Oregon State Risk Management Report
Fiscal Year 2023

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DAS DEPARTMENT OF ADMINISTRATIVE SERVICES

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DATA DETAILS

Data compiled within this document was sourced using DAS Risk Managements Information System, data acquired from SAIF Corporation and DAS Risk Management Accounting Statements. Data sourced was validated accurate as of 12/31/2023, however could be subject to change if new data becomes available after publication.

Any questions related to data provided can be directed to DAS RM directly.

A MESSAGE FROM THE STATE RISK MANAGER

The state of Oregon faced escalating risks and worsening claims experience during the fiscal year ending June 30, 2023 (FY23). Higher claims caseloads, increasing complex issues and a range of new potential risks were challenging. The Department of Administrative Services Risk Management team (DAS RM) was successful in dealing with them.

Reported claim counts for property, liability, and workers' compensation (WC) increased to 4,860 from 4,764 in FY22. Workers' compensation new claim counts dropped by 12% from the COVID pandemic counts of FY22. The more expensive liability claim counts rose by 17%, reaching levels not seen since FY17.

Total Insurance Fund payments reached a record high of $99.8 million, which is a 13% increase from $88.2 million in FY22. This almost doubled the average totals paid over the three biennia before FY19. Liability claims drove most of the payment increase. Workers' compensation claims in part recovered from FY22. Property claims remained stable. The cost of excess property insurance premiums rose by 14% to $10.5 million.

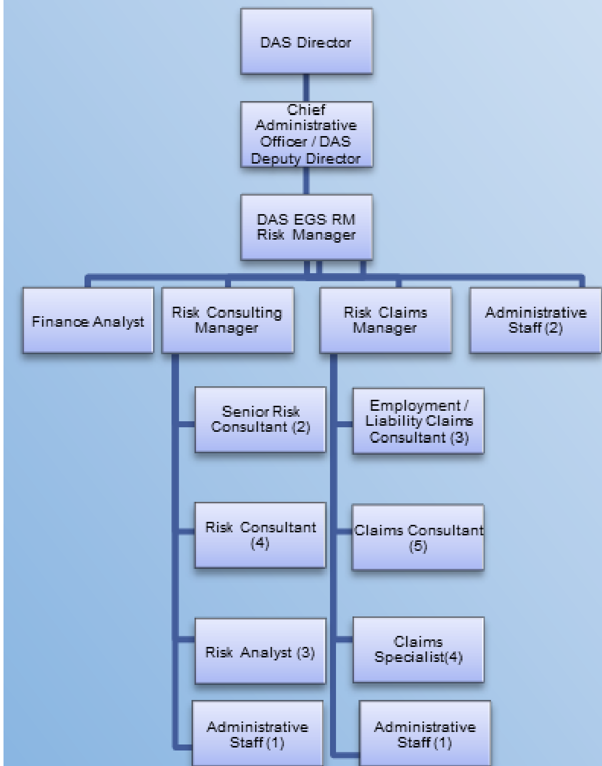
As FY23 concluded, the effects from the COVID pandemic became evident. We expected increased claim activity following the reopening of the courts, but our expectations were exceeded. The increase in reported pandemic-related WC claims subsided as fast as it began in FY20. We continue to refine management of WC for our out-of-state workforce. This is a program that expanded due to the pandemic.

Throughout FY23, we managed the program with 29 approved positions. This was an amazing accomplishment. FY23 saw national recognition for a DAS RM tool that had received recognition within Oregon in FY22. The national State Risk and Insurance Management Association (STRIMA) granted its AFIRM award to DAS RM, saying the "Contract and Risk Assessment Toolkit was innovative …and an excellent solution to a challenge that most of us face."

FY23 presented many challenges, including managing some of the largest claims in Oregon's history. During the 2023 Legislative session, we reviewed many risk-related issues and bills. We participated in discussions about the health of the state's Insurance Fund. Despite these challenges, our team remained dedicated to its mission of "leading state government in managing and minimizing the cost of risk through partnership, education, and technical expertise".

Shelly Hoffman, State Risk Manager

OREGON'S RISK MANAGEMENT OVERVIEW



The DAS RM program is part of the Executive branch of state government. We insure what others can't or won't - the people, property and activities that include the unique, diverse, and often hazardous business of state government. Oregon Revised Statute 278 (ORS 278) provides DAS RM the authority and responsibility to manage all risk management and insurance programs for all branches of state government. We are a full-service risk management program. DAS RM provides insurance coverage through both self-insurance and commercial policies. Other services include providing claim management for liability and state property damage claims, risk management, training, and consultation.

Structure and People

DAS RM functions as a program with 29 full time employees (FTE), which represents no change from FY22. The program's services are provided by three teams.

The Claims team handles the state's tort claims, including all lawsuits (in partnership with Oregon's Department of Justice) and state property damage claims.

The Risk Consultation team manages the administration of the self-insurance policies and Oregon's commercial policy purchases and renewals. They also manage program reporting, agency consultations, contract risk review, training, outreach, and the state's workers' compensation program, which is managed via a third-party administrative agreement with SAIF Corporation.

The Leadership team, in partnership with all staff, sets program goals, plans strategy for the program's long-term future, and monitors the program finances and insurance fund. They communicate concerns and issues to the state's Executive staff and provide guidance to the program.

