

Department of Consumer and Business Services

	2013-15 Actual	2015-17 Legislatively Approved*	2017-19 Current Service Level	2017-19 Governor's Budget
General Fund		1,823,000		400,181
Other Funds	192,183,248	249,320,936	258,879,476	252,680,202
Other Funds (Nonlimited)	188,939,459	197,626,507	202,096,657	202,093,186
Federal Funds	3,063,362	17,420,257	14,941,294	14,928,611
Total Funds	384,186,069	466,190,700	475,917,427	470,102,180
Positions	923	960	950	966
FTE	913.68	952.76	944.54	959.20

* Includes Emergency Board and administrative actions through December 2016.

Program Description

The Department of Consumer and Business Services (DCBS) provides a broad range of consumer protection, health insurance access, and commercial regulatory services for the state. DCBS is organized into five program areas plus central services and administration:

- **Workers' Compensation System** includes the Workers' Compensation Board, the Workers' Compensation Division, and the Oregon Occupational Safety and Health Administration (OR-OSHA). Approximately 48% of the agency's full-time equivalent (FTE) staff is housed in these three programs. WCS administers the Workers' Benefit Fund supporting payments to injured workers in the event that their employer failed to provide coverage, benefit increases to permanently- and totally-disabled workers, benefits for the survivors of workers killed in workplace injuries, and funds return-to-work programs for injured workers. WCS additionally maintains reserve accounts to finance workers' compensation payments to employees when self-insured employers become insolvent and are unable to make the payments. Approximately 10% of workers are employed by self-insured employers. Expenditures from these reserve funds and the Workers' Benefit Fund are not limited in the budget and are categorized as Nonlimited Other Funds.
- **Insurance Division** enforces the state's Insurance Code, including the review of and approving of certain premium rates; and the licensing of insurance companies (including financial regulation), agents, adjusters, and consultants. The Division also assists consumers in resolving complaints against agents and companies.
- **Financial and Corporate Securities Division** regulates state-chartered financial institutions (banks, credit unions, consumer finance companies, mortgage lenders, pawnbrokers, check cashers) and the sale of securities in the state (including the licensing of individuals who sell, advise, or manage investment securities). The Division also regulates prepaid funeral plans and maintains a reserve account to support consumers when these plans become insolvent or default on their obligations.

- **Building Codes Division** enforces the laws and the develops codes related to building of structures and dwellings, manufactured structures, RV parks and tourist facilities, plumbing; elevators, amusement rides, electrical safety, and boilers and pressure vessels.
- **Oregon Health Insurance Marketplace Division** operates the state-based health insurance exchange authorized by the federal Affordable Care Act. The program provides public access to qualified health plans, premium subsidies, and tax credits for individuals enrolling in qualified health plans through the HealthCare.gov web portal, provides education and outreach opportunities to educate the public on the availability and affordability of health plans offered through the exchange, and works with consumers and insurance industry professionals both directly and through the health policy advisory council to address consumer health insurance market needs and concerns.

CSL Summary and Issues

The current service level budget for DCBS increases by 2.1% from the legislatively approved budget for the 2015-17 biennium. This increase is attributable to base budget adjustments; the additional essential packages having a negligible impact on the overall budget. DCBS made some operational changes during the interim with budgetary issues as discussed below by program.

Insurance and DFCS consolidation.

DCBS has combined the budgets of the Insurance and Financial and Corporate Securities divisions outside of the normal legislative process and without providing the report and review processes required by statute. This substantive change was first presented to the Legislative Fiscal Office in November of 2015. At that time, DCBS stated that it intended to implement the operational changes beginning January 1, 2016, but that the budgetary and accounting functions of the program would remain as approved by the Legislature in the 2015 session. It was discussed with the agency at that time that any budgetary or organizational changes would have to be approved by the legislature prior to implementation. Pat Allen, the DCBS director, presented the idea of a combined Insurance/Finance division at an informational hearing of the JWM Subcommittee on Transportation and Economic Development on February 2, 2016 where he noted the need to allocate and account for funding sources and maintain statutory framework of funding and program responsibility. Mr. Allen also noted that integrating the programs (SCRs) would take formal processes and clearly stated that 2017-19 budget structure changes would have to be brought before the Legislature. The standard process for this type of budgetary change is to combine the existing divisions using an essential package for technical adjustments; delineating the reductions to the existing programs and the increases to the proposed combined program. In this way, should the Legislature reject the proposed budgetary changes, the budget can be easily restated in the prior structure. DCBS, however, has combined the programs as a single budgetary unit prior to the current budget formation, thus reducing discrete budgetary control over the separate programs.

Workers Compensation System.

A base-budget adjustment was included in the Oregon OSHA program's Current Service Level that increased the transfer of funds to the Bureau of Labor and Industries (BOLI) from \$250,000 Other Funds to \$500,000 Other Funds. No narrative explanation was included in the agency's requested budget for the increase. The transferred funds are ostensibly used by BOLI for the enforcement of certain anti-discrimination laws related to the reporting of hazardous workplaces, however the BOLI budget indicates that a significant portion of the funding will be used to backfill lost federal revenues for housing discrimination investigation and enforcement.

