



BIENNIAL REPORT

TO THE 80TH TEXAS LEGISLATURE

JANUARY 1, 2007

SORM
STATE OFFICE *of*
RISK MANAGEMENT



**Biennial Report to the
80th Texas Legislature**
January 1, 2007



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The Board of Directors and Executive Director of the State Office of Risk Management respectfully submit this Biennial Report to the 80th Legislature. This report is submitted pursuant to the requirements of Texas Labor Code Sections 412.032 and 412.042 and Executive Order GWB 95-8.

The State Office of Risk Management appreciates the opportunity to serve state employees and Texas state agencies, and we look forward to working with the members of the 80th Legislature during the legislative session. Please feel free to contact me at (512) 936-1502, or Paul Harris, the Office's Government Relations Liaison, at (512) 936-1452 if you have any questions or require any additional information. We are available at your convenience to discuss any of the issues contained in the report and to provide necessary assistance.

Respectfully,

Jonathan D. Bow, J.D.
Executive Director

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1. Methods to reduce the exposure of state agencies to the risks of property and liability losses, including workers' compensation losses

Texas state agencies are exposed to a vast array of risks. To help agencies address those risks, the State Office of Risk Management (Office) utilizes multiple approaches, including, but not limited to: published guidelines; oversight in developing and maintaining effective risk management programs; specialized assistance and training; and comprehensive data collection, monitoring, and analysis.

Guidelines

The Office publishes comprehensive program elements and methods in its Risk Management for Texas State Agencies (RMTSA) guidelines. The RMTSA guidelines are freely available to state agencies and the public on the Office's website at www.sorm.state.tx.us. The four volume set of guidelines lays out the form, direction, and basis for developing and implementing a comprehensive risk management program to reduce property, liability, and workers' compensation losses in state agencies covered by Texas Labor Code, Chapter 501. The guidelines are designed to be supplemented with detailed programs, policies, and procedures that address each agency's unique mission and risks. While each agency must develop and maintain appropriate risk management programs, adoption of the guidelines as written is not mandatory. Agencies are encouraged to add and delete chapters as appropriate to optimize the programs for their businesses.

Oversight and Development

The Office's risk management specialists provide direct on-site assistance and oversight to client agencies. On-site visits include periodic comprehensive reviews of each agency's risk management program and ad hoc on-site consultations that may be conducted upon request of an agency or whenever specific health or safety issues have been identified. During the past biennium, the Office's risk management specialists conducted 578 on-site visits with client agencies around the state. This number represents a 7 percent increase over the FY '03-'04 biennium and a 55 percent increase over the FY '01-'02 biennium, and has helped contribute to the decrease in experienced losses.

Assistance and Training

Specialized assistance and training is available for a multitude of issues, including safety and health programs, claims analysis, indoor air quality, business continuity management, noise and lighting analysis, defensive driving, fraud management and many other exposures in the various classes of risk. The Office responds to requests for specialized needs through direct development or coordination through third parties.

Data Collection and Monitoring

The Office analyses risk management expenditure and loss data submitted by client agencies and performs baseline trend analysis to monitor emerging exposures and losses.

The Office's web-based interactive Risk Evaluation and Planning system (REPS) leads client agencies through the identification, analysis, and mitigation of identified risks. The Office also conducts regular meetings with client agency risk management staff as well as specialized risk-related seminars to educate client agencies on emerging trends and to provide more in-depth education in risk management.

Other Methods

The Office seeks to be responsive to identified risks and needs of client agencies as they are identified, and cooperates with other oversight agencies in implementing viable health and safety programs for state employees. Recent developments include joining a memorandum of understanding between the State Fire Marshall's Office and the Texas Building and Procurement Commission, creating a cooperative framework for the agencies to communicate and work together to address risks from identified fire hazards or losses and report any actions taken to mitigate the risks related to state property.

2. Operation, financing, and management of risks

Responsibility for the operation, financing, and management of risk shown below are shared between the Office and its client agencies and varies by risk. The Office's risk management program is concerned with all categories of risk and provides services to covered agencies and to other entities identified by statute, such as the Community Supervision and Corrections Departments, that are included in the state's self-insured workers' compensation program. In addition, covered agencies are required to have a designated risk management contact and claims coordinator(s), who have responsibility for oversight and reporting on agency risk management efforts, injuries, and losses at each agency.

Client Agencies Cost of Risk for FY '05 & FY '06 As of Aug. 31, 2006

<i>Cash Basis</i>	<i>FY' 05</i>	<i>FY' 06</i>	<i>Incr/(Decr)</i>	<i>% Incr/Decr</i>
State Agency Risk Management Programs	\$26,171,311	\$30,040,682	\$3,869,371	14.78%
Workers' Compensation Claims Paid (Net of Subrogation)	\$52,534,024	\$43,755,631	\$(8,778,392)	-16.71%
Cost Containment	\$1,380,950	\$1,921,356	\$540,407	39.13%
Settlements and Judgments	\$1,626,280	\$16,210,361	\$14,584,081	896.78%
Bonds, Insurance & Deductibles	\$14,062,325	\$22,143,417	\$8,081,092	57.47%
Actuarial Services	\$13,000	\$17,000	\$4,000	30.77%
Court Costs & Attorney Fees	\$971,006	\$1,794,646	\$823,640	84.82%
Statewide Risk Management & Claims Administration (AY)	\$6,525,055	\$6,816,913	\$291,858	4.47%
Lost, Damaged and Destroyed Property (Net Book Value)	\$3,103,681	\$548,696	\$(2,554,985)	-82.32%
Total Cash Basis	\$106,387,631	\$123,248,702	\$16,861,071	15.85%
Accrued Costs (Workers' Compensation)				
Reserve for Future Claims Payment	\$54,103,732	\$48,635,336	\$(5,468,397)	-10.11%
IBNR	\$77,929,244	\$78,975,034	\$1,045,790	1.34%
Total Accrued Costs	\$132,032,976	\$127,610,370	\$(4,422,607)	-3.35%
TOTAL COST OF RISK	\$238,420,607	\$250,859,072	\$12,438,464	5.22%