MISSION

Serve Oregon by leading state government in managing and minimizing the cost of risk through partnership, education, and technical expertise.

VISION

Be the model and recognized leader for excellence, service, and leadership in risk management.

CORE VALUES

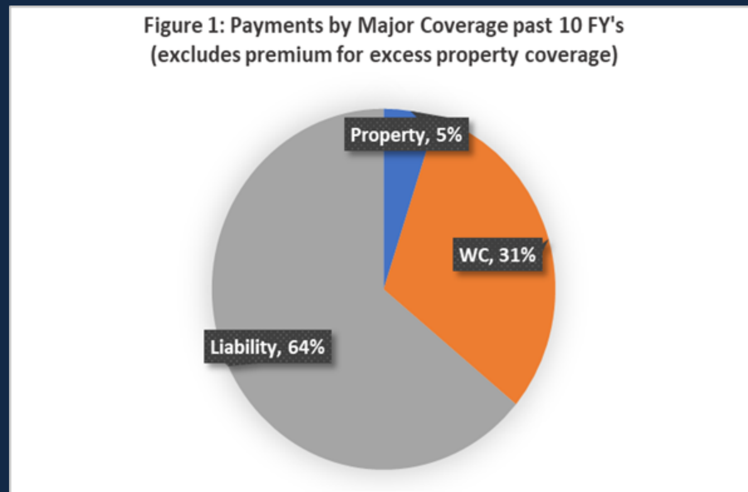
Accountability, Adaptability, Consistency, Honesty, Humor and Respect

Program Summary

DAS RM provides risk protection for state agencies, allowing them to manage risks as they fulfill their missions. The program oversees a wide variety of coverages. These include agency property, agency tort liability, and workers' compensation (WC).

ORS 278.425 creates the state's Insurance Fund. It currently includes funding for the following three main areas:

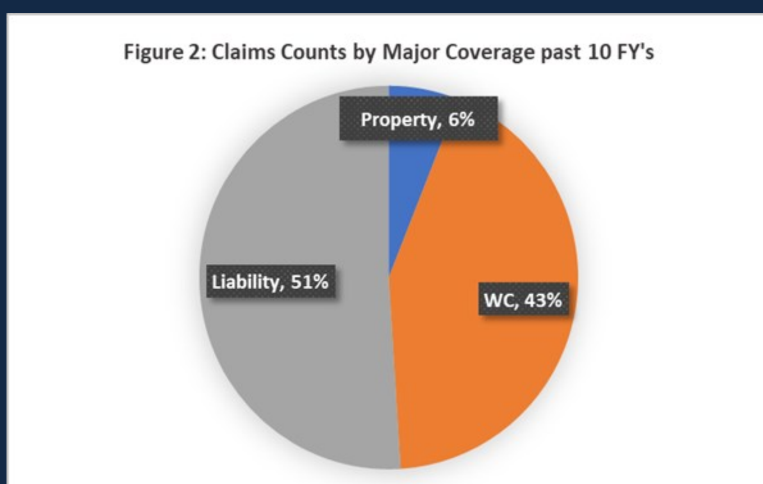
- Liability – Funding for Tort Claims per ORS 30.260-300
- Property – Funding for state-owned property losses
- WC – Funding for injury coverage required by law



The program uses a mix of commercial coverages and self-insurance to finance and manage risks. About 15% of the program's cost pays premiums for 24 commercial policies and our third-party administration fees to SAIF. The remainder covers the cost of risks retained by the state including seven self-insurance programs.

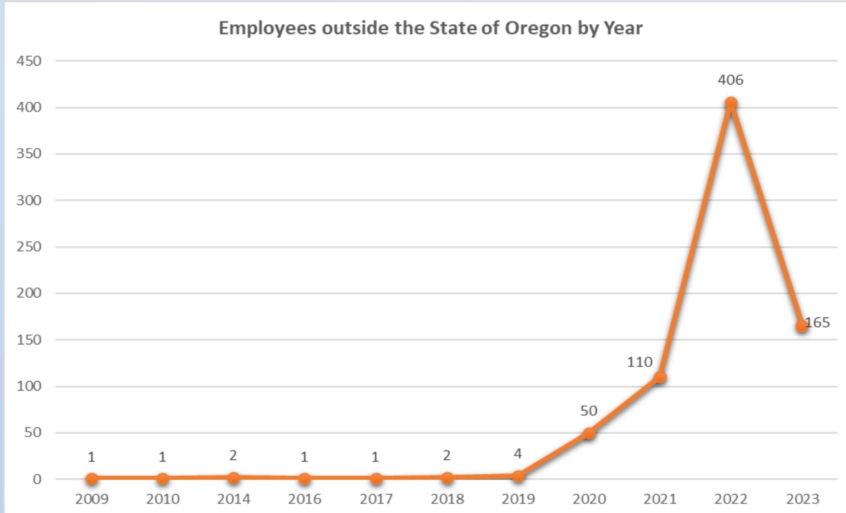
The self-insured programs cover three major areas of risk. See Figures 1 and 2. These three coverages make up the claims we cover. Percentages of each shift yearly, depending on exposures and random events. When reviewed over a long period of time, the size of each piece becomes clear.

Liability claims have grown in recent years, and over the long-term account for 64% of program payments and 51% of the claim counts. WC accounts for 31% of payments despite being 43% of claim counts. These WC claims are managed by a third-party administrator SAIF Corporation. Property is the smallest, at 5% of payments and 6% of claim activity.



