BIENNIAL REPORT
88TH LEGISLATURE

Submitted January 3, 2023

SIGNED: ______________________
EXECUTIVE DIRECTOR

APPROVED: Lloyd Garland, MD
BOARD CHAIR

SORM
State Office of Risk Management
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January 3, 2023

The Honorable Greg Abbott
Governor of Texas

The Honorable Dan Patrick
Lieutenant Governor

The Honorable Dade Phelan
Speaker of the Texas House of Representatives

Members of the 88th Texas Legislature:

On behalf of the Board of Directors, the State Office of Risk Management (Office) respectfully submits this Biennial Report to the 88th Legislature. This report is submitted pursuant to the requirements of the Texas Labor Code Sections 412.032 and 412.042.

The Office appreciates the opportunity to serve state employees and Texas state entities. We look forward to working with the members of the 88th Legislature during the legislative session. If you have any questions or require additional information, feel free to contact me by phone at (512) 936-1508 or by email at Stephen.Vollbrecht@sorm.texas.gov. We are available at your convenience to discuss any of the issues contained in the report and to provide all necessary assistance.

Respectfully,

Stephen S. Vollbrecht,
JD, MA, AINS, AIS, ARM, CTCM, MCP, MEMS
State Risk Manager, Executive Director, State Office of Risk Management

GENERAL OVERVIEW

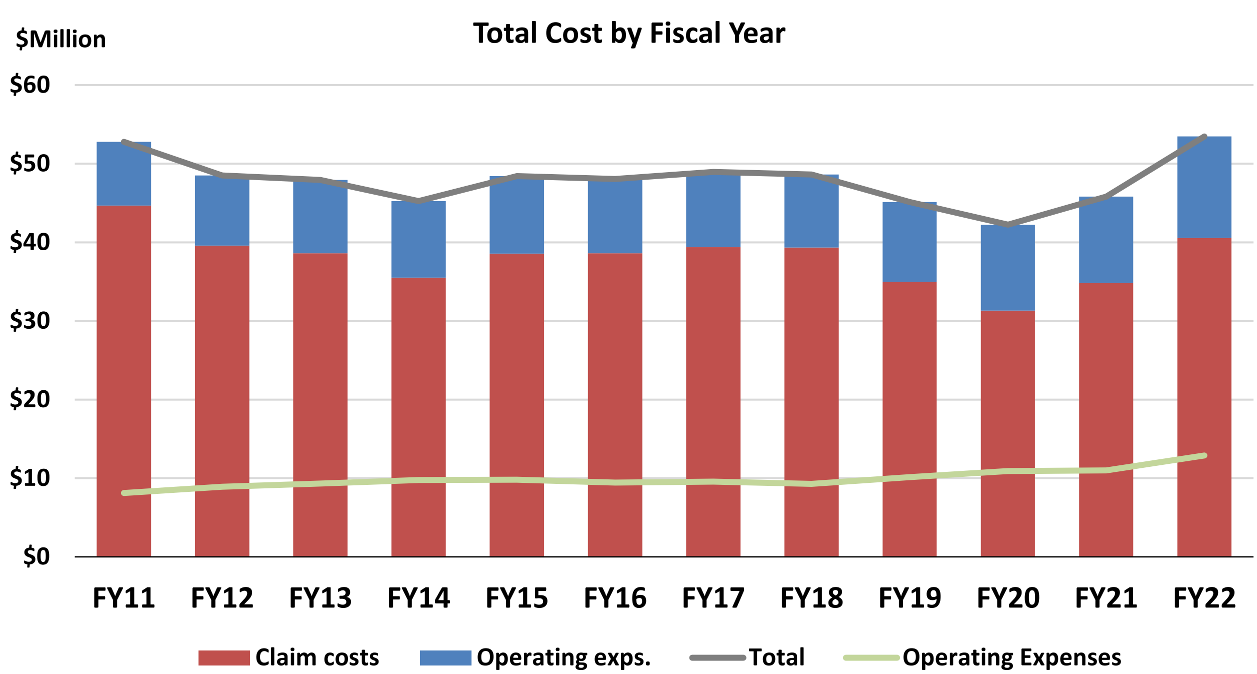
The State Office of Risk Management (Office) was created in 1997 to streamline the state's risk management and claims processing programs. The objective was to change the organization and management of the state risks and claims payments to reduce injuries, improve loss control and claims handling, and otherwise enhance the quality and effectiveness of the state's risk management and claims processing programs.

The Executive Director of the Office serves as the State Risk Manager and is responsible for supervising the development and administration of a system of risk management for the state. The Office administers adopted guidelines for a comprehensive risk management program to reduce property and liability losses, including workers' compensation losses.

The Office is governed by a five-member Risk Management Board of Directors, appointed by the Governor. Members of the board must have demonstrated experience in insurance and insurance regulation, workers' compensation, and risk management administration. Detailed information regarding the qualifications and experience of the Board of Directors is available at the Office's website at https://www.sorm.state.tx.us/about-us/meet-the-board-of-directors.

The Office is administratively attached to the Office of the Attorney General, which provides significant administrative support services and resources. Specific details on the administrative services provided by the OAG are set forth in an interagency contract.