During the past biennium, the cash basis cost of risk increased by 16 percent, primarily due to an 897 percent increase in lost, damaged, and destroyed property attributable to Hurricane Rita. Insurance premiums were also affected, resulting in a 57 percent increase attributable to hardening property insurance markets as a result of significant hurricane damage from the previous year, as well as increased participation in the statewide insurance program. These losses are partially offset by a significant decrease in workers' compensation payments over the same period. Client agencies also reported increased spending on risk management activities from FY '05 to FY '06. The net result for the biennium was a 5 percent increase in the total current and anticipated future costs as shown above.

Risk Management

Knowledge is key to empowering state agencies to manage their risks and losses. During FY '06, the Office implemented regional training seminars to make training more accessible to state employees in field offices outside the Austin area. By partnering with higher education client agencies, trainers were able to secure training facilities at participating universities at no charge. Because this training is delivered locally, participation by staff in remote locations is increased at little or no cost to those offices. Prior to the regional training seminars, travel costs and loss of productivity were significant barriers to client agencies' ability to train significant numbers of staff.

During FY '06, seminars were held in San Angelo and Wichita Falls and additional locations have been selected for FY '07. As a result of implementing the regional training, the number of state employees trained was increased by 13 percent over the last fiscal year, while reducing training-related travel costs by 15 percent for client agencies.

Workers' Compensation

New injuries to state employees have been significantly reduced. On average, more than 1,000 fewer injuries have occurred annually for each of the previous four years compared to the rest of the past decade. Significantly improved risk management and claims coordination efforts by covered agencies and improved processes implemented by the Office have shared in improving this loss experience. Changes in the funding structure for workers' compensation have been key in emphasizing the value of effective risk management.

For workers' compensation operations, the Office is funded with a combination of General Revenue and Interagency Contracts (IAC). The Risk Management program, which includes health and safety issues as well as general risk management, and Workers' Compensation Claim Payments are funded by IAC through annual assessments to state agencies pursuant to Texas Labor Code, Chapter 412. The assessments, similar to annual premiums, are determined by formula based on historic full-time equivalents, payroll, claims, and claims cost data. A portion of the Pay Workers' Compensation strategy is also funded by IAC through the assessments. This funding is primarily used for medical cost containment services and other costs directly related to reducing claim payments.

The remaining administrative expenditures for the Pay Workers' Compensation strategy, other than the IAC funding, are funded by a direct General Revenue appropriation.

**FY '06 Expenditures by Strategy
and Method of Finance**

<i>Goal/Strategy</i>	<i>General Revenue</i>	<i>Interagency Contract</i>	<i>Total</i>
Goal 1.1/Risk Management Program		\$1,864,468	\$1,864,468
Goal 2.1/Pay Workers' Compensation	\$3,650,005	\$1,921,365	\$5,571,370
SUBTOTAL:	\$3,650,005	\$3,785,833	\$7,435,838
Goal 1.1/Workers' Compensation Payments (separate appropriation)		\$44,848,700	\$44,848,700
GRAND TOTAL:	\$3,650,005	\$48,634,533	\$52,284,538

3. Handling of claims brought against the state

Tort-related claims against the state are administered by the Office of the Attorney General. Other non-workers' compensation claims are the primary responsibility of each individual state agency. The Office gathers data on these claims from agencies for reporting purposes but does not participate in the handling of those claims. The Office offers voluntary participation in the statewide insurance program for general liability, employment practices, professional liability, and other non-tort related exposures.

The Office processes workers' compensation claims for all state agencies except three statutorily exempt agencies (Texas Department of Transportation, University of Texas System, and Texas A&M University System). State law provides that employees injured in the course and scope of their employment are entitled to receive benefits for reasonable and necessary medical care and indemnification of lost wages for lost-time from work due to the effects of their compensable injuries. In most cases, injured workers are entitled to receive medical treatments to treat the effects of their work-related injuries or illnesses, without any specific time or cost limits.

Each state agency designates at least one claims coordinator who provides information about workers' compensation to injured employees and reports workers' compensation claims to the Office. The Office provides claims coordinators with training on handling claims and provides access to the Office's Claims Management System (CMS). The Office's CMS system automatically creates a claim when information is reported electronically to the Office by the agencies, or the information may be entered manually by Office staff. The CMS is the Office's central claims application, enabling assignment of claims, maintenance of records, monitoring of deadlines, and benefits payments. The CMS also interfaces with the Office's medical cost containment vendors, the Department of Insurance (TDI)/Division of Workers' Compensation (DWC), the Office of the Attorney General, and the Comptroller of Public Accounts for the processing of state warrants. The Office utilizes a digital imaging system for receipt and record keeping of claim documents, including medical billing and submitted forms promulgated by TDI and DWC.