WORKERS' COMPENSATION PROGRAM COVERAGE

The state's WC program continued to be affected by the COVID pandemic and its implications for the state's workforce. Experience specific to new claims in FY23 was neutral to favorable. The financial results for the fiscal year worsened due to payments from large claims incurred in prior years. This section will provide updates related to the out-of-state WC, claim counts, and claim payments.

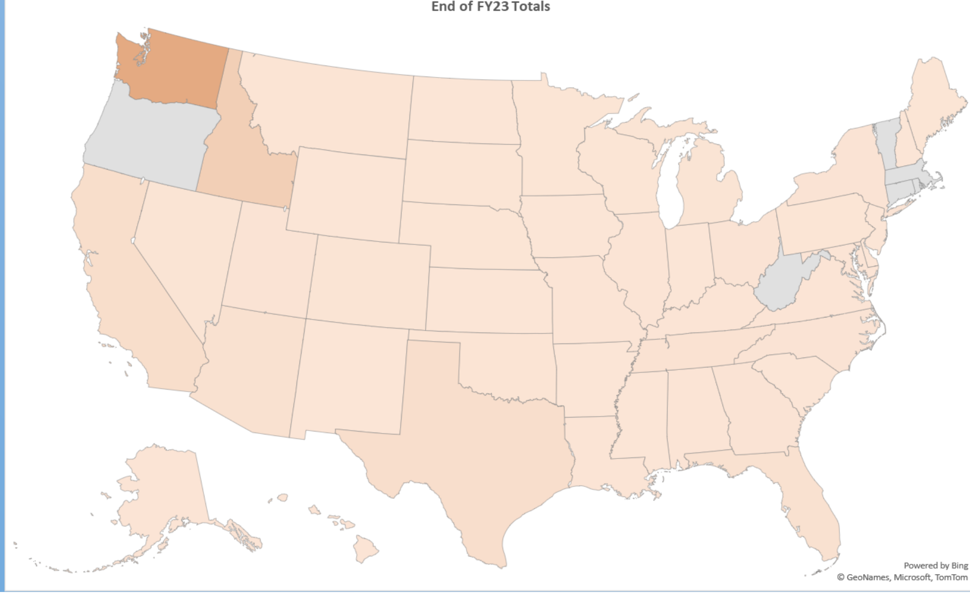


Out-of-State Workers' Compensation

The COVID pandemic sped up the move to remote and out-of-state work. During FY23, we ensured all Oregon state government employees residing both in and out-of-state had workers' compensation insurance. The expanded program drove the need for six separate WC policies. SAIF Corporation covers all Oregon based employees. Each monopolistic state (North Dakota, Ohio, Washington, and Wyoming) requires policies purchased from them. The remaining states and Washington DC are covered under one commercial policy. Policies, reports, and processes are being created and implemented to maintain the accurate enrollment of employees on out-of-state WC policies. This will include how the claim process will evolve with many different states and insurance policies.

By the end of FY23, we had placed an additional 165 employees on an out-of-state WC policy bringing our total to 743. These numbers include both temporary and permanent placements. Oregon's out-of-state workers are from 40 agencies. They are in 45 states including the District of Columbia. We expect continued growth in numbers of out-of-state employees.

Figure 4: Out-of-State Workers Permanent & Temporary
End of FY23 Totals



FY2023 WC Claim Counts

Total reported WC claim counts dropped to 1,980 from 2,248 in FY22. The reduction was due to both fewer pandemic claims and ongoing safety efforts. Claims not related to the pandemic continue to be generally below pre-pandemic levels. DAS RM, SAIF and agencies continue to collaborate to reduce claim counts.

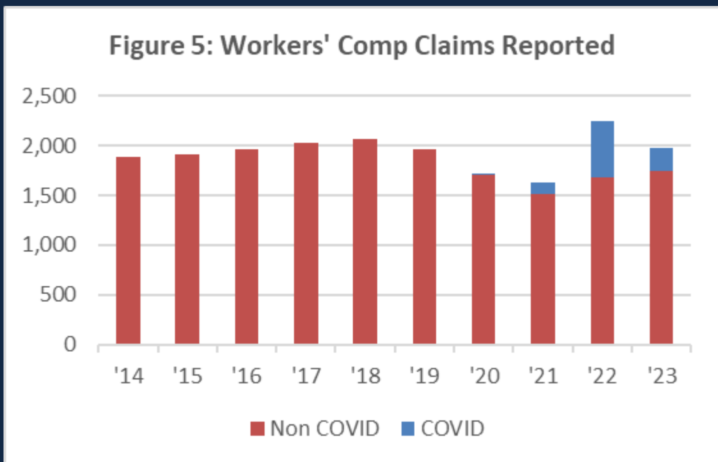
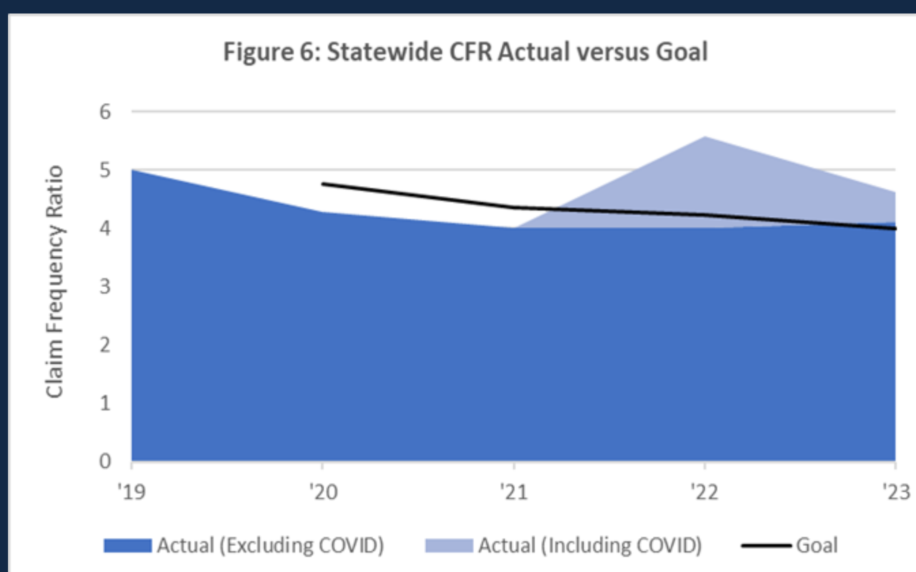


