

ANALYSIS

Item 42: Department of Consumer and Business Services Workers' Compensation Premium Assessment

Analyst: Ben Ruef

Request: Acknowledge receipt of a report on changes to workers' compensation premium assessment rates.

Analysis: Although specifically exempted from the SB 333 fee ratification process, statute requires the Department of Consumer and Business Services (DCBS) to report changes in workers' compensation premium assessment rates made by the Department through administrative rule.

The report presents changes to rates impacting revenues of the Workers' Benefit Fund and Premium Assessment Operating Account.

Workers' Benefit Fund revenue is primarily derived from a cents-per-hour assessment on all wages paid in Oregon. The rate is split evenly between employers and employees. A portion (1/16th of one cent) of the assessment supports a special payment to the Oregon Health and Science University, Oregon Institute of Occupational Health Sciences for research on occupational illness and disease. Secondary revenue is from recovered claims cost from non-complying employers, fines, interest income, and other revenues. The fund supports a variety of programs aiding employers and injured workers. The rate is set to provide an adequate fund balance for projected claims and supported program expenditures. The rate information provided by DCBS on the cents-per-hour assessment is not required by statute to be included in the report, but has been provided by DCBS as a courtesy and to provide additional context to the state of the workers' compensation system as a whole. There is no change to the cents-per-hour assessment from the previous year's rate.

The Premium Assessment Operating Account (PAOA) is funded through an assessment against the earned premiums of insurers providing workers' compensation coverage, including the State Accident Insurance Fund, private, and self-insured employers and employer groups. The assessment percentage includes a general assessment rate for all employers and additional supplemental rates charged against policies of self-insured employers, the proceeds of which fund adjustment reserve accounts. These funds are used to pay the claims of injured workers of these employers when they cannot obtain payment due to self-insured employer insolvency. The general assessment funds the Workers' Compensation Division (including the Ombudsman for Injured Workers and the Small Business Ombudsman), a portion of the Oregon OSHA program, and the Workers' Compensation Board.

Generally, the premium assessment rate results from a basic formula that divides the net planned and forecasted expenditures and transfers by the forecasted premium base, with modifications for adequate fund balance. The DCBS report notes that a reduction in one of the factors that are used to derive premium rates (the pure-premium rate) will result in a reduction in the total assessable premiums that would have otherwise been forecasted, and would, therefore, reduce the total assessment revenue to the PAOA without an increase in the assessment rate.

The increase in the 2022 assessment rate to 9.8% from the 2021 calendar year rate of 9.0% allows for adequate total assessment revenues from the reduced total amount of premiums charged to businesses by insurers. At this rate, the ending fund balance is projected to decrease from \$79 million in 2021 to \$52 million in 2025 which is equivalent to over six months of operating expenses.

Recommendation: The Legislative Fiscal Office recommends that the Joint Interim Committee on Ways and Means acknowledge receipt of the report.

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Department of Consumer and Business Services
Heath

Request: Report on changes to the Workers' Compensation Premium Assessments as required by law and report on changes to the Workers' Benefit Fund Assessment.

Recommendation: Acknowledge receipt of the report.

Discussion: In accordance with ORS 656.612(6), the Department of Consumer and Business Services (DCBS) is submitting a report on an increase in the Workers' Compensation Premium Assessment (WCPA). The WCPA is the primary source of funding for the services provided by DCBS' Workers' Compensation Division, Oregon OSHA, and the Workers' Compensation Board. The assessment is levied as a percentage of the workers compensation premiums earned by insurers (or by imputed premiums in the case of self-insurers). On January 1, 2022, the rates will increase 0.8% to 9.8%. This represents the sixth consecutive increase to the WCPA rates.

DCBS is increasing the WCPA rate again in 2022, as the result of expected declines in the workers compensation premiums. This is due in large part to a projected decline in the "pure premium" by 5.8% from 2021. The pure premium is the largest component of workers compensation rates, which also includes costs for administration and insurer profit. Everything else being equal, as the base on which the revenues is assessed goes down, the WCPA rate must go up to maintain a constant level of revenues.