The Office is wholly funded through an assessment allocation to all participating agencies based on risk profile and other relevant factors identified by the Board in 28 Texas Administrative Code Chapter 251. The following chart shows the assessment allocation methodology has substantially reduced workers' compensation costs and operating expenses have stabilized:



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I. METHODS TO REDUCE EXPOSURE OF STATE ENTITIES TO THE RISKS OF PROPERTY AND LIABILITY LOSSES, INCLUDING WORKERS' COMPENSATION LOSSES

The Office's enterprise risk management program provides risk management services to state agencies, institutions of higher education, and other entities identified by statute. Risk management planning allows a state entity to make meaningful quality improvements to avoid preventable losses and thereby reduce the number, frequency, type, and severity of losses.

A. Enterprise Risk Management Program

The Office's enterprise risk management services create awareness within state government of risk and the need to continually adapt to external and internal risks. The Office helps state entities identify potential risks to people, resources, and mission critical functions before a loss event occurs. This provides an entity with a greater understanding of the likelihood and severity of identified risks. Risk identification also increases an entity's options for preventing loss and addressing potential risks and may reveal risks that are an opportunity for growth.

B. Enterprise Risk Management Guidelines

State entities have increased their enterprise risk management awareness. This is partly due to participation in the update of the enterprise risk management guidelines.[1] This project, which took almost two years, started with the assignment of an Advisory Council that consisted of several members from several state agencies and universities. With each volunteer having already full-time obligations with their own jobs, scheduling meetings, and assigning teams in a virtual environment, thanks to C-19, presented some unique opportunities to work differently. Over 100 state employees met regularly to work together to create a robust yet straightforward resource for state entities.

The volunteers were divided into seven teams that corresponded to their specific risk specialties or areas of interest and were assigned an Office facilitator to lead discussions and meetings. The teams shared their expertise and collaborated to develop a new guidebook that follows a simplified framework to address context, approach, application, and resources (CAAR).

This framework adheres to the global risk management standards adopted by the International Organization for Standardization (ISO 31000), and distills each chapter into the following four major sections:

- **Context** – Risk Factors. Describe the scope, nature, impact of the risk, from inventory identification. (ISO 31000 nomenclature is "scope, context, criteria")
- **Approach** – Summarize the best practices and how they address the risk; this may include +/. (ISO 31000 nomenclature is "risk assessment"
- **Application** – Show how it's done; what to look out for; conditions precedent/exigent; exemplars; steps. (ISO 31000 nomenclature is "risk treatment")
- **Resources** – Include links to resources and tools; internal reference/external links

With the framework established, the remaining challenge was for the diverse teams to write their chapters without defaulting to the technical language they had acquired through years of working in their fields of expertise. The ultimate goal of this project was to create plain language guidelines that anyone

[1] Texas Labor Code Section 412.013 and https://www.sorm.state.tx.us/texas-enterprise-risk-management-guidelines/

could use to develop more detailed and individualized risk management programs. The new enterprise risk management guidelines are meant to be dynamic, updated as needed, and reviewed continually.

C. Risk Transfer – Insurance Purchasing

One of the Office's key statutory missions is to operate as a full-service insurance manager for state entities and institutions of higher education that are subject to Texas Labor Code Chapter 412. In cooperation with client entities, SORM procures and negotiates insurance policies that are available for statewide use. The Office also reviews state entities' proposed insurance purchases to ensure the coverage is necessary and adequate to protect the interests of the State.

D. Risk Retention – Workers' Compensation Insurance

The state of Texas self-insures for the purposes of workers' compensation. The Office administers the workers' compensation program for the state entities identified in Chapter 501 of the Texas Labor Code. There are also situations in which certain non-state individuals are covered by workers' compensation through the Office.

E. Memorandum of Understanding (MOU)

The State Fire Marshal's Office (SFMO) is responsible for protecting a public building under the charge and control of a state agency and the building's occupants, and the occupants of a building leased for the use of a state agency, against an existing or threatened fire hazard. Through an MOU, the Office partners with the SFMO and the Texas Facilities Commission to communicate and address fire hazard risks.

II. OPERATION, FINANCING, AND MANAGEMENT OF RISKS

Risk exists in every facet of governmental operations. In the normal course of business, the State is exposed to risks that may result in monetary loss, decreased efficiency, interruption or cessation of service, loss of resources, and loss of public confidence. Causes of loss include, but are not limited to, employee injuries, fire damage, automobile accidents, lawsuits, and natural and man-made disasters. Responsibility for the operation, financing, and management of risks is shared between SORM and its client entities.

A. Operation and Management of Risks

Client entities are required to designate a risk manager, who is responsible for oversight and reporting on the agency's risk management efforts. The Office's performance measures include the goal to manage costs for covered entities arising from the risk of loss through the delivery of professional risk management and claims administration services that are customized to specific entity needs.

The effectiveness of the Office's risk management program can be seen in the low cost per $100 of state payroll and the low cost per covered employee:

	Cost Per $100 of State Payroll	Cost Per Covered Employee
FY22	$0.48	$233.58
FY21	$0.48	$230.90
FY20	$0.45	$211.12
FY19	$0.50	$225.11
FY18	$0.57	$252.42

B. Financing Risk

The Office's risk management program and state employee workers' compensation program are both funded through annual assessments to state agencies pursuant to Texas Labor Code Chapter 412 as well as authority for collected subrogation recoveries. In the allocation program, each state entity must enter into an interagency contract with the Office to pay an allocated share of the Office's administrative costs, workers' compensation claims expenditures, and funding for employee benefits.

The assessments are determined by a formula based on historic full-time employees, payroll, claims, and claims cost data.[2] Limits are placed on the total allocation an entity will be assessed. The difference between the formula-based assessment amount and cap is allocated among all other entities in the same manner and within the same factors as the initial assessment calculation.

