

MEMORANDUM

March 1, 2023

To: Sally Coen, Administrator, Workers' Compensation Division, DCBS

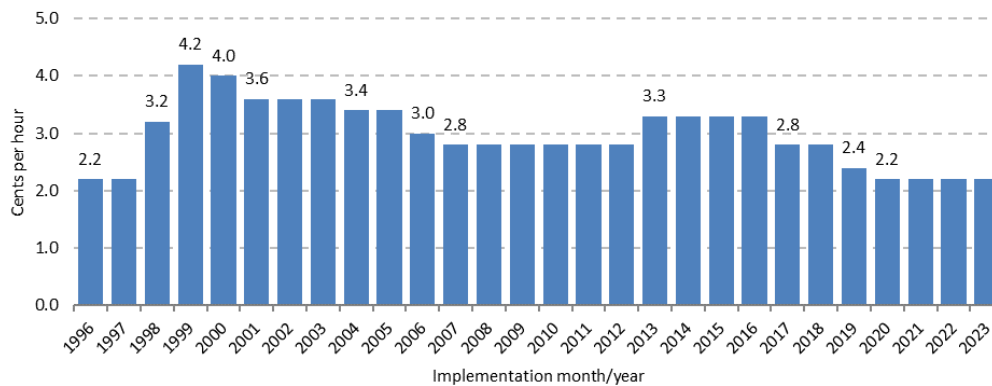
From: Kelli Borushko, Senior Economist
Don Gallogly, Senior Research Analyst

Subject: Workers' Benefit Fund status as of September 30, 2022

This memorandum summarizes the status of the Workers' Benefit Fund (WBF) as of Sept. 30, 2022. To summarize the WBF's finances:

- The assessment rate has been 2.2 cents per hour since Jan. 1, 2020. It will remain 2.2 cents per hour effective Jan. 1, 2023. As shown in the figure below, this is equal to the fund's lowest assessment rate since the fund's creation.
- As of Sept. 30, 2022, the WBF fund balance was \$145.7 million.
- Effective Jan. 1, 2020, as provided for in House Bill 2788 (2019)¹, ORS 656.506(5) states the WBF should maintain a fund balance of at least 12 months of planned expenditures. At the end of FY 2022, the balance in the WBF is about 23 months of planned expenditures.
- With the current Office of Economic Analysis (OEA) forecast for continued employment recovery, we forecast growth in the number of accepted disabling claims (ADCs). This growth leads us to forecast increased costs for the return-to-work and Reopened Claims Programs. Retroactive Program expenditures have been stable over the last few fiscal years, but are expected to continue their long-term decline.
- If the assessment rate is maintained at 2.2 cents per hour, we expect the fund balance to decrease by several million dollars a year. The fund balance is expected to remain above the required minimum through FY 2027.

WBF Cents-per-Hour Rates



The remainder of this memo describes the status of the WBF.

¹ See <https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2788/Enrolled>

WBF Revenue and Expenditures

The table below shows the financial outcomes for the past two fiscal years and the forecast for the next four years.² It assumes the 2.2 cents-per-hour rate is retained through the forecast period. The fund collected \$68.7 million in assessment revenue in FY 2022. We expect to collect \$69.8 million in FY 2023 and \$70.4 million in FY 2024.

The equilibrium rate is the assessment rate needed for revenue to equal expenditures. The last line of the table shows that the equilibrium rate is expected to be 2.3 cents per hour. Therefore, if the 2.2 cents-per-hour rate is retained, the WBF should have a negative net cash flow each year.

The coverage ratio is the number of quarters of expenditures that the fund balance covers. This forecast shows that the fund is expected to have 6.37 quarters of expenditures at the end of FY 2026; this is about 6 months more than the statutory requirement.

