



# MEMORANDUM

December 17, 2019

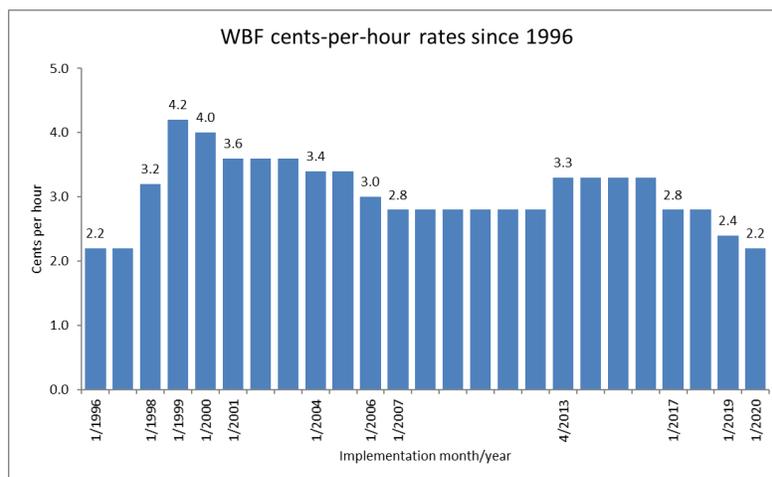
To: Sally Coen, Interim Administrator, Workers' Compensation Division, DCBS

From: Gary Helmer, Senior Economist  
 Don Gallogly, Senior Research Analyst  
 Chris Day, Senior Forecasting Analyst

Subject: Workers' Benefit Fund status as of September 30, 2019

This memorandum summarizes the status of the Workers' Benefit Fund (WBF) as of September 30, 2019. Highlights include:

- The assessment rate is 2.4 cents per hour. It will be lowered to 2.2 cents per hour effective January 1, 2020. As shown in the figure below, this is equal to the fund's lowest assessment rate since the fund's creation.
- As of September 30, 2019, the WBF fund balance was \$158.9 million.
- Effective Jan. 1, 2020, as provided for in House Bill 2788 (2019)<sup>1</sup>, ORS 656.506(5) states the WBF should maintain a fund balance of at least 12 months of planned expenditures. The current fund balance is more than twice this minimum requirement.
- With the current Office of Economic Analysis (OEA) forecast for continued slow employment growth, we forecast continued 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 should continue to decline.
- If the assessment rate is maintained at 2.2 cents per hour, the economy grows as forecast, and program expenditures occur as forecast, we expect to draw down the fund balance by several million dollars a year beginning in Fiscal Year (FY) 2021. The fund balance should remain significantly above the required minimum.



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

<sup>1</sup> 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 years and the forecast for the next four years (it assumes the 2.2 cents-per-hour rate is retained).<sup>2</sup> The fund collected \$82.6 million in assessment revenue in FY 2019. Because of the timing of employers' payments, this reflects revenue from nine months of the 2.8 cents-per-hour assessment rate and three months of the 2.4 cents-per-hour rate. We expect to collect \$72.3 million in FY 2020 from nine months of the 2.4 cents-per-hour rate and three months of the 2.2 cent-per hour rate. We expect to receive \$67.4 million in FY 2021 from the 2.2 cents-per-hour rate.

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 to 2.4 cents per hour. Therefore if the 2.2 cents-per-hour rate is retained, the WBF should have a slightly negative net cash flow each year beginning in FY 2021.

The coverage ratio is the number of quarter of expenditures that the fund balance covers. This forecast shows that the fund is expected to have 7.75 quarters of expenditures at the end of FY 2023; this is 23.3 months or nearly twice the statutory requirement.