GAA Article IX, Rider 15.02 staggers the assessment allocation payments. Participating entities pay seventy-five percent of their assessment at the beginning of the fiscal year. The remaining amount due from each entity, if any, is calculated and collected during the final four months of the fiscal year

C. Risk Management Expenditures

Each year, state entities self-report information to the Office regarding expenditures associated with risk management programs. They are asked to provide information on personnel and expenses typically associated with staffing a risk management department and include funds expended for risk control. Comptroller categories and object codes are used to assist entities with gathering the necessary data on direct risk management costs.

Significant caution should be taken for any conclusions drawn from, or reliance upon, the consolidated data on direct risk management costs. It is also important to note that the consolidated data is known to be incomplete due to a number of factors. In addition, not all state entities are required to file an annual report with the Office.

The chart below shows the FY21 and FY22 risk management costs self-reported by state entities:

Statewide Risk Management Costs	FY21	FY22
Category F - Salary and Wages	$44,194,465	$60,524,678
Category G – Benefits	$13,857,219	$19,681,597
Category H – Travel	$157,703	$539,692
Category I - Training Education	$146,300	$495,720
Category J - Office Supplies & Consumables	$1,059,869	$975,274
Category K - Capital Outlay & Controlled Assets	$5,515,171	$4,776,565
Category L - Rentals and Leases	$2,216,608	$1,679,353
Category M - Telephone (Communication) and Utilities	$474,113	$1,065,850
Category N - Other Operating Costs	$9,381,765	$11,300,213
Category O - Safety Supplies & Loss Control Equipment	$9,555,121	$10,508,240
Category P - Consultant Services and Fees	$462,668	$2,454,380
Category Q - Other Services	$21,219,089	$26,063,627
Category R - Other Fees, Taxes, Expenses	$2,777,606	$1,807,858
Total (as of 12/19/2022)	$111,017,697	$141,873,047

[2] https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=T&app=9&p_dir=N&p_rloc=89492&p_tloc=&p_ploc=1&pg=2&p_tac=&ti=28&pt=4&ch=251&rl=505

III. INSURANCE PURCHASES, PREMIUM DOLLARS SPENT, AND LOSSES INCURRED

Each year, state entities self-report information to the Office regarding insurance expenditures and litigation related costs. The same data integrity and completeness concerns apply to this consolidated information.

A. Insurance and Litigation Expenditures

The following chart shows the FY21 and FY22 insurance and litigation expenditures that were reported to the Office:

Statewide Litigation and Insurance Expenditures	FY21	FY22
Object Code 7204 - Insurance Premiums and Deductibles	$4,159,641	$4,576,460
Object Code 7205 - Employee Bonds	$0	$0
Object Code 7216 - Insurance Premiums Approved by Texas Department of Insurance & Attorney General	$59,305	$371,918
Object Code 7220 - Court Ordered Notification Expenses - Texas Department of Health Only	$382,335	$128,240
Object Code 7225 - Settlements & Judgments for Attorney's Fee	$500,043	$311,167
Object Code 7226 - Settlements & Judgments for Claimant or other Legal Expenses	$3,109,161	$20,717,027
Object Code 7227 – Miscellaneous Claims Act Payments	$0	$0
Object Code 7228 – Legislative Claims	$0	$0
Object Code 7229 - Settlements & Judgments for Claimant and Attorney	$436,101	$268,701
Total	$8,646,586	$26,373,513

B. Purchases of Sponsored Lines of Insurance

Individual state entities make decisions regarding insurance purchases. Participation in the statewide insurance program administered by the Office is voluntary. Following a formal procurement in 2021, the Office entered into contracts with five (5) licensed insurance brokers that are able to serve the needs of the state-sponsored insurance programs. The brokers selected are all ranked in the top twenty-one brokers worldwide. These brokers can improve and expand access to insurance markets. The Office also contracted with vendors that can provide insurance support services, which provides a pool of resources that may be utilized by state entities.

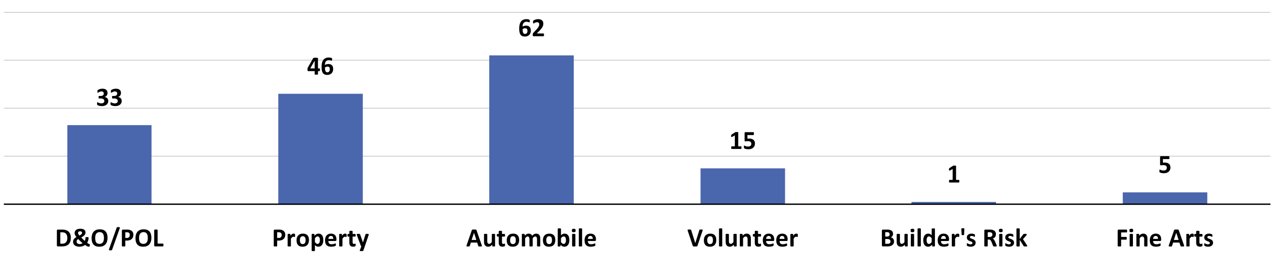
The Office has insurance policies available for statewide use that provide coverage for the following state exposures:

- **Property and Automobile Insurance**
  - Provides coverage in the event of liability under the Texas Tort Claims Act as well as a mechanism to control expenditures to replace tangible state-owned property that is damaged or destroyed.
- **Directors' and Officers' Liability Insurance**
  - Provides coverage for alleged wrongful acts occurring in the management of an entity.
- **Employment Practices Liability Insurance**
  - Provides coverage for claims brought by employees (past, present, and prospective) alleging an employment related wrongful act, as well as claims by third parties (students, vendors, etc.) alleging discrimination or harassment.

