The California Commission on Health and Safety and Workers' Compensation

Selected Indicators in Health and Safety and Workers' Compensation: 2009 Report Card for California

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INTRODUCTION

As part of its mandate to conduct a continuing examination of California's health and safety and workers' compensation systems, the California Commission on Health and Safety and Workers' Compensation (CHSWC) is pleased to present an updated report, "Selected Indicators in Workers' Compensation: 2009 Report Card for California," summarizing key information.

This Report Card is a compilation of data from and for the entire workers' compensation community. It is intended to be a reference for monitoring the ongoing system and serve as an empirical basis for proposing improvements.

The Report Card will be continually updated as needed. The online Report Card, available at the CHSWC website, www.dir.ca.gov/chswc, will reflect the latest available information.

This information was compiled by CHSWC from data derived from many sources, including:

- California Department of Insurance
- Workers' Compensation Insurance Rating Bureau of California (WCIRB)
- California Workers' Compensation Institute (CWCI)
- National Association of Social Insurance (NASI)
- United States Bureau of Labor Statistics (BLS)
- California Department of Insurance Fraud Division (CDI)
- California Labor and Workforce Development Agency (LWDA)
    - Department of Industrial Relations (DIR)
    - Division of Workers' Compensation (DWC)
    - Division of Occupational Safety and Health (DOSH)
    - Division of Labor Statistics and Research (DLSR)
    - Office of Self Insurance Plans (OSIP)
- CHSWC studies of permanent disability by RAND
- CHSWC studies by the University of California at Berkeley (UC Berkeley)

CHSWC would appreciate comments on this Report Card and suggestions for including other data. We wish to provide a useful tool for the community.

CHSWC appreciates the cooperation of the entire California workers' compensation community for their assistance in this and other endeavors.

WORKERS' COMPENSATION PREMIUMS

Pure Premium Advisory Rates

Minimum Rate Law and Open Rating

In 1993, workers' compensation reform legislation repealed California's 80-year-old minimum rate law and replaced it beginning in 1995 with an open-competition system of rate regulation in which insurers set their own rates based on "pure premium advisory rates" developed by WCIRB. These rates, approved by the Insurance Commissioner (IC) and subject to annual adjustment, are based on historical loss data for more than 500 job categories.

Under this "open rating" system, these recommended, non-mandatory pure premium rates are intended to cover the average costs of benefits and loss adjustment expenses for all employers in an occupational class and thus provide insurers with benchmarks for pricing their policies. Insurers typically file rates that are intended to cover other costs and expenses, including unallocated loss adjustment expenses.

The chart on the following pages shows the history of the workers' compensation pure premium advisory rates since the 1993 reforms.

Advisory Workers' Compensation Pure Premium Rates
A History Since the 1993 Reform Legislation

1993

Insurance Commissioner approval:

Pure premium rate reduction of 7 percent effective July 16, 1993, due to a statutory mandate.

1994

WCIRB recommendation:

No change in pure premium rates.

Insurance Commissioner approval:

Two pure premium rate decreases: a decrease of 12.7 percent effective January 1, 1994; and a second decrease of 16 percent effective October 1, 1994.

1995

WCIRB recommendation:

A 7.4 percent decrease from the pure premium rates that were in effect on January 1, 1994.

Insurance Commissioner approval:

A total of 18 percent decrease to the premium rates in effect on January 1, 1994, approved effective January 1, 1995 (including the already approved 16 percent decrease effective October 1, 1994).

1996

WCIRB recommendation:

An 18.7 percent increase in pure premium rates.

Insurance Commissioner approval:

An 11.3 percent increase effective January 1, 1996.

1997

WCIRB recommendation:

A 2.6 percent decrease in pure premium rates.

Insurance Commissioner approval:

A 6.2 percent decrease effective January 1, 1997.

1998

WCIRB recommendation:

The initial recommendation for a 1.4 percent decrease was later amended to a 0.5 percent increase.

Insurance Commissioner approval:

A 2.5 percent decrease effective January 1, 1998.

1999

WCIRB recommendation:

The WCIRB initial recommendation of a 3.6 percent pure premium rate increase for 1999 was later amended to a recommendation for a 5.8 percent increase.

Insurance Commissioner approval:

No change in pure premium rates in 1999.

Advisory Workers' Compensation Pure Premium Rates
A History since the 1993 Reform Legislation

2000

WCIRB recommendation:

An 18.4 percent increase in the pure premium rate for 2000.

Insurance Commissioner approval:

An 18.4 percent increase effective January 1, 2000.

2001

WCIRB recommendations:

The WCIRB initial recommendation of a 5.5 percent increase in the pure premium rate was later amended to a recommendation for a 10.1 percent increase.

Insurance Commissioner approval:

A 10.1 percent increase effective January 1, 2001.

January 1, 2002

WCIRB recommendations:

The WCIRB initial recommendation of a 9 percent increase in the pure premium rate was later amended to a recommendation for a 10.2 percent increase effective January 1, 2002.

Insurance Commissioner approval:

The Insurance Commissioner approved a 10.2 percent increase effective January 1, 2002. .

April 1, 2002

WCIRB recommendations:

On January 16, 2002, the WCIRB submitted recommended changes to the California Workers' Compensation Uniform Statistical Reporting Plan – 1995, effective March 1, 2002 and the California Workers' Compensation Experience Rating Plan – 1995, effective April 1, 2002, related to insolvent insurers and losses associated with the September 11, 2001, terrorist actions. No increase in advisory premium rates was proposed.

Insurance Commissioner approval:

The Insurance Commissioner approved the WCIRB's requests effective April 1, 2002.

July 1, 2002

WCIRB recommendation:

The WCIRB filed a mid-term recommendation that pure premium rates be increased by 10.1 percent effective July 1, 2002, for new and renewal policies with anniversary rating dates on or after July 1, 2002.

Insurance Commissioner approval:

On May 20, 2002, the Insurance Commissioner approved a mid-term increase of 10.1 percent effective July 1, 2002.

January 1, 2003

WCIRB recommendations:

On July 31, 2002, the WCIRB proposed an average increase in pure premium rates of 11.9 percent for 2003. On September 16, 2002, the WCIRB amended the proposed 2003 pure premium rates submitted to the California Department of Insurance (CDI). Based on updated loss experience valued as of June 30, 2002, the WCIRB proposed an average increase of 13.4 percent in pure premium rates to be effective on January 1, 2003, and later policies.

Advisory Workers' Compensation Pure Premium Rates
A History since the 1993 Reform Legislation

January 1, 2003

Insurance Commissioner approval:

On October 18, 2002, the Insurance Commissioner approved a 10.5 percent increase in pure premium rates applicable to policies with anniversary rating dates in 2003. This increase takes into account the increases in workers' compensation benefits enacted by AB 749 for 2003.

July 1, 2003

WCIRB recommendation:

The WCIRB filed a mid-term recommendation on April 2, 2003, that pure premium rates be increased by 10.6 percent effective July 1, 2003, for policies with anniversary dates on or after July 1, 2003.

Insurance Commissioner approval:

The Insurance Commissioner approved a 7.2 percent increase in pure premium rates applicable to new and renewal policies with anniversary rating dates on or after July 1, 2003.

January 1, 2004

WCIRB recommendations:

On July 30, 2003, the WCIRB proposed an average increase in advisory pure premium rates of 12.0 percent to be effective on January 1, 2004, for new and renewal policies with anniversary rating dates on or after January 1, 2004.

The original WCIRB filing of an average increase of 12 percent on July 30, 2003, was later amended on September 29, 2003, to an average decrease of 2.9 percent to reflect the WCIRB's initial evaluation of AB 227 and SB 228.

In an amended filing made on November 3, 2003, the WCIRB recommended that pure premium rates be reduced, on average, from 2.9 percent to 5.3 percent.

Insurance Commissioner approval:

On November 7, 2003, the Insurance Commissioner approved a 14.9 percent decrease in advisory pure premium rates applicable to new and renewal policies with anniversary rating dates on or after January 1, 2004.

July 1, 2004

WCIRB recommendation:

On May 13, 2004, the WCIRB proposed advisory pure premium rates that are a 2.9 percent decrease from the January 1, 2004, approved pure premium rates. These rates reflect the WCIRB's analysis of the impact of provisions of SB 899 on advisory pure premium rates.

Insurance Commissioner approval:

In a decision issued May 28, 2004, the Insurance Commissioner approved a 7.0 percent decrease in pure premium rates, effective July 1, 2004, with respect to new and renewal policies, as compared to the approved January 1, 2004, pure premium rates.

January 1, 2005

WCIRB recommendation:

On July 28, 2004, the WCIRB proposed advisory premium rates applicable to new and renewal policies with anniversary rating dates on or after January 1, 2005, that are, on average, 3.5 percent greater than the July 1, 2004, advisory pure premium rates approved by the Insurance Commissioner.

Insurance Commissioner approval:

In a decision issued November 17, 2004, the Insurance Commissioner approved a total 2.2 percent decrease in advisory pure premium rates applicable to new and renewal policies with anniversary rating dates on or after January 1, 2005.

Advisory Workers' Compensation Pure Premium Rates
A History since the 1993 Reform Legislation

July 1, 2005

WCIRB recommendations:

On March 25, 2005, the WCIRB submitted a filing to the California Insurance Commissioner recommending a 10.4 percent decrease in advisory pure premium rates effective July 1, 2005, on new and renewal policies.

On May 19, 2005, in recognition of the cost impact of the new Permanent Disability Rating Schedule adopted pursuant to SB 899, the WCIRB amended its recommendation. In lieu of the 10.4 percent reduction originally proposed in March, the WCIRB recommended a 13.8 percent reduction in pure premium rates effective July 1, 2005. In addition, the WCIRB recommended a 3.8 percent reduction in the pure premium rates effective July 1, 2005, with respect to the outstanding portion of policies incepting January 1, 2005, through June 30, 2005.

Insurance Commissioner approval:

On May 31, 2005, the Insurance Commissioner approved an 18 percent decrease in advisory pure premium rates effective July 1, 2005, applicable to new and renewal policies with anniversary rating dates on or after July 1, 2005. As a result of the change in pure premium rates, the experience rating eligibility threshold was reduced to $23,288. The Insurance Commissioner also approved a 7.9 percent decrease in pure premium rates, effective July 1, 2005, applicable to policies that are outstanding as of July 1, 2005. The reduction in pure premium rates applicable to these policies reflects the estimated impact on the cost of benefits of the new Permanent Disability Rating Schedule.

January 1, 2006

WCIRB recommendations:

On July 28, 2005, the WCIRB submitted to the California Insurance Commissioner a proposed 5.2 percent average decrease in advisory pure premium rates as well as changes to the California Workers' Compensation Uniform Statistical Reporting Plan -1995 and the California Workers' Compensation Experience Rating Plan - 1995.

On September 15, 2005, the WCIRB amended its filing to propose an average 15.9 percent decrease in pure premium rates based on insurer loss experience valued as of June 30, 2005, and a re-evaluation of the cost impact of the January 1, 2005 Permanent Disability Rating Schedule.

Insurance Commissioner approval:

On November 10, 2005, the Insurance Commissioner approved an average 15.3 percent decrease in advisory pure premium rates effective January 1, 2006, applicable to new and renewal policies with anniversary rating dates on or after January 1, 2006. As a result of the change in pure premium rates, the experience rating eligibility threshold was reduced to $20,300.

July 1, 2006

WCIRB recommendations:

On March 24, 2006, the WCIRB submitted a rate filing to the California Department of Insurance recommending a 16.4 percent decrease in advisory pure premium rates to be effective on policies incepting on or after July 1, 2006. The recommended decrease in pure premium rates is based on an analysis of loss experience valued as of December 31, 2005. The WCIRB filing also includes an amendment to the California Workers' Compensation Experience Rating Plan-1995, effective July 1, 2006, to adjust the experience rating eligibility threshold to reflect the proposed change in pure premium rates. A public hearing on the matters contained in the WCIRB's filing was held April 27, 2006.

Insurance Commissioner approval:

On May 31, 2006, the Insurance Commissioner approved a 16.4 percent decrease in advisory pure premium rates effective July 1, 2006, applicable to new and renewal policies as of the first anniversary rating date of a risk on or after July 1, 2006. In addition, the experience rating eligibility threshold was reduced to $16,971 to reflect the decrease in pure premium rates.

Advisory Workers' Compensation Pure Premium Rates
A History since the 1993 Reform Legislation

January 1, 2007

WCIRB recommendation:

On October 10, 2006, the WCIRB recommended a 6.3 percent decrease in advisory pure premium rates decrease for California policies incepting January 1, 2007.

Insurance Commissioner approval:

On November 2, 2006, the Insurance Commissioner approved an average 9.5 percent decrease in advisory pure premium rates effective January 1, 2007, applicable to new and renewal policies with anniversary rating dates on or after January 1, 2007. As a result of the change in pure premium rates, the experience rating eligibility threshold was reduced to $16,000.

July 1, 2007

WCIRB recommendation:

On March 30, 2007, the WCIRB recommended an 11.3 percent decrease in advisory pure premium rates for California to be effective on policies incepting on or after July 1, 2007.

Insurance Commissioner approval:

On May 29, 2007, the Insurance Commissioner approved an average 14.2 percent decrease in advisory pure premium rates effective July 1, 2007, applicable to new and renewal policies with anniversary rating dates on or after July 1, 2007. As a result of the change in pure premium rates, the experience rating eligibility threshold was reduced to $13,728.

January 1, 2008

WCIRB recommendations:

On September 23, 2007, the WCIRB recommended 4.2 percent increase in advisory pure premium rates for California to be effective on policies incepting on or after January 1, 2008.

On October 13, 2007, the Governor signed Assembly Bill (AB) 338 which extends the time period for which temporary disability payments may be taken. On October 19, 2007, the WCIRB amended its January 1, 2008 pure premium rate filing to propose an overall 5.2 percent increase in pure premium rates in lieu of 4.2 percent to incorporate the impact of AB 338.

Insurance Commissioner approval:

On November 28, 2007, the Insurance Commissioner approved no overall change to the advisory pure premium rates effective January 1, 2008.

July 1, 2008

WCIRB recommendation:

On March 26, 2008, accepting a recommendation made by the WCIRB Actuarial Committee, the WCIRB Governing Committee decided that the WCIRB would propose 0 percent change in advisory pure premium rates for California to be effective on policies incepting on or after January 1, 2008.

Advisory Workers' Compensation Pure Premium Rates
A History since the 1993 Reform Legislation

January 1, 2009

WCIRB recommendations:

On August 13, 2008, the WCIRB recommended a 16 percent increase in advisory pure premium rates for California to be effective on policies incepting on or after January 1, 2009. See the WCIRB website below for further details and updates to this information.

At its September 10, 2008 meeting, the Governing Committee agreed that the WCIRB's January 1, 2009 pure premium rate filing should be amended to reflect the most recent accident year experience valued as of June 30, 2008, as well as a revised loss development methodology. The original filing should be supplemented to include a recommendation that the proposed January 1, 2009 pure premium rates be adjusted to reflect (a) the impact of the Division of Workers' Compensation proposed changes to the Permanent Disability Rating Schedule (+3.7%) if adopted as proposed and (b) the impact of SB 1717 (+9.3%) if signed into law by the Governor.

Insurance Commissioner approval:

On October 24, 2008, the Insurance Commissioner approved a 5 percent increase in pure premium rates effective January 1, 2009, applicable to new and renewal policies with anniversary rating dates on or after January 1, 2009.

July 1, 2009

WCIRB recommendations:

On March 27, 2009, WCIRB recommended a 24.4 percent increase in advisory pure premium rates for California to be effective on policies incepting on or after July 1, 2009.

WCIRB amended its filing on April 23, 2009, to reflect the revised aggregate financial data calls recently submitted by an insurer to WCIRB. These revisions reduced the indicated July 1, 2009, increase in the claims cost benchmark from 24.4 percent to 23.7 percent.

Insurance Commissioner approval:

On July 8, 2009, the Insurance Commissioner approved no change to the pure premium rates effective July 1, 2009, applicable to new and renewal policies with anniversary rating dates on or after July 1, 2009.

January 1, 2010

WCIRB recommendation:

On August 18, 2009, the WCIRB submitted a pure premium rate filing to the California Insurance Commissioner recommending a 22.8 percent increase in advisory pure premium rates with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2010.

Insurance Commissioner approval:

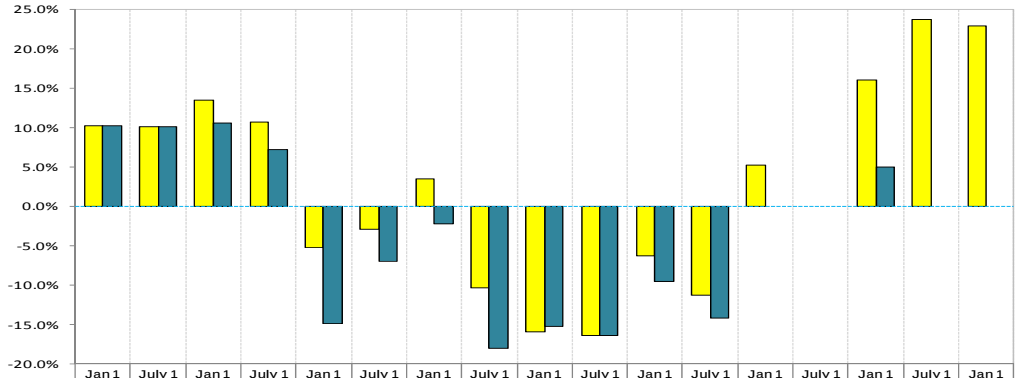
On November 9, 2009, the Insurance Commissioner approved no change to the pure premium rates effective January 1, 2010, applicable to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2010.

https://wcirbonline.org/resources/rate_filings/current_rate_filings.html

Recommended vs. Approved Advisory Workers' Compensation Rates

As a result of recent legislative reforms, WCIRB recommended changes and the IC approved either decreases or no changes in the pure premium advisory rates between January 2002 and January 2010. On August 18, 2009, WCIRB recommended a 22.8 percent increase in advisory pure premium effective January 1, 2010, due to the increasing medical costs and two recent Workers' Compensation Appeals Board (WCAB) en banc decisions (Almaraz/Guzman and Ogilvie). On November 9, 2009, the IC issued a decision approving no change to the pure premium rates for January 1, 2010.

Changes in Workers' Compensation Advisory Premium Rates
WCIRB Recommendation v. Insurance Commissioner Approval



	Jan 1 2002	July 1 2002	Jan 1 2003	July 1 2003	Jan 1 2004	July 1 2004	Jan 1 2005	July 1 2005	Jan 1 2006	July 1 2006	Jan 1 2007	July 1 2007	Jan 1 2008	July 1 2008*	Jan 1 2009	July 1 2009	Jan 1 2010
WCIRB Recommendation	10.2%	10.1%	13.4%	10.6%	-5.3%	-2.9%	3.5%	-10.4%	-15.9%	-16.4%	-6.3%	-11.3%	5.2%		16%	23.7%	22.8%
Insurance Commissioner Approved	10.2%	10.1%	10.5%	7.2%	-14.9%	-7.0%	-2.2%	-18.0%	-15.3%	-16.4%	-9.5%	-14.2%	0%		5.0%	0.0%	0.0%

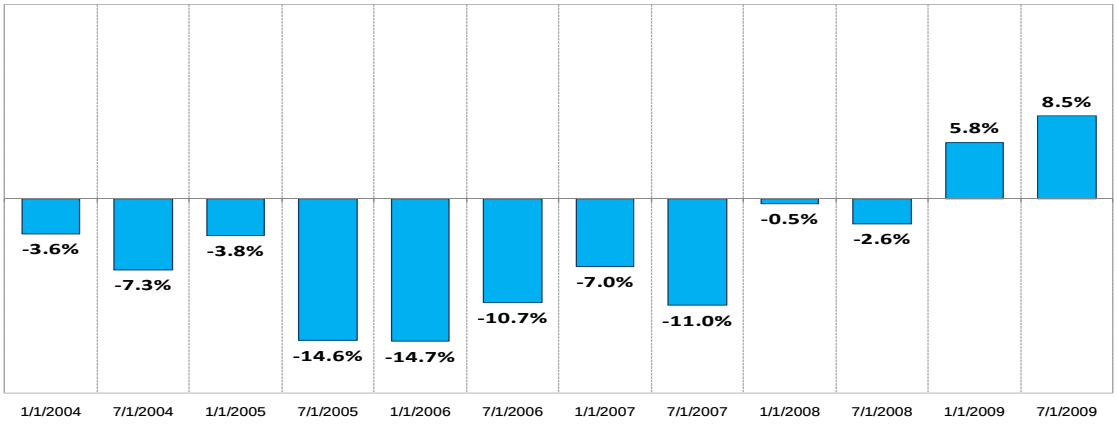
* WCIRB did not issue any recommendations for changes to pure premium rates effective July 1, 2008, and the IC did not issue the interim advisory rate for this period.

Data Source: WCIRB

California Workers' Compensation Filed Rate Changes

As a result of recent workers' compensation legislative reforms and the subsequent decisions by the IC on advisory premium rates, workers' compensation insurers have reduced their average filed rates as indicated in the following chart.

Average Workers' Compensation Rate Reductions Filed by Insurers



Data Source: California Department of Insurance (CDI)

California Workers' Compensation Rate Changes

As a result of recent workers' compensation legislative reforms and the subsequent decisions by the IC on advisory claims cost benchmarks and pure premium rates, the top ten California workers' compensation insurers have reduced their filed rates as indicated in the chart below.

As of July 1, 2009, the cumulative premium weighted average rate reduction filed by insurers with CDI since the reforms is 51.0 percent for all writers including State Compensation Insurance Fund (State Fund). There have been eight advisory pure premium rate reductions since the passage of Assembly Bill (AB) 227 and Senate Bill (SB) 228, and individually stated, filed insurer rates were reduced 3.6 percent on January 1, 2004, 7.3 percent on July 1, 2004, 3.8 percent on January 1, 2005, 14.6 percent on July 1, 2005, 14.7 percent on January 1, 2006, 10.7 percent on July 1, 2006, 7.0 percent on January 1, 2007, and 11.0 percent on July 1, 2007. Insurer rates were further reduced by 0.5 percent on January 1, 2008, and 2.6 percent on July 1, 2008, at times when the advisory rates remained unchanged. For the first time since the reforms, the advisory pure premium rates were increased effective January 1, 2009, and filed insurer rates increased 5.8 percent. Filed insurer rates were further increased 8.5 percent on July 1, 2009, also at a time when the advisory rates remained unchanged.[1]

WCIRB reports that actual rates charged in the market place as of December 31, 2008, had fallen by 65 percent since the enactment of AB 227, SB 228, and SB 899. The average rate per $100 of payroll fell from $6.45 in 2003 to $2.33 in 2008.[2]

California Workers' Compensation Top 10 Insurers Rate Filing Changes

COMPANY NAME	GROUP NAME	Market Share 2008	*Cumulative Rate Change 1-04 to 7-09*	7-1-2009 % Filed Rate Change	1-1-2009 % Filed Rate Change	7-1-2008 % Filed Rate Change	1-1-2008 % Filed Rate Change
STATE COMPENSATION INSURANCE FUND		22.56%	*-45.41%*	*15.00%*	*8.90%*	-3.50%	*0.00%*
ZENITH INSURANCE COMPANY	Zenith National Insurance Gp	3.23%	*-33.41%*	*4.00%*	*4.00%*	*n/a*	*0.00%*
ENDURANCE REINS CORP OF AMERICA	Endurance Group	3.04%	*-40.36%*	*n/a*	*5.00%*	*n/a*	*0.00%*
EMPLOYERS COMPENSATION INSURANCE COMPANY	Employers Group	2.91%	*-38.43%*	*n/a*	*0.00%*	*n/a*	*-4.40%*
NATIONAL UNION FIRE INS COMPANY OF PITTS	AIG	2.86%	*-52.63%*	*7.00%*	*10.00%*	*-15.00%*	*0.00%*
ZURICH AMERICAN INSURANCE COMPANY	Zurich Ins Gp	2.53%	*-57.71%*	*10.00%*	*5.80%*	*n/a*	*-0.20%*
TRAVLERS INDEMNITY COMPANY OF CT	Travelers Group	2.29%	*-53.09%*	*13.00%*	*9.50%*	*n/a*	*0.30%*
REDWOOD FIRE AND CASUALTY INS COMPANY	Berkshire Hathaway Gp	1.85%	*-65.27%*	*n/a*	*n/a*	*n/a*	*5.20%*
WAUSAU UNDERWRITERS INSURANCE COMPANY	Liberty Mutual Group	1.79%	*-64.56%*	*23.20%*	*8.80%*	*n/a*	*-3.30%*
LIBERTY MUTUAL FIRE INSURANCE COMPANY	Liberty Mutual Group	1.67%	*-54.64%*	*n/a*	*6.80%*	*n/a*	*0.10%*

[1] Source: California Department of Insurance, RFLA3 Rate Filing Bureau.

[2] Source: WCIRB Summary of September 30, 2009 Insurer Experience, released December 11, 2009.

Since the first reform package was chaptered, 35 new insurers have entered the market and existing private insurers have increased their writings. The significant rate reductions totaling 51.0 percent since the first reforms were enacted, coupled with the reduced market share of State Fund (53.0 percent at its peak in 2003, declining to 22.6 percent in 2008) and an estimated 2008 accident year combined loss and expense ratio of 108 percent,[3] all point to the dramatic success of the cost containment reforms and a stabilizing market with increased capacity and greater rate competition.

Workers' Compensation Earned Premium

WCIRB defines earned premium as the portion of a premium that has been earned by the insurer for policy coverage already provided. For example, one-half of the total premiums will typically be earned six months into an annual policy term.

The total amount of earned workers' compensation premium decreased during the first half of the 1990s, increased slightly in the latter part of the decade, then increased sharply in the new millennium.

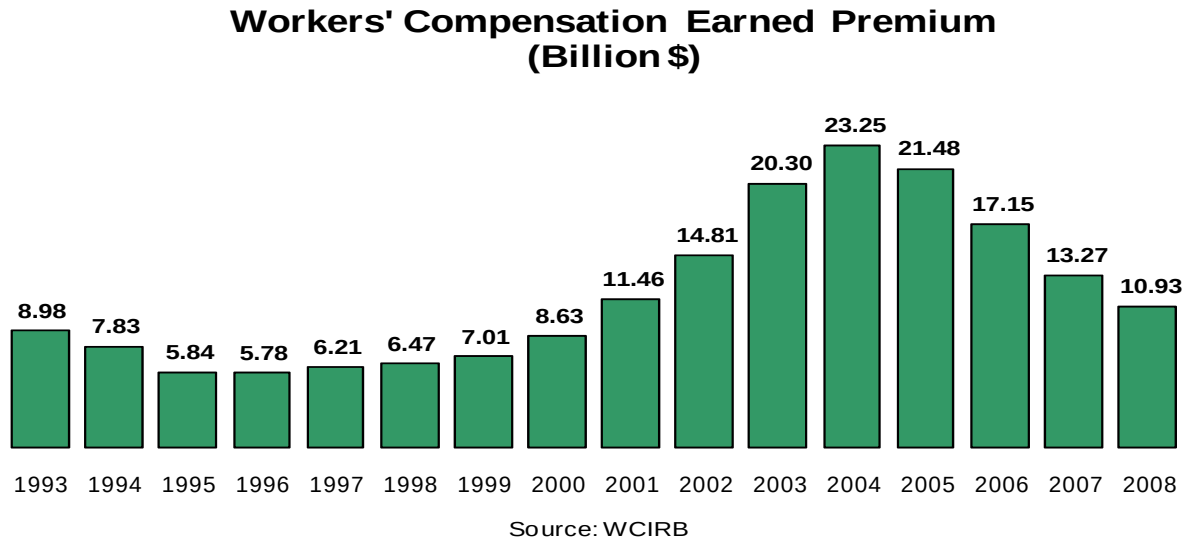
This increase in total premium appears to reflect:

- Movement from self-insurance to insurance.
- An increase in economic growth.
- Wage growth.
- Increase in premium rates.

Premiums from 2001 through 2003 were up sharply primarily due to rate increases in the market. WCIRB reports that the average rate on 2001 policies was about 34 percent higher than on 2000 policies, and the average rate on 2003 policies was 36 percent higher than on 2002 policies.

While WCIRB reported that rates began to decline in 2004 and continued to decline in 2005, as a result of earlier rate increases in 2003 as well as the other factors cited above, 2004 earned premiums were up over 2003.

However, earned premiums in 2004 through 2008 declined sharply as a result of market rate decreases following the reforms that took effect in 2003 and 2004.



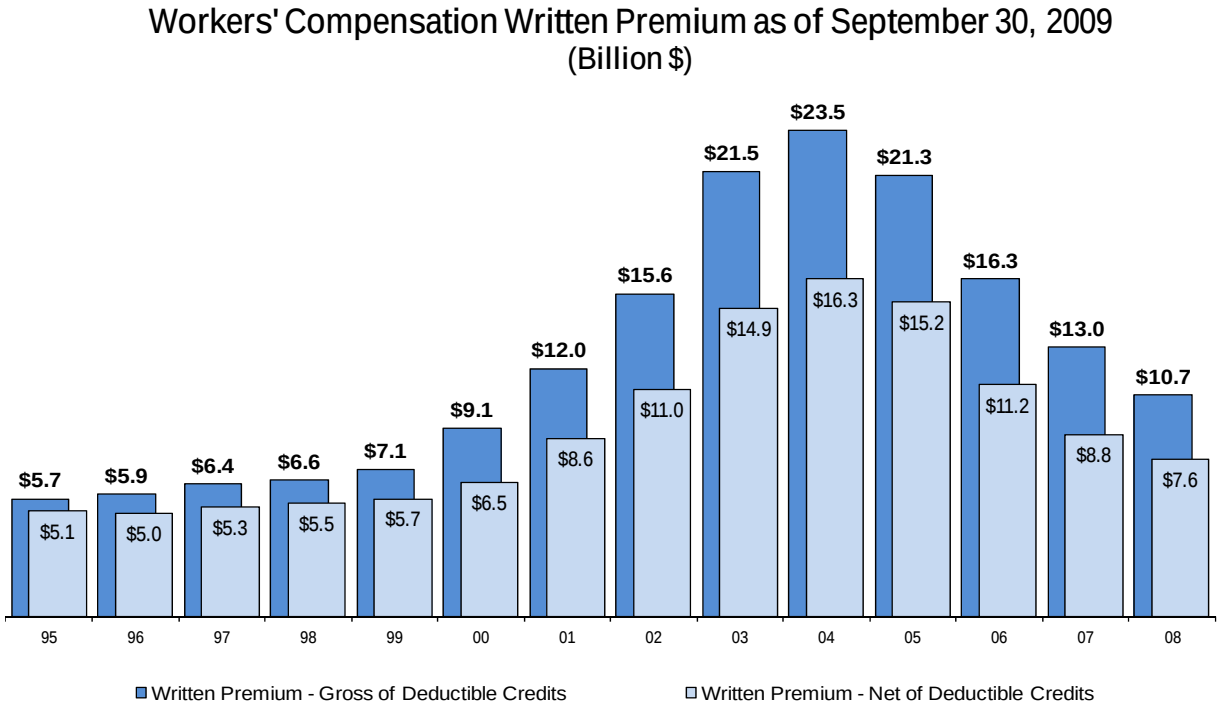
[3] Source: WCIRB Summary of December 31, 2008 Insurer Experience, released April 7, 2009.

Workers' Compensation Written Premium

After elimination of the minimum rate law, the total written premium declined from a high of $8.9 billion in 1993 to a low of $5.7 billion ($5.1 billion net of deductible) in 1995. The written premium grew slightly from 1996 to 1999 due to growth of insured payroll, an increase in economic growth, movement from self-insurance to insurance, and other factors rather than due to increased rates. However, even with well over a million new workers covered by the system, the total premium paid by employers remained below the level seen at the beginning of the decade.

At the end of 1999, the IC approved an 18.4 percent pure premium rate increase for 2000, and the market began to harden after five years of open rating, though rates remained less than two-thirds of the 1993 level. Since then, the market has continued to firm, with the IC approving a 10.1 percent increase in the advisory rates for 2001 and a 10.2 percent increase for 2002. The total written premium has increased by 37.8 percent to $21.5 billion from 2002 to 2003 and increased by 9.3 percent to a peak of $23.5 billion from 2003 to 2004. The written premium declined by 54.5 percent from $23.5 billion to $10.7 billion between 2004 and 2008 due to rate decreases.

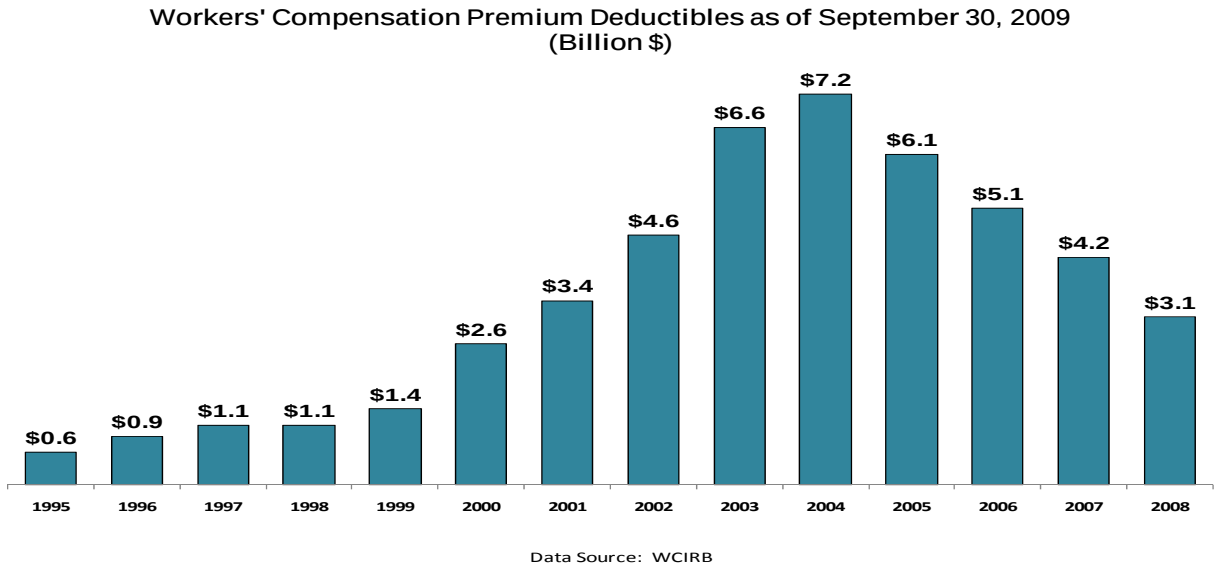
The chart below shows the California workers' compensation written premium before and after the application of deductible credits. Note that these amounts are exclusive of dividends.