The Office devotes a staff of 36 adjusters located in Austin who manage all workers' compensation claims, assess compensability, and authorize wage replacement (indemnity) and medical benefits. The Office processes approximately 1,000 indemnity payments each week, including direct claimant benefits, attorney's fees, and related payments required by law. Adjusters determine the amount of indemnity payments based on each injured worker's average weekly wage, based on salary information provided by the employing agency. In FY '06 SORM processed approximately 45,700 indemnity payments, representing a substantial decrease in the number of claims administered from the previous year and an overall decrease in the cost of claims resulting from increased scrutiny by claims staff. Indemnity benefits are payable to injured workers as five types of awards as described in the following table.

Benefit	Description	SORM's Average Total Caseload
Temporary Income Benefits (TIBs)	Injured employees unable to work are eligible to receive TIBs after the seventh day of lost time for a maximum 104 weeks.	431
Impairment Income Benefits (IIBs)	Workers become eligible for IIBs 104 weeks after the injury or when the worker has a permanent injury and reaches maximum medical improvement. IIBs are paid based on a rating of the employee's disability in proportion to the entire body as assigned by a physician. For each percent of impairment, the employee receives three weeks of IIBs. For example, employees with an impairment rating of 5 percent receive 15 weeks of IIBs.	207
Supplemental Income Benefit (SIBs)	Injured workers actively seeking re-employment or participating in a vocational rehabilitation program may receive SIBs on a monthly basis if they have an impairment rating greater than 15 percent and are not earning at least 80 percent of pre-injury wages because of the injury.	84
Lifetime Income Benefits (LIBs)	Injured workers with severe and permanent impairments resulting from a work-related injury may receive LIBs.	10
Death Income Benefits (DIBs)	While not an income benefit, beneficiaries of workers who succumb to fatal injuries may receive DIBs.	52

The Office utilizes supervised adjusting units dedicated to particular functions. Three units are assigned to handle claims on a submitting-agency basis. A fourth unit, the medical management unit, performs intensive reviews of the relatedness and necessity of medical treatment for complex or long-term medical claims. The Office utilizes additional multiple methods for claims management, including, but not limited to, cost containment, case management, external medical reviews, and investigations.

In FY '06 SORM processed approximately 148,000 medical bills. The Office contracts with two cost containment vendors that conduct comprehensive audits of submitted medical bills and provide other services. Currently, CorVel Corp. is assigned the responsibility for auditing physician and hospital bills, and Forté, Inc., audits pharmacy bills. Forté, Inc., also has the responsibility for processing requests for preauthorization.

The vendors review bills to ensure that treatment is reasonable, necessary, and related to the compensable injury; identify duplicate bills and billing errors; and adjust bills for payment in accordance to the DWC fee schedules. Payment recommendations are submitted to the Office for review and verification and may be resubmitted to the vendors for corrections. In FY '06, the Office was billed \$111 million for medical services. The cost containment functions provided by the vendors reduced these costs by \$79 million.

Additional savings were realized through the use of a preferred provider organization (PPO) operated by CorVel and through Forté's contract with ScripNet, a pharmacy benefit manager (PBM). The current PPO is different than networks authorized by the Legislature in 2005 in House Bill 7 and is not mandatory. Similarly, the PBM provides discounts from participating pharmacies, but also is not mandatory. In FY '06, the PPO generated \$1,114,169 in savings, and the PBM generated \$376,930 in savings.

Summary of Cost Containment Savings

Strategy	FY '04	FY '05	FY '06
Total Medical Bill Audit Savings	\$91,976,556	\$82,151,427	\$83,544,602
Medical Bill Audit Savings due to Duplicate Bill Savings	(\$17,975,621)	(\$6,021,147)	(\$12,594,152)
Net Medical Bill Audit Savings	\$74,000,935	\$76,130,281	\$70,950,450
PPO Savings	\$ 237,504	\$ 708,782	\$ 1,491,099
Preauthorization of			
Medical Services*	\$ 1,108,279	\$ 5,353,919	\$ 6,490,936
Total Cost Containment Savings	\$75,346,718	\$82,192,982	\$78,922,484

** Cost of procedures not performed at time of request, as estimated by the cost containment vendor. The Texas Workers' Compensation Act and DWC-adopted rules provided that health care providers are required to obtain preauthorization of certain medical procedures (e.g., psychiatric care and non-emergency hospitalizations) from workers' compensation insurance carriers prior to such procedures being performed. Preauthorization savings represent the avoidance of expenses related to unreasonable or unnecessary procedures prior to a treatment or service being provided and billed. Since a treatment or service was not authorized and no billing was received, the savings reported are cost-avoidance estimates provided by the Office's cost containment vendor.*

The Office utilizes case management to assist injured workers in accessing quality health care in a cost-effective manner to enhance their ability to return to work sooner. The Office employs one internal nurse case manager who contacts the injured worker, treating doctor, and employer and provides expertise to the adjuster in developing an appropriate claims handling strategy from a medical perspective. The case manager also assists in making determinations as to whether further telephonic or field case management is needed. In appropriate cases, the Office utilizes private vendors for field case management services performed by certified case managers, registered nurses, or licensed vocational nurses. Case managers meet with injured workers, consult with doctors about treatment plans, and may visit employers to assess the physical challenges that work may present to the injured worker.