Workers' Benefit Fund Revenues with actual financial data through September 2019

	2017-2019		2019-2021		2021-2023	
	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
<b>Revenue:</b>						
Assessments	84,880,070	82,646,560	72,295,868	67,356,761	68,268,736	68,952,156
Other income	4,514,339	5,173,291	5,142,393	4,693,453	4,803,573	5,012,857
<b>Rev. sub-total, exc. NCE revenue</b>	<b>89,394,409</b>	<b>87,819,851</b>	<b>77,438,260</b>	<b>72,050,214</b>	<b>73,072,309</b>	<b>73,965,013</b>
<b>WBF Program Expenditures:</b>						
Workers with Disability Program	214,607	194,257	147,159	88,462	56,669	26,693
Reemp. Assistance Prog., exc. OIOHS	27,180,580	27,052,321	26,652,530	29,146,328	30,560,330	31,922,373
Reopened Claims Program	3,328,361	2,521,890	3,389,327	4,137,880	4,378,914	4,614,796
Retroactive Program	32,742,635	38,879,885	36,155,706	35,786,027	34,286,181	32,831,233
SB 485 Multiple Wage Jobs	943,677	808,742	914,634	882,410	882,410	882,410
SB 1558 Claim Payments	254,460	71,590	27,228	13,077	11,184	9,643
<b>Exp. Subtotal: WBF Program Exp.</b>	<b>64,664,320</b>	<b>69,528,685</b>	<b>67,286,583</b>	<b>70,054,184</b>	<b>70,175,689</b>	<b>70,287,147</b>
<b>WBF Administrative Expenditures</b>						
DCBS Administrative Expenditures	2,961,855	2,959,463	4,067,940	4,129,406	4,369,863	4,626,319
Collection Costs (Employment & Revenue)	681,804	533,860	506,115	585,379	585,379	585,379
OIOHS	1,792,874	1,980,526	1,949,695	1,995,363	2,021,271	2,040,686
BOLI transfer out	250,000	624,000	669,838	530,450	562,754	562,754
Other State Agency Expenditures	2,736,498	3,138,386	3,125,647	3,111,191	3,169,404	3,188,819
<b>Exp subtotal: WBF Administrative Exp.</b>	<b>5,698,353</b>	<b>6,097,849</b>	<b>7,193,588</b>	<b>7,240,597</b>	<b>7,539,266</b>	<b>7,815,138</b>
<b>Exp subtotal: WBF exp., exc. NCE</b>	<b>70,362,673</b>	<b>75,626,534</b>	<b>74,480,171</b>	<b>77,294,781</b>	<b>77,714,955</b>	<b>78,102,285</b>
<b>Net cash flow</b>	19,019,916	12,193,317	2,958,089	(5,244,567)	(4,642,647)	(4,137,272)
<b>NCE net cash flow</b>	<b>(480,060)</b>	<b>(175,729)</b>	<b>(346,444)</b>	<b>354,792</b>	<b>(17,852)</b>	<b>(17,687)</b>
<b>Ending Fund Balance</b>	143,242,943	155,260,531	157,872,176	152,982,401	148,321,902	144,166,944
<b>Balance Coverage Ratio</b>	8.03	9.31	8.65	8.32	8.02	7.75
<b>Equilibrium rate</b>	0.022	0.024	0.023	0.024	0.023	0.023

These figures are based on the Office of Economic Analysis's December 2019 forecast. During this fall's rate-setting process, we also provided forecasts if there were a recession beginning next year. The results suggest the fund would successfully weather a recession.<sup>3</sup>

<sup>2</sup> We have revenue and expenditure data through September 2019, so the FY 2020 figures contain three months of actual data and nine months of forecast data.

<sup>3</sup> See the analysis at [https://wcd.oregon.gov/laws/Documents/Proposed\\_rules\\_and\\_testimony/Div-070-2019-09-19/Exhibit-1-WBFRecommendation\\_CY2020.pdf](https://wcd.oregon.gov/laws/Documents/Proposed_rules_and_testimony/Div-070-2019-09-19/Exhibit-1-WBFRecommendation_CY2020.pdf)