Figure 5 illustrates the trends. It shows claim counts increased through FY18, with reductions thereafter, partially due to claim reduction efforts. It shows how the pandemic affected claim counts. Reductions in non-COVID claims beginning in FY20 were offset in FY22 and early FY23 by pandemic claims. Almost all pandemic related claims in FY23 were reported early in the year, with such claims disappearing by year end.

In FY19, DAS RM introduced the Claims Frequency Rate (CFR) to agencies. It became the official WC frequency metric in FY22. This metric measures the number of claims per 200,000 hours worked and provides a consistent indexed rate to track injuries.

FY23 CFR calculations were hindered by a WORKDAY payroll implementation. This created a challenge receiving accurate hours-worked data for the calculations. After working with the WORKDAY team, we believe the FY23 (excluding pandemic claims) result is 4.11. This is slightly above the FY23 goal of 3.99.

Figure 6 shows the progress in reducing the CFR. The goal changes each year and is based on the prior year's data. Figure 6 also shows the success the state has had in reducing the CFR over the last five years. It highlights the value of partnerships and collaboration in meeting the goal.



FY2023 WC Payments Out of Insurance Fund

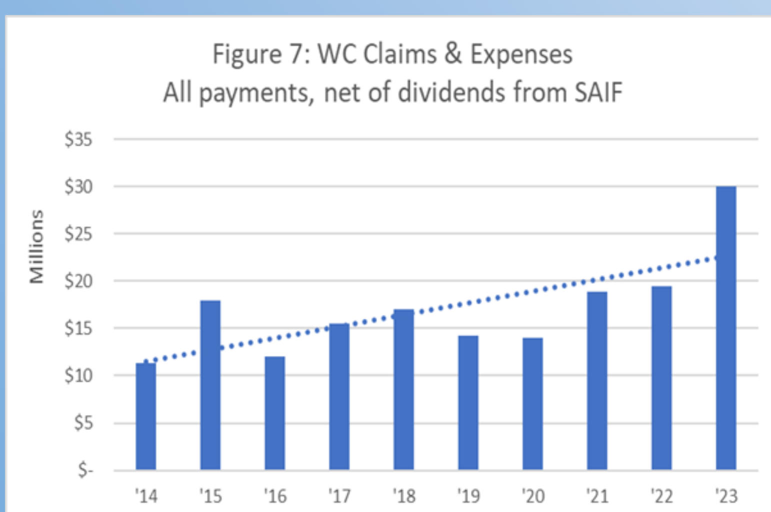
Figure 7 shows payments out of the Insurance Fund related to the WC program increased to $30.0 million from a previous $19.5 million in FY22. This appears to show FY23 had the worst claim experience in the last 10 years. The story is much more nuanced.

Claims reported in FY22 and prior contributed to the FY23 adverse financial result. For example, there were seven WC claims with losses expected to over $500,000 reported during the prior two fiscal years (FY22 and FY23). Only one of these seven claims was reported in FY23, and it was the smallest of the seven. FY22 claims included three fatality claims. There were no fatality claims in FY23. FY22's unfavorable claim payments contributed to the negative financial results in FY23.

While the state is never guaranteed a dividend from SAIF there was one in FY23. The state's dividend was reduced from 10.7 million in FY22 to 3.9 million for FY23.

While claims reported in FY23 were less severe than in FY22, longer-term WC payment trends are concerning. Payments during each of the past three years have been $19 million or more, which had not occurred in any of the prior seven years. We believe this trend is due to Presumptive Post Traumatic Stress Disorder (PTSD) claims. A FY19 law change made PTSD claims for a select group of employees presumptively covered. The law covers employees from law enforcement and corrections officers. These employees are exposed to distressing, emotionally charged situations, including physical attacks. Losses before FY19 were limited. Since the law change, losses have averaged about $3 million annually. Agencies with these exposures are exploring ways of further supporting their staff. SAIF is also engaging in research and helping develop new ways to mitigate these risks.