State law and DWC rules require preauthorization and concurrent review by workers' compensation carriers for specific treatments. The Office may not pay the cost of these medical services unless preauthorization was requested and granted. The Office contracts with Forté, Inc., to determine the medical necessity of services needing preauthorization. In FY '06, Forté processed 7,372 preauthorization requests. Forté also processes concurrent reviews to determine the medical necessity of extending ongoing treatments that were previously preauthorized.

The Texas Workers' Compensation Act grants parties the ability to use medical examinations of the injured worker by an independent physician to resolve questions about the appropriateness of treatments. These required medical exams (RMEs) verify that ongoing and proposed care is reasonable, necessary, and related to the compensable injury. Peer reviews may also be used to verify whether medical services or prescription drugs are an appropriate course of treatment given an injured worker's diagnoses. These peer reviews involve a medical professional conducting a paper review of medical files. Both RMEs and peer reviews may identify needs for changes in treatment and may be relevant in the event of a dispute regarding entitlement to certain benefits.

The Office reviews impairment ratings received by injured workers and may in appropriate circumstance request an independent doctor to review an impairment rating. Reviewing ratings helps to ensure the accuracy of impairment ratings and to determine the appropriate benefits to authorize for injured workers.

The Office employs two staff members who investigate claims, including allegations of fraud. The investigators interview involved parties, conduct surveillance, check wage records with the Texas Workforce Commission, and check for previous personal injury claims. If investigators find evidence that a claimant knowingly and intentionally lied to receive benefits, they refer the case to TDI's insurance fraud unit. The insurance fraud unit reviews the case to determine if it should be referred to a district attorney for prosecution, pursued as an administrative violation, or dropped.

Because cases of provider fraud are more difficult and time-consuming than claimant fraud, the Office's investigators may coordinate with or provide assistance to investigators from other entities. During the biennium, the Office opened approximately 142 fraud cases. After investigation the Office referred 20 injured worker and four provider fraud cases to TDI's insurance fraud unit. The alleged fraud amount totaled \$77,789. Four cases resulted in penalties: one claimant was ordered to pay \$5,900 in restitution; one claimant was put on probation and ordered to pay \$4,100 in restitution; one provider was removed from the approved doctor list; and one case resulted in the indictment of a medical provider, and remains pending.

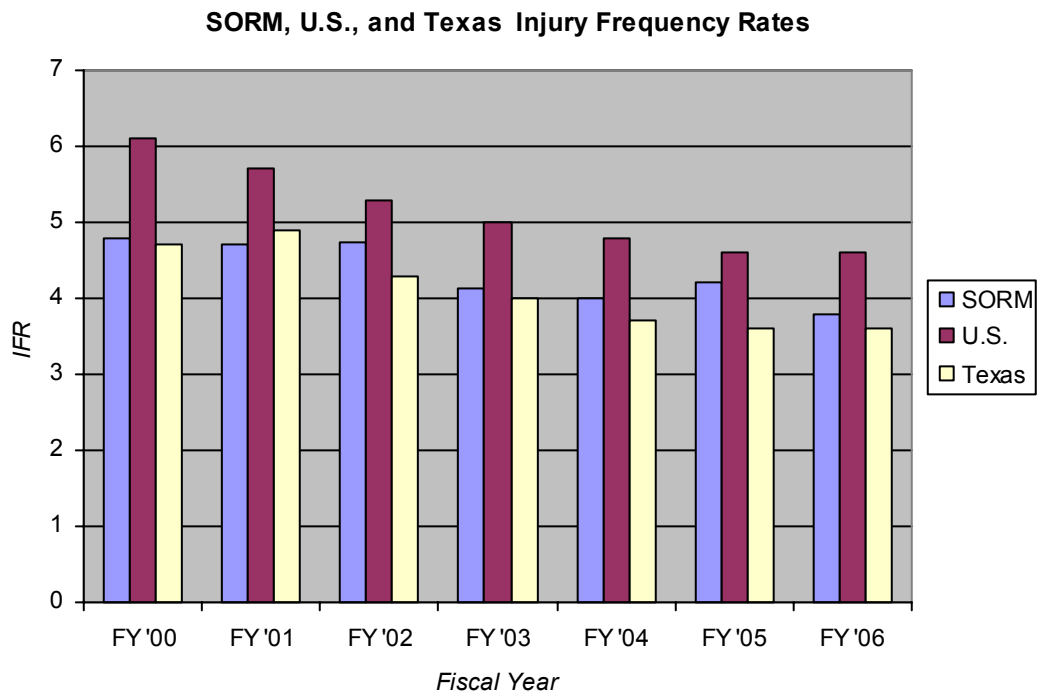
Although avoided costs cannot be precisely calculated, the Office estimates costs avoided when ongoing fraudulent activities are detected and stopped are approximately \$249,908 in potential costs for the biennium. The avoided cost estimate does not include the deterrence value of fraud investigation activity.

In claims where a state employee's injury is caused by a third party, the Office may be entitled to recover expenses for medical and indemnity benefits through subrogation. When processing claims, adjusters question injured workers and claims coordinators to determine whether any third party is involved. The Office employs a subrogation specialist who evaluates potential third-party liability and pursues cases both directly and through referral to the Office of the Attorney General when litigation is necessary. The Office recovered more than \$1.1 million through subrogation during the biennium.