- **Volunteer Insurance**
    - Provides coverage for volunteers in the performance of services for a state entity.
- **Builder's Risk Insurance**
    - Provides coverage for the materials, fixtures, and equipment used in the construction or renovation of state-owned buildings.
- **Fine Art Insurance**
    - Provides coverage for bona fide works of art, specialized collections of historical, cultural, or technological significance, and items of rarity, historic value, or artistic merit.
- **Extraterritorial Workers' Compensation Insurance**
    - Provides workers' compensation coverage for a state employee who performs services outside the state if the employee elects workers' compensation remedies in the state where the injury occurred or the coverage is necessary to comply with the statutory requirements of the state where an employee works.

State-sponsored programs for cybersecurity liability and commercial crime insurance are also under consideration.

PARTICIPANTS IN STATE-SPONSORED INSURANCE PROGRAM - FY22



The charts below provide detailed information on sponsored lines of insurance:

DIRECTORS' & OFFICERS'						
	Number of Participants	Premium Paid	# Claims	Loss Total	Deductible Expenditures	Insurance Payments
FY22	33	$1,954,002	10	$0	$0	$0
FY21	35	$1,867,328	15	$35,000	$35,000	$0
FY20	37	$1,846,066	10	$461	$461	$0
FY19	37	$1,497,749	5	$0	$0	$0
FY18	36	$1,457,835	10	$18,000	$18,000	$0

PROPERTY							
	Number of Participants	Total Insurable Value	Premium Paid	# Claims	Loss Total	Deductible Expenditures	Insurance Payments
FY22	44	$13,685,821,796	$14,321,528	3	*$1,121,400	$510,000	*$611,400
FY21	45	$14,219,132,095	$13,486,500	4	*$2,378,169	$610,000	*$1,768,169
FY20	47	$13,925,312,383	$12,652,636	19	*$31,976,114	$1,100,000	*$30,656,114
FY19	47	$13,877,454,450	$8,762,600	3	$11,910,220	$360,000	$11,550,220
FY18	47	$11,632,823,148	$8,030,854	1	$666,064	$250,000	$416,064

* Loss amount is approximately and subject to change.

AUTO							
	Participants	Vehicles	Premium Paid	# Claims	Loss Total	Deductible Expenditures	Insurance Payments
FY22	64	2331	$1,674,267	153	$1,079,553	$187,174	$892,379
FY21	62	2321	$1,666,715	95	$1,181,962	$90,070	$1,091,892
FY20	60	2010	$1,208,008	140	$589,404	$41,078	$548,326
FY19	55	1974	$1,071,528	174	$1,021,157	$44,662	$976,495
FY18	56	1992	$1,079,485	176	$466,705	$59,016	$407,689

The state-sponsored volunteer insurance is a pooled risk plan. Individual losses are not calculated, rather the performance of the entire pool determines the premium for the participants.

VOLUNTEER				
	Participants	Premium Paid	# Claims	Claims Paid
FY22	15	$18,444	2	$8,990
FY21	14	$20,548	3	$1,095
FY20	12	$38,464	2	$19,502
FY19	13	$39,794	4	$17,548
FY18	13	$52,185	2	$4,438

BUILDER'S RISK						
	Participants	Premium Paid	# Claims	Loss Total	Deductible Expenditures	Insurance Payments
FY22	1	$31,247	0	$0	$0	$0
FY21	1	$202,333	0	$0	$0	$0
FY20	1	$246,547	0	$0	$0	$0
FY19	1	$203,314	0	$0	$0	$0
FY18	2	$5,499	0	$0	$0	$0

FINE ARTS						
	Participants	Premium Paid	# Claims	Loss Total	Deductible Expenditures	Insurance Payments
FY22	5	$51,682	0	$0	$0	$0
FY21	7	$58,421	0	$0	$0	$0
FY20	6	$54,545	3	$50,078	$3,000	$47,078
FY19	5	$25,104	1	$13,550	$1,000	$12,550
FY18	5	$0	0	$0	$0	$0

C. Purchases of Non-Sponsored Lines of Insurance

The Office does not have comprehensive information on losses or deductibles for non-sponsored lines of insurance. All state entities are encouraged to report claims to the Office as they occur, even if the claim is not covered by insurance. If an application for approval of an insurance purchase contains loss information, the Office will review that information.

The data in the chart below is based on information provided by state entities requesting approval for the purchase of insurance that cannot be obtained through the Office:

Line of Insurance	FY21 Purchases	FY21 Premium	FY22 Purchases	FY22 Premium
Animal Mortality	1	$650	1	$650
Athletic Accident	3	$222,000	3	$393,514
Aviation	3	$368,577	2	$304,502
Crime	4	$11,618	8	$76,726
Cyber	3	$56,398	7	$416,677
Extra-Territorial Workers' Compensation	5	$31,890	9	$61,335
Fine Arts	1	$3,840	1	$6,563
Flood	1	$18,750	1	$19,566
Forced Placed	1	$5,500	1	$5,000
Foreign Liability	3	$28,415	4	$42,709
General Liability	7	$196,626	6	$222,121
Inland Marine	8	$32,390	10	$135,711
Medical Malpractice	4	$348,154	6	$439,316
Prescribed Burn Liability	1	$10,190	1	$7,228
Professional Liability	4	$184,980	3	$185,576
Property	2	$6,520	1	$5,872
Special Risk - Blanket	1	$1,000	1	$1,000
Umbrella	1	$1,465	1	$1,465
Volunteer	1	$5,000	1	$1,820
Watercraft - Hull	3	$53,893	3	$53,194
Total	57	$1,587,856	70	$2,380,545