Health Insurance Marketplace.

The budgeted expenditures of the Health Insurance Marketplace at CSL exceed budgeted revenues by a little more than \$4.6 million. A portion of this is to reduce the projected ending fund balance of the Marketplace Fund to maintain a working capital reserve balance of no more than six months as required by statute. It also appears that the agency has overstated budgeted expenditures associated with information technology professional service contracts and Attorney General charges related to what was at the time of the budget development, the ongoing Oracle litigation. An adjustment removing \$9.9 million of expenditure limitation for these items was included in the Governor's budget.

DCBS has moved the federally funded Senior Health Insurance Benefit (SHIBA) program from the Insurance Division to the Health Insurance Marketplace Division in a similar fashion as the combining of the Insurance and CFS programs. The personal services component of the change was made in the base budget and the non-PICS portion is accomplished through technical adjustments. Although technically outside of the traditional methodology for this kind of change, this particular change is less of an issue since the funding is Federal Funds and the Health Insurance Marketplace has no other Federal Funds programs, therefore, making the fiscal impact of the change clearer. One issue that may complicate this move is that the agency had, in opposition to LFO recommendations, used a portion of Other Funds from insurance premium assessments to supplement federal funding for the SHIBA program. It is unknown whether or not this practice is continued in the agency's budget.

A transfer-in of \$200,000 Other Funds is included in the OHIM program budget with no narrative explanation. The transfer is separate from revenues received from OHA for ongoing information technology contracts and for revenues from per-member, per-month fees charged to insurer. It's likely that these funds are a continuation of the funding for the SHIBA program using premium assessment revenue charged to insurance companies for the regulation and oversight of the insurance industry as noted above.

DCBS has phased-out all of the budgeted expenditure authority for payments supporting health insurance premium assistance to COFA islanders residing in Oregon in the CSL budget, but the funds have not been fully expended in the 2015-17 biennium. The Governor's budget seeks to reestablish the expenditure authority for the remaining program funds in the 2017-19 biennium.

Policy Issues

There are two significant proposals included in the Governor's budget for DCBS:

- Continuation of the COFA islanders' health insurance assistance program. The 2015-17 legislatively approved budget provided a general fund appropriation of \$1.823 million that was to be expended as Other Funds for the program. Because the first year of the program is the 2017 calendar year, only six months of expenditures, other than administrative costs, will be applied to the funding, leaving an estimated balance of \$1.383,290 for which the proposed budget reestablishes limitation for in 2017-19. Additionally, the package requests \$400,181 General Fund to be transferred in to the COFA fund for a total OF expenditure request of 1,783,471. Direct payments to individuals total 1,327,220; administrative costs total \$456,251. The package would establish a single, permanent, full-time position. The program pays the net cost (after tax credits and payment assistance) of policy premiums and the in-network, out-of-pocket expenses of covered persons. The premium assistance is paid directly to the insurers by DCBS, out-of-pocket expenses are paid to policy holders on a reimbursement basis through a no-cost, no-fee prepaid debit card. As of January 18th, there were 188 approved applications, 61 pending applications, and 97 applications with missing information. DCBS estimates that there will be just under 300 total participants.
- Increased staffing for the Oregon OSHA program. This proposal seeks to add 16 positions to the Oregon OSHA program, none of the positions are federally funded. The additional Other Funds limitation requested of \$3.15 million would come from the Workers' Compensation Premium Assessment Operating Account fund. The increase in expenditures from the PAOA were anticipated by the agency to be approved and were included in the calculation of the 0.6% increase in the premium assessment rate imposed by DCBS for calendar year 2017 and on, as reported by the agency to the Emergency board at the December 2016 meeting. The package includes the following positions:
 - 9 enforcement officers
 - 5 consultants
 - 1 operations and policy analyst
 - 1 executive manager

The additional positions represent an 8.2% increase in staffing and a 5.76% increase in total expenditures (all funds)

There are two key factors that the agency uses to support the request:

1. The current number of years to inspect all job sites is 32 years, up from the 25 year average of 22 years
2. Long-term industry total payroll employment growth from 2012-2022 (OR. Employment Division stat.) is 15%

The injury rate per 100 workers has remained steady at 3.9, but this represents a leveling off from prior decreases.

Two additional policy option packages were included as “place holders” for costs related to implementation of proposed legislation dealing with the regulation of financial advisors and loan servicers.

Other Significant Issues and Current Discussions

A budget note was included in SB 5701 (2016) defining the agency’s authority to regulate pharmacy benefit managers and to convene a workgroup to develop recommended rules for PMB compliance. The budget note directs the agency to develop draft rules and report to the appropriate legislative committees by November 1, 2016. It is anticipated that the agency will have a legislative concept in conjunction with this issue and that there will be a budgetary impact.