Workers' Benefit Fund Revenues with actual financial data through September 2022

	2019-2021 FY 2021	2021-2023 FY 2022	FY 2023	2023-2025 FY 2024	FY 2025	2025-2027 FY 2026
Revenue:						
Assessments	64,378,131	68,653,030	69,841,274	70,370,755	71,027,169	71,590,472
Other income	2,974,599	4,692,201	2,906,164	5,119,126	5,140,460	4,351,143
Total Revenue Excluding NCE	67,352,730	73,345,231	72,747,438	75,489,881	76,167,629	75,941,615
WBF Program Expenditures:						
Workers with Disability Program	153,905	152,866	180,088	158,744	139,515	121,298
Reemp. Assistance Prog., exc. OI/OHS	29,105,077	23,769,325	28,477,346	28,985,476	29,593,935	30,199,344
Reopened Claims Program	2,399,286	3,329,010	3,359,150	3,217,675	3,260,613	3,371,101
Retroactive Program	38,707,671	39,026,762	37,999,077	37,153,781	36,369,377	35,631,993
SB 485 Multiple Wage Jobs	1,330,618	1,271,116	1,231,476	1,300,867	1,300,867	1,300,867
SB 1558 Claim Payments	(77,781)	18,177	10,938	9,190	8,070	7,157
WBF Program Expenditure Total:	71,618,776	67,567,255	71,258,075	70,825,734	70,672,377	70,631,760
WBF Administrative Expenditures						
DCBS Administrative Expenditures	6,172,718	6,112,454	4,918,884	5,546,950	5,679,732	5,850,124
OI/OHS	1,848,410	1,908,750	1,950,535	2,002,042	2,020,647	2,035,449
BOLI transfer out	238,000	474,000	293,000	414,458	439,699	466,476
Exp subtotal: WBF Administrative Exp.	8,312,740	8,561,209	7,177,233	7,963,450	8,140,078	8,352,049
WBF administrative percentage	10.4%	11.2%	9.2%	10.1%	10.3%	10.6%
(DCBS administrative percentage)	7.7%	8.0%	6.3%	7.0%	7.2%	7.4%
Total WBF Expenditures Excluding NCE	79,931,516	76,128,464	78,435,308	78,789,184	78,812,455	78,983,809
Transfers - Other than BOLI	171,959	(64,198)	(1,052,678)			
Net cash flow	(12,406,827)	(2,847,431)	(6,740,548)	(3,299,303)	(2,644,826)	(3,042,193)
NCE Program Revenue	4,696,524	6,609,334	5,042,810	4,780,465	4,780,465	4,780,465
NCE Program Expenditures	4,557,323	3,807,151	4,242,441	3,576,376	3,522,923	3,470,269
NCE Program, transfer from PAOA	1,507,533	368,332	(272,589)	(1,569,061)	(1,284,269)	(1,336,524)
NCE net cash flow	1,646,734	3,170,515	527,780	(364,972)	(26,727)	(26,327)
Total Revenue	72,049,254	79,954,565	77,790,248	80,270,346	80,948,094	80,722,081
Total Expenditures	84,488,839	79,935,615	82,677,749	82,365,560	82,335,378	82,454,077
Net Cash Flow	(10,706,481)	389,089	(6,197,954)	(3,664,275)	(2,671,553)	(3,068,521)
Ending Fund Balance	151,044,752	151,433,841	145,235,887	141,571,612	138,900,059	135,831,539
Balance Coverage Ratio	7.40	6.23	6.86	6.69	6.56	6.37
Equilibrium rate	0.026	0.023	0.023	0.023	0.023	0.023

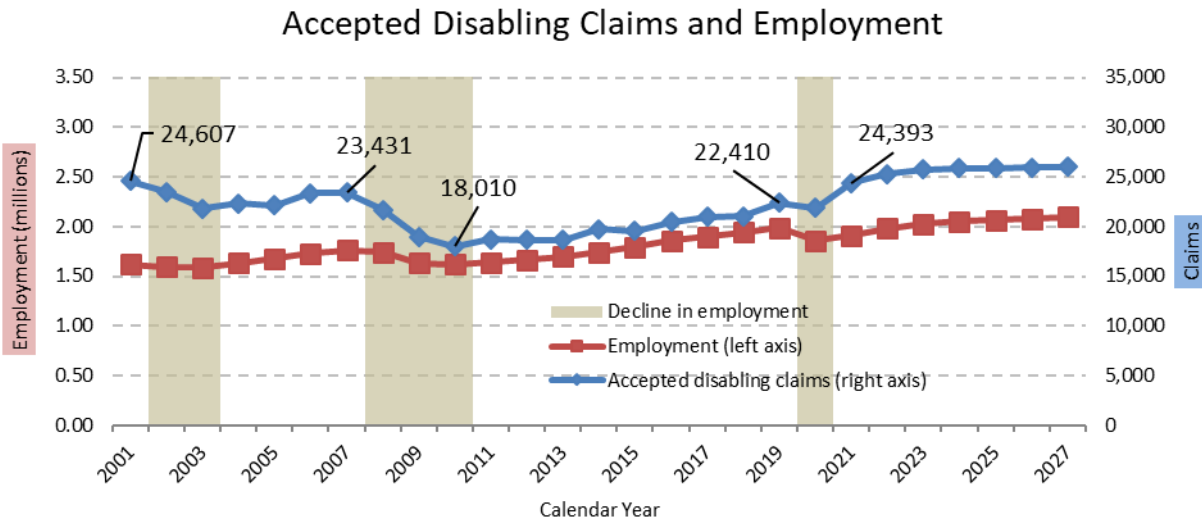
Although not shown in the table, the ending fund balances and cash flows include some estimated expenses for the WCD Modernization Program. Since there is not a finalized project list at this time, the expenditure projections may be revised.