IV. HANDLING WORKERS' COMPENSATION CLAIMS BROUGHT AGAINST THE STATE

The State of Texas is self-insuring with respect to an employee's compensable injury. See Texas Labor Code Section 412.0122. Pursuant to Texas Labor Code Section 412.011(b)(7), the Office administers the workers' compensation insurance program for government employees established under Texas Labor Code Chapter 501. The Executive Director of the Office serves as the administrator of the government employees' workers' compensation insurance program pursuant to Texas Labor Code Section 412.041(e). In administering and enforcing Chapter 501 as regards a compensable injury with a date of injury on or after September 1, 1995, the Executive Director acts in the capacity of insurer.

A state employer is liable for compensation for an employee's injury without regard to fault or negligence if at the time of the injury, the employee is subject to the Texas Workers' Compensation Act and the injury arises out of and in the course and scope of employment. Each state entity designates at least one claims coordinator who provides information about workers' compensation to injured employees and reports workers' compensation injuries and claims to the Office. The Office trains claims coordinators on handling claims and provides access to SORM's electronic claims management system.

The Office's workers' compensation program provides individual state entities with claims administration and comprehensive claims handling services. The Office employs licensed adjusters to manage all aspects of a workers' compensation claim. Adjusters facilitate medical treatment and ensure wage replacement (income) benefits are paid to the claimant. The Office works to reduce overall medical and indemnity costs through improved claim handling practices, education, and training, and continuously evaluates its policies and processes and implements change as needed to meet internal and external needs.

V. FREQUENCY, SEVERITY, AND AGGREGATE AMOUNT FOR OPEN, CLOSED, AND REOPENED WORKERS' COMPENSATION CLAIMS

A. Number of Claims Opened, Closed, and Reopened

Workers' compensation claims are opened and entered in SORM's claims management system as reports of injuries are filed by covered state entities. These reported claims are investigated and either accepted or denied. If SORM determines a state employee has sustained a compensable injury, the claim is accepted and the injured employee is entitled to medical and indemnity benefits. If SORM determines the injury is not compensable, the statute requires the filing of a denial within 60 days. Filing a denial does not automatically close a claim because a claimant has the right to dispute the denial.

The Office generally closes workers' compensation claims when the claimant is not actively receiving medical and indemnity benefits. Because workers' compensation claims are based on a compensable bodily injury, it is possible a claimant may have future medical needs and/or lost time from work due to the compensable injury. If medical and/or indemnity benefits start again, SORM will reopen the claim to ensure the claim is being actively monitored by an adjuster.

The figures in the following chart show claims activity in the state employees' workers' compensation program in FY21 and FY22:

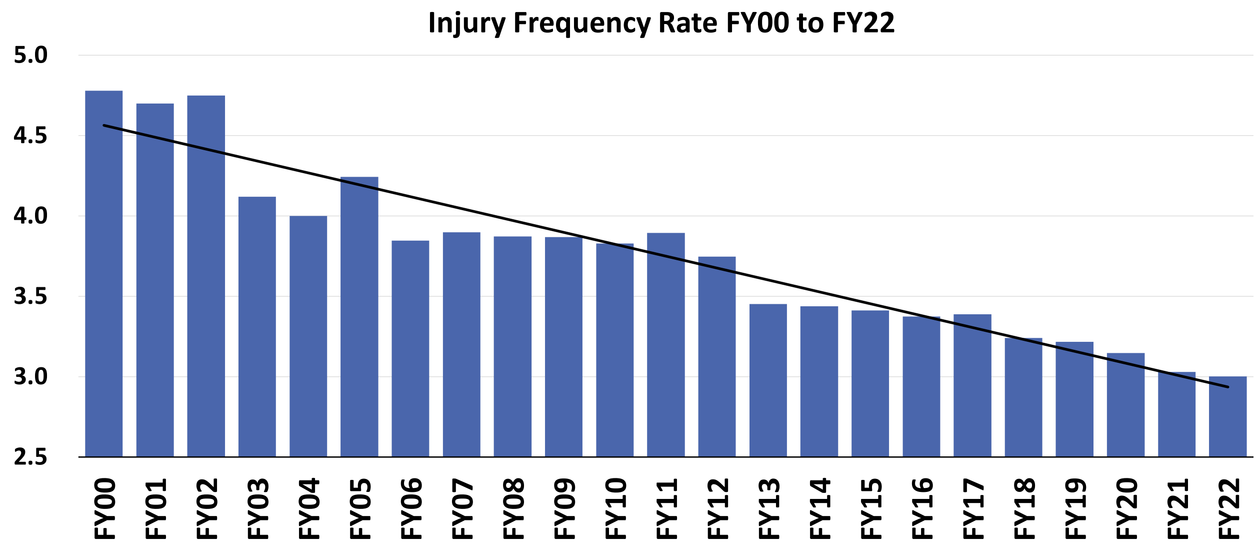
	FY21	FY22
Opened	10,694	9,863
Closed	18,084	12,708
Reopened	218	243

B. Injury Frequency Rate

The *Incident Rate of Injuries and Illnesses per 100 Covered Full-Time State Employees* provides an objective measure of the results of implementation of covered state entities risk management plans and the results of the Office's risk management program, related specifically to occupational injuries. The injury frequency rate is important as it reflects not only the effectiveness of the Office's risk management program in identifying risks to covered state entities, but also reflects covered state entities actions regarding implementation of recommendations to control and correct the conditions that lead to injured state employees.