Data Source: WCIRB

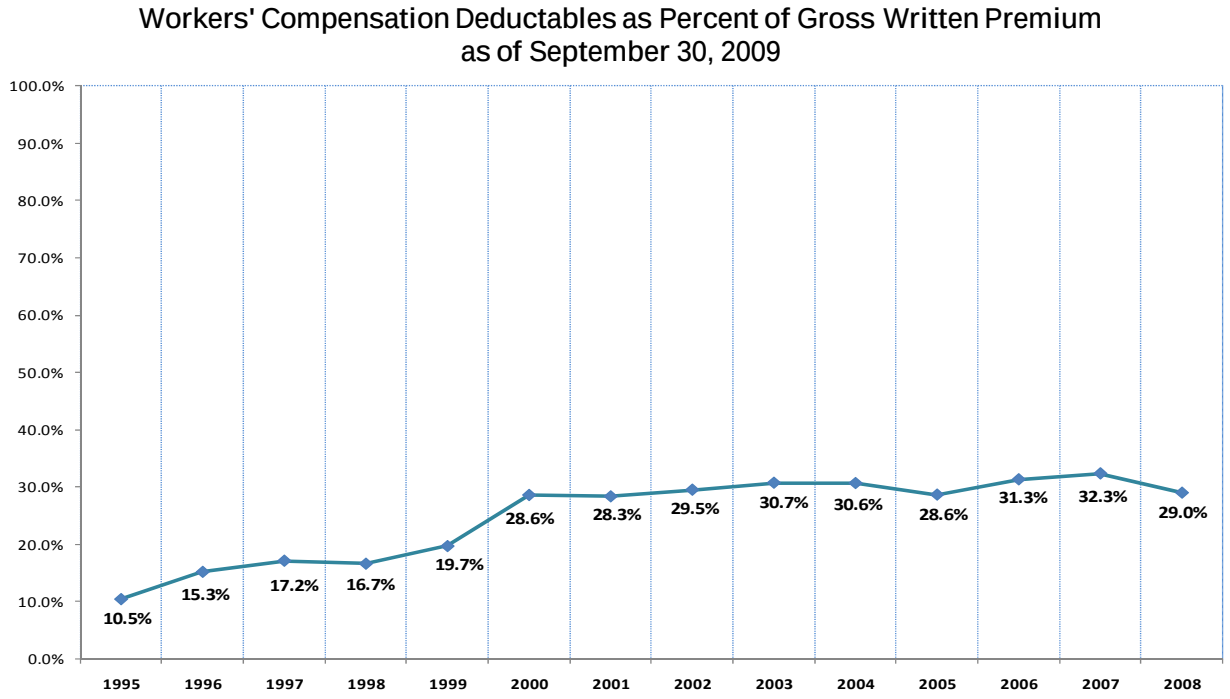
Workers' Compensation Premium Deductibles

The following chart shows the changes in the total workers' compensation premium deductibles from 1995 to 2008.



Workers' Compensation Deductibles as Percent of Written Premium

The chart below shows workers' compensation deductibles as a percent of the written premium.



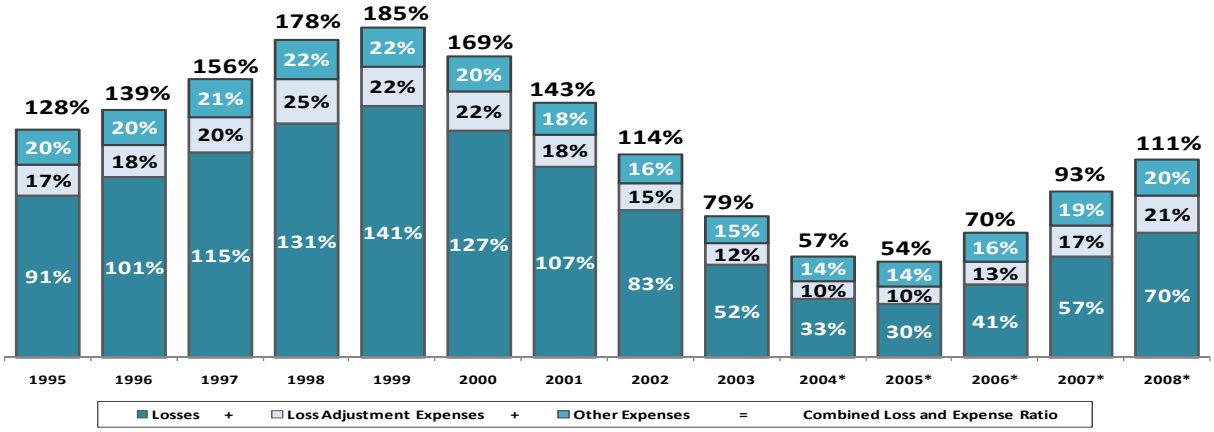
CALIFORNIA WORKERS' COMPENSATION INSURANCE INDUSTRY

Workers' Compensation Insurer Expenses

Combined Loss and Expense Ratios

The accident year combined loss and expense ratio, which measures workers' compensation claims payments and administrative expenses against earned premium, increased during the late 1990s, declined from 1999-2005, and increased by 106 percent from 2005 to 2008. In accident year 2008, insurers' claim costs and expenses amounted to $1.11 for every dollar of premium they collected. In accident year 2005, insurers' claim costs and expenses amounted to $0.54 for every dollar of premium they collected, which is the lowest combined ratio projected by WCIRB since the inception of competitive rating and reflects the estimated impact of AB 227, SB 228, and SB 899 on unpaid losses.

California Workers' Compensation Combined Loss and Expense Ratios
After Reflecting the Estimated Impact of the Ogilvie
and Almaraz/Guzman Decisions (as of September 30, 2009)



* Accident Year Combined Loss and Expense ratios prior to adjustment for the impact of the Ogilvie and Almaraz/Guzman decisions for accident years 2004 to 2008 are 57%, 54%, 69%, 90%, and 109%, respectively.

Data Source: WCIRB

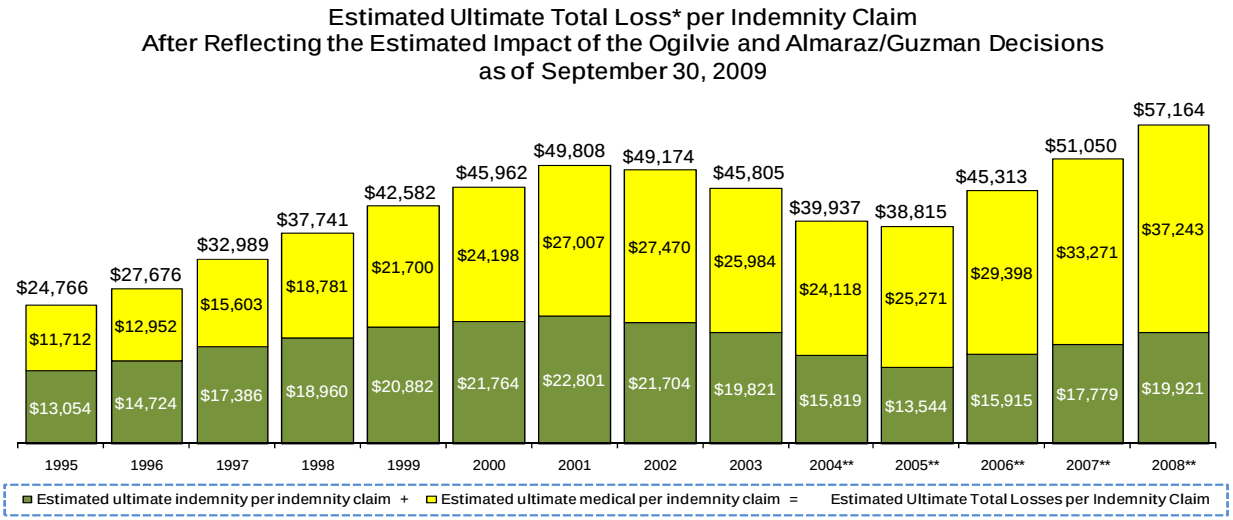
Insurance Companies' Reserves

WCIRB estimates that the total cost of benefits on injuries occurring prior to January 1, 2009, is $5.3 billion less than insurer-reported loss amounts.

Average Claim Costs

At the same time that premiums and claim frequency were declining, the total amount insurers paid on indemnity claims jumped sharply during the late 1990s.

The total average cost of indemnity claims decreased by 22 percent from 2001 to 2005, reflecting the impact of AB 227, SB 228 and SB 899. However, the total indemnity and medical average costs per claim increased by almost 47 percent between 2005 and 2008. Please note that WCIRB's estimates of average indemnity claim costs have not been indexed to take into account wage increase and medical inflation.



* Excludes medical-only

** Loss severities prior to adjustment for the impact of the Ogilvie and Almarez/Guzman decisions for accident years 2004 to 2008 are: $39,538, $38,295, $44,410, $49,697, and $55,292, respectively.

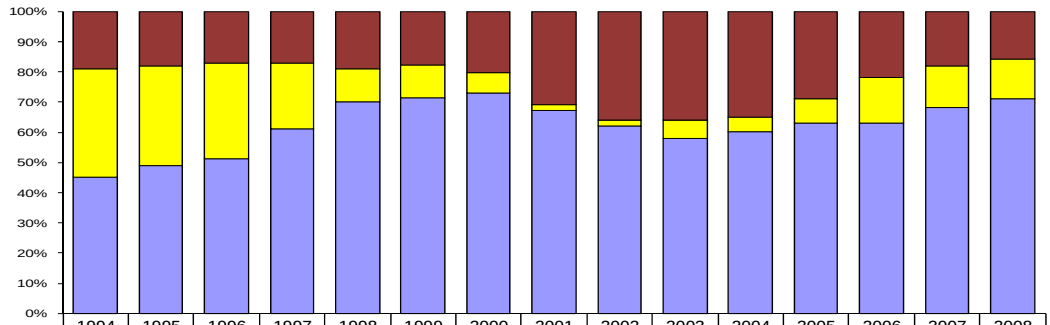
Source: WCIRB

Current State of the Insurance Industry

A number of California insurers left the market or reduced their writings as a result of the decrease in profitability, contributing to a major redistribution of market share among insurers since 1993, as shown in the following chart.

According to WCIRB, from 2002 through 2004, State Fund attained about 35 percent of the California workers' compensation insurance market, double the market share it had in the 1990s. However, between 2004 and 2008, State Fund's market share decreased to 16 percent. On the other hand, the market share of California companies, excluding State Fund, between 2004 and 2008 increased from 5 percent to 13 percent.

Workers' Compensation Insurance Market Share in California by Type of Insurer
Based on Written Premium Prior to Deductible Credits



	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
State Fund	19%	18%	17%	17%	19%	18%	20%	31%	36%	36%	35%	29%	22%	18%	16%
California Insurers	36%	33%	32%	22%	11%	11%	7%	2%	2%	6%	5%	8%	15%	14%	13%
National Insurers	45%	49%	51%	61%	70%	71%	73%	67%	62%	58%	60%	63%	63%	68%	71%

Source: WCIRB
Please note that totals may not equal 100% due to rounding.

"California Insurers" are difined as private insurers who write at least 80% of their workers' compensation business in California

Insurance Market Insolvency

Since 2000, a significant number of workers' compensation insurance companies have experienced problems with payment of workers' compensation claims. Thirty-five (35) insurance companies have gone under liquidation, and 18 companies have withdrawn from offering workers' compensation insurance during that time. However, since 2004, 27 insurance/reinsurance companies have entered the California workers' compensation market, while only 12 companies withdrew from the market.[4]

COMPANY NAME	DATE OF LIQUIDATION
2000	
California Compensation Insurance Company	9/26/2000
Combined Benefits Insurance Company	9/26/2000
Commercial Compensation Casualty Insurance Company	9/26/2000
Credit General Indemnity Company	12/12/2000
LMI Insurance Company	5/23/2000
Superior National Insurance Company	9/26/2000
Superior Pacific Insurance Company	9/26/2000
2001	
Credit General Insurance Company	1/5/2001
Great States Insurance Company	5/8/2001
HIH America Compensation & Liability Insurance Company	5/8/2001
Amwest Surety Insurance Company	6/7/2001
Sable Insurance Company	7/17/2001
Reliance Insurance Company	10/3/2001
Far West Insurance Company	11/9/2001
Frontier Pacific Insurance Company	11/30/2001
2002	
PHICO	2/1/2002
National Auto Casualty Insurance Company	4/23/2002
Paula Insurance Company	6/21/2002
Alistar Insurance Company	11/2/2002
	9/2002
2003	
Western Growers Insurance Company	1/7/2003
Legion Insurance Company	3/25/2003
Villanova Insurance Company	3/25/2003
Home Insurance Company	6/13/2003

[4] The information on the companies that have withdrawn and entered the market since 2004 is through 07/15/2009.

COMPANY NAME	DATE OF LIQUIDATION
Fremont Indemnity Corporation	7/2/2003
Wasatch Crest Insurance Co. (No WC policies)	7/31/2003
Pacific National Insurance Co.	8/5/2003
2004	
Protective National Insurance Company	2/12/04
Holland-America Insurance Company	7/29/04
Casualty Reciprocal Exchange	8/18/04
2005	
Cascade National Insurance Company/Washington	11/4/05
South Carolina Insurance Company/South Carolina	3/21/05
Consolidated American Insurance Company/South Carolina	3/21/05
2006	
Vesta Fire Insurance Company	8/3/06
Hawaiian Insurance & Guaranty Company	8/21/06
Municipal Mutual Insurance Company	10/31/06

Source: CIGA

COSTS OF WORKERS' COMPENSATION IN CALIFORNIA

Costs Paid by Insured Employers

In 2008, workers' compensation insurers earned $10.9 billion in premiums from California employers.[5]

The cost of workers' compensation insurance in California has undergone dramatic changes in the past ten years due to a combination of factors.

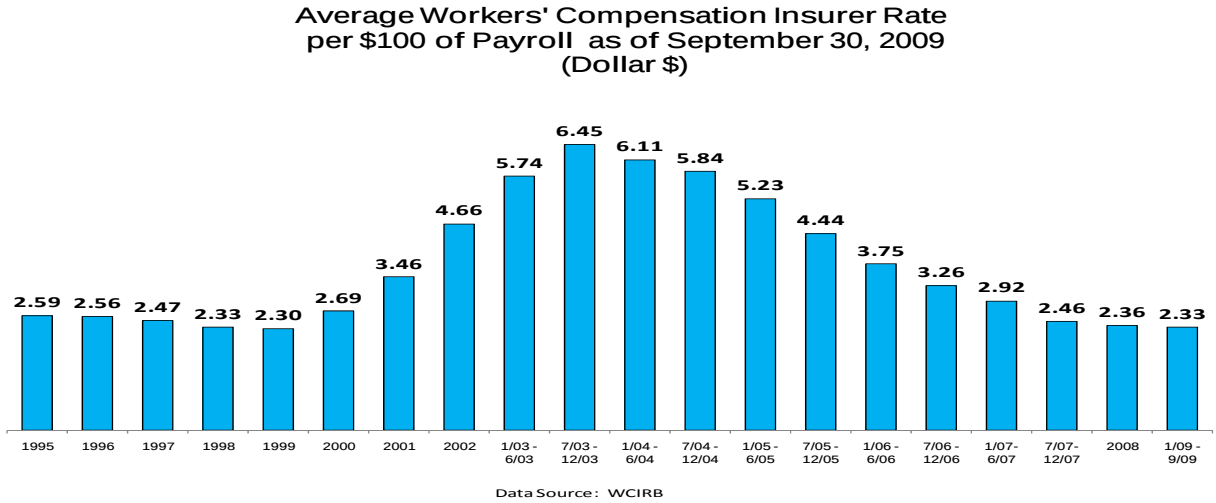
When workers' compensation premiums were deregulated beginning in 1995, insurers competed by lowering premium rates, in many instances lower than their actual costs. Costs also increased beyond the amounts that were foreseen when premiums were determined and collected. Many insurers drew on their reserves to make up the difference, and several insurers became insolvent. Subsequently, the surviving insurers charged higher premium rates to meet costs and began to replenish surplus.

The California workers' compensation legislative reforms in the early 2000s, which were developed to control medical costs, update indemnity benefits and improve the assessment of permanent disability (PD), had significant impact on insurance costs.

As intended, these reforms reduced workers' compensation costs in California. It appears that the savings have been fully realized and the system has returned to a trend of cost increases. The question now is whether the cost increases are merely the long-term trends of inflation and medical cost growth, or whether the savings accomplished by the reforms are being eroded by an inability to maintain the early savings. Insurers report broad-based growth in medical spending, and judicial interpretations of the PD rating system portend increased litigation and higher PD payments. The cost of insurance continued to drop through the latest period for which written premium data are available, but filed rates have begun to climb again.

Workers' Compensation Average Premium Rate

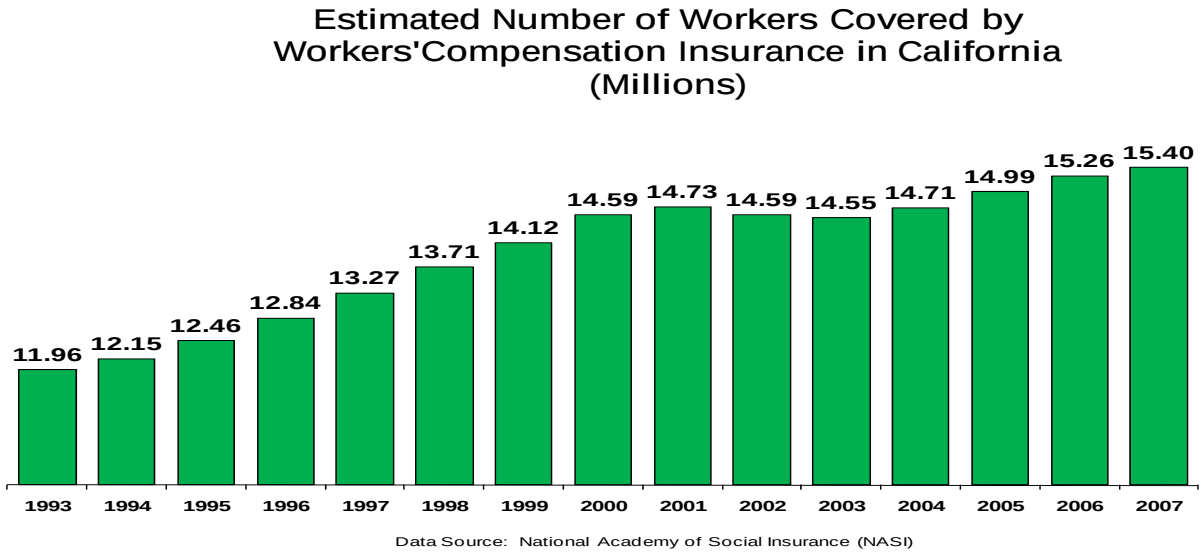
The following chart shows the average workers' compensation premium rate per $100 of payroll. The average dropped during the early-to-mid 1990s, stabilized during the mid-to-late 1990s, and then rose significantly beginning in 2000 up to the second half of 2003. However, the average rate has dropped every year since that time. In the first three quarters of 2009, the average premium rate per $100 of payroll was $2.33.



[5] Source: "2008 California's Workers' Compensation Losses and Expenses." WCIRB – June 25, 2009. Note that earned premium is not identical to written premium. The two measurements are related, and the choice of which measurement to use depends on the purpose.

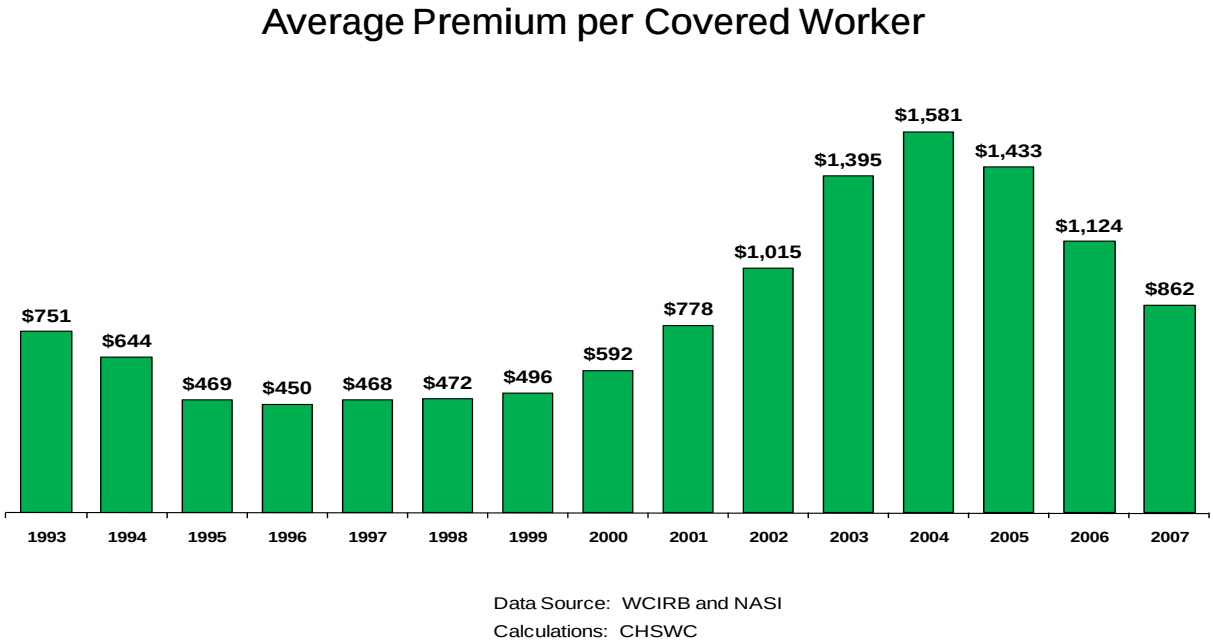
Workers Covered by Workers' Compensation Insurance

The estimated number of California workers covered by workers' compensation insurance grew by about 23 percent from 11.96 million in 1993 to 14.73 million in 2001. From 2001 through 2005, the number of covered workers in California stabilized, averaging about 14.7 million per year. The estimated number of California workers covered by workers' compensation insurance grew by about 6 percent from 2003 to 2007.



Average Earned Premium per Covered Worker

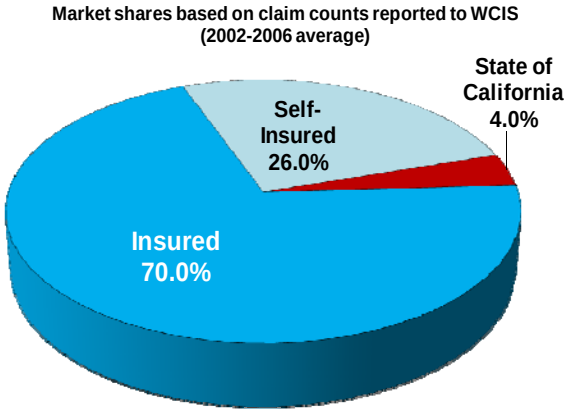
As shown in the graph below, the average earned premium per covered worker dropped during the early-to-mid 1990s, leveled off for a few years, and more than tripled between 1999 and 2004. There was a 46 percent decrease in average earned premium per covered worker from 2004 to 2007.



Workers' Compensation System Expenditures

The California workers' compensation system covers 15,395,000 employees working for over 850,000 employers[i] in the State. These employees and employers generated a gross domestic product of $1,846,757,000,000 ($1.85 trillion) for 2008.[ii] A total of 613,800 occupational injuries and illnesses were reported for 2008,[iii] ranging from minor medical treatment cases up to catastrophic injuries and deaths. The total paid cost to employers for workers' compensation in 2008 was $15.3 billion. (See textbox on the next page.)

Employers range from small businesses with just one or two employees to multinational corporations doing business in the State and the state government itself. Every employer in California must secure its liability for payment of compensation, either by obtaining insurance from an insurer licensed by the Department of Insurance (CDI) or by obtaining a certificate of consent to self-insure from the Department of Industrial Relations (DIR). The only lawful exception is the State, which is legally uninsured. Based on the claim counts reported to the Workers' Compensation Information System (WCIS) (see the chart below), 70 percent of injuries occur to employees of insured employers, 26 percent of injuries occur to employees of self-insured employers, and 4 percent of injuries occur to employees of the State of California.[iv]



Data Source: DWC - WCIS

A Claim Counts-based Estimate of Workers' Compensation System Size

Measurements of the California workers' compensation system have long been plagued by incomplete data. The Workers' Compensation Insurance Rating Bureau (WCIRB) collects detailed data from insurers to enable the Insurance Commissioner and the companies to determine reasonable prices for coverage. These data are also used for many measurements of the system. Comparable data are not collected on self-insured employers, so researchers relied on estimates. It was estimated that 20% of the market was self-insured, so systemwide measurements were often obtained by multiplying the WCIRB figures by 1.25.

It is now possible to improve that estimate by using Workers' Compensation Information System (WCIS) data on the number of claims filed by employees of insured employers, self-insured employers, and the legally uninsured state agencies. The claims are:

70% with insured employers
26% with self-insured employers
4% with the State as the employer

Assuming that other characteristics are proportional to the number of claims, the new multiplier to estimate systemwide performance based on insurer data is:

$$\frac{100\%}{70\%} = 1.43$$

For example, if insurers' paid losses and expenses are $10.7 billion, then the systemwide paid losses and expenses are estimated as:

$10.7 billion * 1.43 = $15.3 billion.

The Commission on Health and Safety and Workers' Compensation (CHSWC) obtained WCIS data and began using the new method for estimating system size in 2008. This method produces a larger estimate than the old method. Comparisons to previous years must be recalculated using the new method for consistency.

Workers' compensation is generally a no-fault system that provides statutory benefits for occupational injuries or illnesses. Benefits consist of medical treatment, temporary disability (TD) payments, permanent disability (PD) payments, return-to-work assistance, and death benefits. The overall amounts paid in each of these categories systemwide are shown in the following chart. These figures are based on insurer-paid amounts multiplied by 1.43 to include estimated amounts paid by self-insured employers and the State.

Systemwide Cost: Paid Dollars for 2008 Calendar Year

A Claim Counts-based Estimate of Workers' Compensation System Size (Million $)

	Insured	***Self-Insured and the State****	***All Employers***
Indemnity*	$2,986	$1,284	$4,270
Medical*	$4,130	$1,776	$5,906
Changes to Total Reserves	$35	$15	$50
Insurer Pre-Tax Underwriting Profit/Loss	-$84	X	-$84
Expenses (See Table below: Breakdown of Expenses)	$4,053	$1,081	$5,134
TOTAL for 2008	$11,120	$4,156	**$15,276**

*Include CIGA payments

Source for Insured figures above is WCIRB Losses and Expenses report June 2009. Other figures are calculated by CHSWC using 0.43 multiplier for equivalent cost components. The equivalent expense components are estimated as follows:

Breakdown of Expenses (Million $)	*Insured*	*Self-Insured and State*	*All Employers*
Loss Adjustment Expense	$1,824	$784	$2,608
Commissions and Brokerage	$853	X	$853
Other Acquisition Expenses	$468	X	$468
General Expenses	$689	$296	$985
Premium and Other Taxes	$219	X	$219
Total	$4,053	$1,081	**$5,134**

Estimate of Workers' Compensation System Size Based on Written Premium

Another way to calculate systemwide costs for employers is by using written premium.

Written premium for insured employers = $10.7 billion in accident year 2008.[6]

$10.7 billion * 1.43 = $15.3 billion systemwide costs for employers.

[6] WCIRB Summary of September 30, 2009 Insurer Experience Report, December 11, 2009.

Indemnity Benefits

WCIRB provided data for the cost of indemnity benefits paid by insured employers. Assuming that insured employers comprise approximately 70 percent of total California workers' compensation claims, estimated indemnity benefits are shown on the following chart for the total system, insured employers, self-insured employers, and the State of California.

Systemwide Estimated Costs of Paid Indemnity Benefits

Indemnity Benefits (Thousand $)	2007	2008	Change
Temporary Disability	$2,126,502	$2,075,473	-$51,029
Permanent Total Disability	$131,998	$146,811	$14,813
Permanent Partial Disability	$1,885,192	$1,704,986	-$180,206
Death	$97,400	$99,319	$1,919
Funeral Expenses	$1,909	$2,217	$308
Life Pensions	$71,923	$83,644	$11,721
Voc Rehab/Non-transferable Education Voucher	$217,067	$158,242	-$58,825
Total	$4,531,990	$4,270,692	-$261,298

Paid by Insured Employers

Indemnity Benefits (Thousand $)	2007	2008	Change
Temporary Disability *	$1,487,064	$1,451,380	-$35,684
Permanent Total Disability *	$92,306	$102,665	$10,359
Permanent Partial Disability *	$1,318,316	$1,192,298	-$126,018
Death *	$68,112	$69,454	$1,342
Funeral Expenses	$1,335	$1,550	$215
Life Pensions	$50,296	$58,492	$8,196
Voc Rehab/Non-transferable Education Voucher *	$151,795	$110,659	-$41,136
Total	$3,169,224	$2,986,498	-$182,726

Paid by Self-Insured Employers and the State**

Indemnity Benefits (Thousand $)	2007	2008	Change
Temporary Disability	$639,438	$624,093	-$15,345
Permanent Total Disability	$39,692	$44,146	$4,454
Permanent Partial Disability	$566,876	$512,688	-$54,188
Death	$29,288	$29,865	$577
Funeral Expenses	$574	$667	$93
Life Pensions	$21,627	$25,152	$3,525
Voc Rehab/Non-transferable Education Voucher	$65,272	$47,583	-$17,689
Total	$1,362,766	$1,284,194	-$78,572

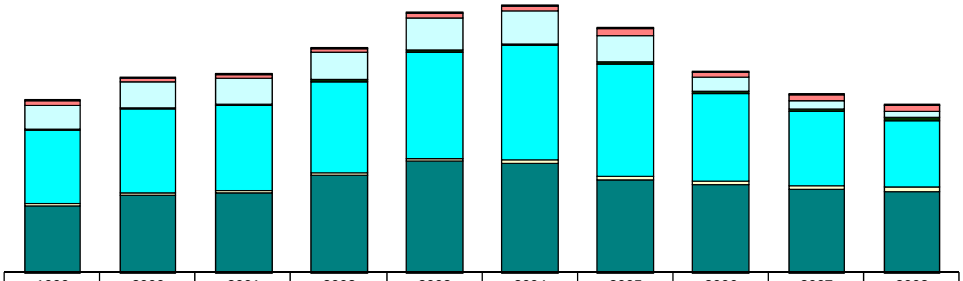
* Single Sum Settlement and Other Indemnity payments have been allocated to the benefit categories.

** Figures estimated based on insured employers' costs. Self-insured employers and the State of California are estimated to comprise 30 percent of all California workers' compensation claims.

Trends in Paid Indemnity Benefits

The estimated systemwide paid indemnity benefits for the past several years are displayed in the chart below. After the reforms of 2003 and 2004, paid indemnity benefits dropped to below the 1999 levels. The permanent partial disability that peaked in 2004 saw one of the biggest declines after the reforms. The TD benefits began declining in 2004 despite the TD benefit increases of AB 749 and the impact of the two-year limit not taking effect until April, 2006.

Workers' Compensation Paid Indemnity Benefit by Type
Systemwide Estimated Costs*
(Million $)



	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Funeral Expenses	$2.7	$2.5	$2.3	$2.4	$2.1	$2.1	$2.0	$2.2	$1.9	$2.2
Permanent Total Disability	$110.5	$85.2	$86.5	$86.5	$101.9	$124.2	$161.3	$141.2	$132.0	$146.8
Voc Rehab/ Education Vouchers	$610.7	$660.8	$663.6	$707.2	$838.0	$838.4	$673.1	$347.1	$217.1	$158.2
Life Pensions	$35.5	$40.6	$39.5	$46.2	$47.5	$45.5	$59.9	$62.8	$72.0	$83.6
Permanent Partial Disability	$1,865.5	$2,145.6	$2,178.9	$2,330.7	$2,708.6	$2,923.4	$2,862.3	$2,242.3	$1,885.2	$1,705.0
Death	$61.0	$62.9	$66.0	$66.5	$66.8	$72.5	$85.2	$87.2	$97.4	$99.3
Temporary Disability	$1,708.3	$1,973.6	$2,028.5	$2,484.1	$2,857.8	$2,802.0	$2,384.8	$2,246.8	$2,126.5	$2,075.5
Total	$4,394.2	$4,971.3	$5,065.3	$5,723.5	$6,622.7	$6,808.0	$6,228.6	$5,129.6	$4,532.0	$4,270.7

Data Source: WCIRB
Calculations: CHSWC

Supplemental Job Displacement Benefits Costs

The reforms of 2003 eliminated vocational rehabilitation for injuries arising on or after January 1, 2004, and replaced it with a supplemental job displacement benefit (SJDB). The vocational rehabilitation statutes are repealed entirely effective January 1, 2009. Consequently, the expenditures for vocational rehabilitation are dwindling rapidly as the remaining pre-2004 cases run off. SJDB expenditures are taking their place, but at a much lower level.

Supplemental Job Displacement Benefit Vouchers

AB 227 created a system of non-transferable educational vouchers effective for injuries occurring on or after January 1, 2004. WCIRB's estimate of the cost of educational vouchers is based on information compiled from the most current WCIRB Permanent Disability Claim Survey. In total, 18.3 percent of accident year 2004 PD claims involved educational vouchers, and the average cost of the educational vouchers was approximately $5,900. For the 2005 accident year at first survey level, 20.7 percent of sampled PD claims were reported as involving educational vouchers with an estimated average cost of approximately $5,600.

Vocational Rehabilitation and Supplemental Job Displacement Benefit Vouchers Incurred Costs

WCIRB has summarized the vocational rehabilitation (VR) information reported on unit statistical reports. The table below shows a summary of VR information by accident year, with losses evaluated at a combination of second and third unit report levels, depending on which policy year the accident year claim

was reported. This unit statistical information suggests that the cost per claim for VR or SJDB vouchers has declined by approximately 80 percent as SJDB has replaced VR.