² We have revenue and expenditure data through September 2022, so the FY 2023 figures contain three months of actual data and nine months of forecast data.

WBF Programs

After fairly steady declines between FY 2012 and FY 2018, WBF expenditures have trended upward through FY 2021, with a slight decrease in FY 2022. About 90 percent of the WBF’s expenditures pay for WBF programs. The cost increases are driven by increases in the Reemployment Assistance Program and the Retroactive Program.

Some of the WBF program forecasts depend on our forecast of accepted disabling claims (ADCs). The following figure shows that over the past 20 years, the number of ADCs has generally increased when employment has increased and declined when employment has decreased. There were about 18,000 ADCs in 2010 and 24,400 ADCs in 2021. The current OEA forecast is for a return to employment trends after the decrease in 2020 due to COVID. Therefore, we forecast continued growth in the number of claims.



Following are descriptions and forecasts for the WBF programs.

Workers with Disabilities Program

The Legislature created the Workers with Disabilities Program in 1981. Senate Bill (SB) 1197 (1990) restricted the program to only include applications for relief submitted prior to May 1, 1990. The program reimburses employers or insurers for costs over \$1,000 for injuries suffered or caused by previously disabled workers. About \$153,000 was paid for the program in FY 2022, and program expenditures are forecast to slowly decline.

Reemployment Assistance Program (RAP)

The Reemployment Assistance Program (RAP) contains other, smaller, programs providing incentives for employing injured workers. The Employer-at-Injury Program (EAIP) and the Preferred Worker Program (PWP) are the major programs.³ In FY 2022, the RAP expenditures were about 37

³ The accounting system includes payments to the Oregon Institute for Occupational Health Sciences (OIOHS) in the RAP expenditures. These are removed from this table and discussed below.

percent of WBF expenditures.

Reemployment Assistance Program Expenditures

Program	2019-2021		2021-2023		2023-2025		2025-2027	
	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
EAIP	\$17,892,225	\$22,198,880	\$18,544,063	\$22,025,249	\$22,119,394	\$22,558,445	\$23,006,211	\$23,462,865
PWP claims costs	\$2,098,039	\$2,246,738	\$2,490,506	\$2,221,296	\$2,307,100	\$2,323,712	\$2,340,443	\$2,357,295
PWP wage subsidy	\$2,603,245	\$1,791,126	\$1,118,626	\$1,466,210	\$1,662,498	\$1,735,970	\$1,806,377	\$1,881,584
PWP worksite modifications/purchases	\$3,710,263	\$2,867,657	\$1,614,492	\$2,763,807	\$2,895,438	\$2,974,762	\$3,045,267	\$3,123,006
Other programs	\$51	\$676	\$1,639	\$1,046	\$1,046	\$1,046	\$1,046	\$1,046
Total	\$26,303,823	\$29,105,077	\$23,769,326	\$28,477,607	\$28,985,476	\$29,593,936	\$30,199,344	\$30,825,795

The Employer-at-Injury Program provides incentives, such as wage subsidies, worksite modifications, and work-related purchases, to return workers to work before claim closure. This program aims to return workers to employment more quickly than they would have without assistance. About 21 percent of claimants with an accepted disabling claim have participated in the EAIP over the last five years. We forecast the EAIP expenditures to grow by about 2 percent per year beginning in FY 2024.

The Preferred Worker Program (PWP) assists injured workers who suffer a permanent disability and cannot return to regular work. If an injured worker is hired as a Preferred Worker and has a new injury during the first three years of their reemployment, then the RAP pays the claims costs, including administrative costs.

The PWP program also pays for wage subsidies, direct employment purchases, and worksite modifications. Wage subsidy forecasts are calculated as a function of the claims and the change in the statewide average weekly wage (SAWW). Worksite modifications and obtained employment purchases are forecast as a function of the claims and inflation. Because of these assumptions, PWP costs are projected to grow by 2.6 percent per year beginning in FY 2024.