The underlying reason for the decline in the pure premium is largely from improvements in workplace safety as employment has shifted from riskier industries to safer ones and worker safety improves (on average) within historically risky industries and firms. Other factors contributing to the decline in pure premium include early return to work programs, less severe injuries, and a decline in medical costs. DCBS believes the pure premium will continue to decline over the coming years at a constant rate of approximately 5.8% per year. The pure premium rates for 2022 were developed using data from policy years 2018 and 2019, and as such do not reflect any experience from COVID-19 in the workplace; there is still considerable uncertainty about the impact of COVID-related claims on worker safety and whether they will be more or less severe than other claims.

In addition to the projected decline in revenues, expenses for the programs supported by the assessment are projected to increase in 2022. The 2021-23 Legislatively Adopted Budget for the Department includes expenditure limitation for planning for the Workers' Compensation Modernization project, which will be funded by revenues from the WCPA, and to backfill the federal grant that supports Oregon OSHA, as well as normal inflationary increases. All told, budgeted expenditures increased \$11.8 million total funds between the 2019-21 and 2021-23 biennium.

At the 9.8% rate for 2022, the fund balance is projected to remain steady with a balance at 11.8 months of expenditures at the end of 2022. This is within the range of 6 to 12 months of expenditures DCBS targets to maintain as a fund balance. This represents a significant improvement from the outlook when rates were set for the 2021 plan year. Combining actuals with projections for the remainder of 2021, revenues will come in \$8.7 million higher and expenses \$13.7 million lower than DCBS projected when developing the 2021 WCPA rates. These changes contribute to a fund balance at the end of 2021 that will be \$28.5 million higher

than projected at the time 2021 rates were developed. The higher revenues are largely due to improvements in the state's employment outlook as workers' compensation premiums are driven largely on the number of employees, while lower expenditures come from voluntary efforts by the Department to rein in or defer spending where possible to reduce the impact of rate increases in the worker safety system on employers.

For 2022, DCBS is maintaining the rates charged to self-insured employers and to self-insured employer groups at 0.1% of premium for self-insured employers and self-insured public sector groups and 0.5% for self-insured private sector groups. These rates are assessed on top of the WCPA; proceeds from these assessments are reserved to pay claims in case of default by either a self-insured employer or a self-insured employer group. Self-insured employers and employer groups accounted for 13.1% of the workers' compensation insurance premiums written or imputed in Oregon in 2020.

The rate setting for the Workers' Compensation Premium Assessments is done via a public rule-making process. DCBS held a public hearing on September 16, 2021, prior to adopting the revised rate. There is no record of public comment on the revised rate for the WCPA either during the hearing or afterwards.

The Department is also reporting on the status of the Workers Benefit Fund Assessment (WBFA), which is used to pay for programs to support injured workers and their families. The WBFA will remain at 2.2 cents per hour worked in 2022; employers and employees pay equal amounts of this assessment. The Department projects it has an adequate revenue stream and fund balance to maintain benefits at the current rate.



October 18, 2021

The Honorable Senator Elizabeth Steiner Hayward, Co-Chair
The Honorable Senator Betsy Johnson, Co-Chair
The Honorable Representative Dan Rayfield, Co-Chair
Interim Joint Committee on Ways and Means
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairpersons:

Nature of the Request

Report to the Joint Interim Committee on Ways and Means on workers' compensation premium assessments.

Overview

In 2022, Oregon employers, on average, will pay less for workers' compensation coverage. The decline in costs marks nine years of average decreases in the pure premium rate – the base rate insurers use to determine how much employers must pay for medical claims and lost wages.

On average, employers will pay 97 cents per \$100 of payroll for workers' compensation insurance in 2022, down from \$1.02 in 2021. That figure covers workers' compensation claims costs, assessments, and insurer profit and expenses. The pure premium rate in 2022 will drop by an average of 5.8 percent. The pure premium has declined by 51 percent between 2013 and 2021.