## WBF Programs

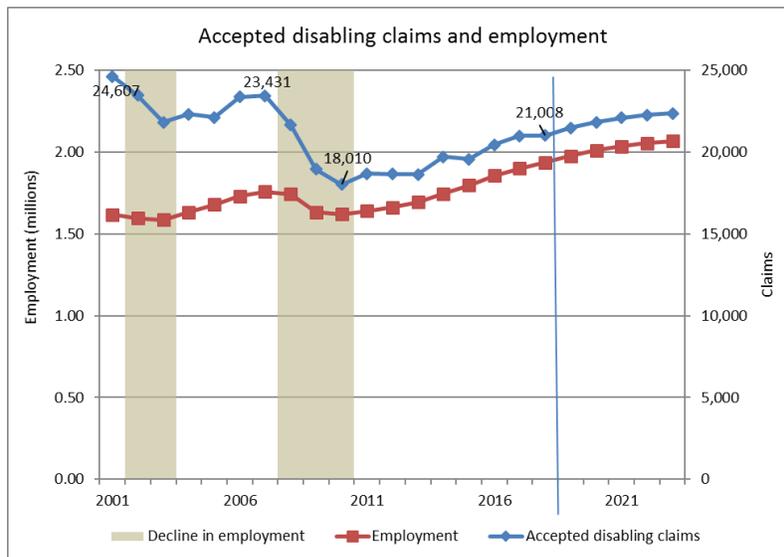
Over 90 percent of the WBF's expenditures pay for WBF programs. The WBF program expenditures have been declining about 3 percent per year over the past decade, chiefly due to the decreasing number of beneficiaries in the Retroactive Program.<sup>4</sup> Following are descriptions and forecasts for the 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 claims for which the application for reimbursement had been made before May 1, 1990. The program reimburses employers or insurers for costs over \$1,000 for injuries suffered or caused by previously disabled workers. About \$194,000 was paid for the program in FY 2019, and the program expenditures are forecast to continue to decline.

### Reemployment Assistance Program (RAP)

Some of the WBF forecasts depend on our forecast of accepted disabling claims (ADCs). The following figure shows that over the past 18 years, the number of ADCs has generally increased when employment has increased and declined sharply when employment has decreased. There were about 18,000 ADCs in 2010 and 21,000 ADCs in 2018. The Office of Economic Analysis provides the employment forecast; they update it quarterly. The current OEA forecast is for continued slow employment growth. Therefore, we forecast continued growth in the number of claims.



The Reemployment Assistance Program (RAP) provides incentives for employing injured workers. The Employer-at-Injury Program (EAIP) and the Preferred Worker Program (PWP) are the major programs; RAP also contain other smaller programs.<sup>5</sup> In FY 2019, the program's expenditures were about 39 percent of WBF program expenditures.

<sup>4</sup> The FY 2018 expenditures shown are somewhat low due to an accounting timing event.

<sup>5</sup> 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.

## Reemployment Assistance Program expenditures

excluding OIOHS payments

	2017-2019		2019-2021		2021-2023	
	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
EAIP	\$19,389,379	\$19,097,177	\$19,103,475	\$21,225,690	\$22,354,528	\$23,450,458
PWP claims costs	2,260,133	2,396,591	1,872,751	1,947,099	1,969,718	1,983,531
PWP wage subsidy	2,009,141	2,262,210	2,186,254	2,309,705	2,434,590	2,556,646
PWP worksite modifications and purchases	3,521,927	3,293,415	3,488,347	3,661,563	3,799,223	3,929,721
Other programs	0	2,928	1,704	2,271	2,271	2,016
<b>Total</b>	<b>\$27,180,580</b>	<b>\$27,052,321</b>	<b>\$26,652,530</b>	<b>\$29,146,328</b>	<b>\$30,560,330</b>	<b>\$31,922,373</b>

The Employer-at-Injury Program (EAIP) provides incentives to return workers to work before claim closure. Benefits available to employers and their injured workers utilizing the EAIP include wage subsidy, worksite modifications, and work-related purchases. The program has gotten these workers back to work more quickly than they might have otherwise, and it has lowered temporary disability paid by insurers.

About 25 percent of claimants with an accepted disabling claim have participated in the EAIP. The EAIP forecast is created from the forecasts of claims and average cost per EAIP placement. The combination of these forecasts results in a forecast for an increase in EAIP expenditures of 5.0 percent per year.

The Preferred Worker Program (PWP) assists injured workers who suffer a permanent disability and who 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, for direct employment purchases, and for 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 3.2 percent per year.