Reopened Claims Program (ROCP)

The Reopened Claims Program reimburses insurers and self-insured employers for certain claim costs after workers’ aggravation rights have expired. These rights expire five years after their first claim closure. These reopened claims benefits are given through insurer voluntary reopenings and Board Own Motion orders. Benefits are available in three circumstances:

- Medical benefits can be authorized for claims with dates of injury before January 1, 1966
- Temporary disability benefit payments can be authorized when, five years after claim closure, the worsening of a compensable injury requires inpatient surgery, outpatient surgery, or any treatment requiring hospitalization
- Permanent partial disability benefits can be authorized for new or omitted medical conditions.

ROCP expenditures were about \$3.3 million in FY 2022. The average expenditures over the previous five years were \$2.8 million. The next table below shows the costs paid for these three types of benefits by fiscal year.

Because medical benefits are limited to injuries before January 1966, medical payments were made for few claims; individual medical payments can be large and volatile. Temporary disability and PPD benefit expenditures are forecast as a function of the number claims lagged seven years. We forecast expenditures to increase about one percent per year.

Reopened Claim Program Expenditures, FY 2012 - 2022

Fiscal year of payment	Medical Benefits	Timeloss Benefits	PPD Benefits	Total	Claims reimbursed	Average reimbursement
2012	506,459	3,765,149	757,277	5,028,884	345	14,576
2013	329,605	3,456,458	870,979	4,657,042	328	14,198
2014	268,601	2,739,168	1,020,909	4,028,678	269	14,976
2015	178,753	2,834,435	675,164	3,688,351	263	14,024
2016	368,701	2,673,927	735,379	3,778,008	225	16,791
2017	352,597	2,258,407	757,072	3,368,077	232	14,518
2018	213,492	2,264,189	832,513	3,310,195	182	18,188
2019	99,718	1,397,894	985,106	2,482,718	179	13,870
2020	115,765	1,603,201	689,789	2,408,755	163	14,778
2021	85,200	1,362,061	979,350	2,426,610	120	20,222
2022	38,190	2,445,142	845,678	3,329,010	140	23,779