Under the authority of Oregon Revised Statutes chapter 656, the Department of Consumer and Business Services (DCBS) is authorized to collect assessments based on workers' compensation insurance premiums from insurers, self-insured employers, and self-insured employer groups to support workers' compensation-related programs administered by the department. ORS 656.612 requires DCBS to develop the assessment through an administrative rule process and report the assessment rate to the Joint Committee on Ways and Means or the Emergency Board.

The following table shows the change in assessment adopted following a public comment period and public hearing.

Rate	Current rate	Rate effective January 2022
Premium Assessment Operating Account	9.0 percent	9.8 percent
Self-insured employers	9.1 percent	9.9 percent
Self-insured employer groups: Public sector	9.1 percent	9.9 percent
Self-insured employer groups: Private sector	9.5 percent	10.3 percent

Note: Self-insured employers and self-insured employer groups pay an additional amount to fund reserves that ensure prompt payment of claims in case of insolvencies.

Although not required by statute to include the Workers’ Benefit Fund rate in this report, DCBS believes this additional information provides context to the workers’ compensation system as a whole.

Rate	Current rate	Rate effective January 2022
Workers’ Benefit Fund	2.2 cents per hour	2.2 cents per hour

Background

The workers’ compensation system pays injured workers for lost wages and medical care for job-related injuries. The premium assessment funds regulatory programs that preserve the integrity of Oregon’s workers’ compensation system. They do so by bolstering worker protections and benefits while also helping maintain a positive business climate for Oregon employers. Programs supported by the workers’ compensation premium assessments include the Workers’ Compensation Division, the Workers’ Compensation Board, the Ombudsman for Injured Workers, the Small Business Ombudsman, and Oregon OSHA.

Oregon employers will see a key portion of their workers’ compensation costs drop by an average of 5.8 percent in 2022, the ninth consecutive decrease. The “pure premium” rate covers the portion of the premium employers pay insurers to cover claim costs for job-related injuries and deaths. Driving the average decrease in the pure premium are lower medical care costs and less severe claims. Pure premium reflects only a portion of workers’ compensation costs, but is the key factor behind annual cost changes. The decrease is an average, so an individual employer may see a larger decrease, no change, or even an increase, depending on the employer’s own industry, claims experience, and payroll.

The premium assessment is a percentage of total premiums collected. Insurers collect these assessments from each covered employer. Since the basis for the assessment (premium) has been declining steadily over a number of years, the forecasted premium assessment revenues are also declining.

To maintain stable funding and current service levels for programs that support the workers’ compensation system, DCBS has increased the premium assessment rate to 9.8 percent, with slightly higher assessments for self-insured employers and self-insured groups to fund their specific reserve funds. Despite the increase in assessments, the average employer will pay 97 cents per \$100 of payroll for their insurance premiums and assessments, down from \$1.02 in 2021.

Oregon's workers' compensation premium rates have ranked low nationally for many years. Oregon's costs rank as seventh least expensive nationwide according to a biennial study conducted by DCBS. At the same time and in contrast to changes made in some other states, Oregon has also maintained robust worker benefits.

The Workers' Benefit Fund revenue is primarily derived from a cents-per-hour assessment on all wages paid in Oregon. The rate is split evenly between employers and employees. The fund supports statutorily authorized programs that provide return-to-work programs for injured workers, benefits to widows and children of workers killed on the job, benefits to permanently and totally disabled workers, and benefits to workers injured while working for an employer that failed to have proper insurance. The rate is set to provide a statutorily required fund balance and pay for projected claims and supported program expenditures.

The Workers' Benefit Fund assessment for 2022 is unchanged at 2.2 cents per hour. This rate was set anticipating use of fund balances and continued reductions in expenditures due to attrition of beneficiaries in some programs.

Action Requested

DCBS respectfully requests that the Interim Joint Committee on Ways and Means acknowledge receipt of this report.

Legislation Affected

None.

Sincerely,



Andrew R. Stolfi

Director

Department of Consumer and Business Services