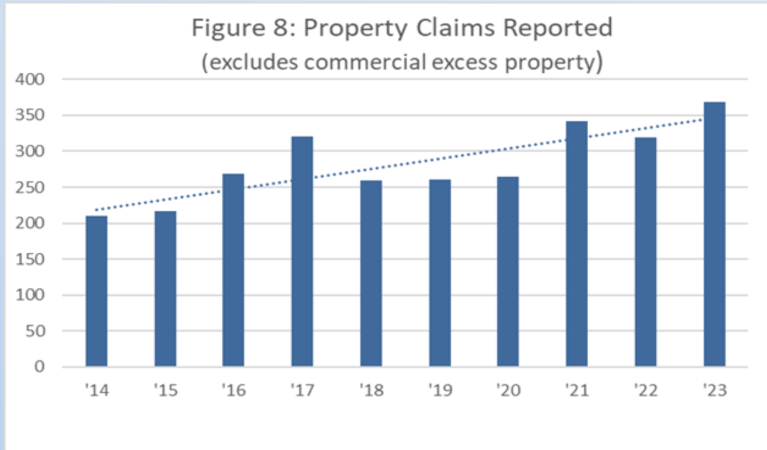
The state collected $20.5 million in WC risk charges from agencies for FY23. The charges fell short of covering FY23's $30.0 million in payments from the fund. This shortfall was expected in FY23. Future WC risk charges will need to cover WC payments.



PROPERTY PROGRAM COVERAGE

The state's Property program is primarily self-insured. DAS RM does purchase excess commercial coverage in the event of more catastrophic losses. The state self-insurance absorbs the higher frequency/lower severity losses.

FY23 was a quiet year for the property program. There were no excess commercial coverage claims. The state's self-insured property claims were of typical counts and severity. There was a modest increase in activity. Figure 8 shows reported claims have grown over the years to more than 350 in FY23. Property claims can usually be processed more quickly than liability and WC claims.



The self-insurance program covers losses up to the excess commercial policy retention of $1.5 million for all perils except for Earthquake and Flood. The self-insured retention for Earthquake and Flood is $4 million.

The excess commercial property program provides $425 million in catastrophic coverage to the state's property. The current excess policy program has more than 65 carriers providing coverage. The largest challenge for the property program is the continued premium increases driven by the insurance market.

Figure 9 shows payments for the self-insurance program and commercial insurance costs for the Property program over the last 10 years. Self-insurance payments have been between about $2 million and $4 million. During the same period, premiums for the commercial policy have grown from about $4 million to over $10 million.

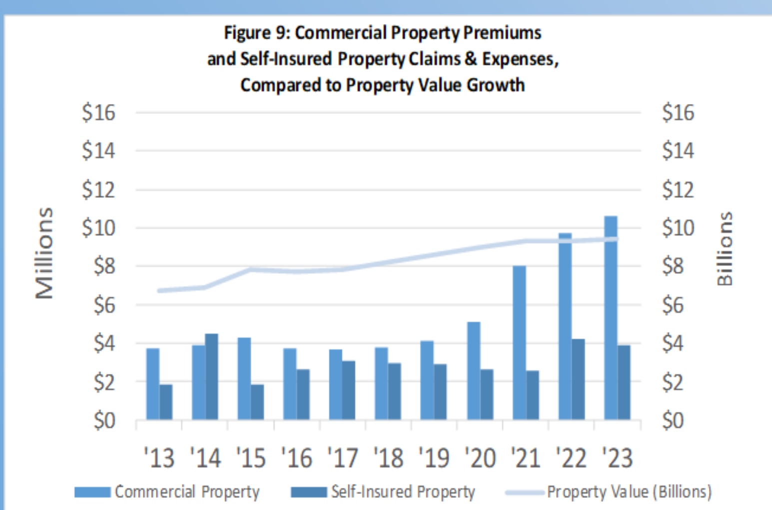


Figure 9 also shows the impact of the cyclical property insurance market. During the early years, with a soft insurance market, the premiums barely increased despite modest state property value increases. In the later years, as the insurance market hardened, premiums grew much faster than the state's reported property values. The excess property program provides good value. Yet, we are also growing concerned about the absolute cost of the coverage. This has been and will continue to be a topic of analysis and conversation within DAS RM.

The state collected $13.5 million in property risk charges for FY23. This was not enough to cover the $15.3 million of payments and premiums out of the fund. This situation needs to be reversed, with risk charge income exceeding payments and premiums, so a buffer can be built.

LIABILITY PROGRAM COVERAGE

The state's Liability program is self-insured. This means the state pays the costs of all liability claims. There is no purchased commercial insurance. In FY23, 2,512 claims were reported versus 2,185 in FY22. This is a 15% increase. Figure 10 shows the longer-term trend, which has been level. It reflects a reduction during the pandemic, and a recovery of claims to near record levels in FY23. While claim counts have been level, claim payments have accelerated in recent years and are expected to grow.