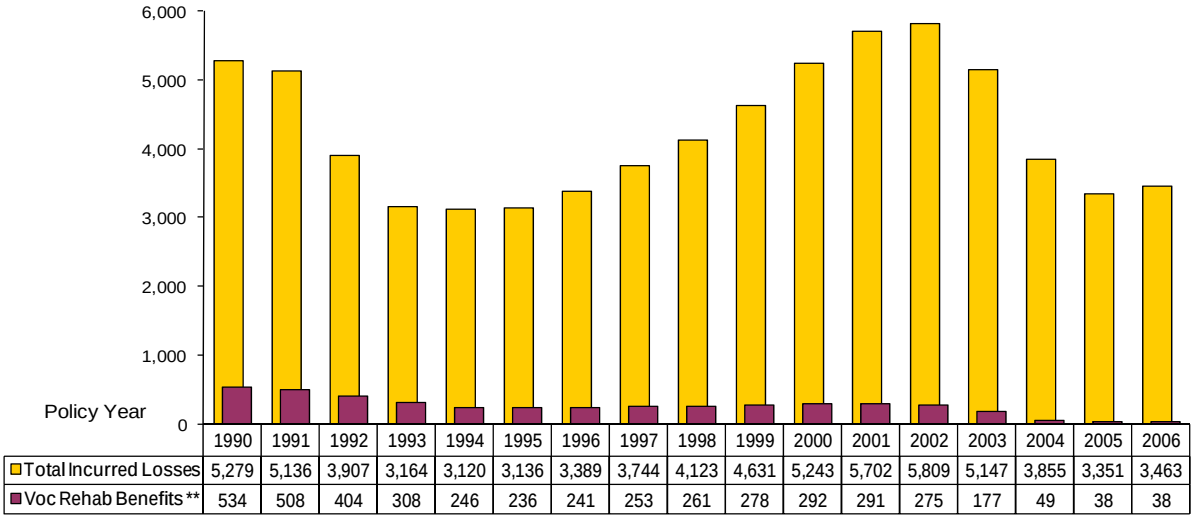
Table: Vocational Rehabilitation (VR) and Supplemental Job Displacement Benefit (SJDB) Vouchers Incurred Costs at Second/Third Report Level

Accident Year (AY)	Percent of Indemnity Claims with VR or SJDB Vouchers	Change from Average of AY 2001-03	VR and SJDB Vouchers Cost per VR & SJDB Vouchers Claim	Change from Average of AY 2001-03	VR and SJDB Vouchers Cost per Indemnity Claim	VR and SJDB Cost Level Change from Average of AY 2001-03
2001	**25.1%**	**-**	**$9,525**	**-**	**$2,387**	**-**
2002	**25.2%**	**-**	**$9,635**	**-**	**$2,426**	**-**
2003	**24.0%**	**-**	**$8,987**	**-**	**$2,158**	**-**
2004	**12.1%**	**-51%**	**$4,187**	**-55%**	**$505**	**-78%**
2005	**11.2%**	**-55%**	**$3,923**	**-58%**	**$441**	**-81%**

Source: WCIRB

AB 227, enacted in 2003, in combination with clean-up language in SB 899 enacted in 2004, repealed the workers' compensation VR benefit for dates of injury on or after January 1, 2004. VR benefits are available only to eligible workers who were injured before 2004 and were available only through December 31, 2008. VR is essentially over, although some litigation continues over the wind-up of VR under particular circumstances. The chart below presents the most recent data available through 2006 on VR costs including SJDB vouchers (non-transferable educational vouchers) beginning from policy year 2003.

Vocational Rehabilitation Benefits and SJDB Vouchers* Compared with Total Incurred Losses, WCIRB 1st Report Level (Million $)



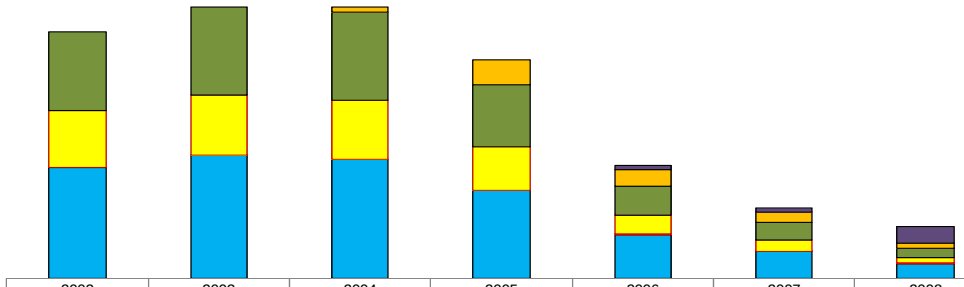
Policy Year	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Total Incurred Losses	5,279	5,136	3,907	3,164	3,120	3,136	3,389	3,744	4,123	4,631	5,243	5,702	5,809	5,147	3,855	3,351	3,463
Voc Rehab Benefits**	534	508	404	308	246	236	241	253	261	278	292	291	275	177	49	38	38

* The Vocational Rehabilitation statutes are repealed entirely effective January 1, 2009, and replaced with Supplemental Job Displacement Benefits.
** Policy year 2003 "vocational rehabilitation benefits" contain a mix of vocational rehabilitation costs and non-transferable educational voucher costs. Policy year 2004 and later "vocational rehabilitation benefits" contain mainly non-transferable educational voucher costs.

Data Source: WCIRB

The following chart shows the amounts paid for each component of the VR benefit including newly introduced VR settlement and SJDB vouchers for the period from 2002 through 2008.

Paid Vocational Rehabilitation Benefits and SJDB Vouchers (Million $)



	2002	2003	2004	2005	2006	2007	2008
Education Vouchers	N/A	N/A	N/A	N/A	8.004	8.598	35.054
V/R Settlement*	N/A	N/A	12.232	53.039	37.014	22.490	11.524
Education & Training	170.028	190.464	190.894	134.594	62.789	38.151	19.549
Evaluation	122.398	130.357	126.562	94.033	40.282	24.476	12.542
Other Voc. Rehab	N/A	N/A	N/A	N/A	0.612	0.949	2.716
Maintenance Allowance	239.310	265.167	256.572	189.050	94.025	57.131	29.274
Total	531.736	585.988	586.26	470.716	242.726	151.795	110.659

* Vocational Rehabilitation Settlements were allowed on injuries occuring on or after January 1, 2003, pursuant to Assembly Bill No.749

Data Source: WCIRB

Medical Benefits

Systemwide Estimated Costs - Medical Benefits Paid

Medical Benefits (Thousand $)	2007	2008	Change
Physicians	$2,209,782	$2,152,919	-$56,863
Capitated Medical	$11,559	$19,773	$8,214
Hospital	$1,381,931	$1,569,319	$187,388
Pharmacy	$497,144	$525,875	$28,731
Payments Made Directly to Patient	$803,903	$943,538	$139,635
Medical-Legal Evaluation	$213,832	$289,112	$75,280
Medical Cost-Containment Programs*	$267,676	$405,763	$138,087
Total	$5,385,826	$5,906,299	$520,473

Paid by Insured Employers

Medical Benefits (Thousand $)	2007	2008	Change
Physicians	$1,545,302	$1,505,538	-$39,764
Capitated Medical	$8,083	$13,827	$5,744
Hospital	$966,385	$1,097,426	$131,041
Pharmacy	$347,653	$367,745	$20,092
Payments Made Directly to Patient	$562,170	$659,817	$97,647
Medical-Legal Evaluation	$149,533	$202,176	$52,643
Medical Cost-Containment Programs*	$187,186	$283,750	$96,564
Total	$3,766,312	$4,130,279	$363,967

Paid by Self-Insured Employers**

Medical Benefits (Thousand $)	2007	2008	Change
Physicians	$664,480	$647,381	-$17,099
Capitated Medical	$3,476	$5,946	$2,470
Hospital	$415,546	$471,893	$56,347
Pharmacy	$149,491	$158,130	$8,639
Payments Made Directly to Patient	$241,733	$283,721	$41,988
Medical-Legal Evaluation	$64,299	$86,936	$22,637
Medical Cost-Containment Programs*	$80,490	$122,013	$41,523
Total	$1,619,514	$1,776,020	$156,506

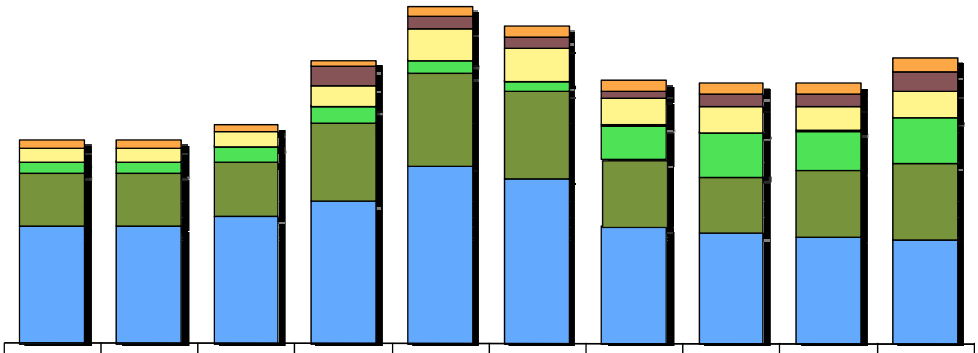
* Figures for medical cost-containment programs are based on a sample of insurers who reported medical cost containment expenses to the WCIRB.

** Figures estimated based on insured employers' costs. Self-insured employers and the State of California are estimated to comprise 30 percent of all California workers' compensation claims from 2007.

Trends in Paid Medical Benefits

The estimated systemwide paid medical costs for the past several years are displayed in the chart below. The following trends may result from the impact of recent workers' compensation reforms. The cost of the total medical benefit increased by 65.4 percent from 1999 to 2003, then decreased by 15.3 percent from 2003 to 2008. Pharmacy costs increased by 132 percent from 1999 through 2004, before declining slightly from 2004 to 2008. Expenditures on medical cost-containment programs in 2005 were less than a third of what they were in 2002 and tripled again in 2008. Hospital costs increased by 78 percent from 1999 to 2003, then declined by 39 percent from 2003 to 2006, and increased by 34.4 percent from 2006 to 2008. Medical-legal evaluation costs decreased from 2000 to 2002, then more than doubled between 2002 and 2008, with a slight decrease from 2006 to 2007. Payments to physicians increased by 51 percent from 1999 to 2003, then dropped by 41.3 percent from 2003 to 2008.

Workers' Compensation Paid Medical Benefits by Type
Systemwide Estimated Costs* (Million $)



	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Medical-Legal Evaluation	$157.0	$157.0	$138.5	$127.4	$183.5	$229.4	$244.5	$231.8	$213.8	$289.1
Med Cost Cntnmnt Prgrms	N/A	N/A	N/A	$408.2	$278.8	$222.8	$127.4	$250.2	$267.7	$405.8
Pharmacy	$294.9	$294.9	$320.8	$424.2	$651.4	$683.5	$559.1	$545.0	$497.1	$525.9
Capitated Medical	$7.9	$7.9	$6.5	$8.8	$13.0	$15.2	$32.6	$13.5	$11.6	$19.8
Direct Payments to Patient	$241.5	$241.5	$329.8	$340.2	$256.1	$207.6	$686.4	$899.6	$803.9	$943.5
Hospital	$1,076.0	$1,076.0	$1,111.6	$1,612.0	$1,917.8	$1,798.1	$1,374.2	$1,167.9	$1,381.9	$1,569.3
Physicians	$2,437.2	$2,437.2	$2,630.1	$2,943.4	$3,669.4	$3,414.8	$2,431.0	$2,285.0	$2,209.8	$2,152.9
Total	$4,214.5	$4,214.5	$4,537.3	$5,864.3	$6,970.0	$6,571.5	$5,452.9	$5,396.4	$5,385.8	$5,906.3

Source: WCIRB
Calculations: CHSWC

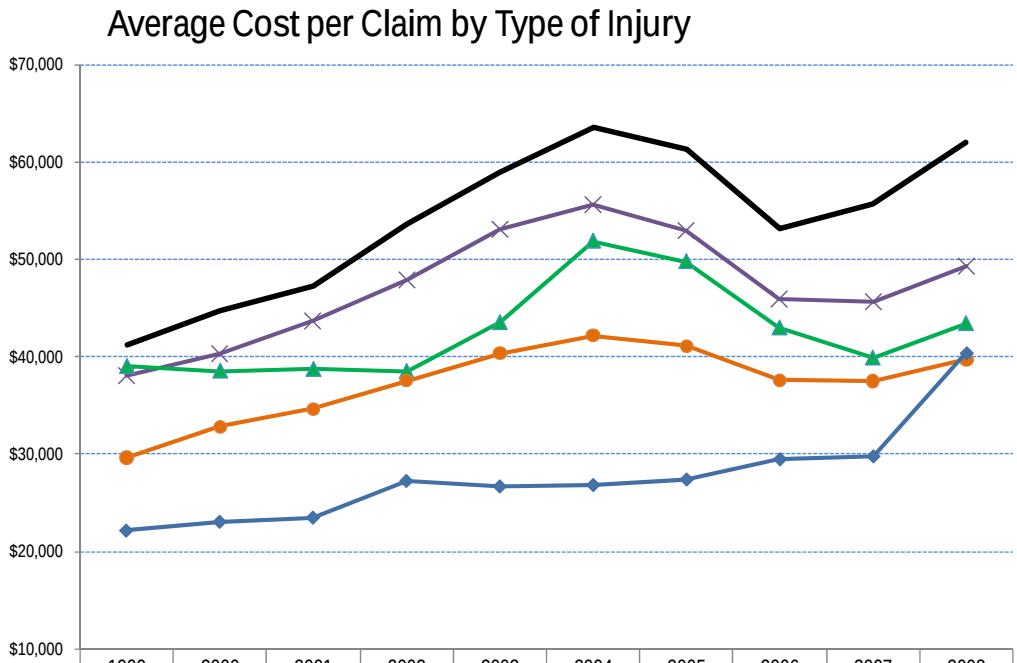
Average Cost per Claim by Type of Injury

As shown in the following chart, from 1999 to 2004, back injuries increased by 46 percent and slip and fall injuries by 54 percent, followed by carpal tunnel/repetitive motion injuries (RMI) by 42 percent.

Average costs of psychiatric and mental stress claims increased by 23 percent between 1999 and 2003. Between 2002 and 2003, the average cost of psychiatric and mental stress claims decreased by 2 percent and then increased by 51 percent from 2003 through 2008.

From 2004 to 2006, the average costs for all of the types of injuries shown below, with the exception of psychiatric and mental stress, declined.

The average cost for all of the types of injuries shown below increased between 2006 and 2008.



	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Slip and Fall	$41,200	$44,689	$47,316	$53,576	$58,869	$63,581	$61,266	$53,121	$55,738	$62,004
Back Injuries	$38,016	$40,311	$43,739	$47,938	$53,049	$55,570	$52,955	$45,963	$45,698	$49,283
Other Cumulative Injuries	$39,008	$38,543	$38,721	$38,494	$43,507	$51,867	$49,773	$42,975	$39,880	$43,417
Carpal Tunnel / RMI	$29,643	$32,817	$34,627	$37,552	$40,349	$42,152	$41,108	$37,598	$37,500	$39,709
Psychiatric and Mental Stress	$22,177	$23,082	$23,505	$27,278	$26,706	$26,855	$27,427	$29,499	$29,798	$40,385

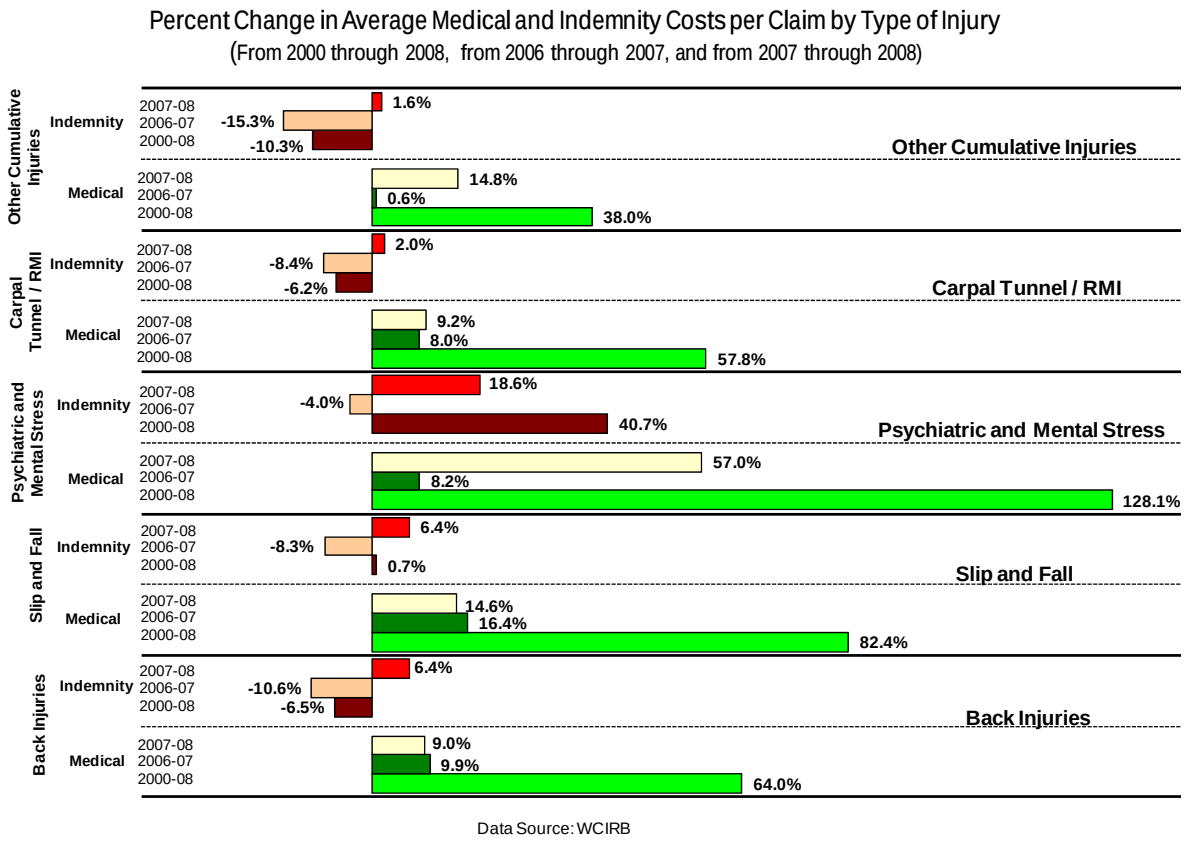
Data Source: WCIRB

Changes in Average Medical and Indemnity Costs per Claim by Type of Injury

The chart below illustrates the impact of the reforms on selected types of injury. The long-term trend from 2000 to 2008 shows increases in medical costs for all these types of injury. The same trend for indemnity costs shows decreases for back injuries, carpal tunnel/RMI, and other cumulative injuries as the result of reduction in those indemnity costs for both the 2005-2006 and 2006-2007 periods, and increases for the psychiatric and mental stress and slips and falls after some decrease in indemnity costs for these two types of injury for the 2006-2007 period.

From 2006 to 2007, medical costs fell for every type of injury. In the same year, indemnity costs showed decreases for all types of injury as well.

From 2007 to 2008, medical costs increased for every type of injury, the largest being a 57 percent increase for psychiatric and mental stress. In the same year, indemnity costs increased for every type of injury, the largest being 18.6 percent for psychiatric and mental stress.

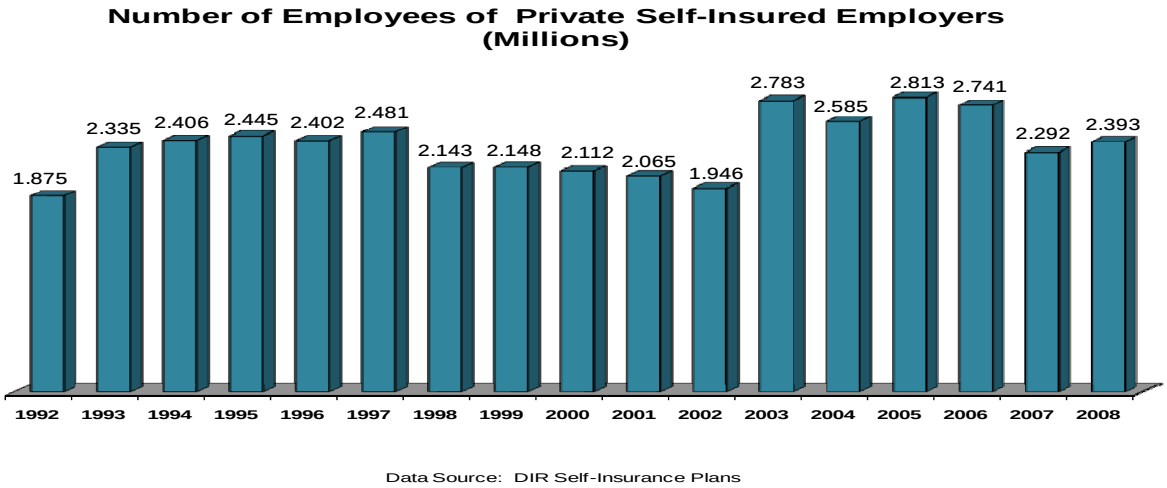


Workers' Compensation System Expenditures: **Self-Insured Private and Public Employers**

Private Self-Insured Employers

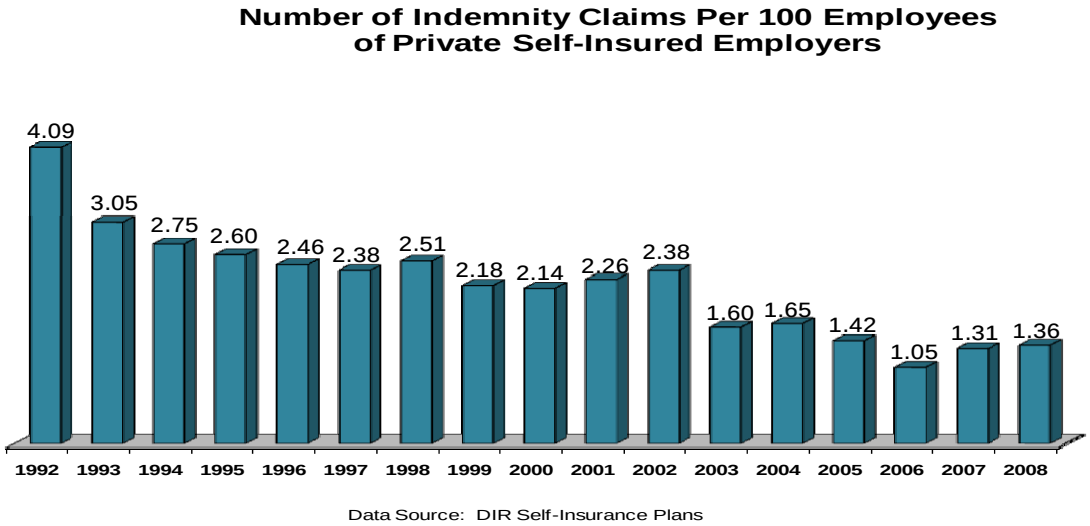
Number of Employees

The following chart shows the number of employees working for private self-insured employers between 1992 and 2008. A number of factors may affect the year-to-year changes. One striking comparison is to the average cost of insurance per $100 of payroll for insured employers, as described earlier. When insurance is inexpensive, fewer employers may be attracted to self-insurance, but when insurance becomes more expensive, more employers move to self-insurance.



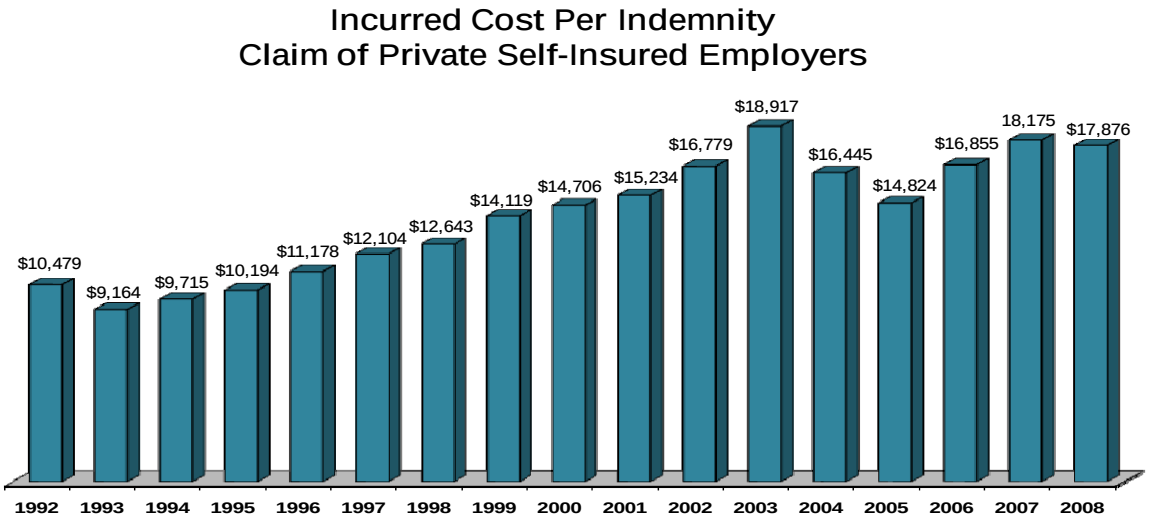
Indemnity Claims

The rate of indemnity claims per 100 employees of private self-insured employers reflects trends seen throughout the workers' compensation system. Frequency has been declining steadily for years. In addition, the reforms of the early 1990s and the reforms of 2003-2004 each produced distinct drops in frequency. Smaller year-to-year variations, including a small upswing in 1998 and a two-year upward trend from 2000 through 2002, are not correlated with any short-term variations in the insured market.



Incurred Cost per Indemnity Claim

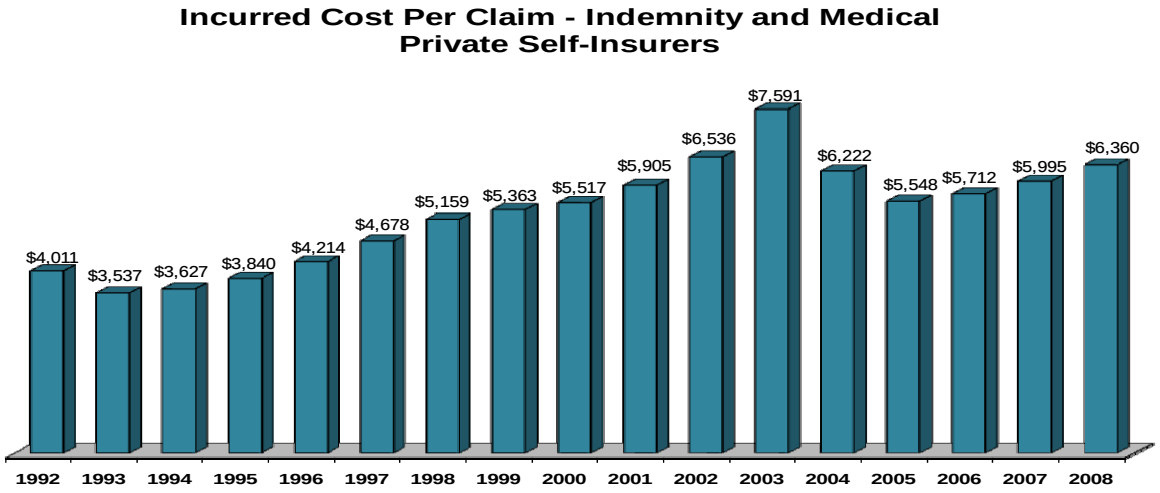
The following chart shows the incurred cost per indemnity claim for private self-insured employers, which has experienced changes similar to the changes for insurance companies. There has been a steady rise in the cost per indemnity claim until 2003, when the cost began to drop in response to the reforms of 2003 and 2004. The upward trend returned in 2006. Although the growth in cost per claim is back, the cost is now growing from a lower starting point than it would have been without the reforms.



Data Source: DIR Self-Insurance Plans

Incurred Cost per Indemnity and Medical Claim

The average cost of all claims, including both indemnity claims and medical-only claims is naturally lower than the average cost of indemnity claims. While lower, it shows a pattern similar to the trends for indemnity claims. The rate of growth since 2006 has been lower for the average of all claims than in indemnity claims.

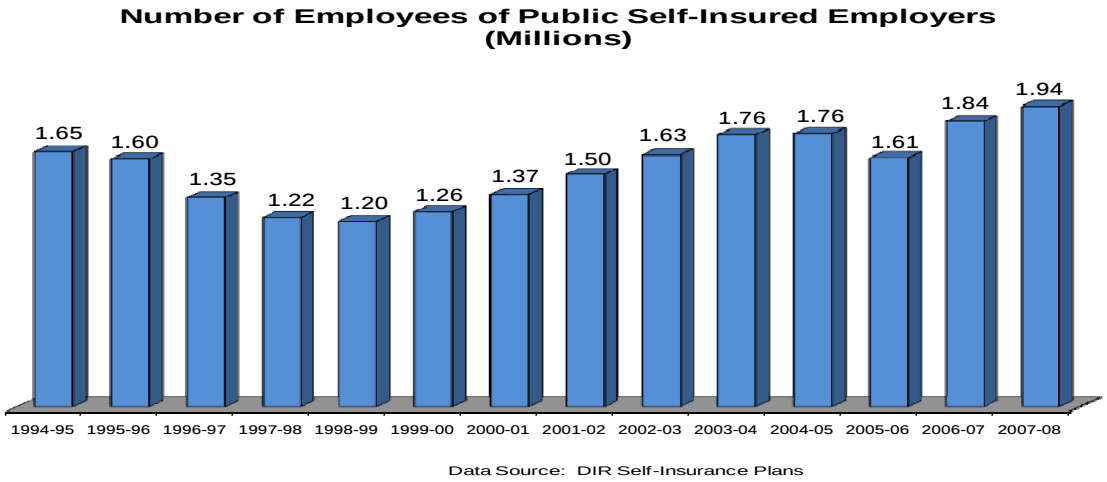


Data Source: DIR Self-Insurance Plans

Public Self-Insured Employers

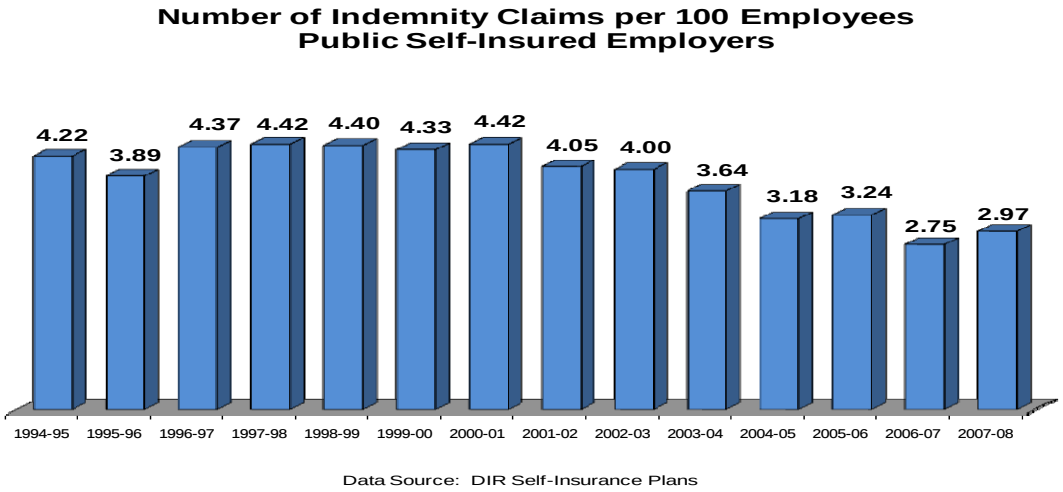
Number of Employees

The following chart shows the number of public self-insured employers between fiscal years 1994-1995 and 2007-2008. The number of public self-insured employers declined between 1994-1995 and 1998-1999. Between 1998-1999 and 2003-2004, the number of employees working for public self-insured employers grew by 46.7 percent, then leveled off between 2003-2004 and 2004-2005, declined between 2004-2005 and 2005-2006, and increased by 20 percent from 2005-2006 to 2007-2008.



Indemnity Claims

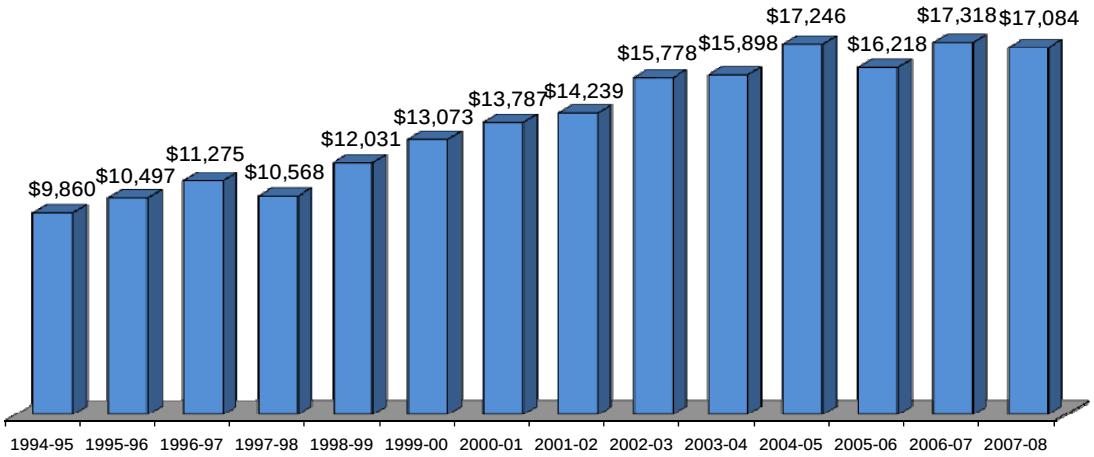
The number of indemnity claims by employees working for public self-insured employers remained steady between 1996-1997 to 2000-2001. Between 2000-2001 and 2004-2005, the number of indemnity claims decreased steadily, increased slightly between 2004-2005 and 2005-2006, then decreased again between 2005-2006 and 2006-2007 to the lowest level in the past 14 years, and then increased by 8 percent from 2006-2007 to 2007-2008. The rate of claims in the public sector appears to be less sensitive to the reforms which produced the marked drops in frequency in the private sector.



Incurred Cost per Claim

The following chart shows the incurred cost per indemnity claim for public self-insured employers. Between 1994-1995 and 2007-2008, the incurred cost per indemnity claim increased by about 73 percent from $9,860 to $17,084.