Although the majority of workers' compensation benefits are paid without problems, disputes do occur regarding indemnity and medical benefits. When issues arise in a claim, injured workers, providers, and the Office follow the dispute resolution process in workers' compensation law, which provides separate processes for indemnity benefits, medical fees, and medical necessity disputes. The Office complies with decisions and orders issued by DWC and reviews all matters for further litigation on a case-by-case basis.

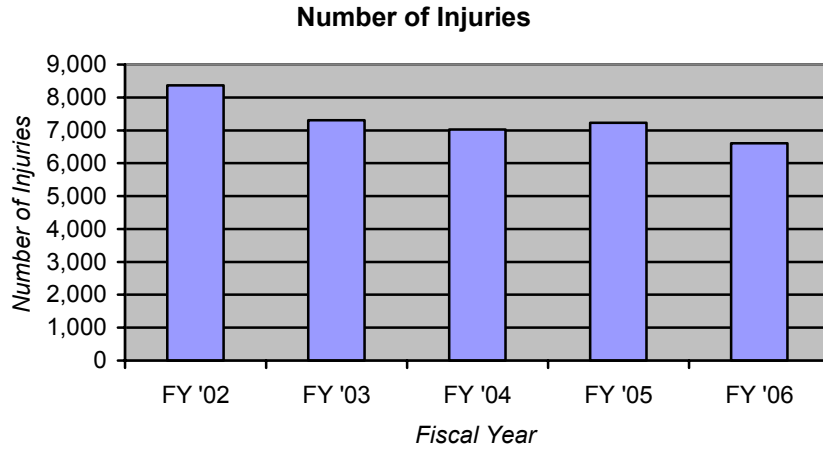
4. Frequency, severity, and aggregate amount of open and closed claims in the preceding biennium by category of risk, including final judgments

The total number of injuries per 100 full-time equivalents has experienced a steady decline over the past decade. The Office has generally paralleled the injury rate of Texas private industry and continues to be below the injury rate of the nation as a whole.

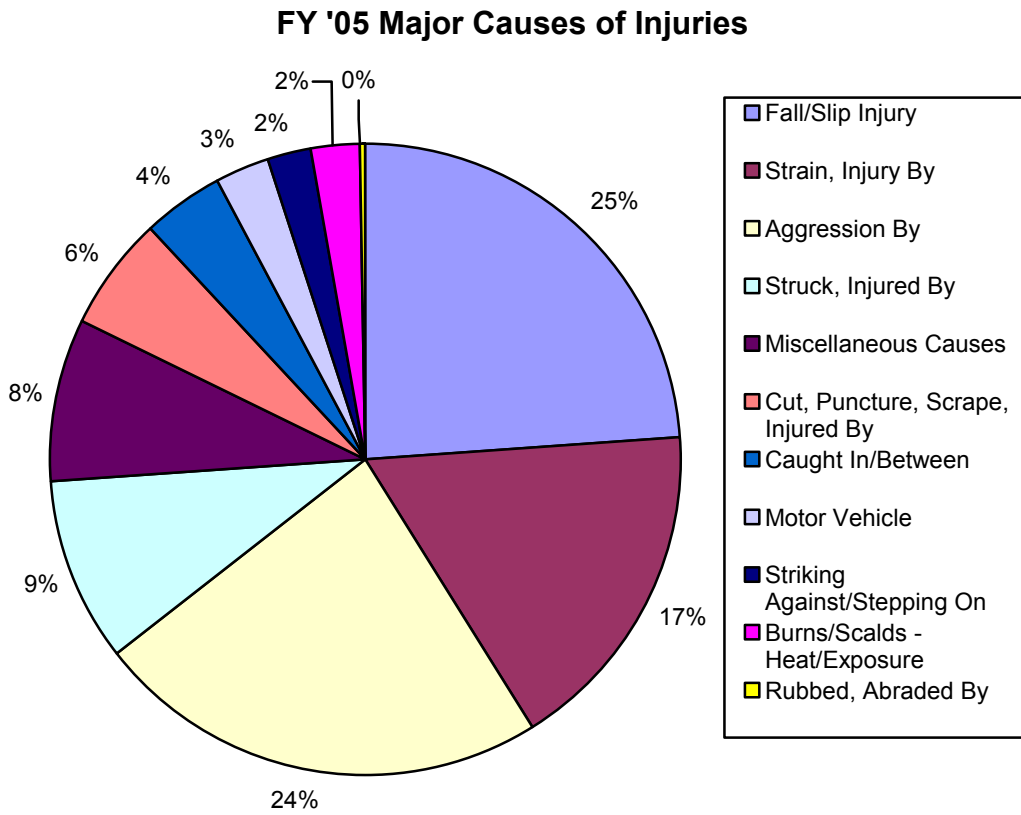


* FY '06 IFR for SORM is actual and estimated for Texas and U.S. based on FY '05 data