The injury frequency rate is calculated using the number of accepted on-job injuries and illnesses divided by the total number of state employees (measured by full-time equivalents) multiplied by 100. The State Auditor's Office Classification Division collects full-time employee data from covered state entities, which is shared with the Office.

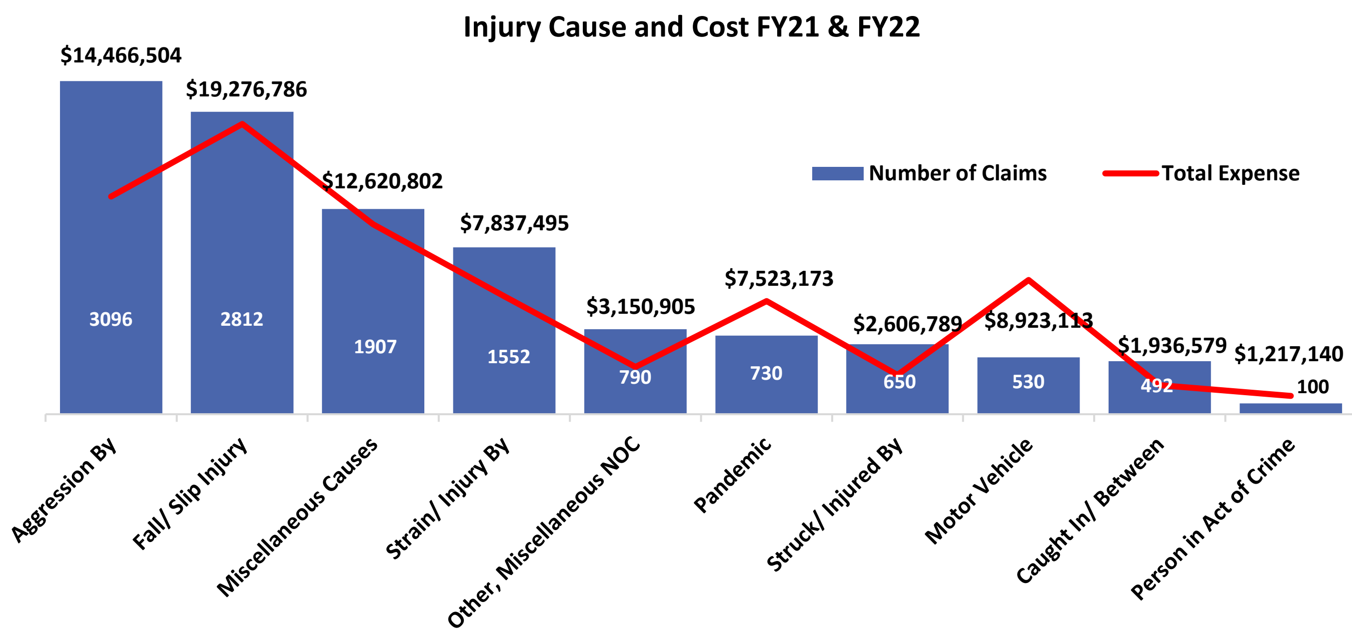
The following chart shows the historical injury frequency rate for the state employees' workers' compensation program:



C. Severity and Major Causes of Injury

Standardized codes are used in workers' compensation claims to describe the cause of injury. Cause codes can be used to analyze trends. Identifying perils, risk exposures, and hazards is the first step in addressing workplace health and safety.

The following chart shows the consolidated data on the conditions or situations that were identified as the cause of the injuries reported to the Office in FY21 and FY22. The total medical and indemnity benefits that have been paid since the date of injury are also included.



C. Workers' Compensation Expenditures

The following chart shows the gross amounts of medical and indemnity benefits paid in FY21 and FY22 on behalf of claimants, including those injured in preceding fiscal years.

FY21	FY22
$34,838,579	$34,910,755

VI. RETURN-TO-WORK COORDINATION SERVICES AND DATA ANALYSIS

The Texas Department of Insurance, Division of Worker' Compensation establishes return-to-work goals and reports on return-to-work outcomes pursuant to Labor Code Section 405.0025(a)(4). State entities are required to develop, implement, and maintain a return-to-work program. Pursuant to Labor Code Section 412.0125, SORM provides return-to-work coordination services to state entities.

The Office's legacy case management system contained data on lost time and return-to-work. However, the limitations of the legacy system adversely impacted SORM's ability to aggregate lost time and return-to-work data for analysis. SORM transitioned to the Origami Risk, LLC, risk management information system on May 2, 2022, and anticipates the new system will provide capabilities to analyze return-to-work data in the future.

VII. COMPLIANCE WITH CHAPTER 412 RISK MANAGEMENT GUIDELINES AND REPORTING REQUIREMENTS

One of the primary purposes of Labor Code Chapter 412 is to ensure state entities are taking steps to identify, control, and prepare for loss events. The Office is aware that non-compliance with the risk management program, insurance program, and continuity of operations planning requirements increases the state's vulnerability.

The following information is provided pursuant to Labor Code Section 412.032(b)(2):

A. Annual Report by State Entities

All state entities subject to Labor Code Section 412.053 have filed the required annual report.