Incurred Cost Per Indemnity Claim
Public Self-Insured Employers

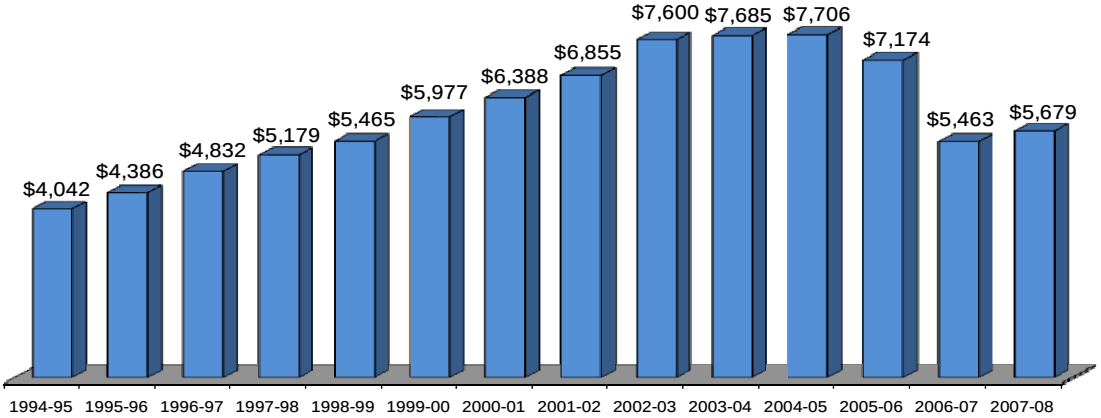


Data Source: DIR Self-Insurance Plans

Incurred Cost per Indemnity and Medical Claim

The following chart shows the incurred cost per indemnity and medical claim for public self-insured employers. Between 1994-1995 and 2002-2003, the incurred cost per indemnity and medical claim nearly doubled, leveled off between 2003-2004 and 2004-2005, decreased by 29 percent between 2004-2005 and 2006-2007, and then increased by 4 percent from 2006-2007 to 2007-2008.

Incurred Cost per Claim - Indemnity and Medical
Public Self-Insured Employers



Data Source: DIR Self-Insurance Plans

Medical-Legal Expenses

Changes to the medical-legal process over the years have been intended to reduce both the cost and the frequency of litigation. Starting in 1989, legislative reforms restricted the number of medical-legal evaluations needed to determine the extent of PD. The qualified medical evaluator (QME) designation was intended to improve the quality of medical evaluations in cases where the parties did not select an agreed medical evaluator (AME). Legislation in 1993 attempted to limit workers' compensation judges to approving the PD rating proposed by one side or the other (Labor Code Section 4065, known as "baseball arbitration"). In addition, the 1993 legislation established a presumption in favor of the evaluation by the treating physician (Labor Code Section 4602.9), which was expected to reduce litigation and reduce costs.

In 1995, CHSWC contracted with the Survey Research Center at the University of California (UC), Berkeley to assess the impact of workers' compensation reform legislation on the workers' compensation medical-legal evaluation process.

This ongoing study has determined that during the 1990s, the cost of medical-legal evaluations dramatically improved. As shown in the following discussion, this was due to reductions in all the factors that contribute to the total cost. However, baseball arbitration proved to be impractical and the treating physician's presumption turned out to cost more than it saved. Assembly Bill (AB) 749, enacted in 2002, repealed baseball arbitration and partially repealed the primary treating physician's presumption, except when the worker had pre-designated a personal physician or personal chiropractor for injuries occurring on or after January 1, 2003. This partial repeal was carried further by Senate Bill (SB) 228 enacted in 2003 to all dates of injury, except in cases where the employee has pre-designated a personal doctor or chiropractor. Finally, in 2004, SB 899 completely repealed the primary treating physician's presumption.

The reforms of SB 899 also changed the medical dispute resolution process in the workers' compensation system by eliminating the practice of each attorney obtaining a QME of his or her own choice. The new provisions required that the dispute resolution process through an AME or a single QME applies to all disputes including compensability of claim and PD evaluation.

In cases where attorneys do not agree on an AME, SB 899 limits the attorneys to one QME jointly selected by process of elimination from a state-assigned panel of three evaluators. In cases without attorneys, the injured worker selects the QME from the state-assigned panel, similar to the process established since 1989 for non-attorney cases.

After a significant decrease of medical-legal expenses starting in 1989 when legislative reforms restricted the number and lowered the cost of medical-legal evaluations, there was again a significant increase in average medical-legal costs beginning in the 2000 accident year. In 2006, the average cost of medical-legal evaluations was $1,505, or a 29.5 percent increase compared to the 2005 accident year, and the highest level since 1989. In the workers' compensation system, the medical-legal cost is reported as a component of medical cost and beginning from 2002, represents its growing portion. A decline in medical costs shortly after passage of major reform measures in 2003 and 2004, followed by a sharp increase starting in 2006, raises the question of how much of the rise in medical costs is attributable to increasing medical-legal costs. The table below shows the share of medical-legal costs in workers' compensation medical costs from 1997 to 2008.

Table: Percent of Medical-Legal Evaluation Costs in Total Medical Costs

Calendar Year	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Percent of Medical-Legal Evaluation Costs in Total Medical Costs	5.4	4.6	3.7	3.6	3.0	2.2	2.6	3.5	4.8	4.3	4.8	4.9

Source: WCIRB Losses and Expenses report, Exhibit 1.4

Increases in both the number and cost of medical-legal evaluations are expected to result from two recent California Workers' Compensation Appeals Board (WCAB) *en banc* decisions (described elsewhere in this Report Card). The Almaraz/Guzman and Ogilvie decisions may require more reports and more complex reports for the assessment of permanent impairment and disability, and as result, an increase in litigation and medical-legal costs.

Throughout the discussion of the cost of medical-legal reports, it will be important to remember that the quality of medical-legal reports has an impact on the cost of the system and the timeliness of benefit delivery which may very well overshadow the direct cost of the medical-legal reports.

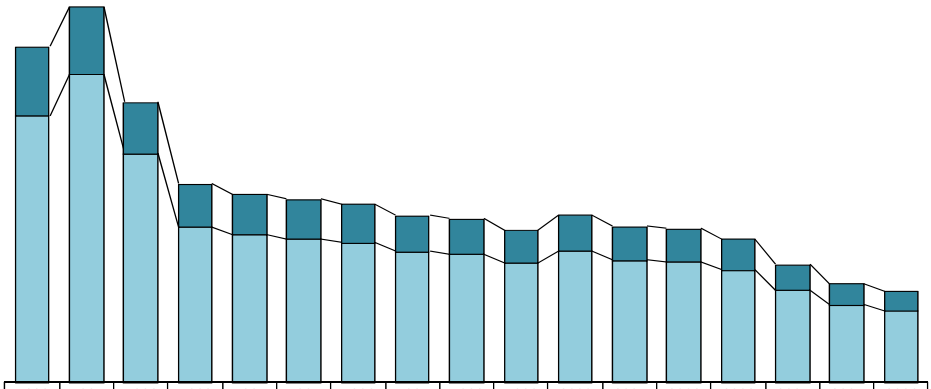
The medical-legal analysis that follows uses data from the WCIRB *Permanent Disability Survey*. Accident year 2006 is the latest year for which sufficiently mature data reports are available.

Permanent Disability Claims

The following chart displays the number of permanent partial disability (PPD) claims during each calendar year since 1989. Through 1993, WCIRB created these data series from Individual Case Report Records submitted as part of the Unit Statistical Report. Since that time, the series has been discontinued, and estimates for 1994 and subsequent years are based on policy year data adjusted to the calendar year and information on the frequency of all claims, including medical-only claims, that are still available on a calendar year basis.

The data presented in the medical-legal section of this report are current and based on the latest available data through accident year 2006.

PPD Claims at Insured Employers by Year of Injury (Thousands)



	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Major (PD rating of 25% or more)	34.4	33.7	25.5	21.4	20.3	19.8	19.2	18.0	17.6	16.4	18.0	16.8	16.6	15.5	12.7	10.7	9.9
Minor (PD rating less than 25%)	133.3	154.1	114.4	77.7	73.7	71.7	69.7	65.4	64.0	59.7	65.6	61.0	60.1	56.1	46.1	38.7	35.7
Total Claims	167.7	187.8	139.9	99.1	94.0	91.5	88.9	83.4	81.6	76.1	83.6	77.8	76.7	71.6	58.8	49.4	45.6

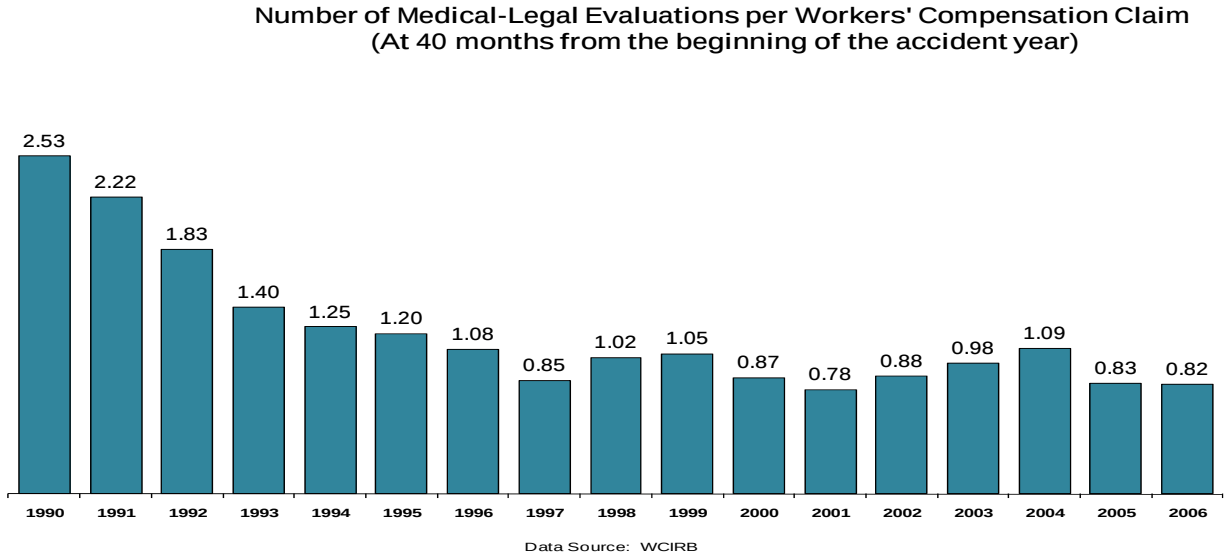
Data Source: WCIRB

Medical-Legal Evaluations per Claim

The following chart illustrates that the average number of medical-legal evaluations per claim declined from 2.53 evaluations in 1990 to 0.78 in 2001. This decline of 69 percent is attributed to a series of reforms since 1989 and the impact of efforts against medical mills.

Reforms instituted in 1993 that advanced the role of the treating physician in the medical-legal process and granted the opinions of the treating physician a presumption of correctness were expected to reduce the average number of evaluations even further. Earlier CHSWC reports evaluating the treating physician

presumption did not find that these reforms had significant effect on the average number of evaluations per claim. SB 899 enacted in 2004 completely repealed the primary treating physician's presumption (Labor Code Section 4062.9).



The change in the average number of evaluations between 1993 and 1994 was almost entirely the result of improvements that occurred during the course of 1993 calendar year claims. These results were based on smaller surveys done by WCIRB when the claims were less mature. These later data involving a larger sample of surveyed claims suggest that the number of evaluations per claim continued to decline after leveling off between 1993 and 1995.

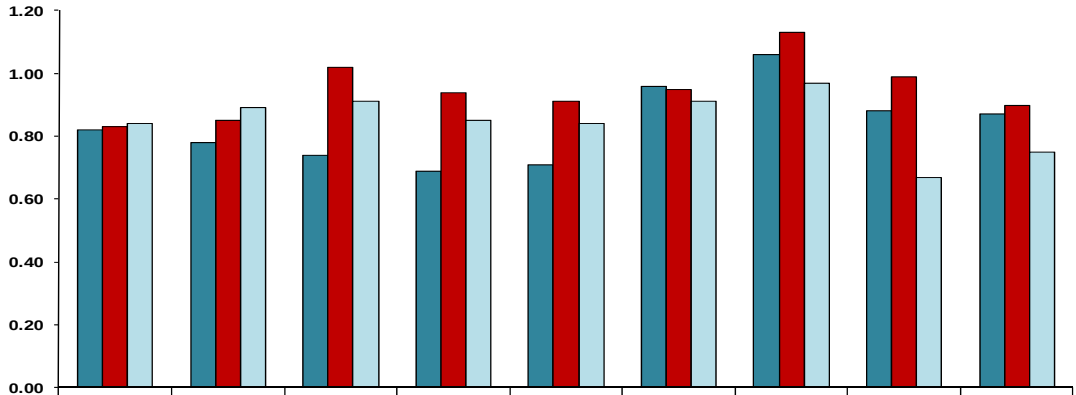
Between 2001 and 2004, the average number of medical-legal evaluations per claim increased by 29.5 percent. The increase from 2001 to 2004 could be driven by a number of factors, some of which are discussed in connection with the spike in early first medical-legal evaluations, discussed below. The average number of medical-legal evaluations per claim for accident year 2005 decreased by 24 percent compared to accident year 2004, went down to the level of 1997 and remained at that level for the 2006 accident year. The decrease in evaluations was likely due to the SB 899 provision requiring a single QME or AME even in represented cases for injuries beginning 1/1/2005.

Medical-Legal Reporting by California Region

The different regions of California are often thought to have different patterns of medical-legal reporting. The revisions to the WCIRB *Permanent Disability Survey*, undertaken at the recommendation of CHSWC and instituted for the 1997 accident year, explored new issues. A zip code field was added to analyze patterns in different regions.

The following chart demonstrates the frequency with which medical-legal evaluations were used between 1997 and 2006 in different regions. Accident years 1998 and 1999 did not indicate any significant difference in frequency across the State's major regions. However, as the number of evaluations per claim continued to decline between 2000 and 2002, the differences between regions became more pronounced. Between 2002 and 2004, the average number of medical-legal evaluations per claim for each region increased and then decreased again from 2004 to 2005, with the lowest number of medical-legal evaluations per claim (0.67) in nine years for Southern California. In 2006, this pattern repeated as a slight decrease for Northern and Central regions, but there was a 13 percent increase in the number of evaluations per claim in the Southern region.

Average Number of Medical-Legal Evaluations per Claim by Region
(at 34 months after beginning of accident year)



	1998	1999	2000	2001	2002	2003	2004	2005	2006
Northern California	0.82	0.78	0.74	0.69	0.71	0.96	1.06	0.88	0.87
Central California	0.83	0.85	1.02	0.94	0.91	0.95	1.13	0.99	0.90
Southern California	0.84	0.89	0.91	0.85	0.84	0.91	0.97	0.67	0.75

Data Source: WCIRB

Different regions of California have different patterns of medical-legal reporting. Also, regions with a higher share of workers' compensation claims in the system have a bigger impact on the average number of medical-legal evaluations per claim and average cost of medical-legal evaluations in the State. As the table below indicates, the Southern California region has the highest number of workers' compensation claims in the system, followed by the Northern California region.

Percentage of Medical-Legal Claims by Region[7]			
	2004 1st level	2005 1st level	2006 1st level
South	58.1%	63.1%	61.8%
Central	16.3%	13.5%	13.6%
North	25.7%	23.4%	24.6%

Usually, the Southern California region has had higher numbers for both the average cost per evaluations and the average number of evaluations per claim than the Northern California region. However, starting with 2003, the number of medical-legal evaluations per claim in the Northern California region grew higher than in the Southern California region. The number of medical-legal evaluations per claim in the Central California region was the highest among all three regions in six out of the nine years.

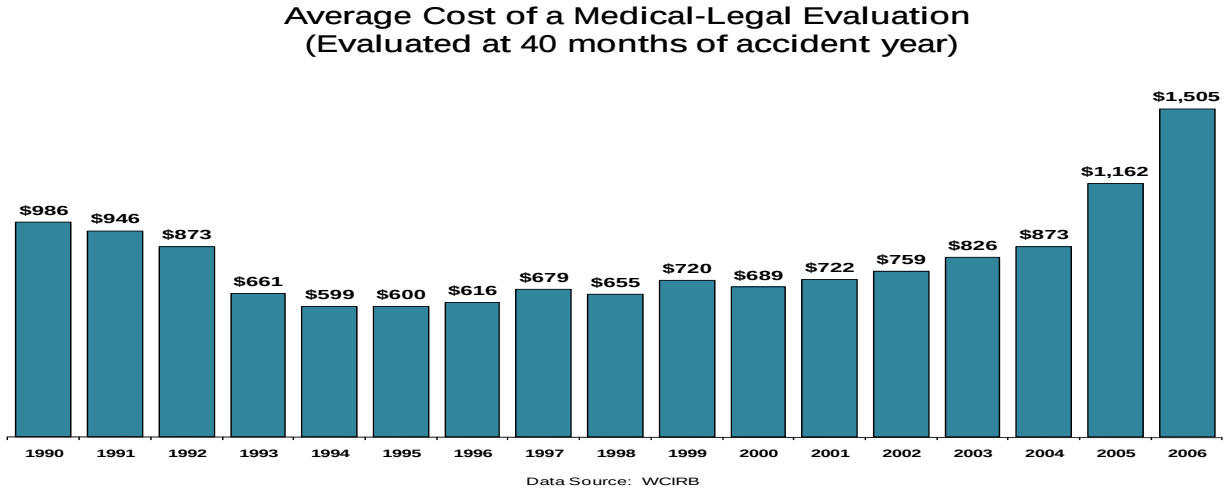
Average Cost per Medical-Legal Evaluation

The average cost of a medical-legal evaluation per claim declined from 1990 to the mid-1990s and then increased from the mid-1990s to 2000 by 15 percent. Between 2000 and 2006, the average cost of a medical-legal evaluation doubled.

There are two reasons why the average cost per medical-legal evaluation declined from 1990 to 1995. First, substantial changes were made to the structure of the Medical-Legal Fee Schedule that reduced the rates at which medical-legal evaluations are reimbursed. These restrictions were introduced in early 1993 and enforced at the beginning of August 1993.

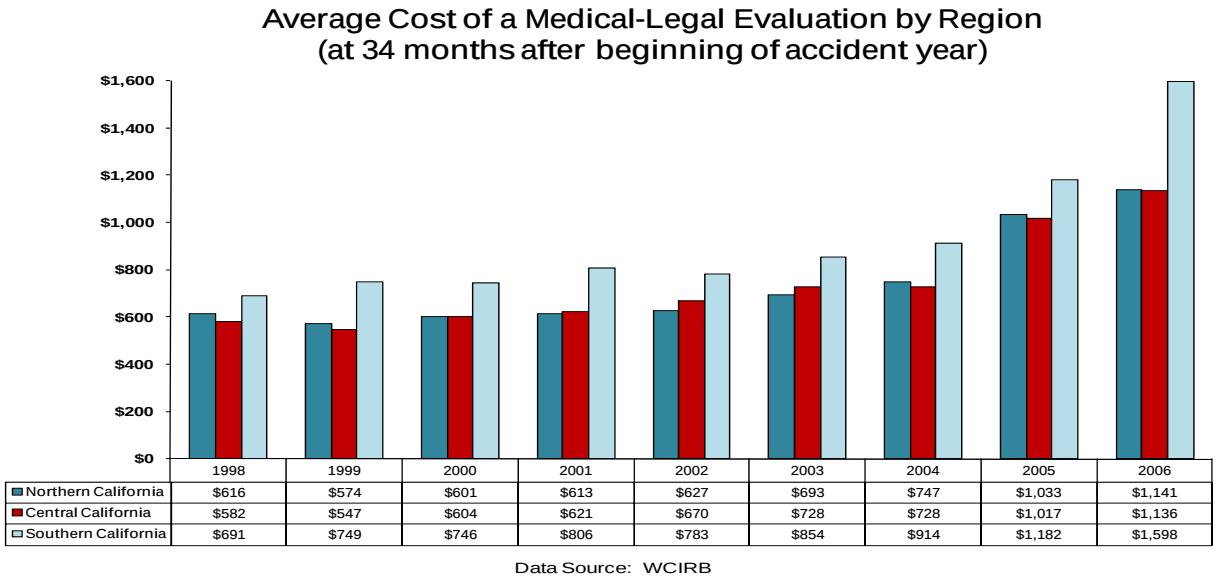
[7] Based on WCIRB's *PD Survey* random sample.

Second, during this period, the average cost of a medical-legal evaluation was also being affected by the frequency of psychiatric evaluations. On average, psychiatric evaluations are the most expensive evaluations by specialty of provider. The relative portion of all evaluations that is made up of psychiatric evaluations has declined since hitting a high during 1990-1991, leading to a substantial improvement in the overall average cost per evaluation.



In 2006, the average cost of a medical-legal evaluation increased by 72.4 percent compared to 2004 medical-legal evaluations and reached its highest level since 1990.

Since the mid-1990s, the average cost of a medical-legal evaluation has increased, even though the reimbursement under the medical-legal fee schedule did not change from 1993 until 2006.[8] The revised *PD Survey* by WCIRB includes additional questions that reveal some of the potential causes of this increase in costs. The changes indicate various types of fee schedule classifications as well as geography factors.[9]



	1998	1999	2000	2001	2002	2003	2004	2005	2006
Northern California	$616	$574	$601	$613	$627	$693	$747	$1,033	$1,141
Central California	$582	$547	$604	$621	$670	$728	$728	$1,017	$1,136
Southern California	$691	$749	$746	$806	$783	$854	$914	$1,182	$1,598

[8] The new Medical-Legal Fee Schedule became effective for dates of service on or after July 1, 2006.

[9] Issues for injury years before 1997 cannot be examined because the WCIRB survey revision of that year prevents comparisons.

The survey data show that, on average, evaluations done in the Southern California region have always been substantially more expensive. Increases in the average cost are being driven by claims in the Southern California region as can be seen from the table below.

Table: Regional Contributions to the Increase of the Average Medical-Legal Costs: 2000-2006

Region	Distribution of Medical-Legal Evaluations by Region in 2000	Distribution of Medical-Legal Evaluations by Region in 2006	Change in Average Cost 2000-2006	Contribution of Each Region to the Average Cost
Southern California	58.6%	58.1%	$997	78%
Central California	16.5%	16.3%	$532	9%
Northern California	24.5%	25.7%	$395	12%

Cost Drivers

The primary cost driver for California and its Southern region is not the price paid for specific types of evaluations. Rather, the mix of codes under which the evaluations are billed has changed to include a higher percentage of the most complex and expensive evaluations and fewer of the least expensive type.[10] The two tables below show the costs and description from the Medical-Legal Fee Schedule.

Table: Medical-Legal Evaluation Cost for Dates of Service before July 1, 2006[11]

Evaluation Type	Amount Presumed Reasonable
ML-101 Follow-up/ Supplemental	$250
ML-102 Basic	$500
ML-103 Complex	$750
ML-104 Extraordinary	$200/hour

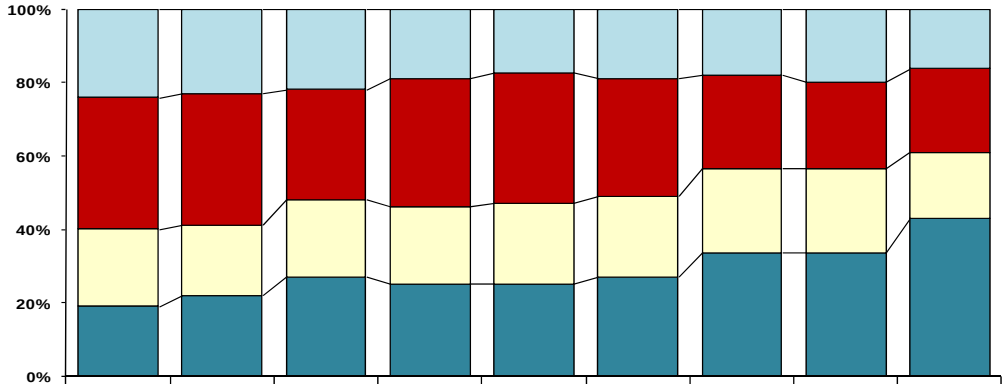
Table: Medical-Legal Evaluation Cost for Dates of Service on or after July 1, 2006

Evaluation Type	Amount Presumed Reasonable
ML-101 Follow-up/Supplemental	$62.50/15 minutes or $250/hr
ML-102 Basic	$625
ML-103 Complex	$937.50
ML-104 Extraordinary	$62.50/15 minutes or $250/hr

[10] WCIRB also noted that much of the increase in the average cost of a medical-legal evaluation is attributable to increases in a proportion of more complex medical-legal evaluations. Claims Subcommittee meeting minutes for July 28, 2008.
[11] Please note that Agreed Medical Evaluators receive 25 percent more than the rates shown in both of the tables.

The following two charts indicate that the distribution of evaluations both in the Southern California region and California as a whole has shifted away from ML-101 evaluations to include a higher percentage of ML-104 evaluations with "Extraordinary" complexity. Evaluations with "Extraordinary" complexity increased from 19 percent to 42.8 percent in the Southern California region and from 19 percent to 38.3 percent in all regions from 1998 to 2006.

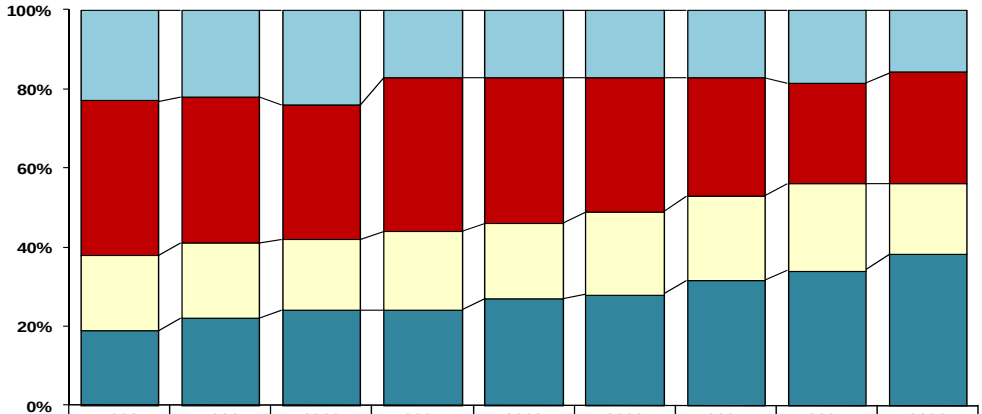
Distribution of Medical-Legal Evaluations by Type (Southern California)



	1998	1999	2000	2001	2002	2003	2004	2005	2006
ML - 101 Follow-up/ Supplemental	24%	23%	22%	19%	18%	19%	18%	20%	16.3%
ML - 102 Basic	36%	36%	30%	35%	36%	32%	25.5%	23.5%	22.7%
ML - 103 Complex	21%	19%	21%	21%	22%	22%	23%	23%	18.2%
ML - 104 Extraordinary	19%	22%	27%	25%	25%	27%	33.5%	33.5%	42.8%

Data Source: WCIRB

Distribution of Medical-Legal Evaluations by Type (California)

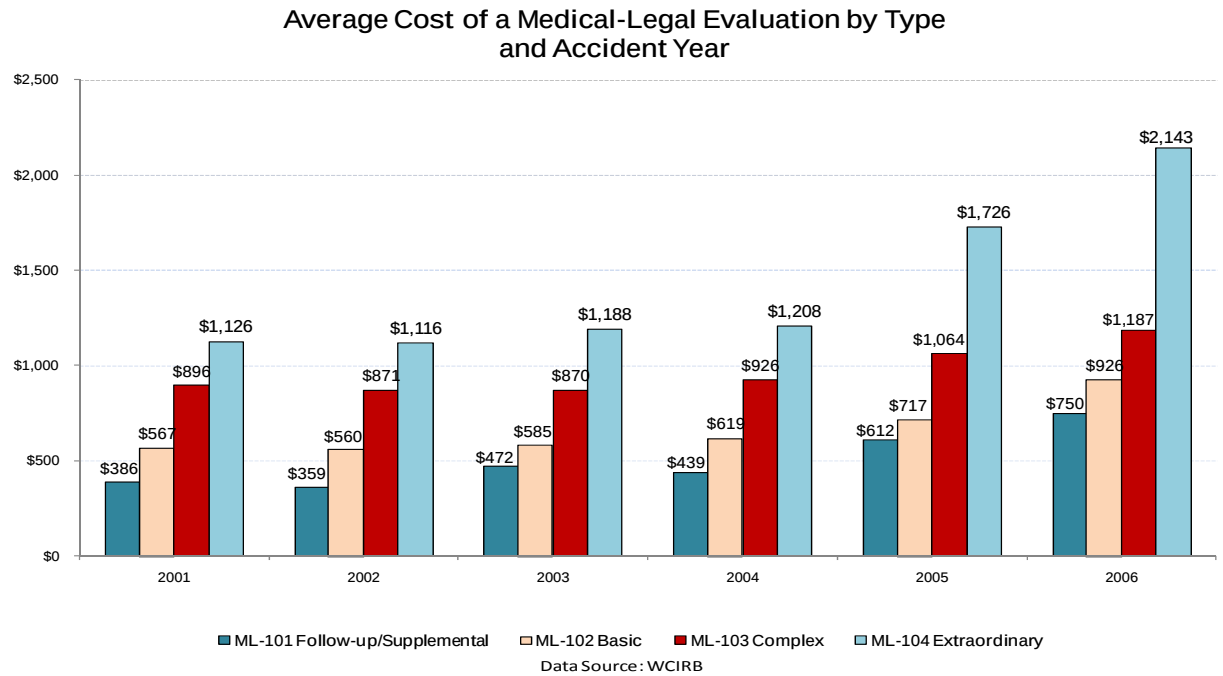


	1998	1999	2000	2001	2002	2003	2004	2005	2006
ML-101 Follow-up/Supplemental	23%	22%	24%	17%	17%	17%	17%	18.5%	15.8%
ML - 102 Basic	39%	37%	34%	39%	37%	34%	30%	25.5%	28.0%
ML - 103 Complex	19%	19%	18%	20%	19%	21%	21.5%	22%	17.9%
ML - 104 Extraordinary	19%	22%	24%	24%	27%	28%	31.5%	34%	38.3%

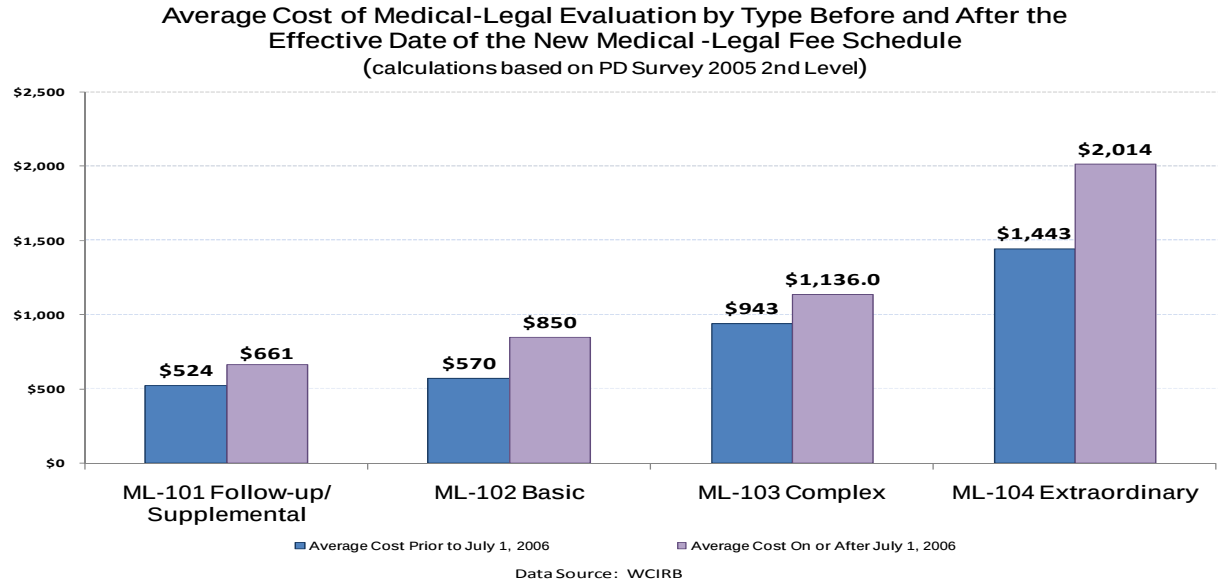
Data Source: WCIRB

Increases to the medical-legal fee schedules for dates of services on or after July 1, 2006, could have also contributed to the higher average cost per evaluation. The chart below shows that the average cost per evaluation in each type of evaluation is higher in the 2006 accident year sample compared to the 2001 accident year. The biggest increases are for the Complex and Extraordinary cases.

In addition, the medical-legal evaluations in 2006 accident year had both a higher average cost of Extraordinary evaluations ($1,126 and $2,143 respectively) and a higher share of Extraordinary evaluations (24 percent and 38.3 percent respectively) than in accident year 2001.



The chart below shows that the average cost of Extraordinary medical-legal evaluations increased by 40 percent after July 1, 2006, when the new Medical-Legal Fee Schedule became effective.

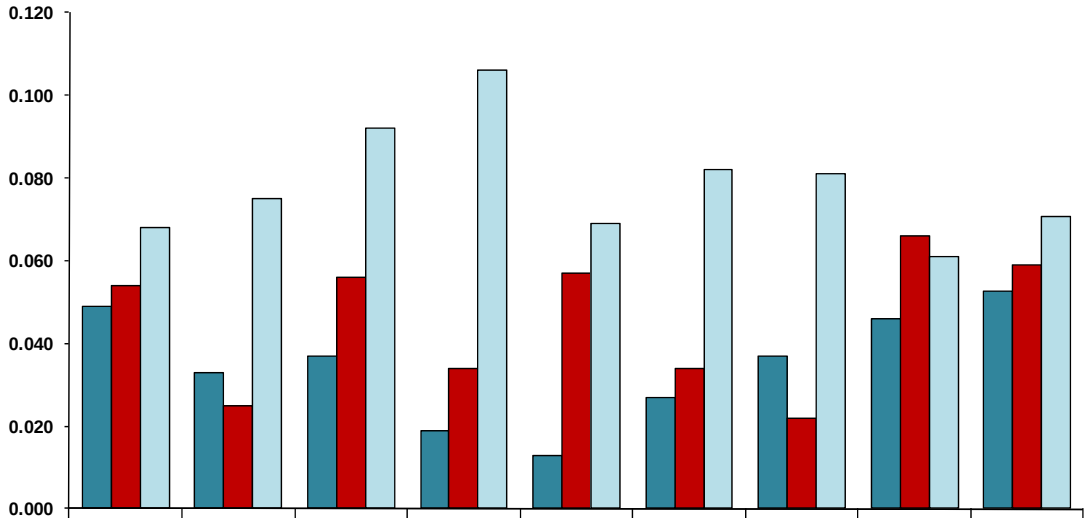


Psychiatric evaluations are nearly always billed under the ML-104 code that is the most expensive.

Another possible explanation for the differing trends in the average number of medical-legal evaluations per claim both in California and its regions and the increasing frequency of the most Complex evaluations in California is that psychiatric evaluations increased from 6.4 percent of total medical-legal evaluations in 2004 to 7.7 percent in 2005 and to 8.7 percent in 2006. The chart below indicates a 16.4 percent increase in psychiatric evaluations per report in the Southern California region and a 15.2 percent increase in psychiatric evaluations per report in the Northern California region from 2005 to 2006. From 2005 to 2006, there was a 10.6 percent decrease in psychiatric evaluations per claim in the Central California region.