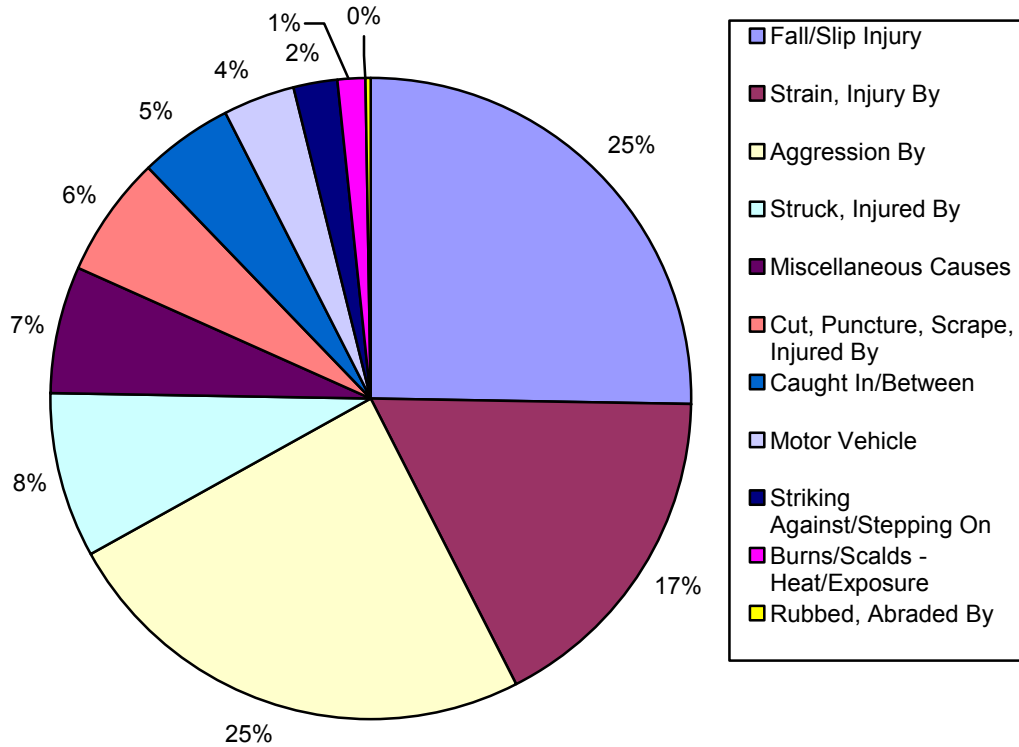
The total number of workers' compensation claims for Texas state employees has declined over the past five years.



During the past biennium, seven covered employees died in work-related accidents or incidents: one training accident; one aggression injury; one slip and fall; and four automobile-related deaths. Causes of injury for the preceding biennium are presented below.



FY '06 Major Causes of Injuries



The leading causes of injury during in the biennium remained relatively stable, except for aggression injuries. As would be expected, the criminal justice, juvenile offenders, law enforcement, and mental health agencies account for the vast majority of aggression injuries within the state. Tracked over time, the trend is anticipated to continue if increased prioritization of employee safety and/or reduced turnover of staff is not realized.

Other losses incurred during the biennium include property and casualty claims, as reported to the Office. Most claims made during the biennium remain open and are uninsured. Claims listed may include those where the state has immunity or has statutory caps on liability in place to limit or prevent expenditure of state funds.

FY '05-'06 Client Agency Frequency and Claims Data

<i>Category</i>	<i>Number of Claims</i>	<i>Demand Amount</i>	<i>Loss or Paid Amount</i>
Aircraft or Boat Damage	3	\$0	\$0
Automobile Physical Damage	1,040	\$0	\$968,381
Accident Liability	1	\$0	\$1,576
Automobile Liability	338	\$531,507	\$300,712
Watercraft Liability	1	\$0	\$1,416
Director's and Officers'	161	\$91,993,988	\$0
Electronic Data	76	\$1,690	\$165,216
Employment Practices Liability	219	\$2,806,955	\$406,219
General Liability	349	\$142,364,406	\$69,967
Inland Marine	2	\$0	\$4,910
Professional Liability	16	\$752,972	\$143,499
Surety Bond	1	\$0	\$0
Boiler and Machinery	1	\$0	\$0
Property Damage	192	\$0	\$16,079,837
Workers' Compensation Claims	8,712	\$0	\$27,369,851
Total	2,400	\$238,451,518	\$45,481,564

5. Identification of each state agency that has not complied with the risk management guidelines and reporting requirements of Chapter 412

Agency	Issue
Midwestern State University	(1) Failure to provide automobile data to obtain quote through statewide automobile program nor a request for exemption (2) Failure to request waiver to purchase outside the statewide property program
Texas Woman's University	(1) Failure to provide a completed Directors' & Officers' application to obtain quote through statewide D&O program
Texas Southern University	(1) Failure to obtain permission to purchase coverage prior to binding coverage outside of the statewide property program
Health and Human Services Commission	(1) Failure to complete required Risk Evaluation and Planning System information
Texas Racing Commission	(1) Failure to meet statutory deadline for reporting risk management information (SORM-200)
Fire Fighters Pension Commission	(1) Failure to meet statutory deadline for reporting risk management information (SORM-200)
Board of Chiropractic Examiners	(1) Failure to report statutory risk management information (SORM-200) (2) Failure to complete required Risk Evaluation and Planning System information
Commission on Jail Standards	(1) Failure to report statutory risk management information (SORM-200)
School for the Blind and Visually Impaired	(1) Failure to report statutory risk management information (SORM-200)
Texas Animal Health Commission	(1) Failure to complete required Risk Evaluation and Planning System information
Board of Medical Examiners	(1) Failure to complete required Risk Evaluation and Planning System information

6. Recommendations for the coordination and administration of a comprehensive risk management program to serve all state agencies, including recommendations for any necessary statutory change

Statewide Self-Insurance for Property

It is commonly understood that the State self-insures its real and personal property. However, in the absence of a specific insurance policy or funded and reserved program, the State's real and personal property is in practice uninsured. The state has no funded reserves for losses to real or personal property and each agency makes an individual decision to either insure its property or retain any potential loss.