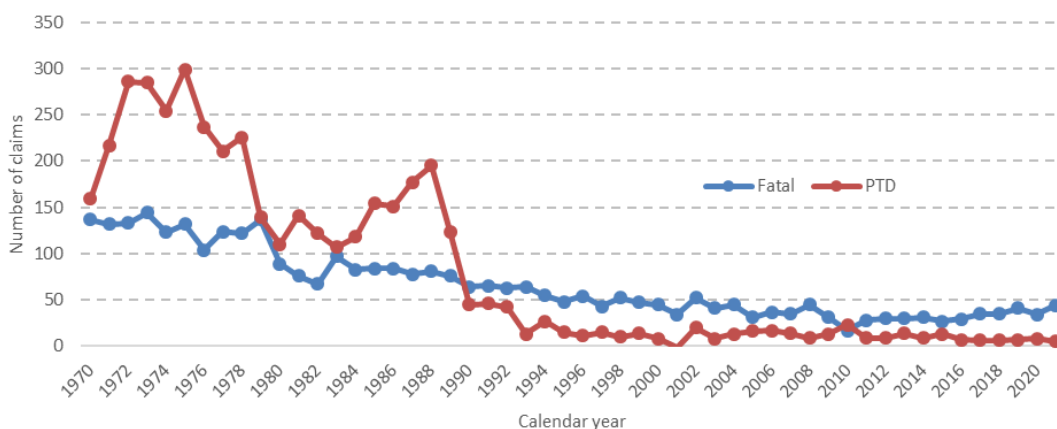
Retroactive Program

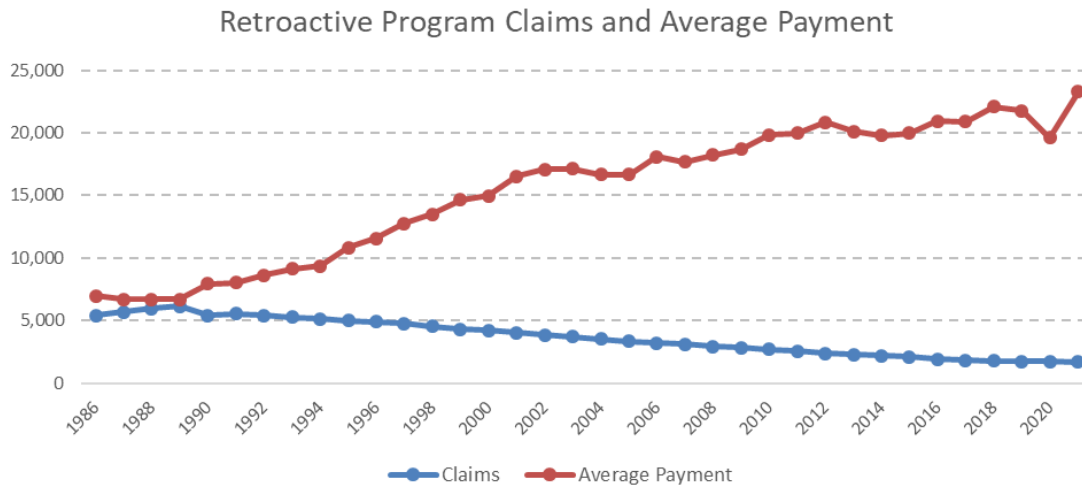
The Retroactive Program pays benefit increases when the benefits granted under the Retroactive Program bulletin exceed the benefits in effect at the time of the injury for workers or their beneficiaries who are eligible to receive either death or permanent total disability benefits. The program also covers benefits payable due to death from permanent total disability or temporary total disability with injury dates prior to April 1, 1974. Insurers and self-insured employers pay the benefits and then request reimbursement from the WBF. Due to the length of time eligible workers and their beneficiaries can receive benefits, the Retroactive Program is the costliest WBF program. In FY 2022, the program had \$39 million in expenditures, which accounted for 56 percent of the WBF program expenditures.

The next figures illustrate the Retroactive Program's trends. Few new claims are entering the program. During the 1970s, there was, on average, one new fatal or permanent total disability (PTD) claim each day; over the last decade, there was less than one new fatal or PTD claim each week. In 2021, WBF payments were made on 1,691 claims.

Future expenditures are estimated by forecasting the decline in the number of claims for which there will be reimbursement and the increase in average payments. These forecasts indicate that expenditures should decline by about 2.2 percent per year.

New Fatal and PTD Claims





Senate Bill 485 - Wages for Multiple Jobs

In 2001, Senate Bill 485 added a new component to the WBF. SB 485 allows wages from multiple jobs to be considered in temporary disability computations. Previously, only the wages from the job at injury could be used in these calculations. This provision is effective for claims with injuries that occurred on or after January 1, 2002. The insurers’ payments for these jobs are reimbursed from the WBF. About \$1.27 million was paid for these claims in FY 2022. The reimbursement amount is expected to be about \$1.23 million in FY 2023.

Senate Bill 1558 - Claims Payments

In 2014, Senate Bill 1558 permitted the orderly dissolution of self-insured groups that wished to disband. Of the seven existing self-insured groups, three disbanded. The statute provided that the WBF would pay claims costs for the employees of members of the disbanded groups once the groups’ reserves were exhausted. The reserves for all three groups were exhausted by the end of FY 2015. All claims payments are now being paid from the WBF.

About \$7.8 million has been paid from the WBF for these claims, of which about \$18,000 was paid in FY 2022. Small amounts are expected to be paid in future years.

WBF Administrative Expenditures

In FY 2022, state agency administrative expenditures were about 11 percent of WBF expenditures (see table on page 2 of this memo). Of this amount, about 72 percent were DCBS expenditures, and the remaining amount was paid to other agencies.

By statute, the WBF makes payments to the Oregon Institute of Occupational Health Sciences (OIOHS) of 1/16th of a cent per hour worked. These amounts are matched by equal payments from the Premium Assessment Operating Account (PAOA). These monies provided 39 percent of

OIOHS's revenue in CY 2020.⁴ The Bureau of Labor and Industries (BOLI) receives payments to enforce anti-discrimination laws. BOLI received about \$474,000 from the WBF in FY 2022.

Noncomplying Employers (NCE) Program

The Noncomplying Employers (NCE) program revenue flows into and out of the WBF. Although the NCE monies are housed in the WBF, the WBF assessment does not fund the program. The revenue includes NCE recoveries, fines and penalties, and interest. The expenditures are payments to the NCE claims administrator. The NCE expenditures totaled \$3.8 million in FY 2022. When expenditures exceed revenue, there is a transfer from PAOA to cover the difference; the FY 2022 transfer was \$368,000. When revenues exceed expenditures, the excess is transferred to PAOA.

⁴ Biennial Report - OHSU. Oregon Institute of Occupational Health Sciences. (2021, December). Retrieved March 1, 2023, from <https://www.ohsu.edu/sites/default/files/2021-12/OccHealthSci%202019-20%20Biennial%20Report-1.pdf>