At the same time, the average cost of a psychiatric evaluation increased by 8.3 percent, from $2,351 in 2005 to $2,545 in 2006, exacerbating the effect of the increase in psychiatric evaluations in the Southern California region.

Average Number of Psychiatric Evaluations per PPD Claim by Region



	1998	1999	2000	2001	2002	2003	2004	2005	2006
Northern California	0.049	0.033	0.037	0.019	0.013	0.027	0.037	0.046	0.053
Central California	0.054	0.025	0.056	0.034	0.057	0.034	0.022	0.066	0.059
Southern California	0.068	0.075	0.092	0.106	0.069	0.082	0.081	0.061	0.071

Data Source: WCIRB

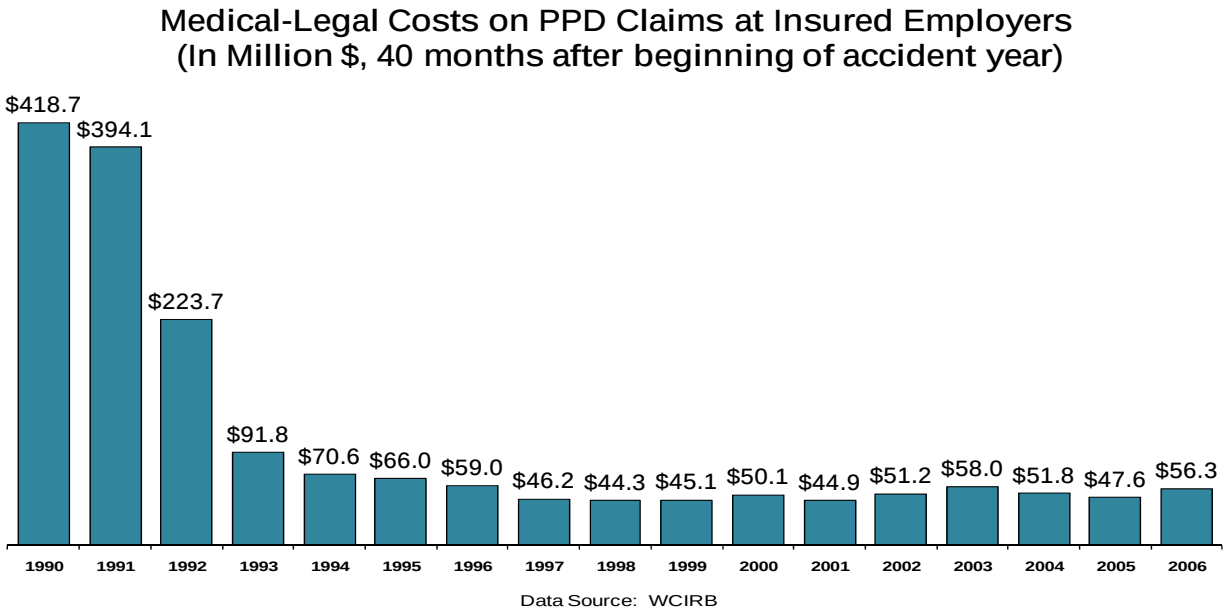
Total Medical-Legal Cost Calculation

Total medical-legal costs are calculated by multiplying the number of permanent partial disability (PPD) claims by the average number of medical-legal evaluations per claim and by the average cost per medical-legal evaluation:

Total Medical-Legal Cost = Number of PPD Claims x Average **Evaluations** /Claim x Average Cost/**Evaluation**

Medical-Legal Costs

During the 1990s, the cost of medical-legal evaluation improved dramatically. For the insured community, the total cost of medical-legal evaluations performed on PPD claims by 40 months after the beginning of the accident year declined from a high of $419 million in 1990 to an estimated $56.3 million for injuries occurring in 2006. This is an 86.6 percent decline since 1990.



Sources of Improvement in Medical-Legal Costs

The decline in total medical-legal costs for insurers as shown below reflects improvements in all components of the cost structure during the 1990s. As discussed in the previous sections, this substantial decline in total medical-legal costs for insurers results from significant decreases in two components of the cost structure: the total number of PPD claims; and the number of medical-legal evaluations per PPD claims. The source of savings can be attributed in almost equal proportion to the reduction in the number of evaluations performed per claim and the decline in PPD claim frequency.

Table: Sources of Change in Medical-Legal Costs

	1990	2006	Change 1990-2006
Number of PPD Claims	167.7	45.6	-72.8%
Number of evaluations per PPD Claims	2.53	0.82	-67.6%
Average Cost of Evaluation	$986	$1,505	+52.6%

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Occupational Injury and Illness Prevention Efforts

Workplace health and safety is of primary importance and the shared goal of all Californians. Ongoing cooperative efforts among workers, employers, employer and labor organizations, government agencies, health and safety professionals, independent researchers, and the public have resulted in significant reductions in workplace injuries, illnesses and deaths.

This section will discuss the numbers and incidence rates of occupational injuries and illnesses, injuries and illnesses by occupation and other factors, and the efforts to prevent occupational injuries and illnesses. Also included is an overview of the requirements and methods to record and report occupational injuries and illnesses in the United States (U.S.) and California.

Where data are available, comparisons among private industry, state government and local government are also included.

Occupational Injuries, Illnesses and Fatalities

The numbers of occupational injuries, illnesses and fatalities in the private sector (private industry) and the public sector (state and local government) for the past several years are displayed and discussed in this subsection. Fatality data for 2008 are preliminary as of December 2009.

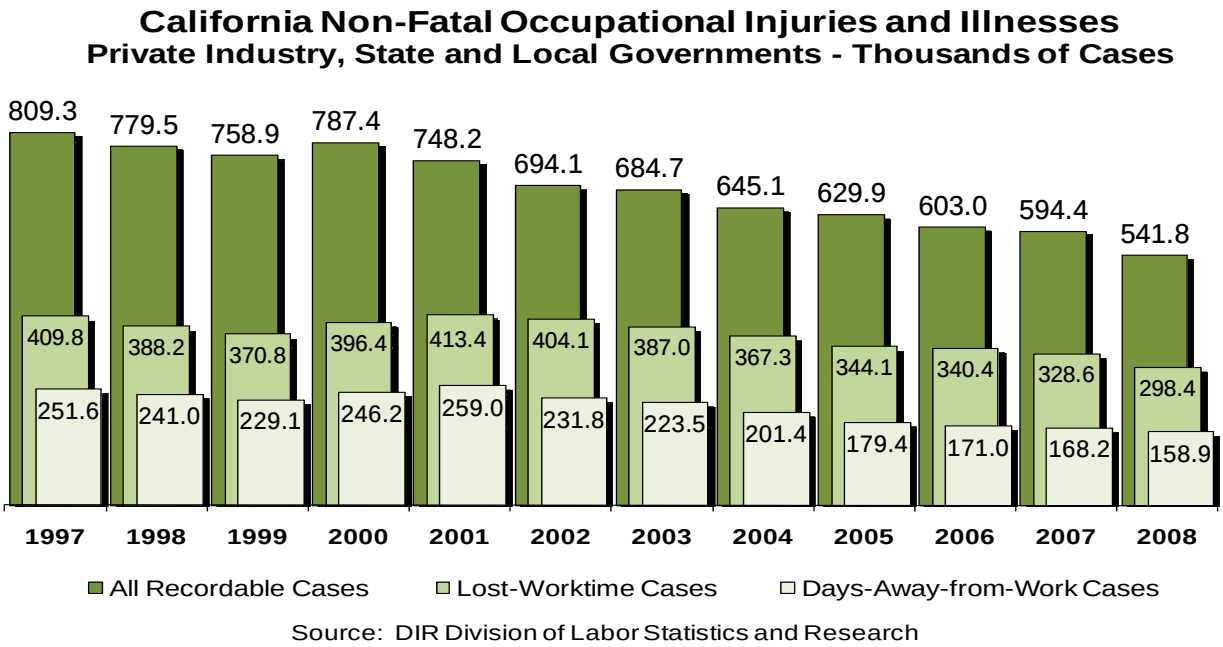
Please note that "lost-work-time" occupational injury and illness cases involve days away from work, job transfer, or days of restricted work activity, and that days-away-from-work cases involve days away from work, whether or not there is also job transfer or restricted work activity.

The National Academy of Social Insurance (NASI) estimated that there were 131.7 million workers covered by workers' compensation in the U.S. in 2007, including 15.4 million in California.

Public and Private Sectors Compared

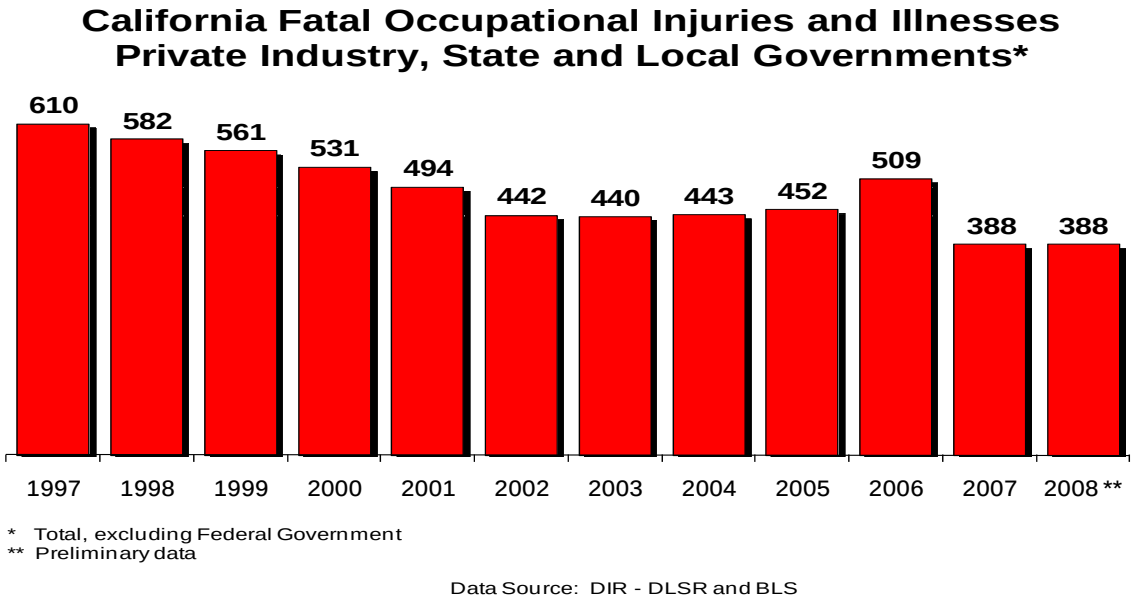
Non-Fatal Occupational Injuries and Illnesses

The following chart shows occupational injuries and illnesses in California's private industry, state government and local government. Occupational injuries and illnesses in California have decreased noticeably in the past nine years. As shown in the following chart, the number of recordable occupational injury and illness cases, number of lost-work-time cases, and number of days-away-from-work cases have all declined from 2000 to 2008.



Fatal Occupational Injuries and Illnesses

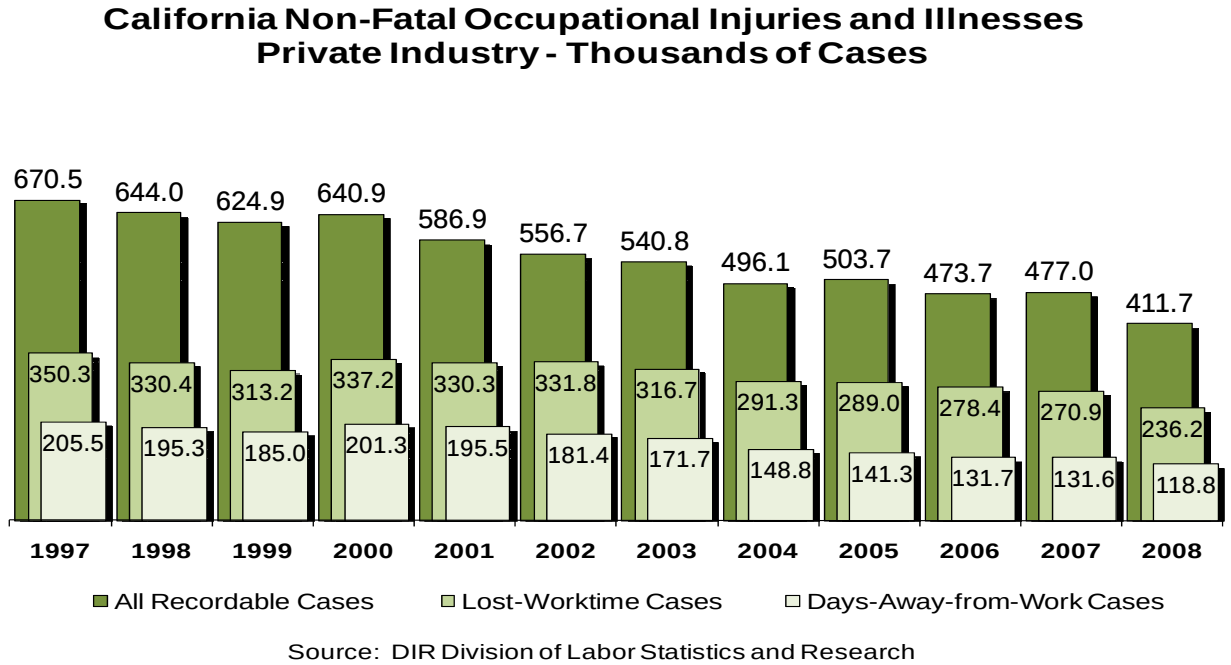
Fatal occupational injuries and illnesses in California have also decreased significantly as depicted in the chart below. Fatal occupational injuries and illnesses in California declined by 27.4 percent from 1997 to 2003 and increased by 15.7 percent from 2003 to 2006. Between 2006 and 2007, fatal injuries decreased by 23.8 percent, the largest decrease within the past ten years, and stayed at that level in 2008.



Private Sector

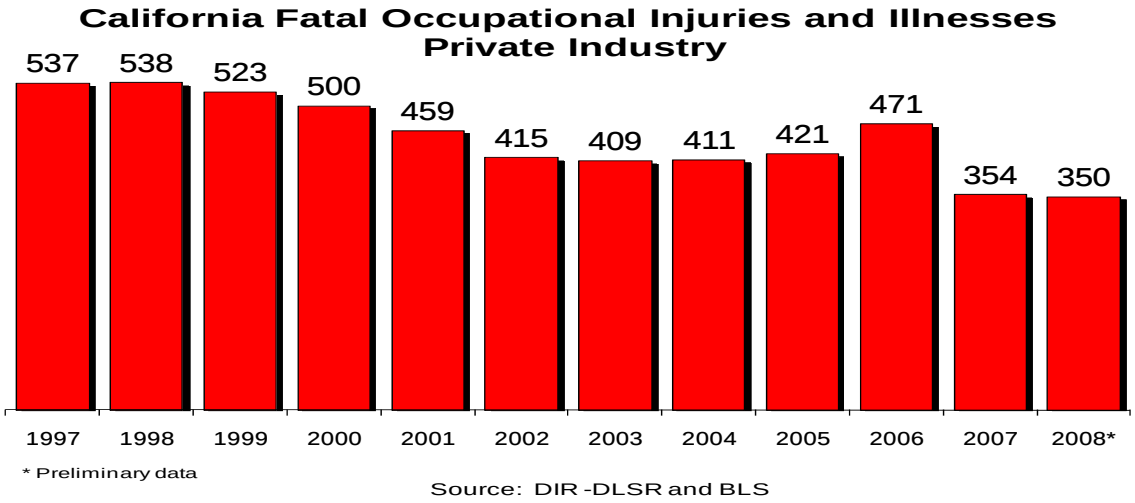
Non-Fatal Occupational Injuries and Illnesses

Occupational injuries and illnesses in California's private industry have also decreased noticeably in the past nine years. The total number of recordable injury and illness cases dropped by 36 percent, the number of lost-work-time cases declined by 30 percent, and the number of days-away-from-work cases decreased by 41 percent, all from 2000 to 2008.



Fatal Occupational Injuries and Illnesses

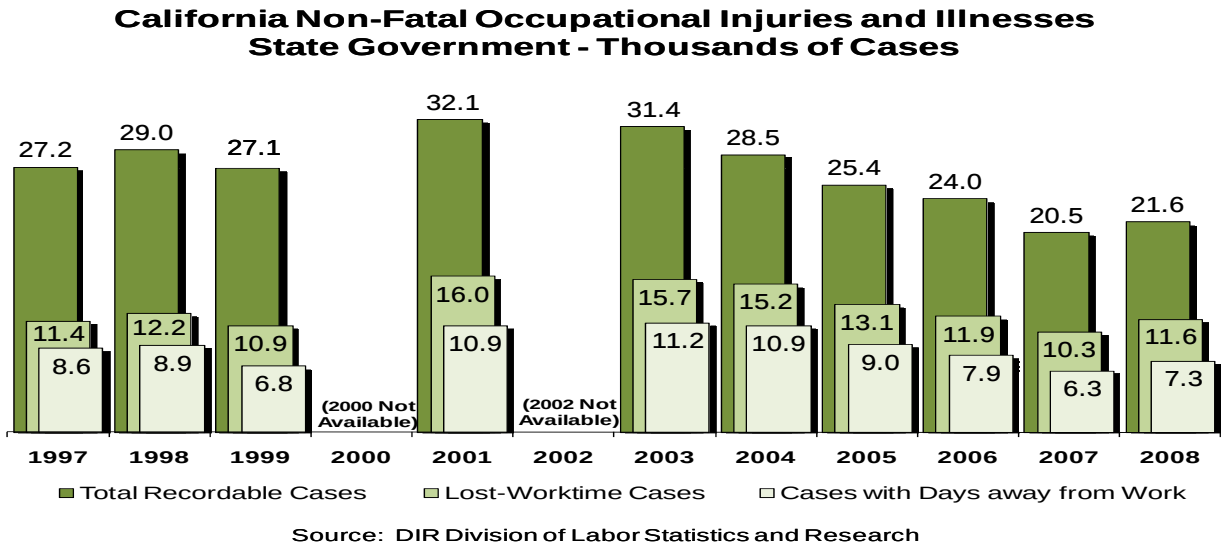
From 1997 to 2003, fatal injuries in private industry decreased by 23.8 percent and increased by 15.2 percent from 2003 to 2006. The number of fatal injuries decreased by 25.7 percent in private industry from 2006 to 2008.



Public Sector – State Government

Non-Fatal Occupational Injuries and Illnesses

In contrast to private industry, the numbers of non-fatal occupational injuries and illnesses in state government have changed less appreciably in the past nine years, as shown on the following chart. It should be noted that many state and local government occupations are high-risk, such as law enforcement, fire fighting, rescue, and other public safety operations. Although the total number of cases declined by about 34.7 percent between 2003 and 2007, there was a 5 percent increase in the total number of cases from 2007 to 2008.



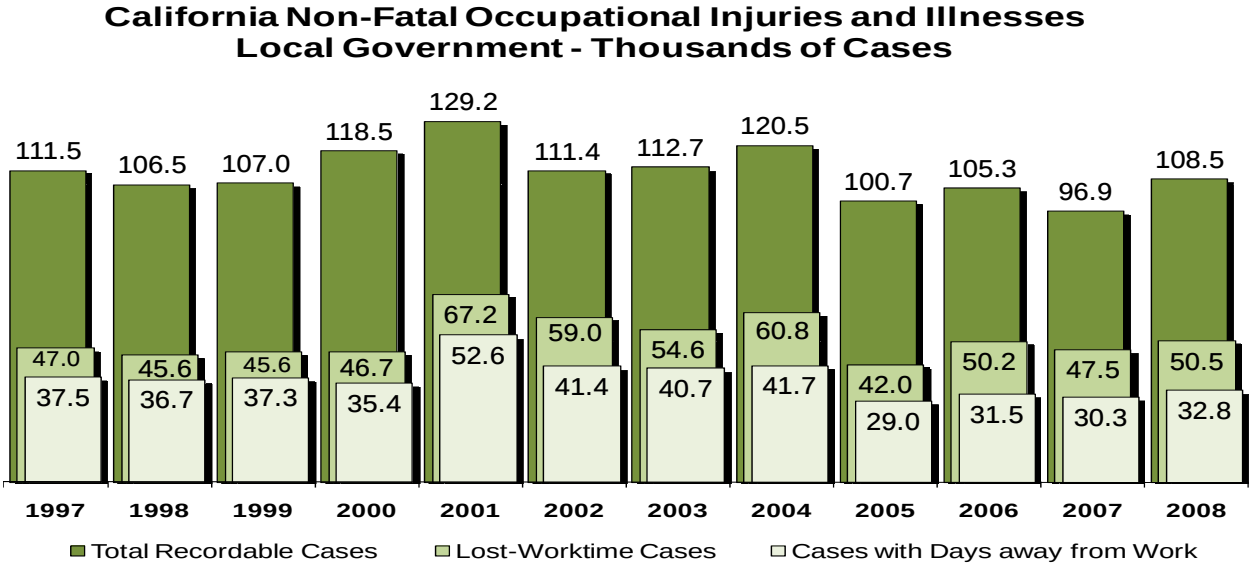
Fatal Occupational Injuries and Illnesses

Fatal occupational injuries and illnesses in California state government have decreased since the mid-1990s. The number of annual fatalities decreased from 15 in 1997 to 6 in 2000; then, the average number of fatalities of 6.5 from 2000 to 2005 increased to an average of 10 from 2005 to 2007, as shown on the following chart. There was a decrease in fatal occupational injuries and illnesses from 12 to 5 from 2006 to 2008.

Public Sector - Local Government

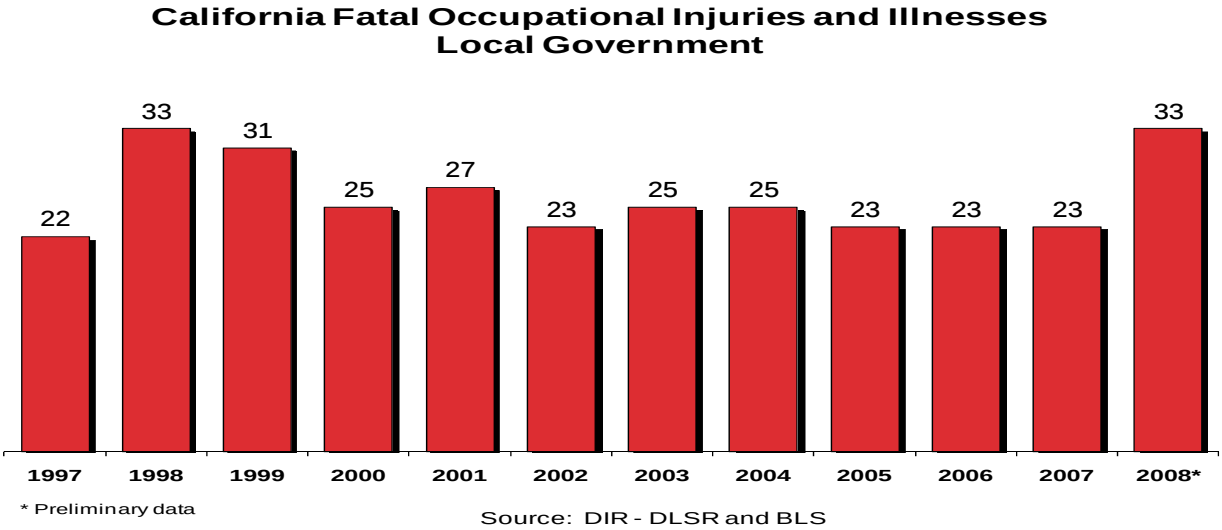
Non-Fatal Occupational Injuries and Illnesses

The total number of non-fatal occupational injuries and illnesses in local government fluctuated over the past several year. The number of injuries and illnesses in this sector decreased from 2004 to 2005 by 16 percent, increased by 4.6 percent from 2005 to 2006, decreased by 8 percent from 2006 to 2007, and again increased by 12 percent from 2007 to 2008.



Fatal Occupational Injuries and Illnesses

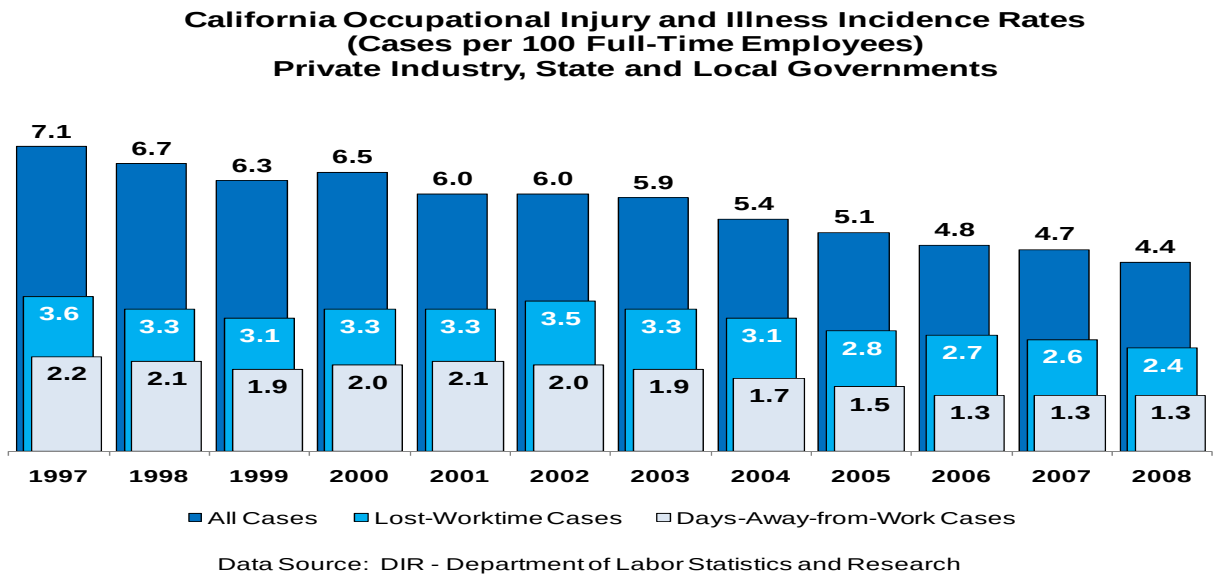
After increasing from 22 to 33 from 1997 to 1998, the number of fatal occupational injuries and illnesses in California's local governments averaged 32 in 1998 and 1999, while from 2000 to 2007, the annual average was 24.25. There was a 43.5 percent increase in number of fatal occupational injuries and illnesses from 2007 to 2008.



Occupational Injury and Illness Incidence Rates

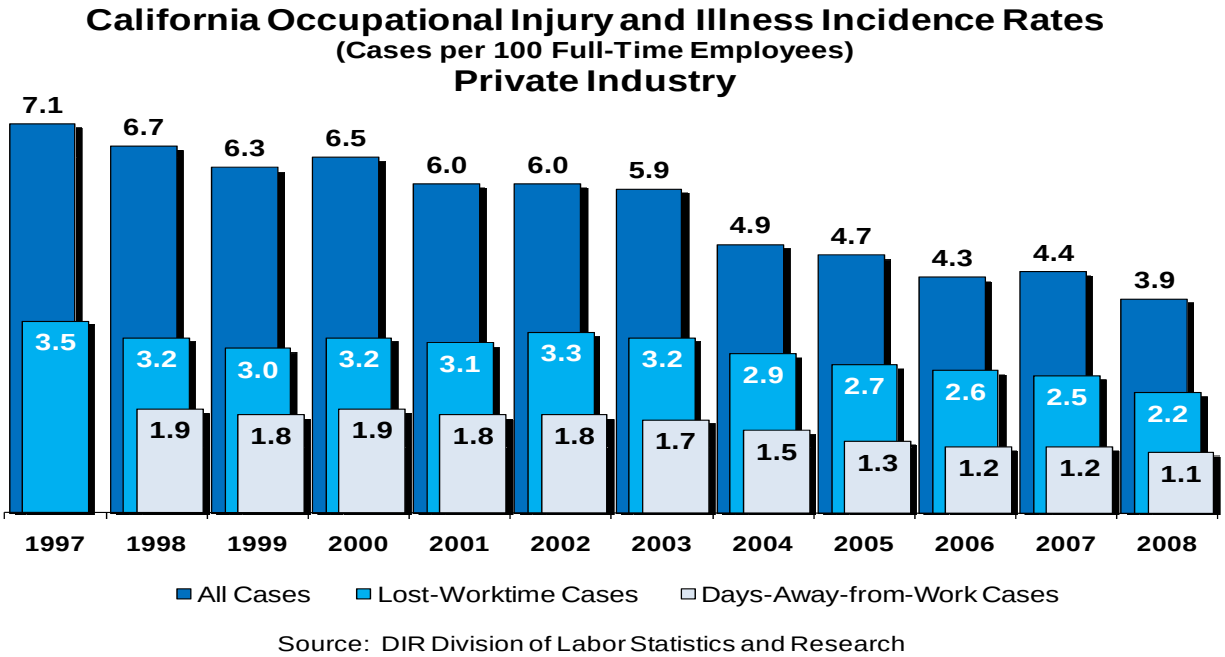
Public and Private Sectors Compared

From 1997 to 2008, incidence rates for all cases and lost-work-time cases in California declined. Between 1999 and 2002, the incidence rates for days-away-from-work cases remained relatively the same but have declined since 2002.



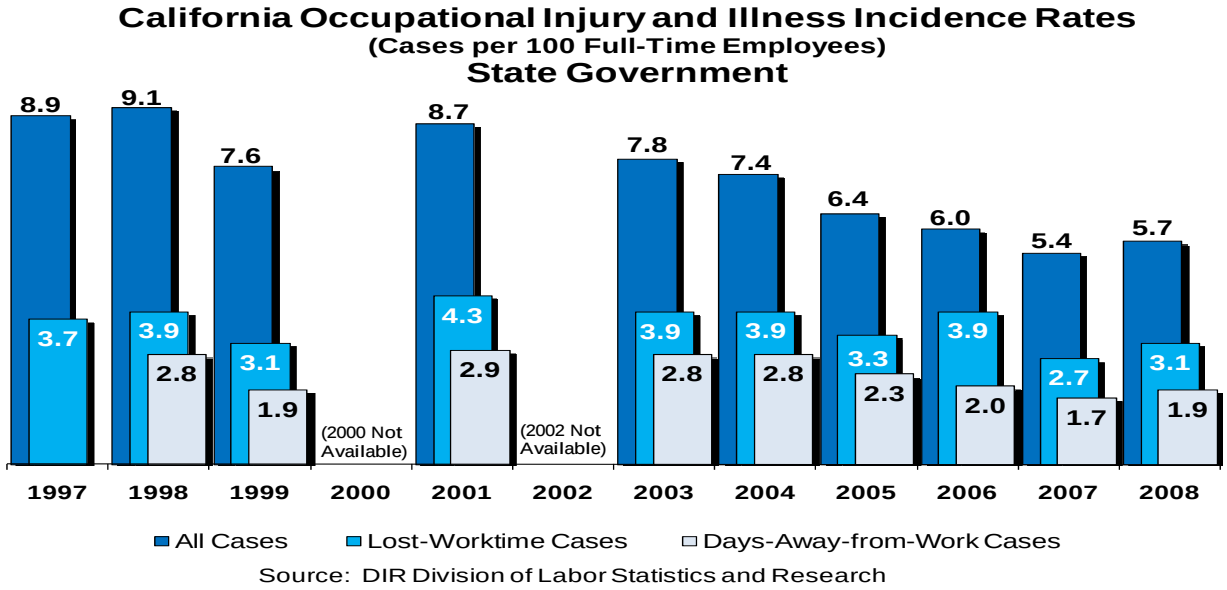
Private Sector

From 1997 to 2008, the occupational injury and illness incidence rate for all cases in California's private industry declined from 7.1 to 3.9, a decrease of 45 percent, while the incidence rate for lost-time cases dropped from 3.5 to 2.2, a decrease of 37 percent.



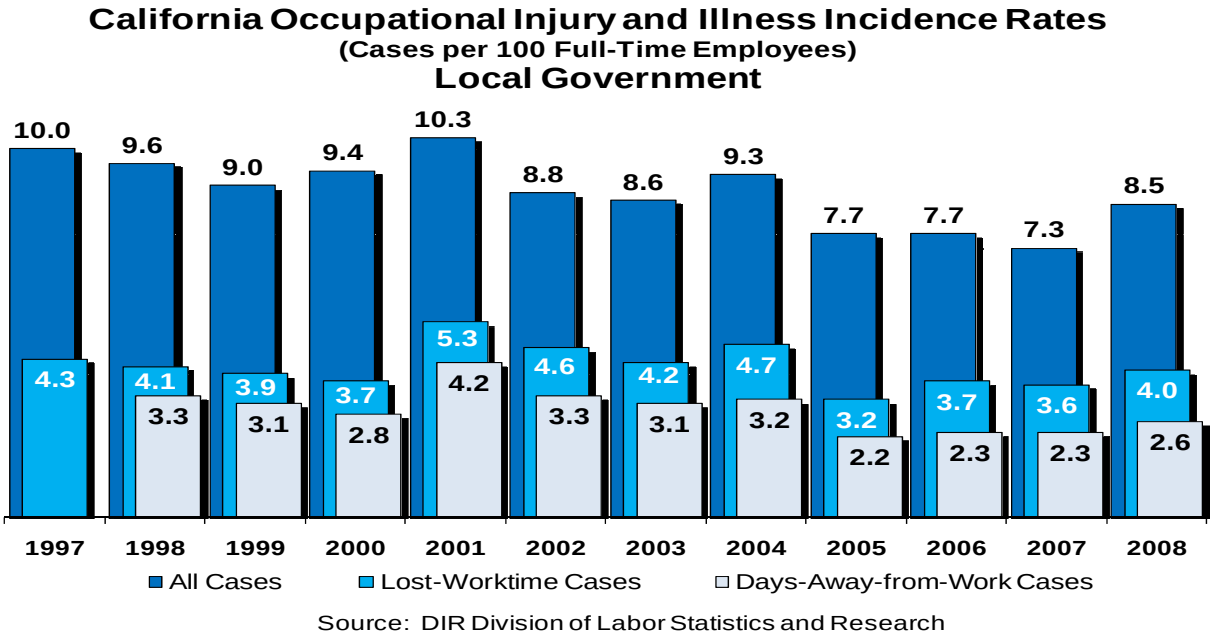
Public Sector - State Government

California state government occupational injury and illness incidence rates increased by 2 percent from 1997 to 1998, declined by 41 percent between 1998 and 2007, and increased by 6 percent from 2007 to 2008.