When uninsured losses occur, the agency must absorb those losses in current budgets or request additional appropriations. In the event of a declared disaster, reimbursement by the Federal Emergency Management Agency (FEMA) is only an option when agencies purchase insurance on facilities that sustain damage before any federal reimbursement is made.

The Office recommends consideration of a true self-insurance program for state real and personal property with funding for additional amounts to procure excess coverage above the reserve for state facilities. Since state facilities are located throughout the state, the spread of risk is favorable to establishing a self-insured property program. Establishment of a first tier reserve with the purchase of excess coverage could prove to be the most effective approach to funding state property losses. Significant amounts of state and local funds are already being expended for the purchase of property insurance. Establishment of a self-insured program for all state property could avoid those existing expenditures and provide coverage to all state facilities, whether currently insured or not. A self-insured program would meet FEMA requirements for receipt of federal funds in a declared disaster, help the Legislature leveling budgets and expenditure patterns, and assure that all state facilities could be restored should damage occur.

Risk Management Training and Certification

Risk management expertise varies significantly from agency to agency. With ever-increasing demands on state agencies to identify and manage risk, many agencies are not familiar with principles of risk management. The Office recommends development of a certification program for state agency risk managers similar to the program establishing minimum certification for state purchasing professionals. Such a program can help ensure that state agency personnel receive training and have proven competency in identification, analysis, mitigation, financing, and administration of risk. The program would have the potential to generate a significant reduction in exposure to significant loss and assist agencies in managing losses should they occur. Requiring certification of client agency's risk managers for all agencies with significant risks or losses could benefit the agencies and the state.

Business Continuity and Management Planning

FEMA maintains a list of major disasters declared in the 50 states, the District of Columbia, and nine U.S. territories. The State of Texas is at the top of this list, making it the most “disaster-prone” state, with 51 disasters formally declared between the years of 1976 and 2000. The next closest is California with 45. The events of Sept. 11 create further concerns regarding continuity of government functions in the event of terrorist attack and the unique risks associated with the approximately 57 state agencies located within the Capitol Complex.

Currently, the Office assists state agencies in developing business continuity plans. However, these plans generally address only the particular agency’s critical business processes, recovery time objectives, and dependence on other agencies or entities. Certain disasters or actions could result in multiple agencies simultaneously being unable to perform critical state functions. At this time, there is no formal prioritization for restoration of agencies or functions. While the Office emphasizes agency-level business continuity plans, the Office’s authority does not extend to mandating high-level government and interoperability issues. The Office recommends that the Legislature consider mandating a functionally-based restoration priority plan to be developed and maintained by designated state leadership, with particular emphasis on restoration of critical statewide functions affecting core business processes and/or multiple agencies. In the event of a significant natural or man-made disaster affecting core government functions, the existence of such a plan would be absolutely necessary to ensure those functions were restored in the quickest and most efficient manner possible. At a minimum, and ideally in conjunction with the statewide restoration priority plan, the Office recommends that all state agencies be required to develop, maintain, and test a business continuity plan that meets minimum pre-established standards.

The Office notes that business continuity plans, whether agency-based or general government-based, may contain sensitive information that could be used to purposefully disrupt continuity efforts in the event of terrorist action. It is further recommended that the Legislature consider a limited protection of such information from disclosure pursuant to the Public Information Act.

Statutory Clarification

Because the Office was created through the merger of two divisions, each split from two larger entities, the Office inherited provisions contained in two separate chapters of the Labor Code. The interaction between the two chapters is largely efficient, but some problems have been associated with operating a cohesive program given the retained language of the prior statutory chapters. For example, the definition of “state agency” differs between Chapter 412 and Chapter 501: Chapter 412 defines a state agency as “a board, commission, department, office, or other agency in the executive, judicial, or legislative branch of state government that has five or more employees, was created by the constitution or a statute of this state, and has authority not limited to a specific geographical portion of the state;” and Chapter 501 defines a state agency as “a department, board, commission, or institution of this state.” This has led to questions regarding the access and responsibilities of certain entities covered under Chapter 501

with respect to Chapter 412 services. Since the Office's responsibilities extend only to administering the programs and reporting noncompliance to the Legislature, clarification of the scope of Chapters 412 and 501 may be warranted to avoid future confusion, to specify access and responsibilities of the Office's client agencies, and to clearly delineate the reporting requirements of the Office respecting non-complying agencies.

7. Director's §412.042 report

Claims costs are now funded through IAC. The Office is administratively attached to the Office of the Attorney General, which provides significant administrative support and functions to the Office. The following data addresses General Revenue appropriations for administrative operations of the Office.

