

## Consumer and Business Services

|                          | 2015-17<br>Actual  | 2017-19<br>Legislavely<br>Adopted | 2017-19<br>Legislatively<br>Approved* | 2019-21<br>CSL<br>LFO | 2019-21<br>Governor's<br>Budget |
|--------------------------|--------------------|-----------------------------------|---------------------------------------|-----------------------|---------------------------------|
| General Fund             | 1,823,000          | --                                | --                                    | --                    | 1,906,627                       |
| Other Funds              | 225,013,504        | 246,276,380                       | 253,005,744                           | 265,613,032           | 365,702,567                     |
| Other Funds (Nonlimited) | 166,025,572        | 202,096,657                       | 202,096,657                           | 212,126,048           | 211,890,831                     |
| Federal Funds            | 13,695,903         | 14,466,034                        | 16,803,370                            | 16,823,218            | 84,481,966                      |
| <b>Total Funds</b>       | <b>406,557,979</b> | <b>462,839,071</b>                | <b>471,905,771</b>                    | <b>494,562,298</b>    | <b>663,981,991</b>              |
| Positions                | 952                | 965                               | 969                                   | 960                   | 966                             |
| FTE                      | 936.36             | 957.36                            | 959.53                                | 955.79                | 961.19                          |

\* Includes Emergency Board and administrative actions through December 2018

### 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 (WCS) – Includes the Workers' Compensation Board, the Workers' Compensation Division, and the Oregon Occupational Safety and Health Administration (OR-OSHA). Approximately 49% 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, for benefit increases to permanently- and totally-disabled workers, for benefits for the survivors of workers killed in workplace injuries, and also 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 Other Funds Nonlimited.
- Division of Financial Regulation –The Division enforces the state's Insurance Code, including the review and approval of certain premium rates and the licensing of insurance companies (including financial regulation), agents, adjusters, and consultants, and assists consumers in resolving complaints against agents and companies. Additionally, DFR 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. Approximately 18.3% of the agency's FTE is housed in this Division.

- Building Codes Division – Enforces the laws and develops codes related to the building of structures and dwellings, manufactured structures, RV parks and tourist facilities, plumbing, elevators, amusement rides, electrical safety, and boilers and pressure vessels. Approximately 14.1% of the agency’s FTE is housed in the Buildings Codes Division.
- 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 plans through the HealthCare.gov web portal; provides education and outreach to 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 health insurance market needs and concerns. The Senior Health Insurance Benefit Assistance (SHIBA) program that was housed in the Insurance Division prior to the consolidation of that division with the Financial and Corporate Securities Division is also managed within the Oregon Health Insurance Marketplace Division as of this biennium.

### CSL Summary and Issues

The current service level for the agency includes adjustments from the 2017-19 legislatively adopted budget for:

- 2018 legislative session actions and Emergency Board actions through March 2018 including:
  - Position actions including collective bargaining agreements negotiation by the Governor; \$6.74 million
  - Funding for the initial implementation of HB 4005 related to prescription drug cost monitoring; \$425,022
  - Additional federal funding for the Senior Health Insurance Benefit Assistance (SHIBA); \$810,000
- Net impact of the biennialization of position actions and the elimination of limited duration positions; \$4.65 million
- Administrative increases in non-limited expenditure authority for the Workers’ Compensation Division and Central Services Divisions; \$10.0 million
- Decrease in vacancy savings to reflect anticipated actual personal services expenditures; \$5.0 million
- Personal Services adjustments not included elsewhere including temporary appointments, overtime, and associated taxes; \$485,109
- Phase-in of expenditure limitation for federal funds received under a federal grant program in the 2017-19 biennium, but for which expenditure limitation was not included in the current service level for 2019-21 due to budget development timelines; \$152,520
- Phase-out of one-time funded activities or programs funded in the 2017-19 budget, including reductions for:
  - Mental health parity examinations; \$600,000
  - Non-position related costs for the initiation of the prescription drug cost monitoring; \$100,800
  - Expended federal funding for federal grant related to health insurance market reforms; \$366,253
  - Non-position related costs, including program administration and payments to individuals, for the Compact of Free Association medical insurance assistance program; \$1.15 million
- Inflation, both standard inflation at a rate of 3.8% for most Services and Supplies expenditures, and extraordinary inflation for certain authorized items; \$2.8 million
- Increases in state government service charges \$1.74 million

Additional legislatively approved changes that were made to the 2017-19 budget for the Department of Consumer and Business Services after April 2018 are not contemplated in the current service level budget for the agency, but are captured in the legislatively approved budget. Typically, adjustments made to the agency's budget during this part of the interim are for one-time funding or expenditure authority, and therefore, require no additional accommodation in the upcoming biennium's budget.