B. Insurance Purchases

The Office does not have any evidence of non-compliance with Labor Code Sections 412.011(e) or 412.051(b).

C. Risk Management Programs

All state entities that are required to develop, implement, and maintain a risk management program have complied with statutory requirements.

D. Continuity of Operations Planning

All state entities that are required to develop, implement, and maintain a continuity of operations plan have complied with statutory requirements.

VIII. CONTINUITY OF OPERATIONS PLANNING

Continuity planning ensures that the most critical government services continue to be available to the people of Texas under any conditions. In cooperation with the Office of Homeland Security, Texas Division of Emergency Management, and Department of Information Resources, SORM

In 2013, the first Continuity Policy Letter was jointly issued by the Texas Department of Public Safety, Texas Department of Information Resources and the Office. Beginning in 2014, each state entity was required to create a continuity plan that meets the standards of the Federal Emergency Management Agency (FEMA) COOP methodology. The 2022 Continuity Policy Letter acknowledges the advances made in the last nine years and sets forth the goals and objectives for the next five-year period.

State entities are responsible for designating and retaining a FEMA certified and trained continuity coordinator. The state entity's continuity coordinator is responsible for ensuring the COOP plan is reviewed and updated annually.

IX. RECOMMENDATIONS FOR COORDINATION AND ADMINISTRATION OF COMPREHENSIVE RISK MANAGEMENT PROGRAM

A. Self-Insured Retention

It continues to be assumed the state of Texas self-insures its real and personal property. This long-held belief partially stems from the 1921 Senate Concurrent Resolution No. 3, 37th R.S., which sets forth that it is "the policy of the state to self-insure its buildings" and recommended establishment of a fund for paying losses. The existence of unappropriated general revenue and mechanisms for requesting supplemental appropriations for sustained but uninsured losses also contributes to the perception that the state self-insures. However, the State has no specific funded reserve for losses to real or personal property nor has it established a process for adjusting claims and distributing payments.[3]

The majority of the state's physical assets are not protected, or are not adequately protected, from loss through insurance. However, insuring all state-owned assets through traditional insurance routes would likely represent the most expensive option for the state.

The Office has recurrently recommended the creation of a centralized, mandatory state property insurance program to normalize the effect of ordinary losses on individual state entities' budgets.[4] The Office's recommendations also include establishing a state enterprise-level self-insured retention (SIR) to replace traditional insurance for loss events that are frequent, but the extent of the loss is minimal. Low-dollar attritional losses could also be paid from a SIR instead of incurring the costs associated with traditional insurance. Additionally, as the SIR matures, it could be used for other lines of insurance (i.e., Director and Officers, Automobile, or potentially new insurance lines).

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[3] State entities have requested financial assistance from the Legislature for damage sustained from Tropical Storm Allison and Hurricanes Rita, Katrina, Dolly, Gustav, and Ike. The arson attack on the Governor's Mansion in 2008 also required Legislative appropriations for restoration and repairs (HB 4586, 81st Legislative R.S.)

[4] https://www.sorm.state.tx.us/wp-content/uploads/2017/06/state_insurable_assets_study.pdf
https://www.sorm.state.tx.us/wp-content/uploads/2017/06/state_insurable_assets_study_2013.pdf
https://www.sorm.state.tx.us/wp-content/uploads/2017/06/state_insurable_assets_study_2016.pdf

The Office restructured its property insurance program in 2021 in response to the insurance market increasing premium or price and decreasing coverage options. The separate towers approach for institutions of higher education and public entities was collapsed into one program to leverage lower premiums while maintaining beneficial coverage options. Another program change was the introduction of a "virtual captive". The virtual captive functions as a self-insured retention (SIR) (i.e., pre-funded deductible) in the amount of $2 million per occurrence and $4 million annual aggregate, without the administrative oversight required for an SIR.

Although the virtual captive has improved the property insurance program, a fully funded state enterprise-level SIR could positively impact the insurance market's capacity to accept the risks presented by the state at an affordable price. A SIR will need to set clear provisions on the property that can be insured against direct physical loss; the extent of coverage being provided; the conditions placed on coverage; the claims potentially covered; and the per claim and per occurrence limits. A well-formed SIR should increase active engagement in risk identification, mitigation, and prevention. As state entities become more prudent regarding risk, SIR claim expenditures should decrease. Likewise, a reduction in state losses should improve reinsurance premium rates for infrequent but large, catastrophic losses.

Of significant note is the applicability of establishing such a fund to potentially encompass additional areas of exposure or liability in future, including automobile, directors' and officers', cyber, and other lines of potential retention and transfer.

B. State-Owned Property

As noted by the Legislative Budget Board (LBB) in its 2013 *State Real Property Inventory* issue brief to the Texas Legislature:

> The State of Texas owns significant amounts of real property of varying types and purposes. While several state agencies have information about state-owned property, the information varies and is inconclusive. There is currently no single state entity that maintains a complete database of property sites with consistent specifics including location, size, improvements and value. The lack of information and oversight negatively affects the state's ability to adequately manage and protect its real property assets, and to assess applicable values.[5]

Pursuant to HB 3750 84^{th} R.S., the LBB was asked to collect detailed information from each state agency and institution of higher education that possesses real property, and to provide the information to the Office for consolidation, findings, analysis, and any recommendations regarding a statewide strategy to ensure that all real property owned by the state is adequately insured. The 2016 *Insurable State Assets Interim Study* is available on the Office's website here.

