the largest contributor, paying 1.4 percent of the total.

Last Thursday's report also noted the LGC improperly used member contributions to fund the workers' compensation program by forcing retirees to subsidize a program they're ineligible to use. The LGC workers' compensation program also forced contributing communities to subsidize employees in other towns.

A day before the report was released, the LGC announced it has ceased using health insurance contributions to fund workers' compensation.

On Wednesday, Condon said Bohenko and Fogarty "chose to remain silent" about the faulty funding practices.

Bohenko said when he was on the LGC board six years ago, he expressed the same concern and was one of three members who voted against the workers' compensation funding method.

"I was out-voted," he told the Herald.

The city manager also noted the LGC's legal counsel advised it was sound practice. And he said it was

"unfortunate" that the Portsmouth Professional Fire Fighters union organized the protest, during which he and Fogarty were chastised, without ever meeting with them.

"They never once raised their concern," he said.

He also wondered if the union planned similar protests against the 29 other LGC board members from other communities.

Fogarty said Portsmouth "has always expressed concerns" about the workers' compensation methodology. She refuted Condon's statement that she "never suggests that the city look to other carriers to get out from under this scheme."

The city can't go to other carriers because union contracts require the city to provide Blue Cross-Blue Shield insurance and the LGC is the exclusive BCBS carrier, Fogarty said. "During negotiations, we have asked to get Blue Cross removed," she said. "We tried to get that language out."

Condon said every taxpayer in all contributing LGC communities, "should be asking the same questions."

McQuillen said at the protest the unions don't know how much they and taxpayers have been "overcharged." If Portsmouth was overcharged 5 percent, that would mean it's owed a half-million dollars, or 13 cents on the tax rate, he said. "We're talking real money and real savings, so we shouldn't have to talk about cutting staff," he said.

Bohenko later responded that, "the millions of dollars they talk about don't exist."

As for the \$282,436 workers' compensation refund, he said the city wants it credited to the public employees health insurance account.

In addition to the flawed workers' compensation funding, the recent secretary of state report found the LGC spent thousands of health insurance dollars a year for caterers, comedians, cafes, hotel and resort rentals, Weight Watchers and other costs not associated with insuring public employees.

The report is described as interim and part of "an ongoing investigation" of the LGC and the insurance pools it operates for New Hampshire municipalities. According to the state, the investigation began to address concerns about funds spent for non-health-related purposes and complaints that surplus funds should be returned to communities, but ballooned as the investigation progressed.

Commingling of funds makes it "difficult, if not impossible, for there to be a meaningful accounting," the state found.

A day before the release of the report, the LGC announced it would suspend the practice of funding the workers' compensation program with member contributions and has reduced staff and administrative costs.

The investigation also revealed the LGC in 2003 formed four New Hampshire limited liability corporations and two Delaware LLCs, and through a series of transactions conducted mergers based on false statements. Calling the companies "shells," the bureau reports that for a period of time, two health pools did not exist as legal entities because New Hampshire law doesn't allow merging nonprofits with LLCs, according to the report.

State investigators found the LGC used one-third of its surplus funds as a credit in its rating formula and kept the balance. It notes state law requires the LGC to return all surplus to contributing communities and questions if the standard used by the LGC to determine how much surplus it should keep is proper.

The bureau reports it is retaining actuarial services to determine how much should be banked by the LGC in a reserve fund and is required to make a recommendation to the state by Jan. 1 "regarding suitable reserve levels."

David Lang, president of the Professional Fire Fighters Association of New Hampshire, brought the controversy to light through a series of Right To Know requests that went to the state Supreme Court. He's alleged the LGC "amassed over \$132 million in net assets," while spending \$3.6 million to build and expand the LGC's Concord office and \$10 million to fund the LGC workers' compensation pool.

Maura Carroll, LGC's executive director, told the Herald the resort and entertainment expenses are legitimate, but

she was not allowed to explain them to the bureau. She said part of the LGC's operations include hosting conferences and seminars, that attendees are fed and expect to be entertained "after two days of work sessions." She said some of the costs are recovered and she looks forward to providing the secretary of state with details.