Tex. Labor Code §412.042(a)(1) summary of administrative expenses

<i>Category</i>	<i>FY '06 Actual</i>	<i>FY '07 Budgeted</i>	<i>Biennium Total</i>	<i>Percent of Total</i>
Salaries	\$4,549,761	\$4,880,770	\$9,430,531	59.90%
Other Personnel Costs	\$243,811	\$135,840	\$379,651	2.41%
Contracted Services	\$1,944,449	\$2,459,239	\$4,403,688	27.97%
Consumable Supplies	\$51,526	\$51,254	\$102,780	0.65%
Utilities	\$3,462	\$5,881	\$9,343	0.06%
Travel	\$135,382	\$119,155	\$254,537	1.62%
Rent - Building	\$6,035	\$6,010	\$12,045	0.08%
Rent - Other	\$17,953	\$21,642	\$39,595	0.25%
Other Operating	\$457,356	\$534,553	\$991,909	6.30%
Capital	\$26,104	\$92,975	\$119,079	0.76%
Total	\$7,435,838	\$8,307,319	\$15,743,157	100.00%

Tex. Labor Code §412.042(a)(2)(A) amount of the money appropriated by the preceding legislature that remains unexpended on the date of the report

Of the total \$8.3 million appropriated for FY '07 administrative purposes, cash basis payments as of Jan. 1, 2007, total \$2,331,025 and an additional \$2,160,667 has been encumbered due to contractual or other obligations. Of the remaining balance of \$3,815,627, approximately \$400,000 has been incurred but not yet paid.

For the appropriation for workers' compensation claim payments, the Office exercised \$46 million of the total authority of \$62.7 million. Approximately \$2.5 million was carried forward from FY '06 assessments with the remaining \$43.5 million collected by new assessments to client agencies. As of Jan. 1, 2007, the cash balance remaining was \$32,822,428.

Tex. Labor Code §412.042(a)(2)(B) estimated amount of balance necessary to administer Chapter 501 for the remainder of that fiscal year

The Office estimates that the full unexpended, unincurred, unencumbered balance of \$3.4 million for the administrative appropriation will be necessary for operations for the remainder of the fiscal year.

The Office estimates that roughly \$27 million will be necessary for workers' compensation claim payments for the remainder of the fiscal year. The remainder of the current balance will be applied toward the necessary amount for FY '08 or will be returned to agencies as directed by Article IX, Section 6.30.

Tex. Labor Code §412.042(a)(3) estimate, based on experience factors, of the amount of money that will be required to administer Chapter 501 and pay for the compensation and services provided under Chapter 501 during the next succeeding biennium

The Office estimates that \$8,344,638 each year, a total of \$16,689,276, will be required to administer the workers' compensation program and provide risk management and insurance services for the current biennium. This total includes an exceptional item request of \$361,212 each year to maintain services at the current level. The Office's appropriation request is for \$3.58 million each year in General Revenue, with the remaining \$4.76 million annually funded by interagency contracts through the annual assessments.

The Office is requesting authority of \$56.6 million for the appropriation to pay workers' compensation claims, funded by assessments. The Board of Directors determines the actual amounts to be collected each year based on most current information available.

There are several factors that could result in potential increased costs. An immediate effect of the implementation of HB7 mandatory networks could increase administrative and medical costs in the short term, with overall reductions due to improved treatment and outcomes seen in subsequent years. Decreases in administrative oversight and claims scrutiny due to resource reductions may also have the effect of increasing overall costs.

8. Insurance coverage purchased for state agencies, premium dollars spent to obtain that coverage, and losses incurred under that coverage

Addressing many of the claims and losses experienced during the past biennium, state agencies acquired insurance coverages for a multitude of exposures. The following is a summary of policies acquired by fiscal year and line of coverage.

<i>Type of Policy</i>	<i>FY '05</i>		<i>FY '06</i>	
	<i>Number of Policies</i>	<i>Total Premiums</i>	<i>Number of Policies</i>	<i>Total Premiums</i>
Professional Liability	15	\$8,300,000	14	\$10,800,000
Surety Bonds	0	\$0	1	\$100
Directors and Officers/Employment Practices Liability	13	\$1,006,630	25	\$1,905,570
General Liability	16	\$276,023	13	\$354,128
Property	14	\$3,214,578	26	\$7,369,206
Volunteer	9	\$55,507	9	\$52,061
Automobile	22	\$416,912	23	\$711,549
Crime	27	\$140,296	31	\$284,240
Aircraft	1	\$212,534	8	\$183,739
Accident	6	\$326,516	5	\$294,323
Boiler & Machinery	4	\$29,147	2	\$97,032
Flood	2	\$29,257	14	\$11,334
Inland Marine	9	\$36,013	1	\$59,731
Umbrella	1	\$14,999	2	\$13,404
Workers' Compensation	1	\$3,913	1	\$7,000
Electronic Data	0	\$0	0	\$0
Total	140	\$14,062,325.00	175	\$22,143,417.00

Non-Workers' Compensation Claims Frequency by Loss Type¹:

<i>Claim Type</i>	<i>FY '05</i>	<i>FY '06</i>
Accident Insurance	1	0
Aircraft/Boat Physical Damage	1	2
Auto Liability	162	176
Auto Physical Damage	435	605
Boiler and Machinery	0	1
Crime	0	0
Directors and Officers	115	46
Electronic Data	58	18
Employment Practices	128	91
Environmental	0	0
Excess Liability	0	0
General Liability	215	134
Inland Marine	2	0
Professional Liability	10	6
Property Insurance	93	99
Surety Bond	0	1
Watercraft Liability	1	0
Total	1,221	1,179

¹ FY '06 SORM-200 data, Section 2, Part2