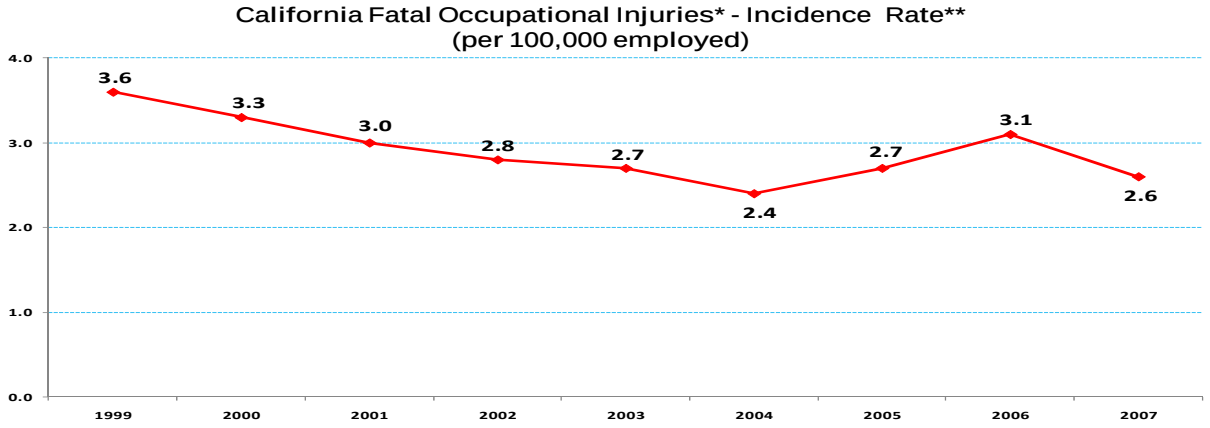
Public Sector – Local Government

Local government occupational injury and illness incidence rates decreased from 1996 to 1999, increased through 2001, decreased through 2003, and then increased again in 2004. From 2004 to 2005, injury and illness rates decreased by 17 percent, then remained fairly stable between 2005 and 2007, and from 2007 to 2008, increased again by 16 percent from 7.3 to 8.5 per 100 full-time employees.



California Fatality Incidence Rates

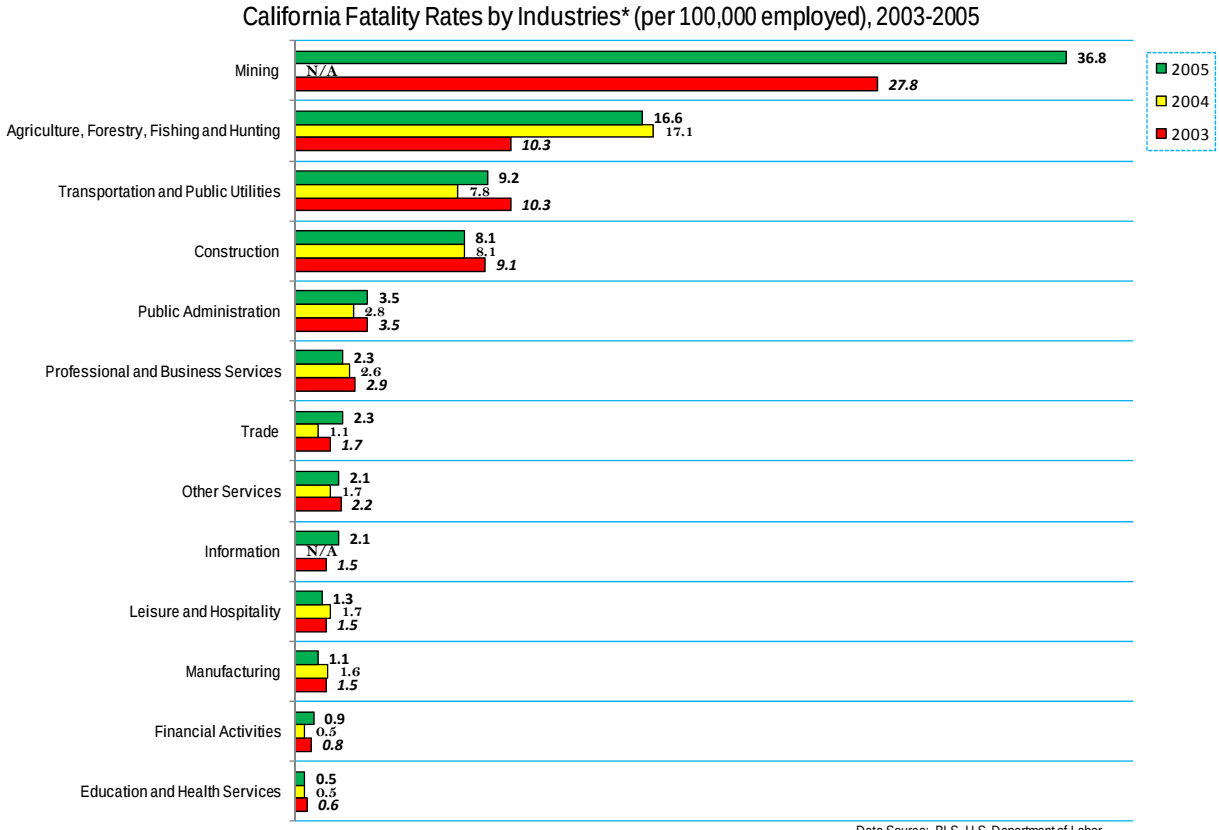
Fatality per employment rates may be used to compare the risk of incurring injury among worker groups with varying employment levels. From 1999 to 2004, there was a decrease of 33.3 percent in fatality rates in California. From 2004 to 2006, the fatality rate increased by 29 percent and then decreased again to the 2004 level from 2006 to 2007.



* Excludes military personnel and workers under age 16. Includes all self-employed, family business, and wage and salary workers. The Government is not presented separately and may be included in any industry category.
** Computed using estimates of civilian workers (age 16 and older) from the Current Population Survey (CPS) and are expressed as the number of fatalities per 100,000 employed.

Data Source: U.S. Department of Labor, BLS, in cooperation with State and Federal agencies, Census of Fatal Occupational Injuries

The chart below shows the fatality incidence rates by major industries in 2003, 2004 and 2005.



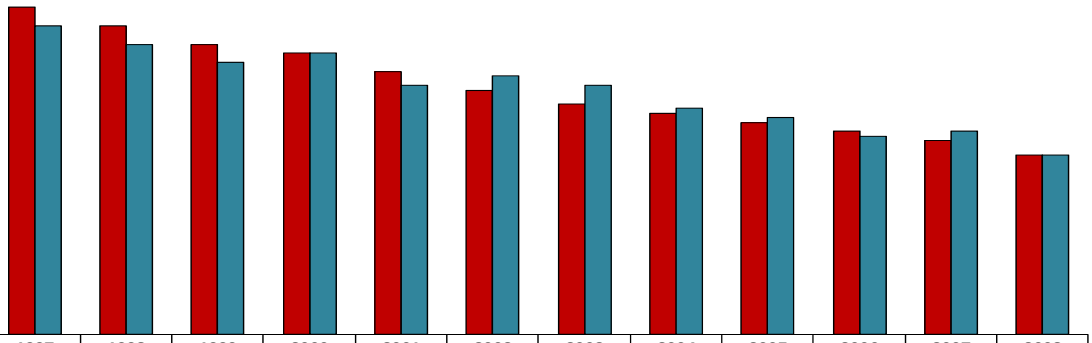
* From 2003, classified by NAICS. Because of substantial differences between NAICS and SIC used for prior years, comparisons between prior years and 2003 and on should not be made.

Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State agencies

U.S. and California Incidence Rates: A Comparison

Both the U.S. and California have experienced a decrease in occupational injury and illness incidence rates from 1997 through 2008. During that time, the U.S. incidence rate dropped by 45 percent, while the California rate declined by 42 percent. Since 2002, the incidence rate in California has been mostly above the national average.

USA and California
Injury and Illness Incidence Rate per 100 Full-Time Workers
Private Industry - Total Recordable Cases

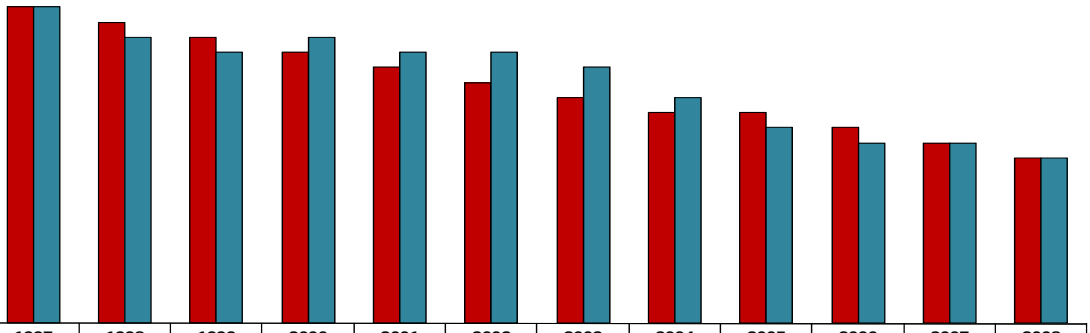


	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
USA	7.1	6.7	6.3	6.1	5.7	5.3	5.0	4.8	4.6	4.4	4.2	3.9
California	6.7	6.3	5.9	6.1	5.4	5.6	5.4	4.9	4.7	4.3	4.4	3.9

Source: US Department of Labor, Bureau of Labor Statistics

The incidence rate of occupational injury and illness days-away-from-work cases has also declined in the U.S. and California from 1997 through 2008. During that period of time, the rate for both U.S. and California decreased by 47 percent.

USA and California
Injury and Illness Incidence Rate per 100 Full-Time Workers
Private Industry - Cases with Days Away from Work

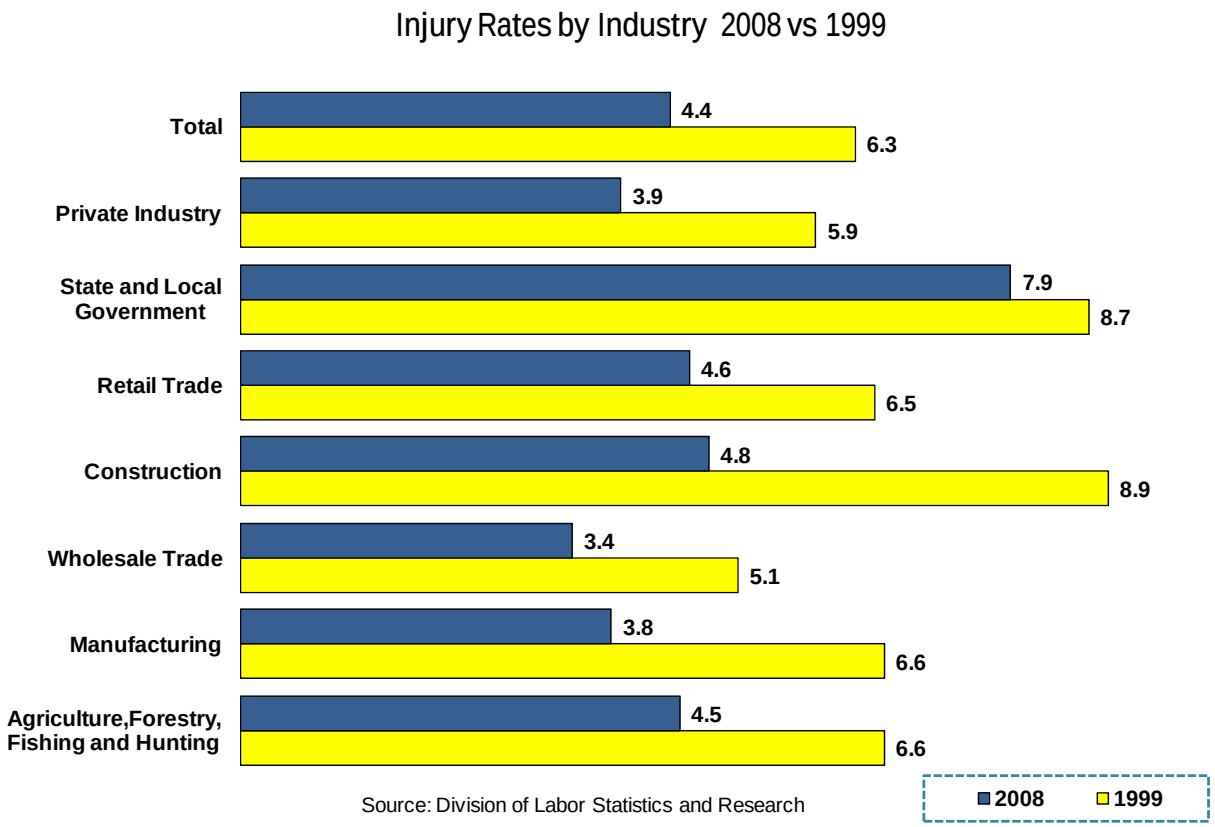


	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
USA	2.1	2.0	1.9	1.8	1.7	1.6	1.5	1.4	1.4	1.3	1.2	1.1
California	2.1	1.9	1.8	1.9	1.8	1.8	1.7	1.5	1.3	1.2	1.2	1.1

Source: US Department of Labor, Bureau of Labor Statistics

Characteristics of California Occupational Injuries and Illnesses

This section compares incidence rates by industry in 1999 with those in 2008. Not only have the overall California occupational injury and illness incidence rates declined, but the incidence rates in major industries have also declined. The following chart compares incidence rates for total recordable cases in 1999 and 2008 by type of major industry including state and local government.

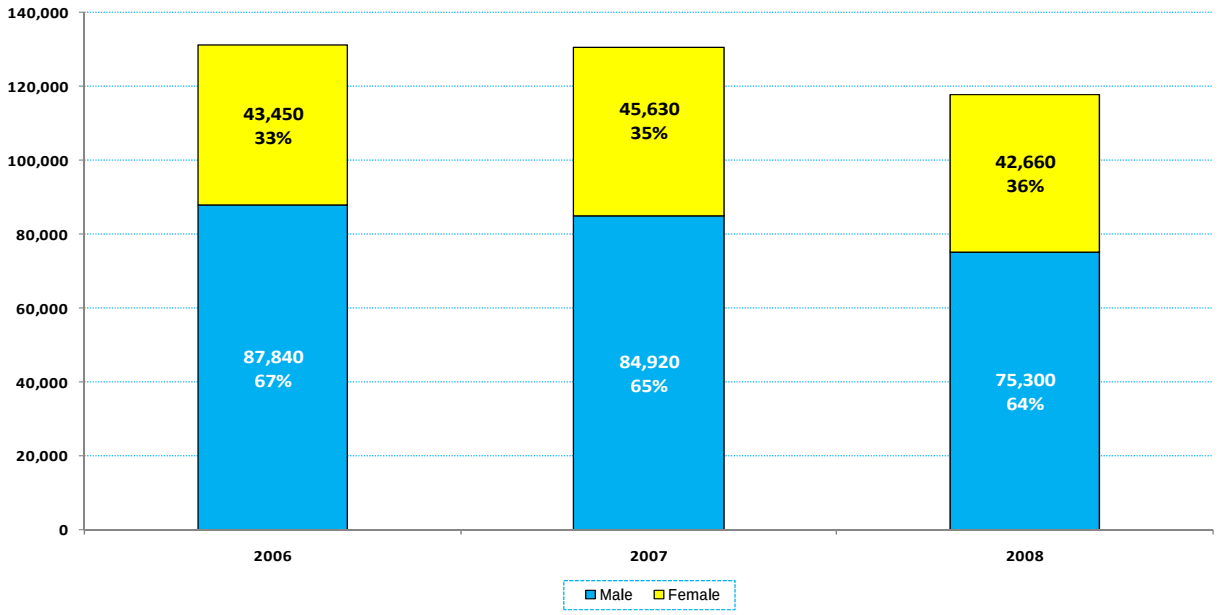


The smallest decline during this period in incidence rates was in the wholesale trade industry, and the largest decrease was in construction.

Characteristics of California Non-Fatal Occupational Injuries and Illnesses

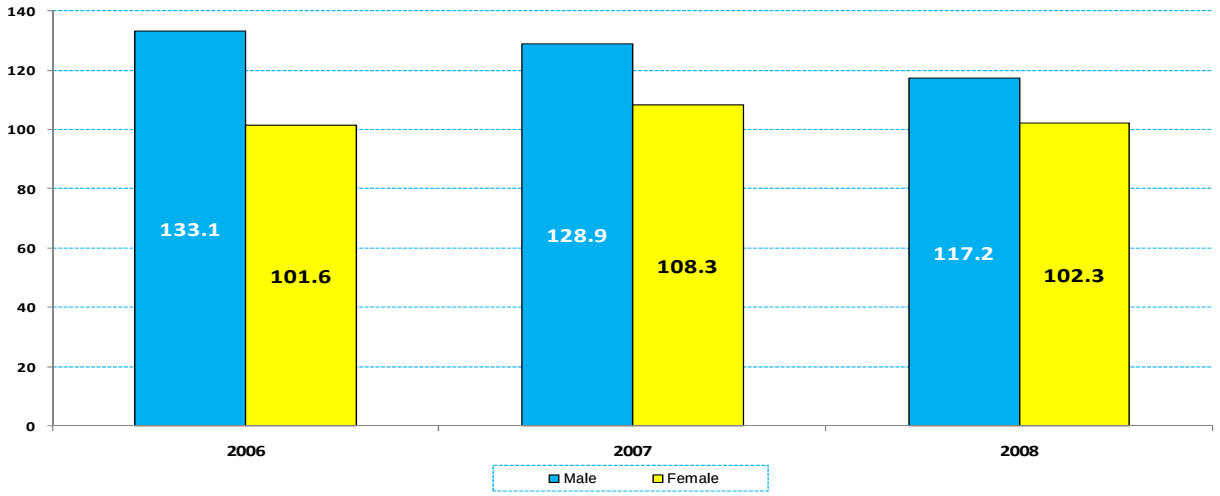
The following charts illustrate various demographic characteristics of non-fatal occupational injuries and illnesses in California's private industry.

Number of Non-Fatal Occupational Inuries and Illnesses in California
by Gender (Private Industry), 2006-2008



Data Source: DLSR

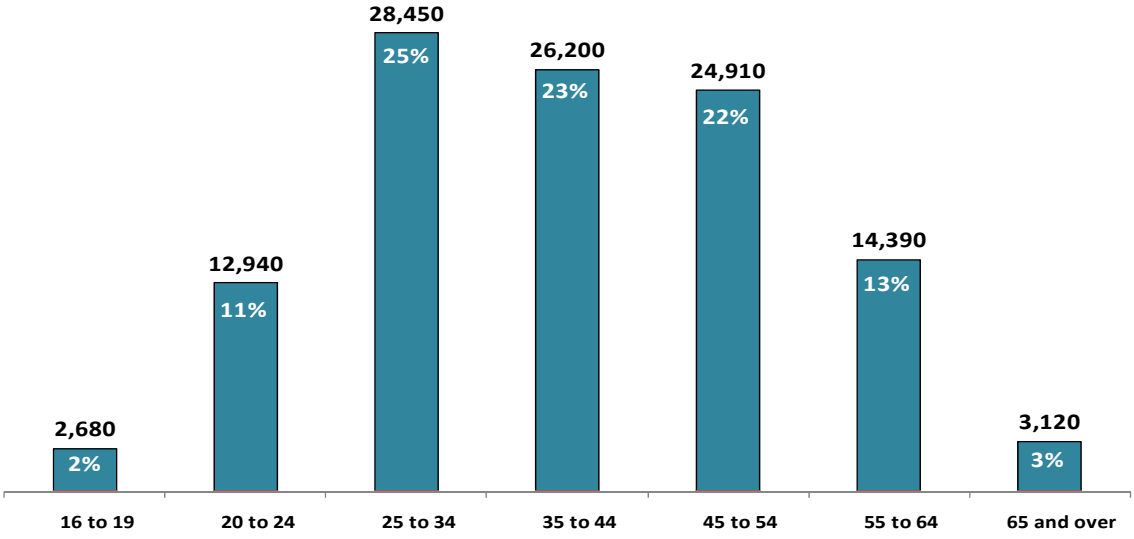
California Occupational Injury and Illness Incidence Rates* by Gender
(Cases per 10,000 full-time employees)
Private Industry, 2006 - 2008



* With days away from work with or without job transfer or restriction.

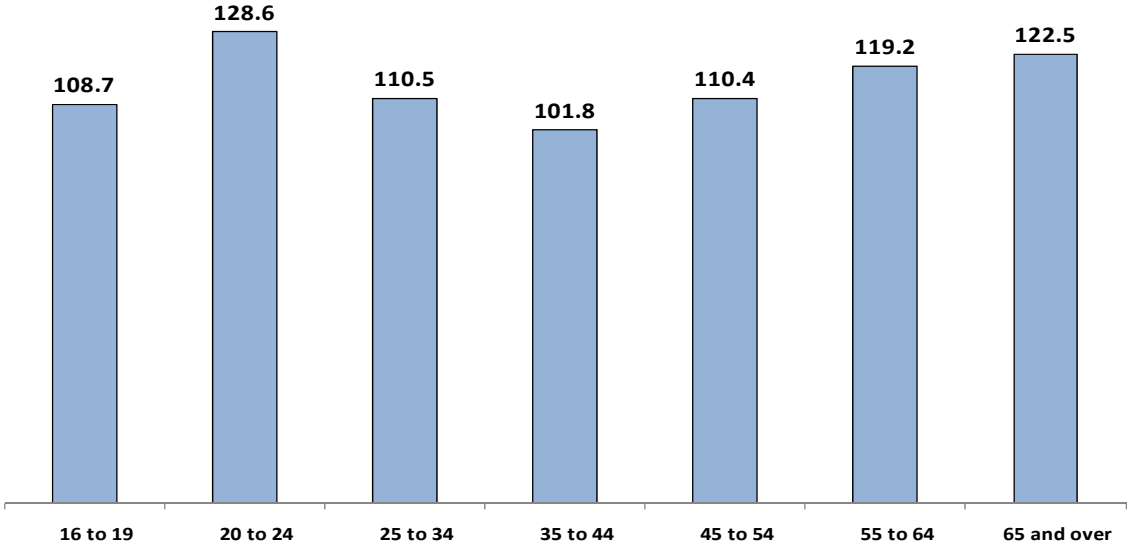
Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State agencies.

Number of Non-Fatal Occupational Injuries and Illnesses in California
by Age (Private Industry)- 2008



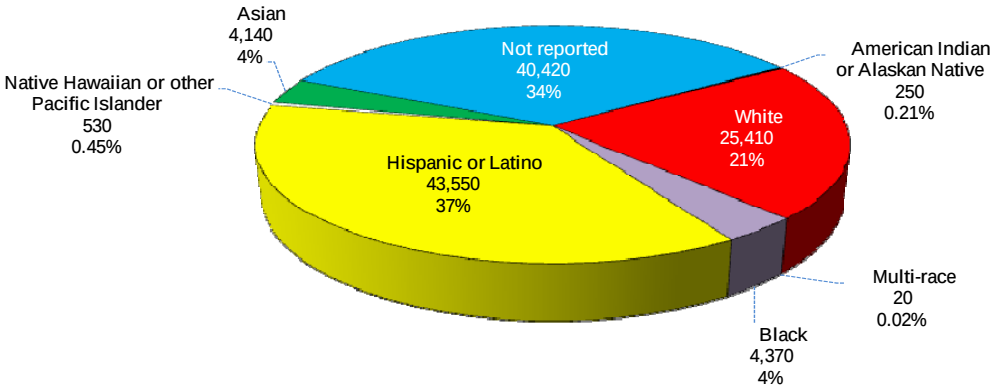
Data Source: DLSR

California Occupational Injury and Illness Incidence Rates by Age
(Cases per 10,000 full-time workers)
Private Industry - 2008



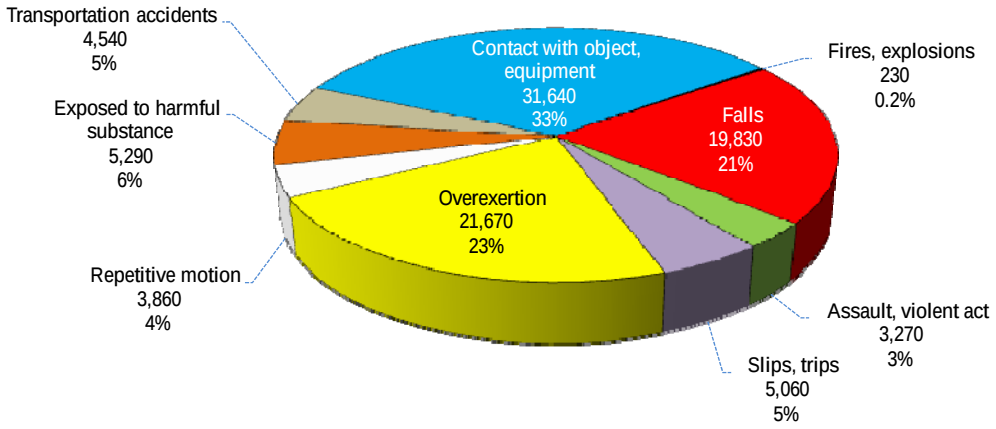
Data Source: BLS, Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State Agencies

California Non-Fatal Occupational Injuries and Illnesses
by Race or Ethnic Origin (Private) - 2008
Total=118,690



Data Source: DLSR

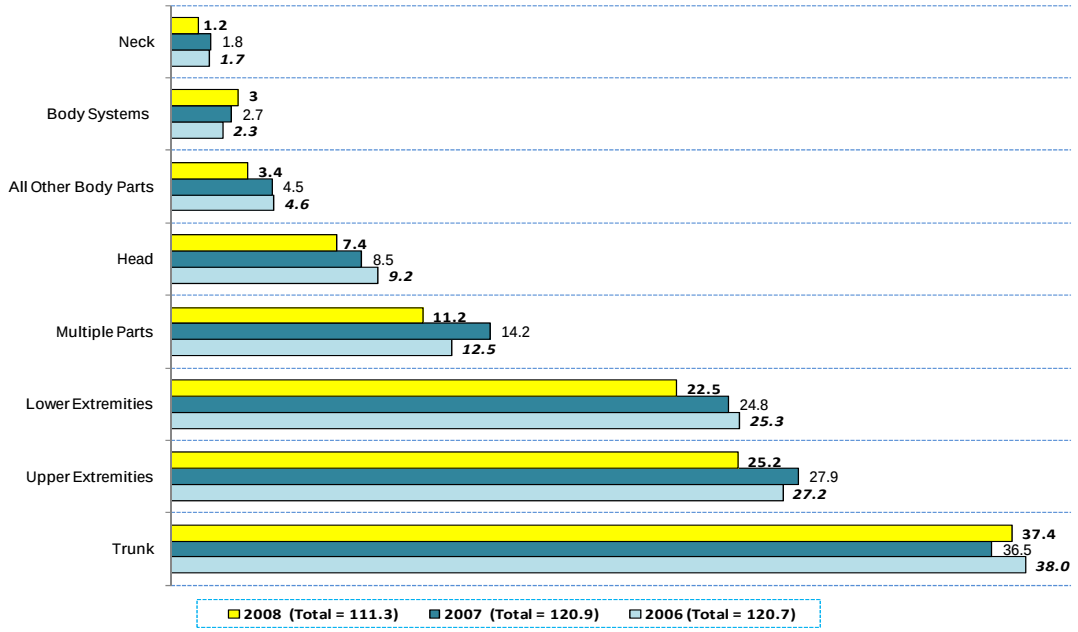
California Non-Fatal Occupational Injuries and Illnesses
by Event and Exposure (Private) - 2008



Data Source: DLSR

The following chart shows that the trunk and upper extremities were the major body parts with the greatest incidence rates in 2006, 2007 and 2008.

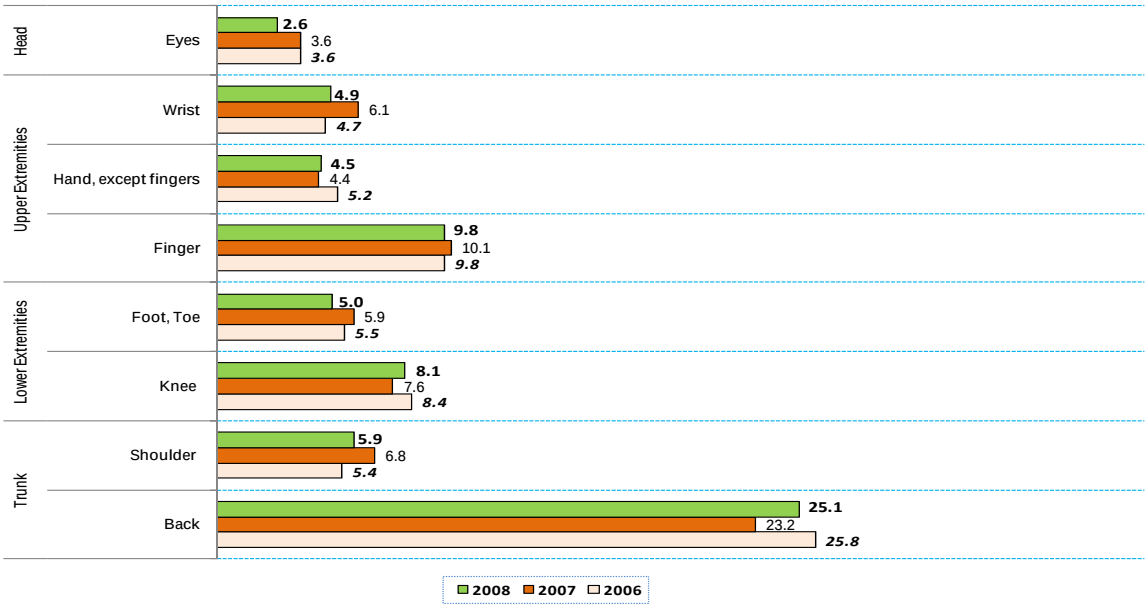
Incidence Rates for Non-Fatal Occupational Injuries and Illnesses by Major Body Parts
(per 10,000 full-time workers) Private Industry, 2006 - 2008



Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses (SOII) in cooperation with participating State agencies.

The following chart shows that the back was the body part with the highest incidence rate in 2006, 2007 and 2008.

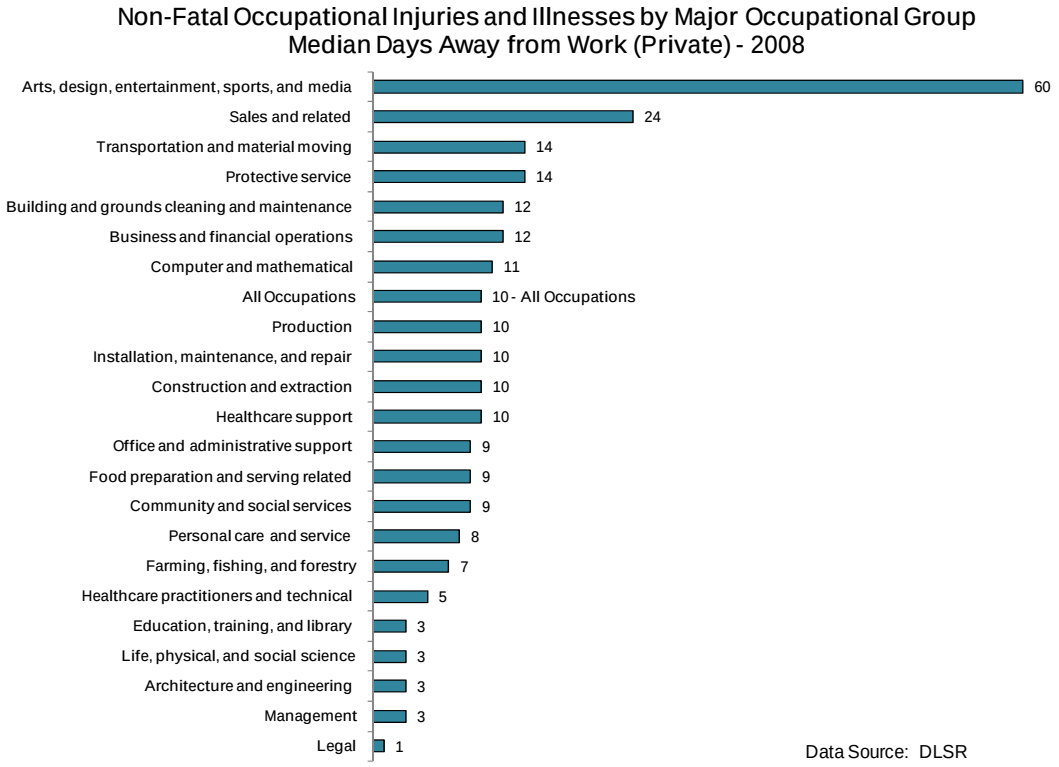
Incidence Rates for Non-Fatal Occupational Injuries and Illnesses by Body Part Units
(per 10,000 full-time workers) Private Industry, 2006 - 2008

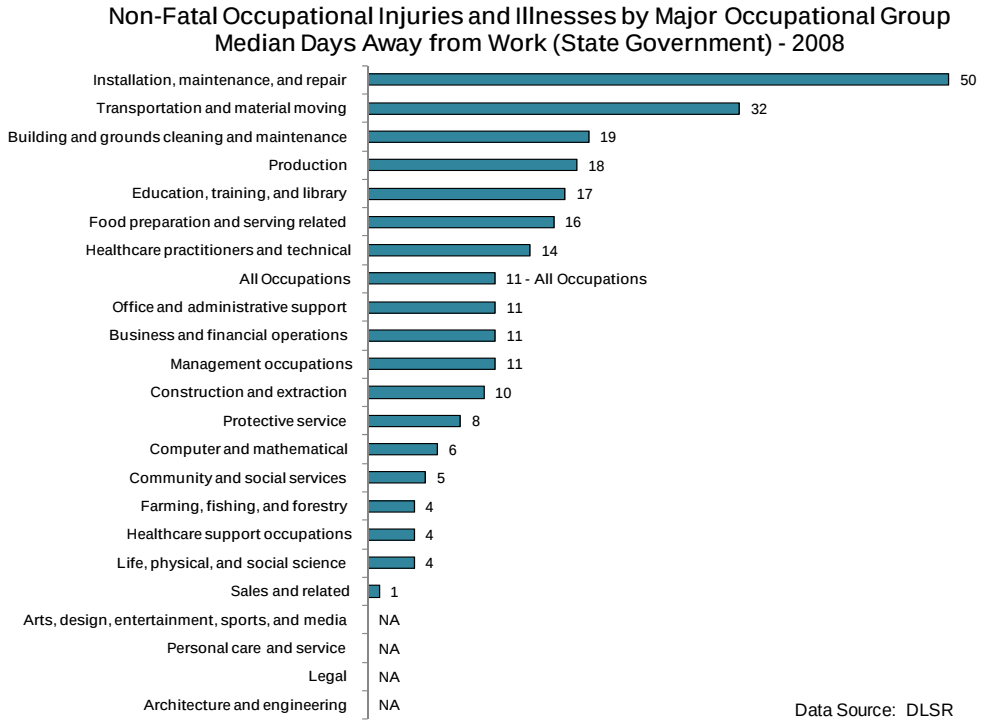


Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses (SOII) in cooperation with participating State agencies.