Related to the preceding recommendation, the Office recommends this asset study be revisited. Multiple factors advocate for reconsideration of real property assets owned or leased by the State of Texas, including the Capitol Complex Project, the effect of the Covid pandemic on physical facility use/remote work, deferred maintenance/aging infrastructure issues, and state continuity of operations requirements.

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[5] LBB Issue Brief #304, *State Real Property Inventory*, April 2013.
http://www.lbb.state.tx.us/Documents/Publications/Issue_Briefs/304_State%20Property.pdf

C. Cyber Risk

Along with leading partners such as the Cybersecurity & Infrastructure Security Agency (CISA) and the National Institute of Standards and Technology (NIST), among many others, the Texas Department of Information Resources (DIR) has been on the forefront of addressing both internal/external threats to Texas government information technology operations and infrastructure, and helping to support the necessary replacement and advancement of aging technology. The partnerships developed by DIR present an opportunity to harmonize cybersecurity and risk management in Texas, and to utilize additional state resources in support of those efforts. Having already partnered with other Texas agencies, such as the Texas Military Department, the Office recommends a legislatively-reinforced partnership between DIR and SORM, specifically in the areas of assessment, incident response, continuity of operations, and risk transfer, as appropriate.

D. Indoor Air Quality Seminar

In December 2002, the Department of State Health Services (DSHS) developed guidelines on indoor air quality pursuant to Health & Safety Code Chapter 385. In 2015, SB 202, 84th R.S., transferred a number of functions from DSHS to other entities. Section 3.030 of the bill repealed Health & Safety Code Chapter 385, thereby removing all references to a state entity voluntarily establishing guidelines for indoor air quality in government buildings. However, Government Code Section 2165.305 still requires SORM to conduct an annual, one-day educational seminar on indoor air quality. Similarly, the indoor air quality rules (guidelines) adopted by DSHS in 25 Texas Administrative Code Chapter 297 have not been repealed.

X. DIRECTOR'S SECTION 412.042 REPORT

The administrative operations for the Office, as well as claims costs, are funded exclusively through interagency contracts. Any collected funding not required for administrative operations or claim expenditures remains in the pool and is used to lower the cash assessment to pool members the following fiscal year.

The Office is administratively attached to the Office of the Attorney General, which provides significant administrative support and functions. The following data addresses the appropriations for administrative operations of SORM as of the 2022 Legislative Appropriations Request submission.

A. Summary of Administrative Expenses

Category	FY23 Est.	FY23 Budgeted	Biennium Total	Percent of Total
Salaries	$7,557,391	$7,557,391	$15,114,782	68.87%
Other Personnel Costs	$250,000	$250,000	$500,000	2.28%
Contracted Services	$1,203,278	$1,650,000	$2,853,278	13.00%
Consumable Supplies	$30,000	$35,547	$65,547	0.30%
Utilities	$5,600	$5,637	$11,237	0.05%
Travel	$22,000	$135,000	$157,000	0.72%
Rent – Building	$720	$720	$1,440	0.01%
Rent – Other	$23,000	$24,000	$47,000	0.21%

Category	FY23 Est.	FY23 Budgeted	Biennium Total	Percent of Total
Other Operating	$1,301,350	$1,796,450	$3,097,800	14.11%
Capital	$99,000	$0	$99,000	0.45%
Total	**$10,492,339**	**$11,454,745**	**$21,947,084**	**100.00%**

B. Unexpended Appropriations

Of the $11.45 million appropriated for FY23 administrative purposes, cash basis payments as of December 21, 2022, total $1,937,898 has been encumbered due to contractual or other obligations.

The Office's Board of Directors exercised $40 million in preliminary collection authority for workers' compensation claim payments, based on recent costs. Approximately $2 million was carried forward from FY22 assessments with the remaining amount collected by new assessments to client entities.

As required by Article IX, Section 15.02, collection of 25% of the total assessments has been deferred until mid-third quarter of the fiscal year and will be adjusted as necessary. As of December 21, 2022, the cash balance remaining was $20,884,575, with $3,329,649 still outstanding from client entities.

C. Estimated Balance Necessary to Administer Chapter 501 for Remainder of FY23

The Office estimates that the full unexpended, unencumbered balance of $8.2 million for the administrative appropriation will be necessary for operations for the remainder of the fiscal year.

The Office estimates that roughly $21 million will be necessary for workers' compensation claim payments for the remainder of the fiscal year. The remainder of the final adjusted collected balance will be applied toward the necessary amount for FY23 or will be returned to agencies as directed by Article IX, Section 15.02.

D. Estimated Amount Needed for Chapter 501 Compensation and Services During Next Succeeding Biennium

The Office estimates that approximately $10,973,542 each year for FY24 and FY25, a biennial total of $21,947,084, will be required to administer the workers' compensation program and provide risk management and insurance services for the succeeding biennium. The Office is requesting no General Revenue.

The Office requested estimated authority of $39.7 million each year of the next biennium for workers' compensation payments, funded by assessments. The Board of Directors determines the actual amounts to be collected each year based on the most current information available. Authority will be exercised only as necessary to pay statutorily mandated workers' compensation claim costs.

There are several factors which could result in potential increased costs. Decreases in administrative oversight and claims scrutiny due to resource reductions, and the inability to retain trained, experienced staff will likely have the effect of increasing overall costs. Increases to indemnity rates by DWC rule or medical costs due to market forces will increase costs moderately in the short term, with a larger effect in subsequent years.