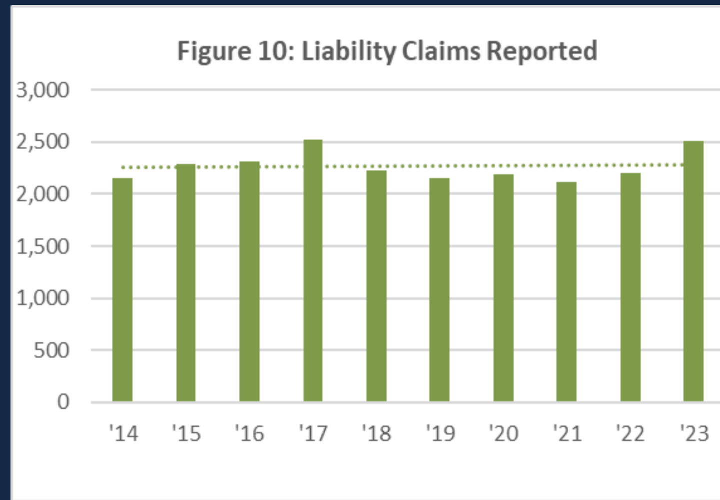
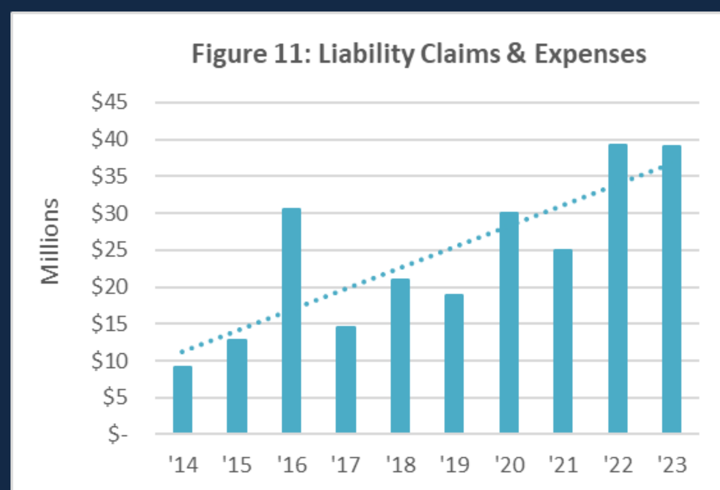
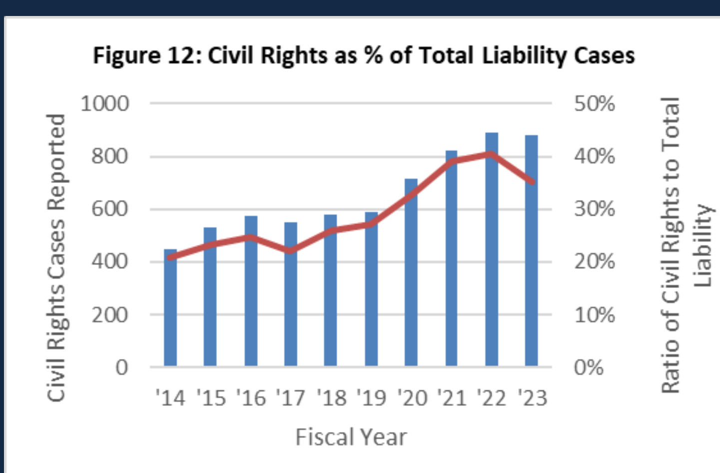


Figure 11 shows the increasing claim payment trend. Payments in both FY22 and FY23 were about $39.2 million, almost double the average of the prior eight years. For liability coverages, it is the few large claims that drive financial results. Work completed in FY22 showed about 2% of claims drive 80% of losses. Work beginning in FY23 has begun to shed light on the causes of this growth in claim severity.

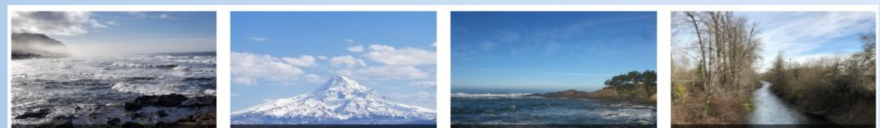
We believe the growth in civil rights claims is one key driver of large claims. Figure 12 shows Civil Rights claims growth over time. It also shows the percentage of liability claims involving expensive civil rights claims has grown. This was true especially during pandemic years. Non-civil rights claim counts have declined. In FY24, DAS RM will continue to determine causes of severe liability claims. We plan to increase risk mitigation efforts in partnership with a wide variety of stakeholders.





DAS RM collected $32.3 million for liability risk charges from agencies for FY23. This is less than the $39.2 million in costs for liability claim payments. Historical decisions not to fund the program to actuarial recommended levels, larger claims, the pandemic, higher tort caps, and the growth in higher cost civil rights claims continue to fuel this unsustainable trend.

With the shortfall in risk charge assessments, there are not assets within the Insurance Fund to cover the costs of the ongoing payments for past claims. This will need careful monitoring of claims occurring in FY23 which continue to have payments well into the future. Updates about the health of the Insurance Fund to a variety of stakeholders are becoming more frequent because of this situation.



PROGRAM FINANCIALS

Administrative Budget

The budget for FY23 (half of the biennial budget) for Program Administration was $16.9 million. FY23 actual expenses totaled $17.8 million, which was $0.9 million over budget. Most of the difference was related to Department of Justice (DOJ) expenses in support of claims administration. $13.3 million of the total related to DOJ expenses was $0.8 million over budget. This is an increase of almost 13.3% from FY22. DAS RM continues working with DOJ on managing expenses. It is a challenge as complex liability claims continue to grow.

For the biennium, total program administrative expenses were $33.2 million. This was $0.6 million under budget. DOJ expenses were $25.2 million, which was $0.8 million over budget. This left the rest of expenses at about $8.0 million, which was $1.4 million under budget.