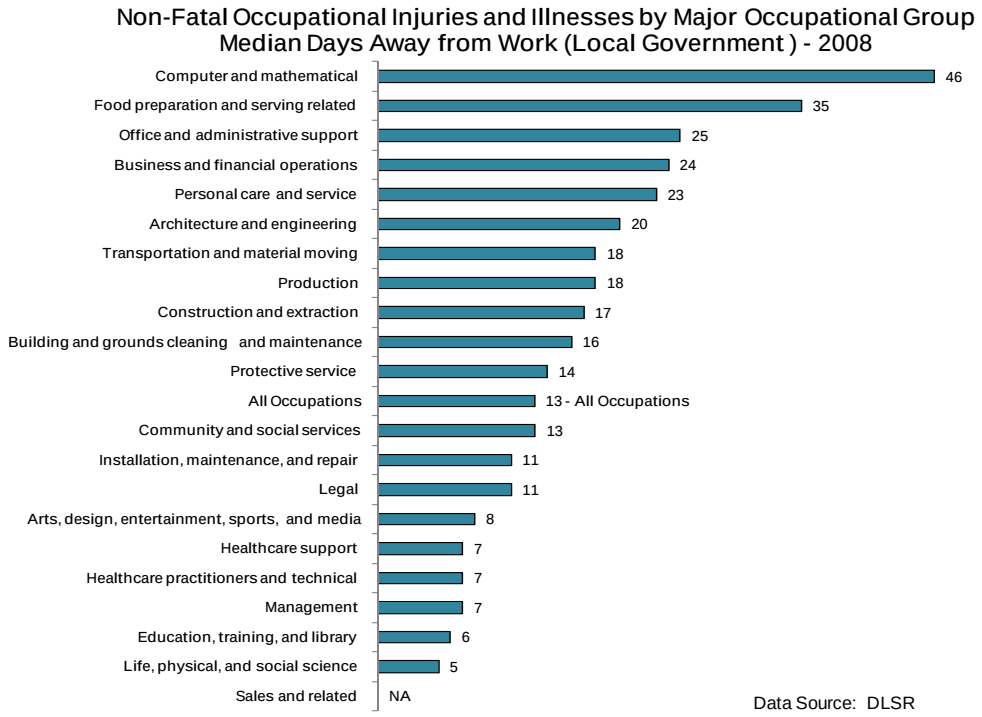
The following three charts compare the median days away from work for private industry occupations, state government occupations, and local government occupations. Arts, design, entertainment, sports,

and media occupations have the greatest median days away from work in private industry, followed by installation, maintenance, and repair occupations in the state government.[12]

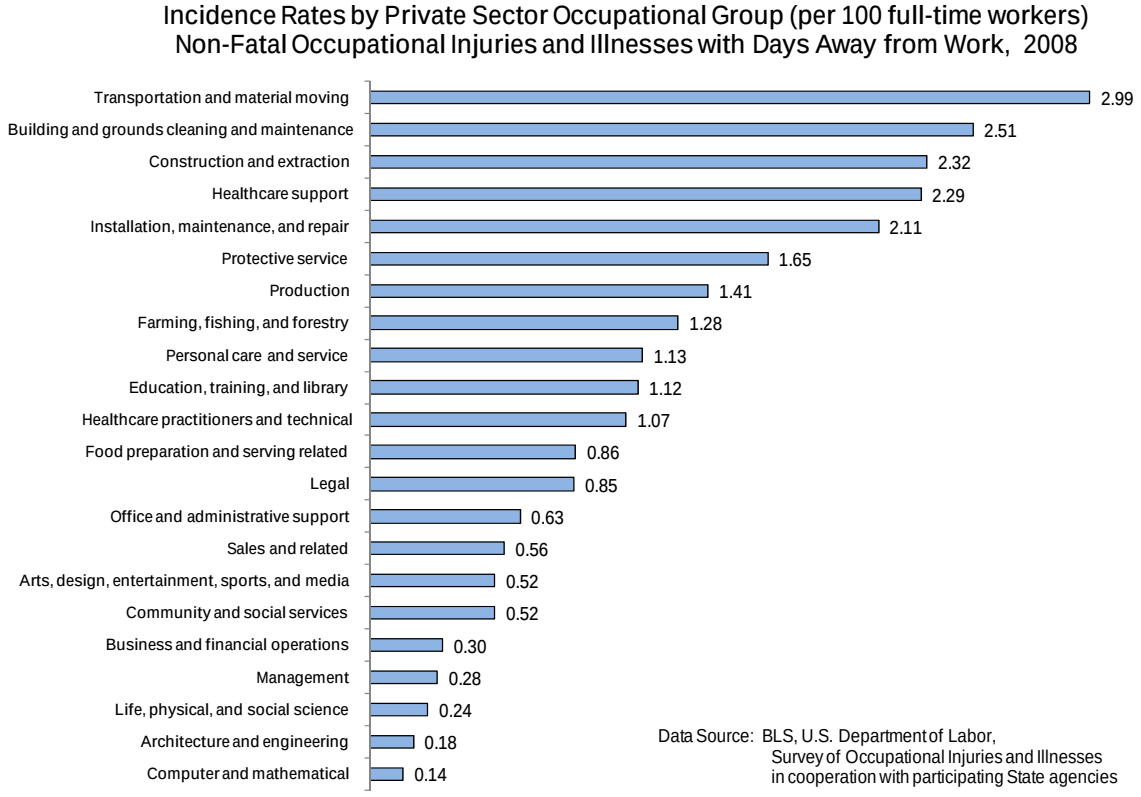


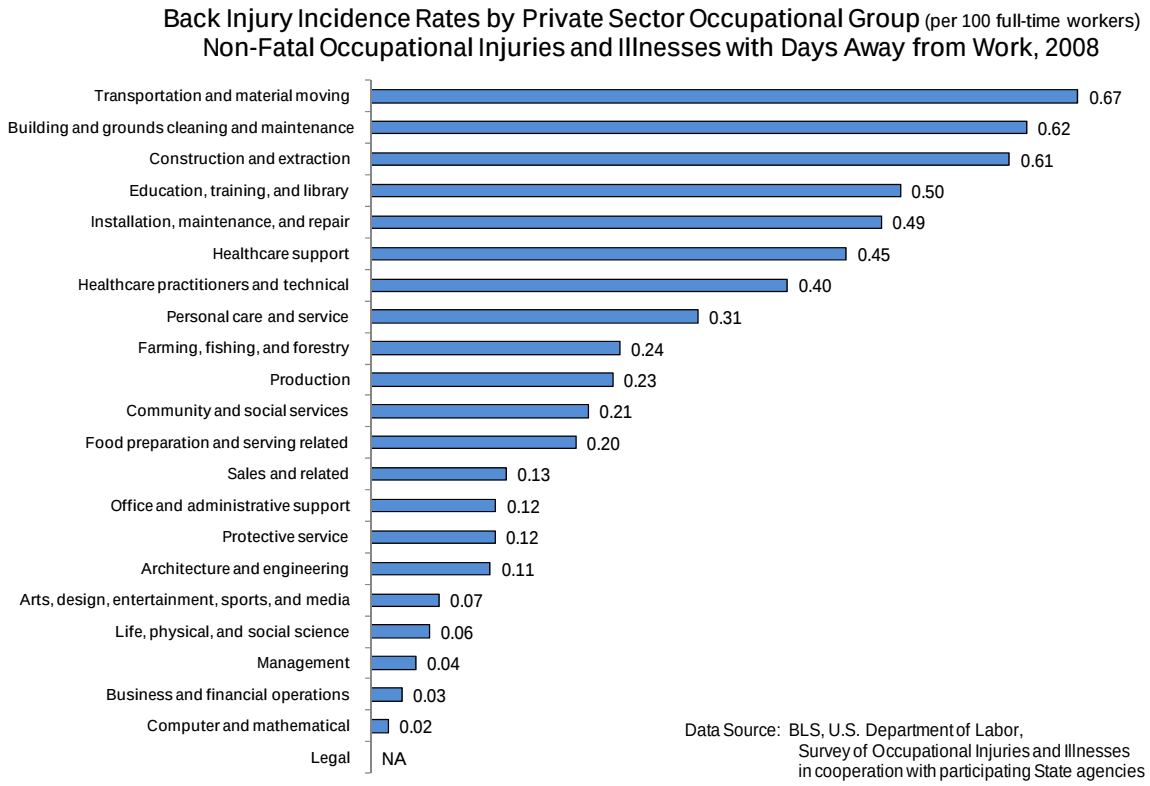


[12] Recent data on median days away from work were available only for 2008.

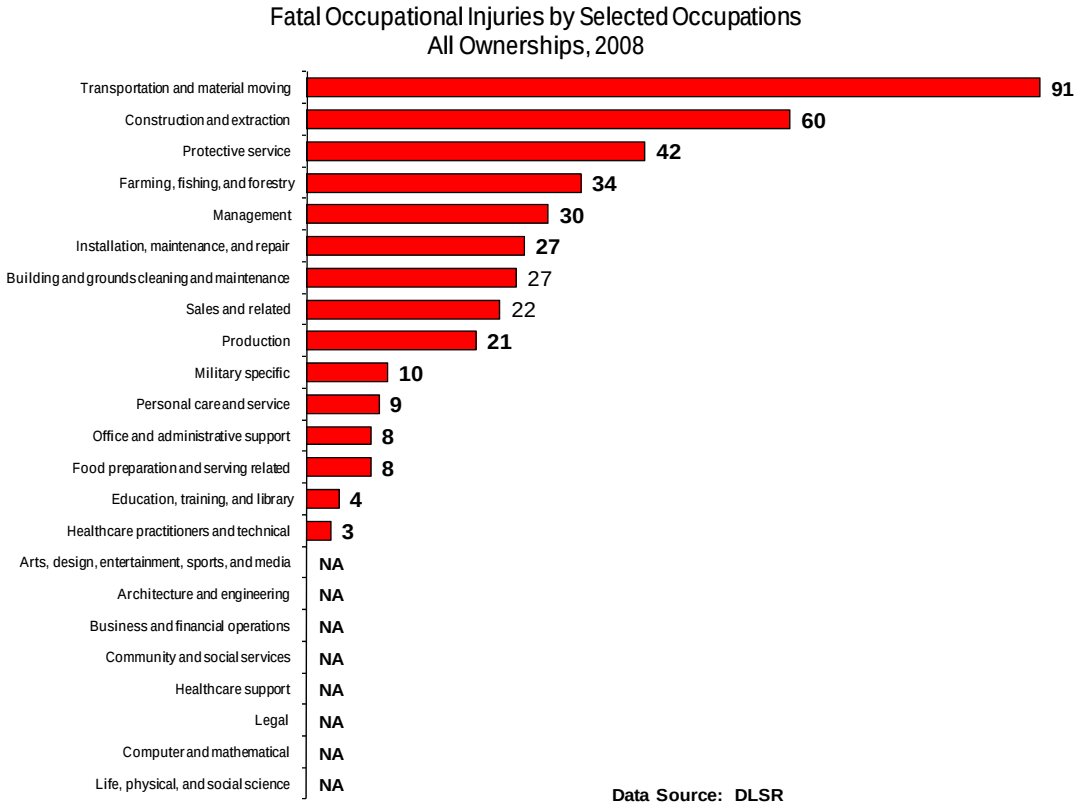


The following two charts compare the injury and illness incidence rates, including back injury, for various occupations. The transportation and material moving occupations had the highest incidence rate in 2008, followed by the building and grounds cleaning and maintenance occupations.





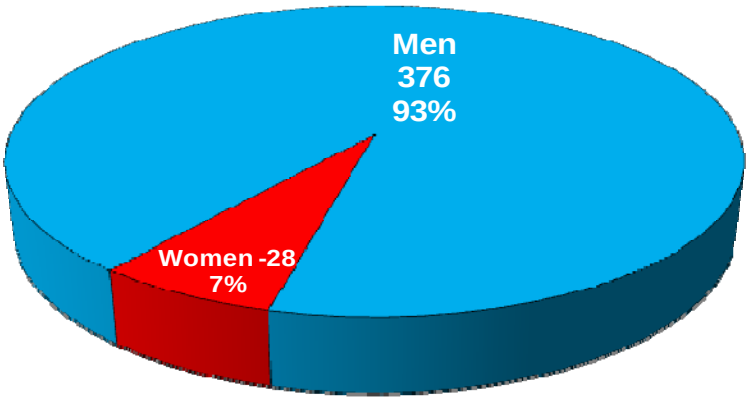
The following chart compares the number of fatalities for various occupations. The transportation and material moving occupation had the greatest number of fatalities in 2008, followed by the construction and extraction occupation.



Characteristics of California Fatal Occupational Injuries and Illnesses

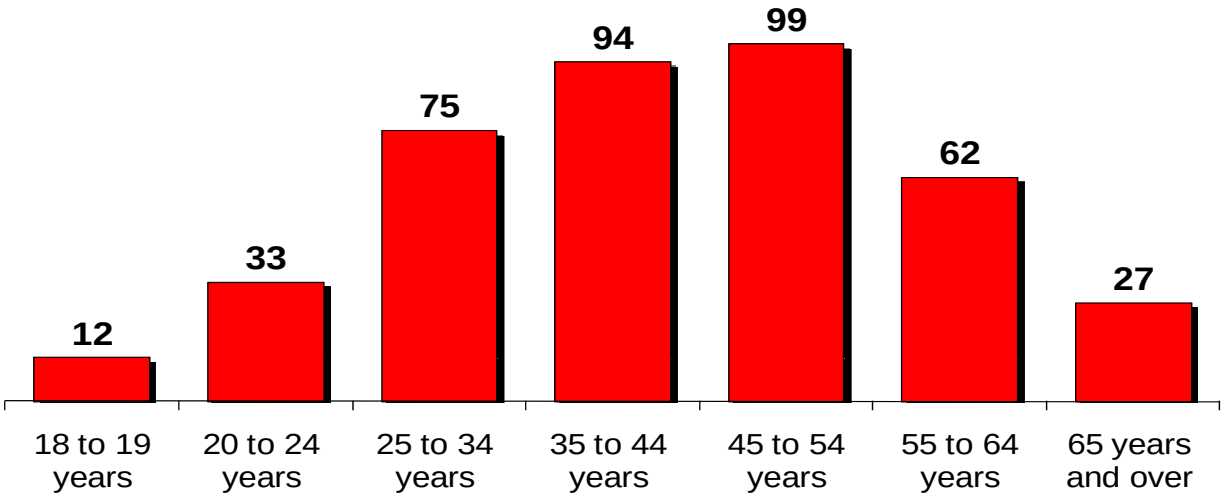
The following charts illustrate various characteristics of fatal occupational injuries and illnesses in California's private industry and federal, state and local governments.

California Fatal Occupational Injuries and Illnesses
by Gender - 2008



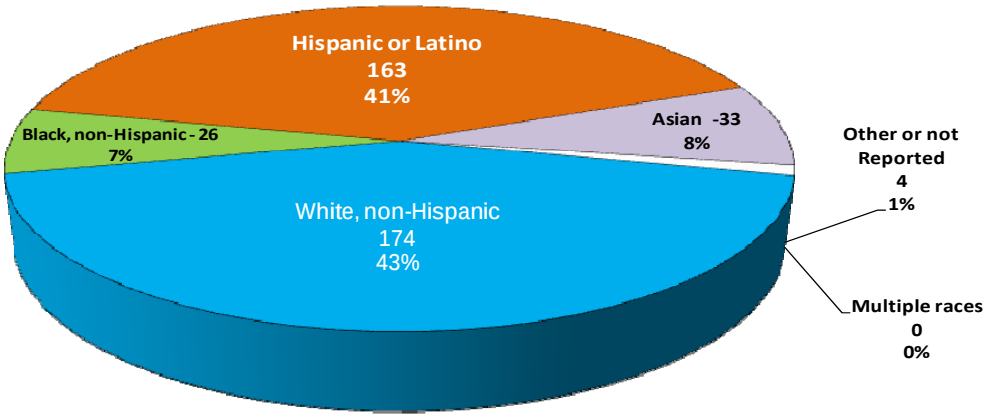
Data Source: BLS

California Fatal Occupational Injuries and Illnesses
by Age of Worker - 2008



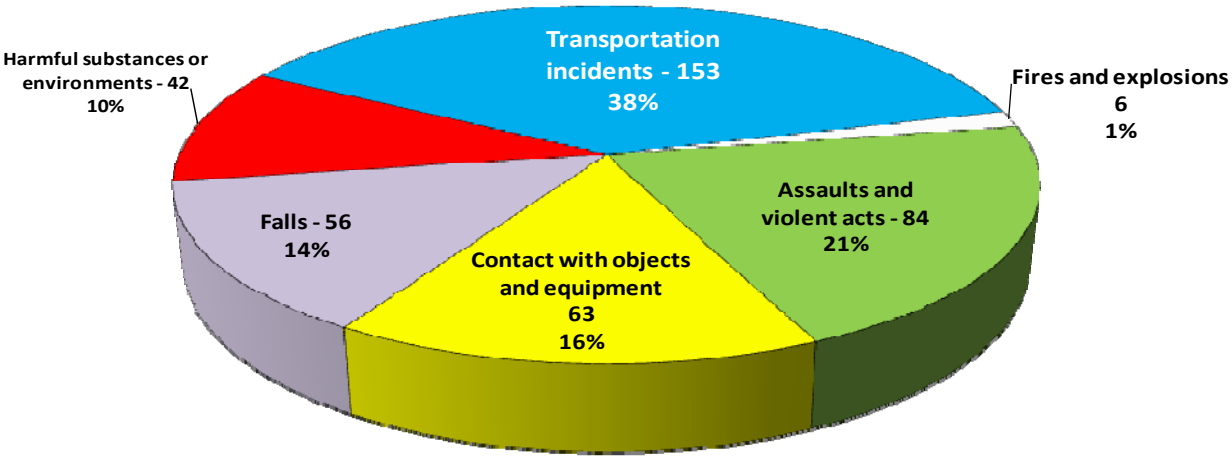
Source: BLS

California Fatal Occupational Injuries and Illnesses by Race and Ethnic Origin - 2008



Data Source: BLS

California Fatal Occupational Injuries and Illnesses by Event and Exposure - 2008



Data Source: BLS

Profile of Occupational Injury and Illness Statistics: California and the Nation

Data for the following analyses, except where noted, were derived from the Department of Industrial Relations (DIR) Division of Labor Statistics and Research (DLSR), from the U.S. Department of Labor (DOL) Bureau of Labor Statistics (BLS), and from the California Workers' Compensation Institute (CWCI).[13]

Incidence Rates

- California's most recent work injury and illness statistics for 2008 indicate a non-fatal injury and illness rate of 3.9 cases per 100 full-time employees in the private sector in 2008. This is a 58.5 percent decline from the 1990 peak level of 9.4 and an estimated 11 percent decrease from the previous year's figures.
- The trend in California mirrors a national trend. DOL figures for private employers show that from 1990 to 2008, the work injury and illness rate across the U.S. fell from 8.8 to 3.9 cases per 100 employees in the private sector. The reduction in the number of incidences of job injuries is likely due to various factors including a greater emphasis on job safety, the improving economy since the early 1990s, and the shift from manufacturing toward service jobs.
- Although the national fatality rate decreased by 5 percent between 2006 and 2007, California's fatality rate decreased by 16 percent during the same period, decreasing from 3.1 to 2.6 cases per 100,000 employed.
- From the Western region states, Alaska, Arizona, California, Hawaii, Nevada, Oregon and Washington, Arizona's and California's 2008 private industry rates of 3.7 and 3.9 respectively for non-fatal occupational injuries and illnesses were the lowest.[14] The state that had the third-lowest incidence rate was Hawaii (4.3).

Duration

- Days-away-from-work cases, including those that result in days away from work with or without a job transfer or restriction, dropped from 1.8 to 1.1 cases per 100 full-time employees from 1999 to 2008 in the private sector. This also mirrors the national trend with the number of days-away-from-work cases falling from 1.9 to 1.1 cases in the national private sector during the same period.

Industry Data

- In 2008, injury and illness incidence rates varied greatly between private industries ranging from 1.9 injuries/illnesses per 100 full-time workers in the finance and insurance industry to 6.1 in transportation and warehousing. California's private industry rates for total cases were higher than the national rates in every major industry division, except for manufacturing (5.0 and 3.8), agriculture, forestry, fishing and hunting (5.3 and 4.5), wholesale trade (3.7 and 3.4), and accommodation and food services (4.1 and 3.8).
- The private industry total case rate for non-fatal injuries decreased between 2007 and 2008 from 4.4 to 3.9, while the rate for the public sector (state and local government) increased by 14.5 percent from 6.9 in 2007 to 7.9 in 2008.
- According to DLSR, the largest decrease in injury and illness by major industry category was in wholesale trade, from 5.1 to 3.4 per 100 full-time worker injuries in 2007 and 2008 respectively, followed by mining and professional, scientific, and technical services, where both industries experienced a decrease from 2.3 to 1.7 per 100 full-time worker injuries in 2007 and 2008, and by accommodation and food services, from 4.9 to 3.8 per 100 full-time worker injuries in 2007 and 2008.[15]

[13] Please note that specific case and demographic data for non-fatal occupational injuries and illnesses were only available for 2008.
[14] The comparisons of industry rates have not been adjusted for industry mix within each state.
[15] DLSR, Table 1: Incidence rates of non-fatal occupational injuries and illnesses by selected industries and case types, 2006, 2007.

- According to DLSR, the largest increase in injury and illness by industry sectors was in real estate and rental and leasing, from 2.4 to 3.0 per 100 full-time worker injuries in 2007 and 2008 respectively, followed by utilities with an increase from 4.1 to 5.0 per 100 full-time worker injuries in 2007 and 2008, and arts, entertainment and recreation, from 4.5 to 5.3 in 2007 and 2008.[16]
- Over the past decade (1998-2008), the number of fatal injuries declined by 33.3 percent, from 582 to 388.[17] From 2007 to 2008, the number of fatal injuries had not changed. The highest number of fatal injuries was in trade, transportation and utilities (93), followed by natural resources and mining (70) and construction (63).
- In private industry, the top ten occupations with the most non-fatal injuries and illnesses in 2008 are: laborers and freight, stock, and material movers, hand; truck drivers, light or delivery services; truck drivers, heavy and tractor-trailer; janitors and cleaners, except maids and housekeeping cleaners; farm workers and laborers, crop, nursery, and greenhouse; construction laborers; retail sales persons; customer service representatives; registered nurses; nursing aides, orderlies, and attendants.
- In California state government, the top ten occupations with the most non-fatal injuries and illnesses in 2008 are: psychiatric technicians; correctional officers and jailers; police and sheriff's patrol officers; janitors and cleaners, except maids and housekeeping cleaners; registered nurses; cooks, institution and cafeteria; licensed practical and licensed vocational nurses; forest and conservation workers; nursing aides, orderlies, and attendants; office clerks, general.
- In local government, the top ten occupations with the most non-fatal injuries and illnesses in 2008 are: police and sheriff's patrol officers; janitors and cleaners, except maids and house-keeping cleaners; elementary school teachers, except special education; fire fighters; teacher assistants; correctional officers and jailers; landscaping and grounds keeping workers; bus drivers, school; nursing aides, orderlies, and attendants; first-line supervisors/managers of fire fighting and prevention workers.
- Transportation and material-moving occupations (91) and construction and extraction (60) accounted for 39 percent of the fatal injuries in 2008. Protective services (42), farming, fishing, and forestry (34), management (30), installation, maintenance, and repair (27), building and grounds cleaning and maintenance (27), sales and related (22) were the other occupations with the most number of fatal injuries in 2008. Transportation and material-moving incidents were the number one cause of fatal injuries accounting for about 23 percent of fatal injuries in 2008.
- Transportation incidents accounted for about 37.9 percent of fatal injuries in 2008 and are a major cause of fatalities among: transportation and material moving occupations (62); protective-service occupations (20); and farming, fishing, and forestry occupations (18).

Establishment Size and Type

- The lowest rate for the total recordable non-fatal cases in 2008 was experienced by the smallest employers. Employers with 1 to 10 employees and 11 to 49 employees had incidence rates of 2.0 and 3.3 cases, respectively, per 100 full-time employees. There was a 25 percent increase in incidence rates for employers with 1 to 10 employees from 2007 to 2008. Employers with 11 to 49 employees experienced a 15 percent decrease in incidence rates compared to 2007.
- Establishments with 250 to 999 and 1,000 and more employees reported the highest rates of 5.5 and 5.4 cases per 100 full-time employees, respectively, in 2008. Establishments with 50 to 249 employees experienced a 12 percent decrease from 5.8 to 5.1 cases per 100 full-time employees from 2007 to 2008.

[16] Ibid.
[17] The number of fatalities excludes the number of fatalities for the Federal government.

Types of Injuries

- Most types of work injuries have declined since 1998 in the private sector. The number of sprains and strains continued to decline from 1998; however, these injuries remain by far the most common type of work injury accounting for 34 percent of days-away-from-work cases in the private sector. Cuts, lacerations, bruises, contusions, heat burns, carpal tunnel syndrome, tendonitis, amputations, and multiple injuries have decreased from 1998 to 2008, with the biggest decreases, 71 and 63 percent, seen in carpal tunnel syndrome and tendonitis respectively. From 1998 to 2008, the only injury category that experienced about 38 percent increase was chemical burns.
- In the private sector, contact with objects and equipment was the leading cause of days-away-from-work injuries, cited in about 26.6 percent of days-away-from-work cases. Overexertion was the second common cause of injury, accounting for about 18.2 percent of injuries.
- In California state government, the two main causes of injury were assaults and violent acts and contact with object, equipment accounting for about 21.4 and 15.8 percent of days-away-from-work cases, respectively, in 2008.
- In local government, the main causes of injury were contact with object, equipment and falls on the same level, accounting for 20.9 and 16.2 percent of days-away-from-work cases, respectively, in 2008.
- The most frequently injured body part is the back, accounting for about 14.5 percent of the cases in state government and about 16.5 percent cases in local government. In the private sector, back injuries account for 22.5 percent of non-fatal cases.

Demographics

- Over the period from 1998 to 2008 in the California private sector, the number of days-away-from-work cases for women decreased by about 28.6 percent. Days-away-from-work cases for men decreased by 44.2 percent.
- Between 1998 and 2008, in private industry, the age groups 16 to 19, 20 to 24, 25 to 34, 35 to 44, and 45 to 54, experienced a decline. The biggest decline (53.5 percent) occurred among 35 to 44 year-old workers. The age group 25 to 34 experienced a 49 percent decline, and the age group of 16 to 19 experienced a 38.9 percent decrease in the numbers of days away from work. During the same period, the age groups 55 to 64 and 65 and over experienced an increase of 1.7 percent and 22.3 percent respectively.
- In 2008, out of 404 fatalities, approximately 93 percent were male and 7 percent were female. The age group categories 35 to 44 years, 55 to 64 years, and 65 and over experienced a decrease in fatal injuries between 2007 and 2008, and age group categories 18 to 19, 20 to 24, 25 to 34, and 45 to 54 years experienced an increase in fatal injuries. The biggest decrease in the number of fatalities (21 percent) was seen in the 65 and over age group from 34 to 27 cases, followed by an 8 percent decrease in the age group 35 to 44 (from 102 to 94 cases) in the period of time from 2007 to 2008.

The highest number of fatalities in 2008 by race or ethnic origin categories was experienced by "White, non-Hispanic" group closely followed by "Hispanic or Latino" group, accounting for 43 percent and 41 percent of the fatalities, respectively. From 2007 to 2008, there was some decrease (7 percent) for fatal injuries in the "Black or African American" group and "White, non-Hispanic" group (2.3 percent). There was a 3 percent increase in fatal injuries in the "Asian" group (from 32 to 33) and about 1 percent increase in "Hispanic or Latino" group (from 162 to 163) for the same period of time.

Occupational Injury and Illness Reporting

Occupational injury and illness information is the responsibility of BLS within the U.S. and DOL and DLSR within the California DIR. Occupational injuries and illnesses are recorded and reported by California employers through several national surveys administered by DOL with the assistance of DIR.

OSHA Reporting and Recording Requirements

The U.S. Occupational Safety and Health Act (OSH Act) of 1970 requires covered employers to prepare and maintain records of occupational injuries and illnesses. It provides specific recording and reporting requirements that comprise the framework for the nationwide occupational safety and health recording system. The Occupational Safety and Health Administration (OSHA) in DOL administers the OSH Act recordkeeping system.

Although there are exemptions for some employers from keeping Cal/OSHA injury and illness records, all California employers must report injuries to DLSR. Every employer must also report any serious occupational injuries, illnesses or deaths to California OSHA within DIR.

The data assist employers, employees and compliance officers in analyzing the safety and health environment at the employer's establishment and are the source of information for the BLS *Annual Survey of Occupational Injuries and Illnesses* and the OSHA *Occupational Injury and Illness Survey*.

BLS Annual Survey of Occupational Injuries and Illnesses

To estimate the number of occupational injuries and illnesses in the U.S., BLS established a nationwide annual survey of employers' occupational injuries and illnesses. The state-level statistics on non-fatal and fatal occupational injuries and illnesses are derived from this survey.

Non-Fatal Injuries and Illnesses

The BLS *Annual Survey* develops frequency counts and incidence rates by industry and also profiles worker and case characteristics of non-fatal workplace injuries and illnesses that result in lost work time. Each year, BLS collects employer reports from about 173,800 randomly selected private industry establishments.

Fatal Injuries and Illnesses

The estimates of fatal injuries are compiled through the Census of Fatal Occupational Injuries (CFOI), which is part of the BLS occupational safety and health statistics program. CFOI uses diverse state and federal data sources to identify, verify and profile fatal work injuries.

OSHA Occupational Injury and Illness Survey

Federal OSHA administers the annual *Occupational Injury and Illness Survey*. OSHA utilizes this collection of employer-specific injury and illness data to improve its ability to identify and target agency interventions to those employers who have serious workplace problems. For this survey, OSHA collects data from 80,000 non-construction establishments and from up to 15,000 construction establishments.

Occupational Injury and Illness Prevention Efforts

Efforts to prevent occupational injury and illness in California take many forms, but all are derived from cooperative efforts between the public and private sectors. This section describes consultation and compliance programs, health and safety standards, and education and outreach designed to prevent injuries and illnesses to improve worker health and safety.

Cal/OSHA Program

The Cal/OSHA Program is responsible for enforcing California laws and regulations pertaining to workplace health and safety and for providing assistance to employers and workers about workplace safety and health issues.

The Cal/OSHA Enforcement Unit conducts inspections of California workplaces based on worker complaints, accident reports and high hazard industries. There are 22 Cal/OSHA Enforcement Unit district offices located throughout the State of California. Specialized enforcement units, such as the Mining and Tunneling Unit and the High Hazard Enforcement Unit, augment the efforts of district offices in protecting California workers from workplace hazards in high hazard industries.

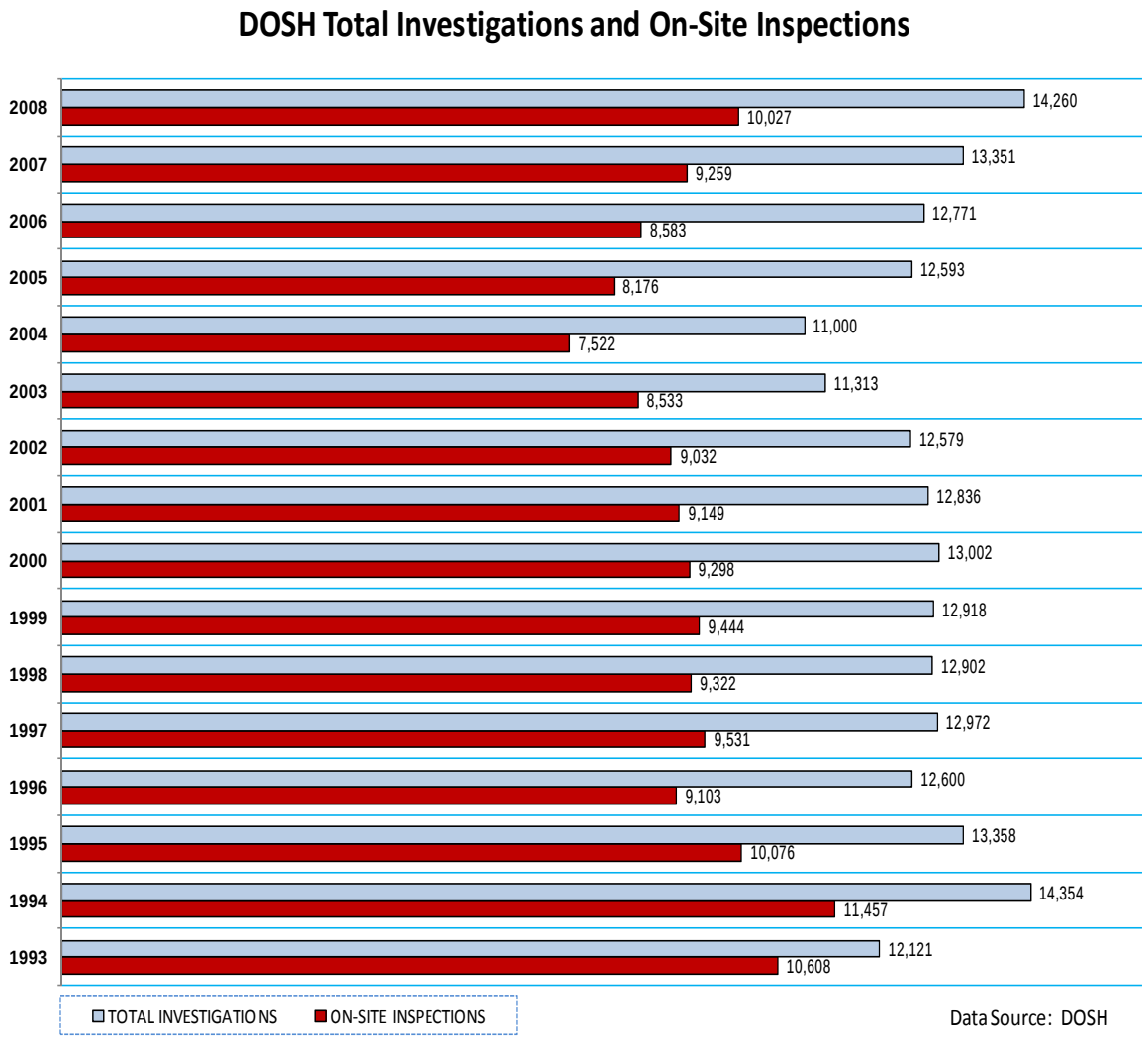
Other specialized units, such as the Crane Certifier Accreditation Unit, the Asbestos Contractors' Registration Unit, the Asbestos Consultant and Site Surveillance Technician Unit and the Asbestos Trainers Approval Unit, are responsible for enforcing regulations pertaining to crane safety and prevention of asbestos exposure.