The current service level budget for the agency increases by \$22.66 million total funds, an increase of 4.8% from the legislatively approved budget. Half of this increase is due to administrative adjustments to non-limited Other Funds. These funds are typically used to make benefit payments from the Workers' Benefit Fund and those adjustments account for \$7.4 million of the total, but in this case the agency has also increased non-limited expenditure authority for the Central Services Division which typically uses very little of this type of expenditure authority. The remaining increases are due to position actions, statewide inflationary items, and the reversal of vacancy savings reductions imposed in the 2017-19 budget.

DCBS has phased-out the non-position related funding provided to the agency for the COFA medical insurance assistance program, but did not phase-out the limited-duration position that was authorized by the Legislature during the prior biennium. Instead, DCBS loaded the position in the state's budget system as a permanent position and will, therefore, need to be removed from the agency's budget.

#### Policy Issues

- Reinsurance Program. The Oregon Reinsurance Program was created by HB 2391 (2017) with the twofold goal of reducing insurer risk and reducing premium rates. The program is currently funded by temporary tax on insurance premiums, including the Public Employees' Benefit Board premiums, and managed care premiums along with federal rate subsidy under a waiver program, excess health insurance marketplace management funding, and residual funding from prior reinsurance programs. The program was able to achieve premium rate reductions of 7.5% for the 2018 plan year and 7.8% for the 2019 plan year. The ongoing funding for the program is in question, both at the federal and state level.
- Paid Family Medical Leave. Several possible proposals for implementing a paid family medical leave program to augment the Oregon Family Medical Leave Act (OFMLA) are being discussed. DCBS has been suggested as a possible candidate for the administration of such a program. The agency does not currently directly manage any type of program like this and, therefore, may require significant resources to initiate and manage a new program of the type being considered.
- Cap and trade and carbon offset programs. Both of these programs have been discussed by the Governor and the Legislature. DCBS has been discussed as a possible home for either of these programs. As with the proposal for paid family medical leave, the agency does not currently have a structure for supporting this program and would have to develop the program nearly from scratch.
- Fire insurance policy surcharge for the State Fire Marshal. DCBS collects equal to 1% of the gross amount of premiums charged for fire insurance policies. These funds are then transferred to the State Fire Marshal to support the expenses of that office. Due to the severity of Forest Fires that have resulted in conflagration declarations being made by the Governor in the past few biennia, the

revenue generated by the fire insurance premium tax has been insufficient to support the working capital needs of the State Fire Marshal and General Fund has been allocated to support the shortfall.

- Compact of Free Association Medical Assistance. This program was originally funded by a one-time General Fund transfer and was established at DCBS as temporary, or one-time. Payments to individuals have been sharply below initial projections and therefore the original program funding has been carried forward in to subsequent biennia. Although contrary to the budget report for the agency's 2017 budget bill, the limited-duration position afforded to the program was established as permanent. The ongoing nature of the program may need to be considered and if the policy of the Legislature is to shift the program to a continual basis, a funding source should be identified.

### Other Significant Issues and Background

#### *Governor's Budget*

The Governor's proposed budget for DCBS results in an increase in total expenditures of 34.3% from the current service level. This change is nearly entirely attributable to the additional expenditure authority required to process reinsurance payments in the upcoming biennium; \$185.7 million.

DCBS anticipates a federal funding shortfall for the Occupational Safety program in the requested budget by moving the funding for five positions from a split federal/state funding scheme to entirely state funded from the Workers' Compensation Premium Assessment. The net change would be an increase in state funding of \$723,468 Other Funds.

The Governor's budget proposes to create a permanent financing model for the Compact of Free Association medical assistance program by shifting funding for both the benefit payments and administration of the program to General Fund at a cost of \$1.9 million in the upcoming biennium.

The agency has begun the process of planning for the replacement of the Workers' Compensation electronic information system. This involves the update or replacement of over eleven individual systems that work in concert to manage data and information for the Workers' Compensation system. This project is anticipated to span multiple biennia. The current budget request is to provide resources for development of the business case, define business processes and needs, and prepare documentation for the initial state gate process.

The majority of the federal Senior Health Insurance Benefit Assistance program has been moved to the Insurance Marketplace Division in prior budget cycles, however, the proposed budget continues to fund a position for this federal program with insurance premium assessments in the Financial Regulation Division. Ostensibly, these revenues are for the cost of regulation of the insurance industry in Oregon. There does not appear to be a legislative directive to have this federal program subsidized using state funding in this way.