Program Funding

The Insurance Fund receives income through agency assessments called risk charges. They are developed every biennium. They are allocated to all agencies participating in the risk management program. This allows state agencies to budget for insurance costs over a biennium. Risk charge development occurs over the 18 months before the beginning of a biennium.

These charges use a long-standing allocation formula. It assesses agencies based on their past claim history and long term risk. The formula spreads out charges for predictability and budgeting purposes. Each agency receives their own charges separated into property, liability, and WC charge parts. Current and past risk charge information is available on DAS RM's website under the Agency Costs tab.

DAS RM's risk charge development begins with an external independent actuarial analysis. They recommend a level of funding in keeping with statute ORS 278 which requires that the insurance fund operates on an actuarily sound basis. The actuaries recommended funding BN 21-23 at $213 million or more. This was an estimate of the total amount needed to fund all losses and related payments for all claims occurring during the biennium. It included amounts needed for claims with longer payment periods. The recommended $213 million was reduced to $179 million early in the budget process due to affordability concerns. The Legislature approved BN 21-23 risk charges of about $132 million.

Normally, 50% of the total of $132 million would be collected from agencies in FY22 and FY23. DAS RM chose to accelerate risk charges from FY23 to have sufficient funds available to pay liability claims. This decision added $55 million to the Insurance Fund, supporting claim payments and expenses. This brought the Insurance Fund cash and invested assets to $153 million at FY22 end. Without the acceleration risk charge collection, those assets would have declined to $98 million, or 29% of liabilities. This acceleration helped the Insurance Fund in FY22 but left the fund with an immaterial $11 million in risk charge income in FY23.

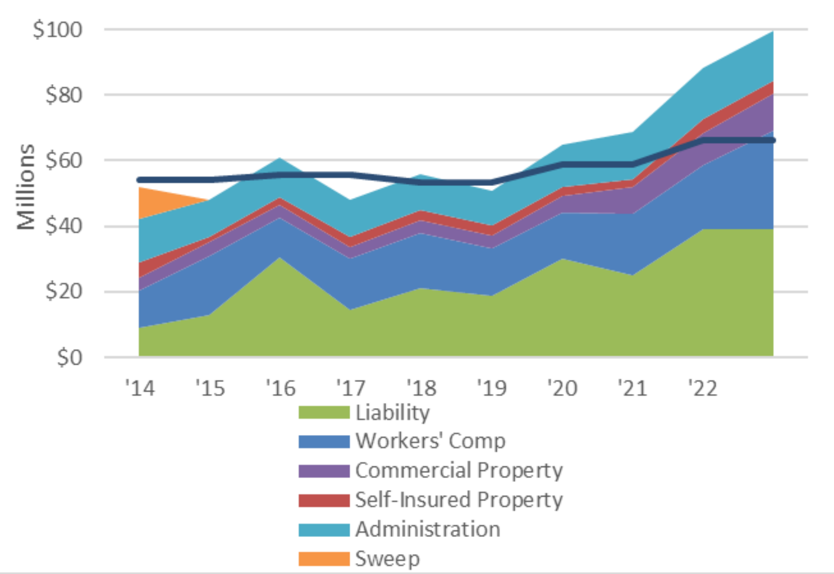
Program Claims and Payments

Figure 13 illustrates Insurance Fund payments versus income. It shows that during five of the last six fiscal years, income has been insufficient to pay claims and expenses. In FY23, payments totaled $99.8 million versus risk charges of $66.3 million. (The FY22 income shown in Figure 13 excludes income accelerated from FY23.)

Figure 13 also shows during the last 6 fiscal years income has trailed payments by more than $70 million.

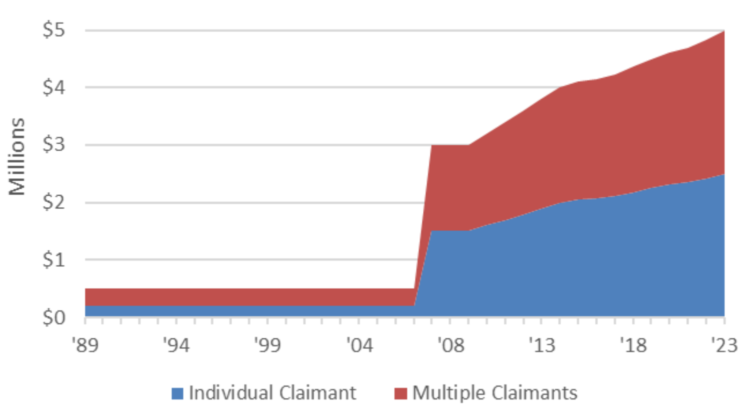
This trend is troubling, and BN23-25 is projected to be even worse.

Figure 13: Program Payments versus Income



There are several reasons claims and payments are growing. The COVID pandemic caused unplanned claims. They are now expected to exceed $100 million. Figure 12 on page 8 shows how the more costly Civil Rights claim counts are increasing. These claims end up in Federal courts where there is no limit to potential costs.

Figure 14: Oregon Tort Limits per ORS 30.271



Finally, Oregon Tort Claims Cap Limits shown in Figure 14 continue to increase annually. These factors have acted like a "perfect storm" to cause the increase in payments shown in Figure 13.