### Reopened Claims Program (ROCP)

The Reopened Claims Program (ROCP) reimburses insurers and self-insured employers for costs arising from 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 \$2.5 million in FY 2019, an unusually low amount. The average expenditures over the previous four years were \$3.5 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 and the growth in the average weekly wage. Because the number of claims has increased over the past years, the total program costs are forecast to increase by 7.3 percent per year.

### Reopened Claim Program expenditures, FY 2010 - 2019

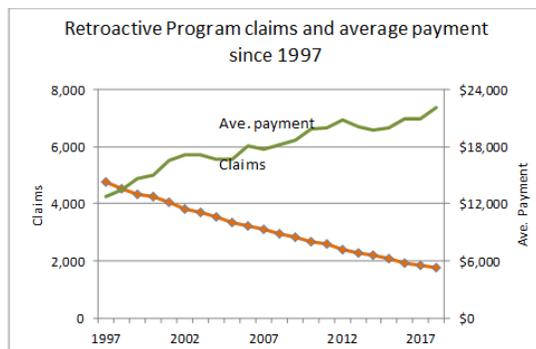
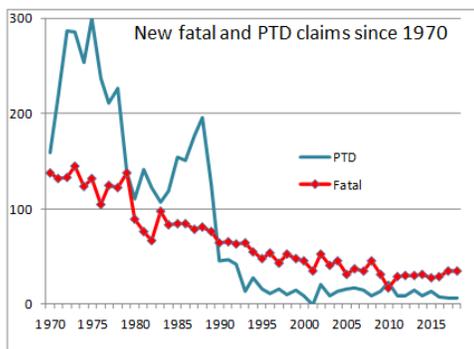
Fiscal year of payment	Medical Benefits	Timeloss Benefits	PPD Benefits	Total	Claims reimbursed	Average reimbursement
2010	\$1,199,100	\$3,376,624	\$920,284	\$5,496,008	401	\$13,706
2011	516,428	3,558,133	730,533	4,805,094	415	11,579
2012	506,459	3,765,149	757,277	5,028,884	345	14,576
2013	329,605	3,456,458	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

### Retroactive Program

The Retroactive Program is the costliest WBF program. The program pays benefit increases to workers and their beneficiaries for benefits with levels that are lower than current levels. Insurers and self-insured employers pay the benefits and then request reimbursement from the WCD. In FY 2019, the program had \$38.9 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 2018, WBF payments were made on 1,794 claims; about 64 percent of the claims and 81 percent of the expenditures were for injuries that occurred before 1990.

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 3.9 percent per year.



### Senate Bill 485 - Wages for Multiple Jobs

In 2001, Senate Bill 485 added a new component to the WBF. SB 485 allowed 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 was effective for claims on injuries that occurred on or after January 1, 2002. The insurers' payments for these jobs are reimbursed from the WBF. About \$809,000 was paid for these claims in FY 2019. The reimbursement amount is expected to be about \$915,000 in FY 2020.

### 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 \$72,000 was paid in FY 2019. Small amounts are expected to be paid in future years.

### **WBF Administrative Expenditures**

In FY 2019, state agency administrative expenditures were about 8 percent of WBF expenditures. Of this amount, about half were DCBS expenditures, and about half were paid to other agencies.

By statute, the WBF makes payments to the Oregon Institute of Occupational Health Sciences (OIOHS) of 1/16<sup>th</sup> of a cent per hour worked. These amounts are matched by equal payments from the Premium Assessment Operating Account (PAOA). These monies provided 29 percent of OIOHS's revenue in FY 2018.<sup>6</sup> The Employment Department and the Department of Revenue receive funds to cover the costs of collecting the WBF assessment. These agencies received about \$534,000 for these services in FY 2019. The Bureau of Labor and Industries (BOLI) receives payments to enforce anti-discrimination laws. BOLI received about \$624,000 from the WBF in FY 2019.

### **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 \$5.2 million in FY 2019. When expenditures exceed revenue, there is a transfer from PAOA to cover the difference; the FY 2019 transfer was \$3.1 million. When revenues exceed expenditures, the excess is transferred to PAOA.

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<sup>6</sup> See <https://www.ohsu.edu/sites/default/files/2019-07/OccHealthSci-BiennialReport%202017-2018final.pdf>, p. 45. Downloaded 10/8/2019.