Insurance Fund Health

The best measure of financial health of the program comes from a comparison of program assets to liabilities. As of June 30, 2023, total program assets were $61.0 million. Liabilities were $367.0 million. Liabilities include reserves, which are estimates of the amount needed for payments until all claims have closed. This can take many years. Cash and invested assets are now about 16% of liabilities. This compares unfavorably with DAS RM's goal of 70%.

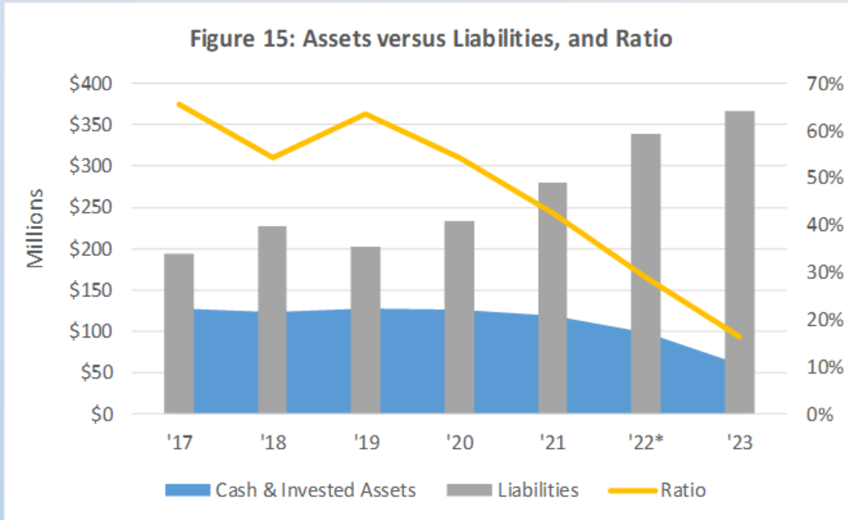


Figure 15 illustrates the historical health of the Insurance Fund. It shows cash and invested assets versus total liabilities, along with the ratio, which has fallen significantly over recent years.

The falling ratio during the last four FYs means the health of the Insurance Fund is deteriorating. As mentioned above, this is due mostly to increases in large liability claims. Increases in risk charges will be the primary short-term solution to reversing the trend shown in Figure 15.

Causes of Deteriorating Insurance Fund Health, and Planned Responses

The causes of the deteriorating Insurance Fund health are both simple, and complex.

The approved risk charges have been insufficient. Between FY17 and FY25, legislatively approved risk charges will be nearly $150 million lower than the minimum recommendations from independent qualified actuaries.

Had the Insurance Fund received income at the minimum level over the last eight years, assets would have been more than $210 million on June 30, 2023, and the funded ratio would have been about 57%. In such a case, there would be concerns about payment trends, but the Insurance Fund health would be satisfactory.

On the complex side, the challenge is understanding the reasons for the explosion in losses, and what can be done to manage payment growth. We've noted the pandemic is currently estimated to cost the fund more than $100 million in unplanned payments. Liability claims, especially civil rights claims against the state, are among the other major cost drivers.

DAS RM plans a thorough review of the environment in FY24. We seek to understand drivers of increasing payments and intend to implement initiatives to slow claim counts and severity. We don't know everything we will find. We expect many of the drivers could be far reaching, societal and systemic. Risk mitigation will prove challenging and take time to achieve. In the shorter term, increases in income to the Insurance Fund will be necessary to begin turning the Insurance Fund's health around.

RECAP AND OUTLOOK

In FY23, DAS RM faced mounting challenges. A fully staffed and experienced team led to success in a variety of areas.

New claims reported for the three major coverages totaled 4,860. This amount almost tied the highest count in the last 10 years. Despite the increase in reported new claims, 5,183 claims closed during the year. In fact, closed claims were at least 5% higher than reported new claims for each of the three coverages. This operational achievement was remarkable in such a busy, complex year.

The COVID pandemic continued to impact DAS RM, but in subtle ways. New WC claims driven by the pandemic declined to almost none. The process of meeting the WC needs of employees working outside of Oregon kept the RCU team busy. Some potentially expensive liability claims related to the pandemic continued to tap the Claims Team expertise. There was a downward swing in defense costs as courts closed during the pandemic. When the courts reopened, costs rebounded upward with a backlog of claims. This situation challenged our staff and Insurance Fund with complex and costly cases.

FY23's Legislative session required significant attention from DAS RM staff. A variety of bills affecting the Insurance Fund were considered and needed analysis. The sessions also included conversations about the funding level of the Insurance Fund.

FY23 marked the second full year of use for the state's new risk management information system. It streamlined much of the financial program work. It improved the property and exposure data collection process. This saves time for agency partners and helps assure state property is appropriately insured. This year saw the development of a portal connecting DAS RM with our state government partners. The portal allows agencies to submit risk related questions and issues.

FY24 will see a continuation of the priorities from FY22 and FY23. The Insurance Fund's deterioration will require greater focus on the liability coverages. This includes closely managing some large in-progress claims. It also includes work to identify structural reasons for the state's worsening claims experience. A wide variety of challenges face state governments. Identifying areas for focused improvement efforts is critical.

DAS RM looks forward to FY24's challenges. We will use our greatest asset of 29 experienced and knowledgeable employees to meet what comes our way. Our team is ready to continue to achieve our mission in this new, exciting and challenging environment.

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