The Cal/OSHA Consultation Service provides assistance to employers and workers about workplace safety and health issues through on-site assistance, high hazard consultation, and other special emphasis programs. The Consultation Service also develops educational materials on workplace safety and health topics.

Profile of Division of Occupational Safety and Health (DOSH) On-Site Inspections and Violations Cited

The trends in types of inspections have varied in the past few years, with Accidents and Complaints being consistently predominant. However, starting in fiscal year (FY) 2006, Programmed Inspections started to reach higher levels compared to Accidents and Complaints.

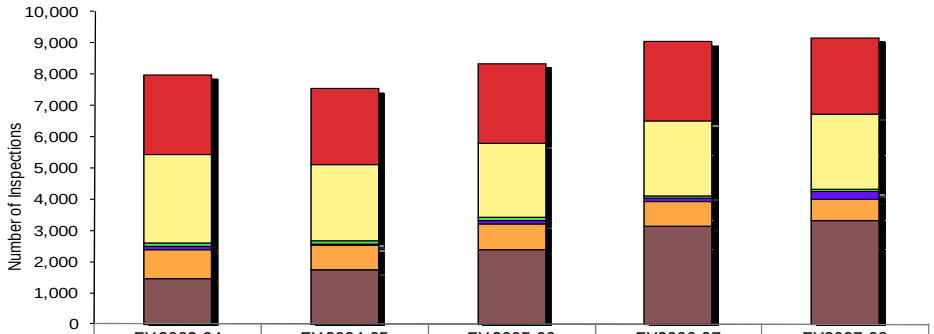
The following chart shows the total numbers of investigations and on-site inspections for the period from calendar year (CY) 1993 through 2008.[18] From CY 1993 to 1995, the total number of investigations averaged 13,278 per year with an average of 10,714 on-site inspections. During the next seven years, from 1996 to 2002, the average number of investigations decreased to 12,830, and the average number of on-site inspections decreased to 9,268. During the next two years (2003 and 2004), there was further decrease in both the average number of investigations (to 11,157) and average number of on-site inspections (to 8,028). From 2004 to 2008, there was a 29.6 percent increase in investigations and 33 percent increase in the number of on-site inspections.



[18] The numbers of investigations, on-site inspections and violations for calendar years could differ from the fiscal year numbers provided later in this section.

The chart below shows that the total Inspections have been increasing in the past four years from 7,536 in FY 2004-05 to 9,170 in FY 2007-08.

DOSH Inspections by Type FY 2003-04 to FY 2007-08

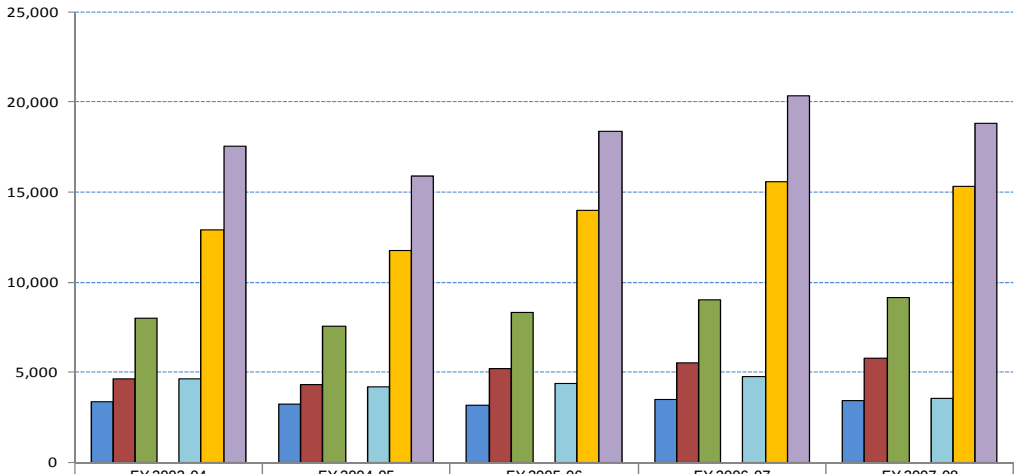


	FY 2003-04	FY 2004-05	FY 2005-06	FY2006-07	FY2007-08
Accident (unprogrammed)	2,539	2,424	2,536	2,537	2,463
Complaint (unprogrammed)	2,829	2,448	2,386	2,382	2,393
Referral (unprogrammed)	110	85	92	75	83
Follow-up (unprogrammed)	113	61	105	121	233
Unprogrammed Related (different employer, same worksite)	936	795	831	789	673
Programmed	1,441	1,723	2,392	3,135	3,325
Total	7,968	7,536	8,342	9,039	9,170

Source: DIR Division of Occupational Safety and Health

The number of violations is greater than inspections due to the fact that most inspections where violations occur yield more than one violation. Violations are further broken down into serious and other-than-serious. In FY 2007-08, 63 percent of inspections resulted in violations cited. The breakdown by type is shown in the chart below.

DOSH Inspections and Violations Cited FY 2003-04 to FY 2007-08

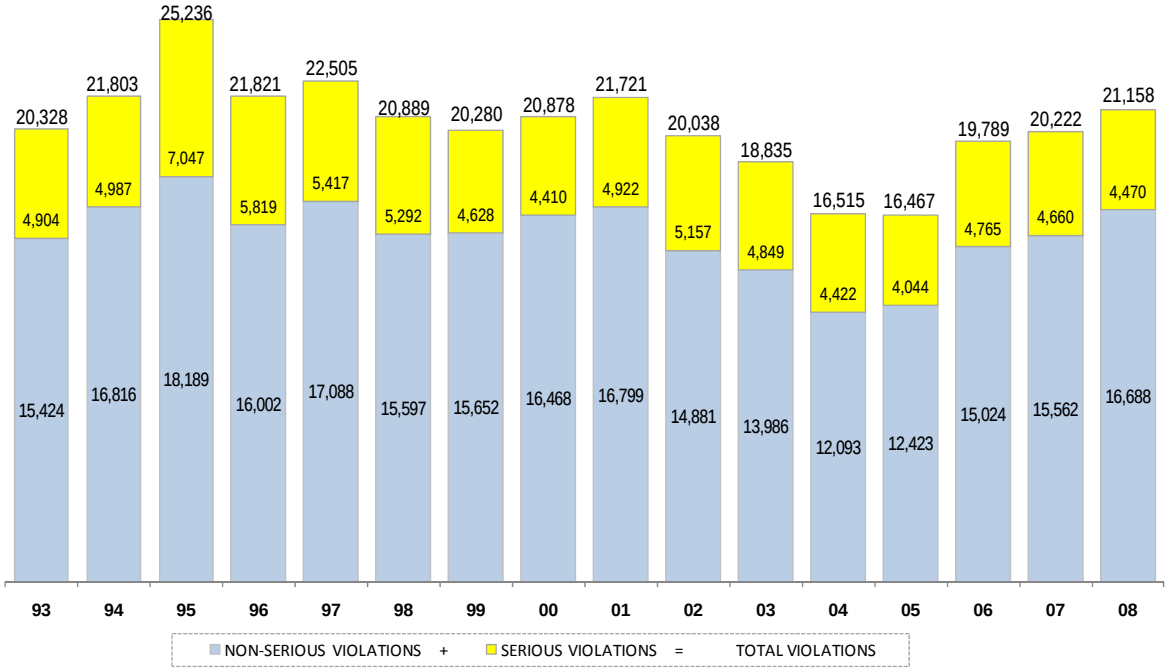


	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
Inspect-s without violations cited	3,333	3,236	3,162	3,502	3,393
Inspections with violations	4,635	4,300	5,180	5,537	5,776
Total Inspections	7,968	7,536	8,342	9,039	9,169
Serious Violations	4,625	4,176	4,403	4,749	3,513
Other than Serious Violations	12,911	11,742	13,997	15,585	15,312
Total Violations	17,536	15,918	18,400	20,334	18,825

Data Source: DIR - Division of Occupational Safety and Health

The following chart shows the total numbers of violations, including the number of serious DOSH violations from CY 1993 to CY 2008. The total number of violations increased by 24 percent from 1993 to 1995. After decreasing by 13.5 percent from 1995 to 1996, the total number of DOSH violations averaged 21,350 per year from 1996 to 2001. From 2001 to 2005, there was a 24 percent decrease in the total number of DOSH violations, and from 2005 to 2008, the total number of violations increased again by 28.5 percent.

DOSH Violations
1993 - 2008

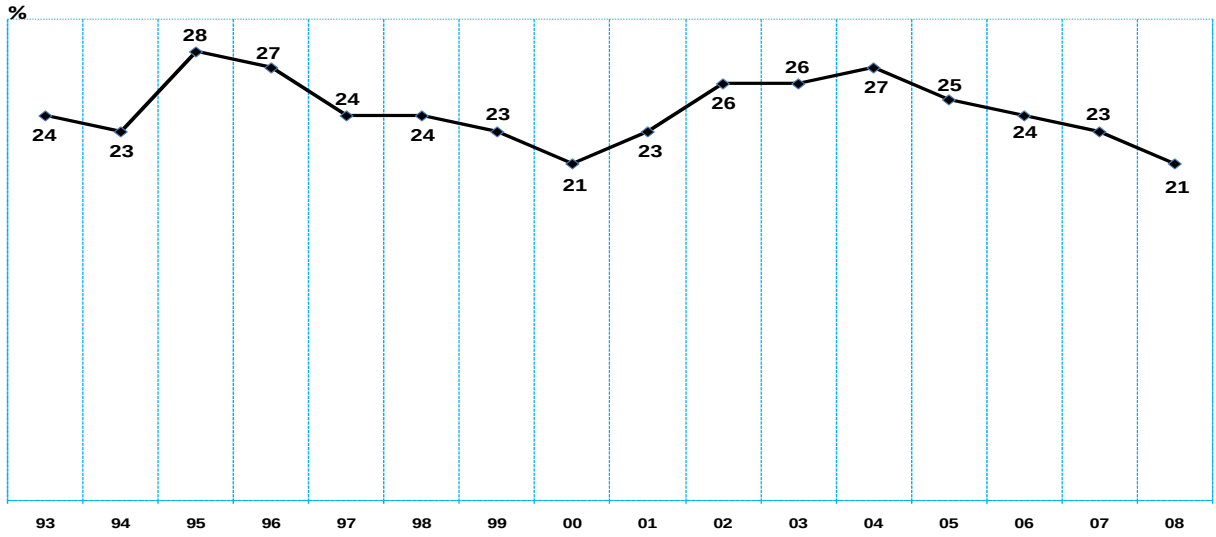


Data Source: DOSH

As the chart above shows, the number of serious violations increased by 43.7 percent from 1993 to 1995. From 1995 to 2000, the number of serious violations decreased by 37.4 percent, increased by 17 percent from 2000 to 2002, and then again decreased by 21.6 percent from 2002 to 2005. After increasing by 18 percent from 2005 to 2006, the number of serious DOSH violations decreased by 6.2 percent from 2006 to 2008.

The chart below shows the trend in the share of serious DOSH violations in the total number of all violations from 1993 to 2008. The share of serious DOSH violations increased from 24 percent in 1993 to its peak of 28 percent of total violations in 1995, and decreased to 21 percent in 2000. From 2000 to 2004, the share of serious violations increased to 27 percent of total DOSH violations and then decreased to 21 percent from 2004 to 2008.

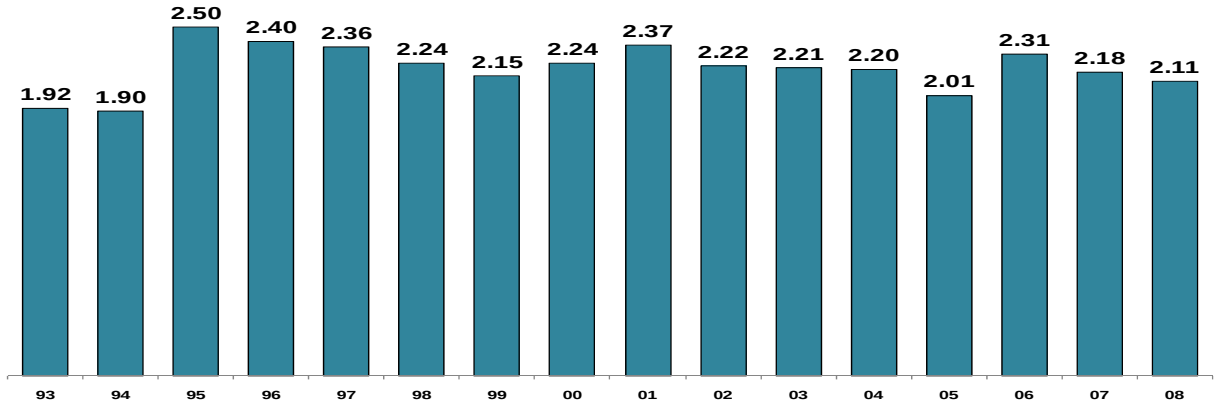
Percent of Serious Violations in Total DOSH Violations
1993 - 2008



Data Source: DOSH

The average number of DOSH violations per inspection averaged 1.91 in 1993 and 1994. The increase of 31.6 percent in average number of violations per inspection from 1994 to 1995 followed with 14 percent decrease from 1995 to 1999. During the next six years, from 1999 to 2004, the average number of violations per inspection averaged 2.2 and then decreased by 8.6 percent from 2004 to 2005. After an increase of 15 percent from 2005 to 2006, the average number of violations per inspection decreased again by about 8.5 percent from 2006 to 2008.

Average Number of DOSH Violations per Inspection
1993 - 2008



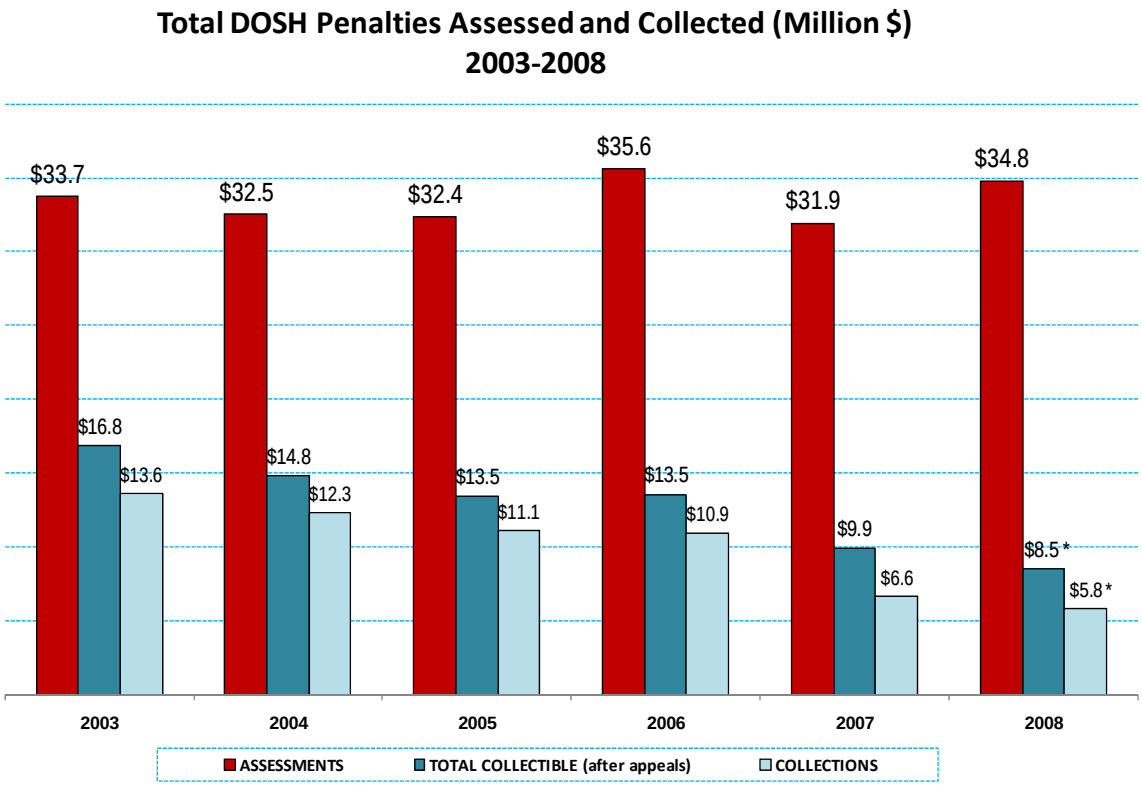
Data Source: DOSH

Twenty-Five Most Frequently Cited Title 8 California Code of Regulations (CCR) Standards in 2008

Standard	Description	Total Violations	Serious Violations	Percent of Serious Violations
3203	Injury and Illness Prevention Program	2049	84	4.1
3395	Heat Illness Prevention	1138	198	17.4
1509	Construction Injury Prevention Program	980	14	1.4
5194	Hazard Communication	757	13	1.7
3314	Clean, Repair, Service and Adjust Prime Movers, Machinery and Equipment	674	222	32.9
6151	Portable Fire Extinguishers	618	2	0.3
342	Reporting Work Fatality of Serious Injury	526	0	
461	Permits to Operate Air Tanks	441	1	0.2
5144	Respiratory Protection Equipment	417	7	1.7
2340.16	Work Space About Electrical Equipment	406	6	1.5
2340.23	Guarding Openings in Electrical Boxes	324	69	21.3
3457	Field Sanitation	320	4	1.2
3668	Powered Industrial Truck Operator Training	263	13	4.9
4650	Compressed Gas and Air Cylinders	242	38	15.7
2500.08	Flexible Electrical Cords and Cables: Uses Not Permitted	242	1	0.4
5162	Emergency Eyewash	226	69	30.5
5189	Process Safety Management of Acutely Hazardous Substance	220	78	35.4
2340.22	Equipment Identification in Electrical Installations	213	35	16.4
3328	Safe Practices, Personal Protection: Machinery and Equipment	200	58	29
4070	Belt and Pulley Drive, Guarding	191	150	78.5
1512	Construction : Emergency Medical Services	177	0	
1644	Metal Scaffold	175	99	56.6
3650	Industrial Trucks: General Requirements	175	40	22.8
1529	Asbestos	162	41	25.3
3577	Use, Care, and Protection of Abrasive Wheels: Protection Devices	157	59	37.6

The chart below demonstrates the trends in penalties and collections. Total Penalties Assessed were $34.8 million in 2008. Many employers appeal those "recommended" penalties at the Cal/OSHA Appeals Board, and they may be ordered to pay in full, pay a reduced amount, or have the penalties eliminated due to procedural issues. Because of the appeals process, Penalties Collected will almost always be less than the initial recommended Penalties Assessed. Total Collections were $5.8 million in FY 2008.

Although the chart below demonstrates the trends in penalties and collections, it cannot be viewed entirely as an indicator of progress in health and safety at places of employment, due to related impacts on the data from DOSH staffing changes and resource changes from year to year, as well as activities at the Appeals Board. Nevertheless, the data do give a sense of the general magnitude and accounting of penalties and collections, as well as provide a starting point for further analysis.

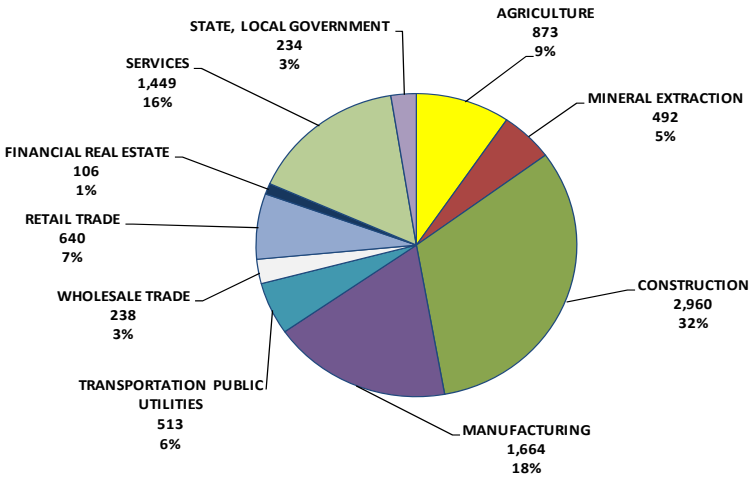


* In 2008, Total Collectible Penalties (after appeals) and Penalties Collected are shown as of January 30, 2009

Data Source: DOSH

The chart below illustrates the proportion of inspections and violations in major industrial groups. Of the 9,169 workplace health and safety inspections conducted in FY 2007-08, 2,960 (32 percent) were in construction and 6,209 (68 percent) were in non-construction.

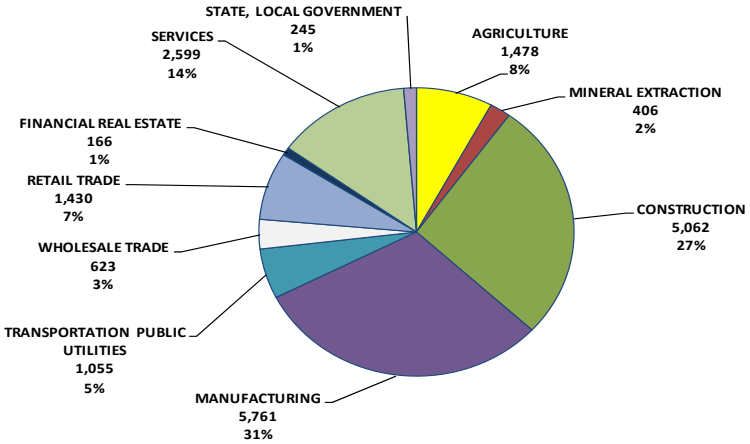
Distribution of Inspections by Major Industry
State FY 2007-2008
(Total Inspections=9,169)



Data Source: DOSH

Despite the fact that the greatest percentage of inspections were in construction, the greatest percentage (31 percent) of violations were found to be in manufacturing, as shown in the chart below.

Distribution of Violations by Major Industry
State FY 2007-2008
(Total Violations=18,825)



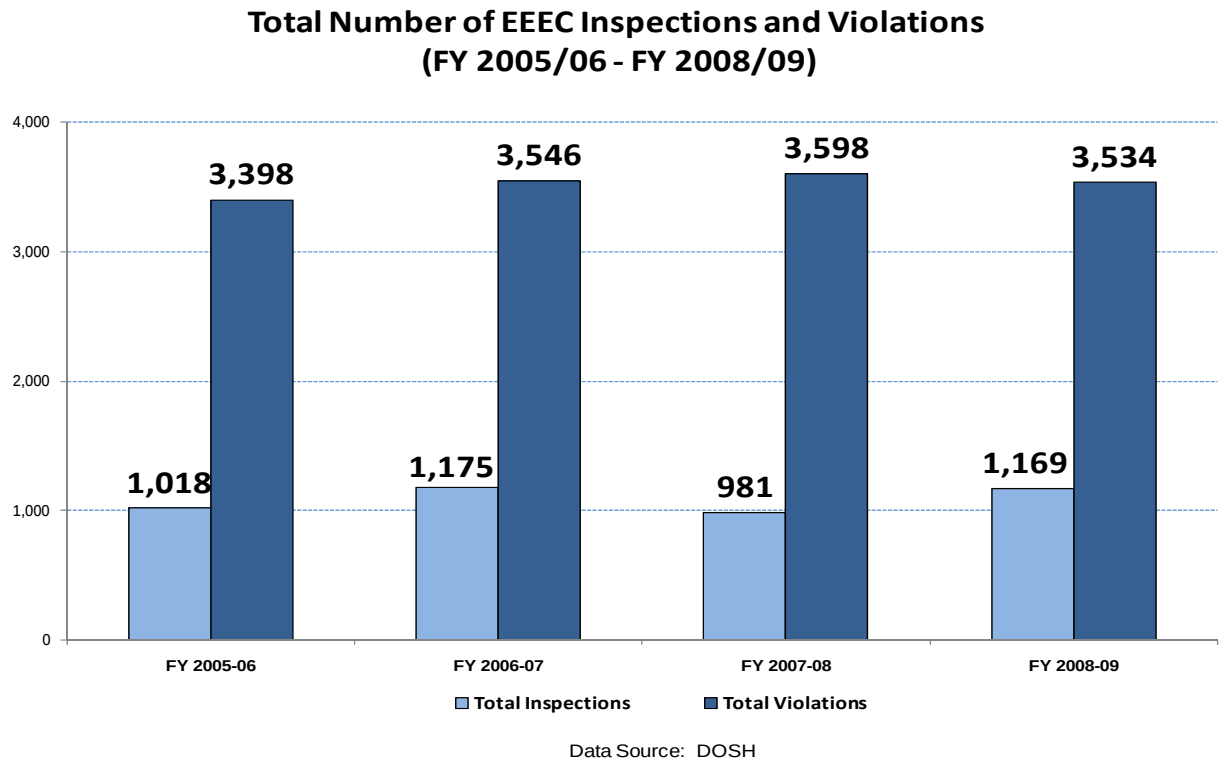
Data Source: DOSH

Economic and Employment Enforcement Coalition[19]

According to the DIR website, "For decades California has had some of the strongest labor and workforce safety laws in the country." To help enforce these labor laws and regulations, the "Triple E.C." Coalition, the Economic and Employment Enforcement Coalition (EEEC), was created in 2005 as a multi-agency enforcement program consisting of investigators from the Division of Labor Standards Enforcement (DLSE), DOSH, Employment Development Department (EDD), Contractors State License Board, and U.S. DOL. The primary emphasis of EEEC is to combine enforcement efforts. EEEC is a partnership of state and federal agencies, each expert in their own field, collaborating to:

- Educate business owners and employees on federal and state labor, employment and licensing laws.
- Conduct vigorous and targeted enforcement against labor law violators.
- Help level the playing field and restore the competitive advantage to law-abiding businesses and their employees."[20]

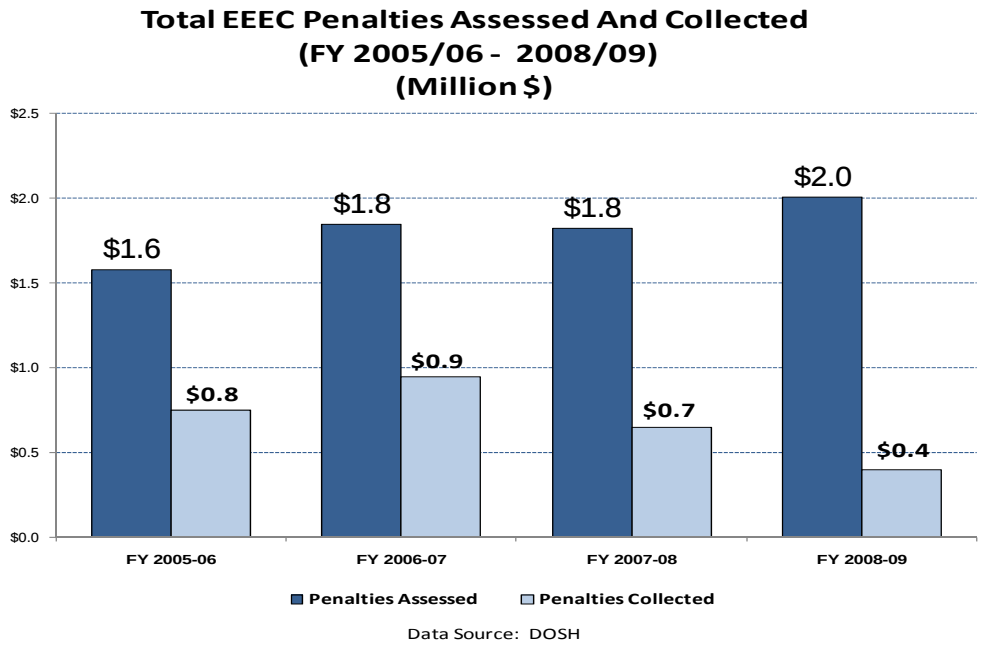
Given the newness of EEEC, there are only four full years of data. Total EEEC inspections rose from FY 2005-06 to FY 2008-09, from 1,018 to 1,169, respectively, and violations increased from 3,398 to 3,534 from FY 2005-06 to FY 2008-09. The penalties given were $1.6 million in FY 2005-06 and $2.0 million in FY 2008-09; however, only $0.8 million (50 percent) were collected in FY 2005-06 and $0.4 million (20 percent) in FY 2008-09. The following two charts illustrate the comparisons.[21]



[19] For further information about the EEEC, visit any of these agency links: http://www.dir.ca.gov/EEEC/EEEC.html, or http://www.edd.ca.gov/eddeeec.htm, or http://www.labor.ca.gov/eeec.htm

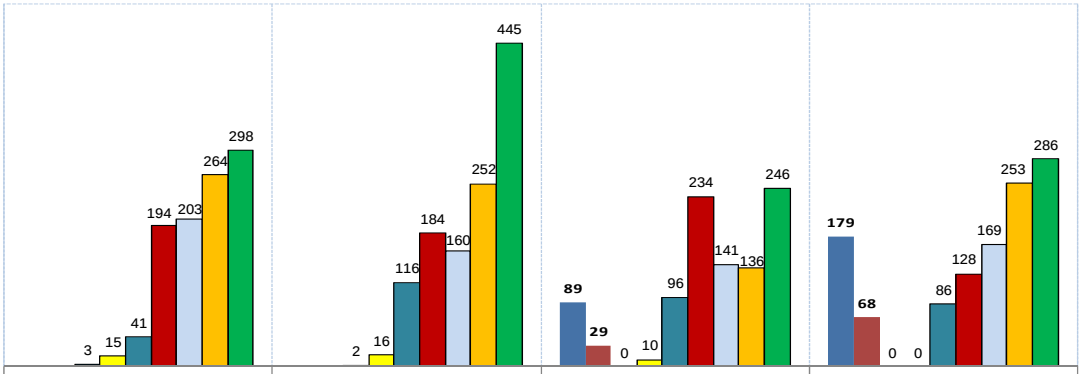
[20] http://www.dir.ca.gov/EEEC/EEEC.html

[21] Data provided by DOSH. These totals reflect only DOSH citations and penalties; other types of Labor Code citations and penalties resulting from the enforcement action are independently accounted for by the respected agency or unit.



The four charts below describe EEEC inspections and violations by industry, along with the penalties assessed and collected. Construction and agriculture have led in the number of inspections in all four fiscal years, except for FY 2007-08, when inspections in the garment industry reached 234. The auto body, construction, restaurant and garment industries had the greatest number of violations in FY 2008-09. However, garment and construction industries' violations decreased by 55 percent and 25 percent respectively from FY 2007-08 to FY 2008-09, while the auto body and restaurant industries' violations increased by 156 percent and 22.4 percent respectively during the same period. Agriculture and auto body industries are leading in penalties assessed for the FY 2008–09.

EEEC Report: Inspections FY 2005/06 - FY 2008/09



	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
Auto Body	N/A	N/A	89	179
Pallet	N/A	N/A	29	68
Race Track	3	2	0	0
Janitorial	15	16	10	0
Car Wash	41	116	96	86
Garment	194	184	234	128
Restaurant	203	160	141	169
Agriculture	264	252	136	253
Construction	298	445	246	286

Data Source: DIR - DOSH

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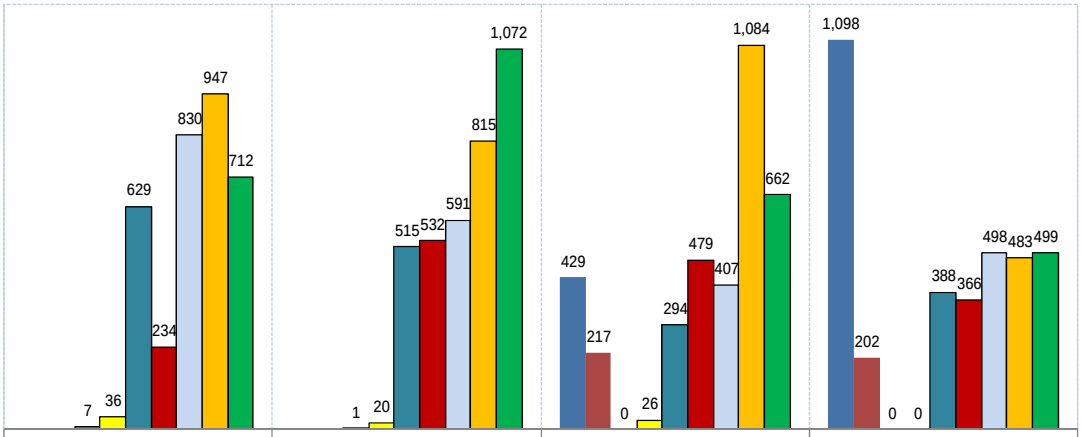
EEEC Report: Violations FY 2005/06 - FY 2008/09

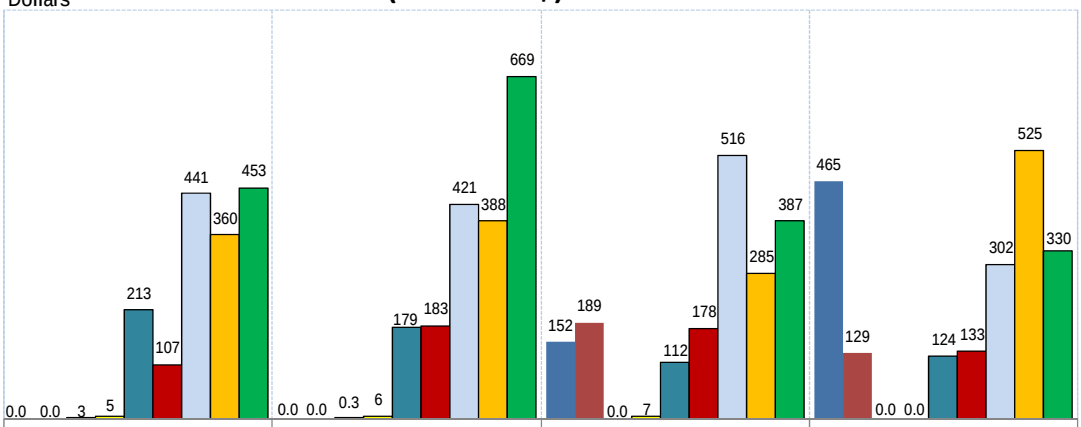


	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
Auto Body	N/A	N/A	429	1,098
Pallet	N/A	N/A	217	202
Race Track	7	1	0	0
Janitorial	36	20	26	0
Agriculture	629	515	294	388
Car Wash	234	532	479	366
Restaurant	830	591	407	498
Garment	947	815	1,084	483
Construction	712	1,072	662	499

Data Source: DIR - DOSH

EEEC Report: Penalties Assessed FY 2005/06 - FY 2008/09 (Thousand $)

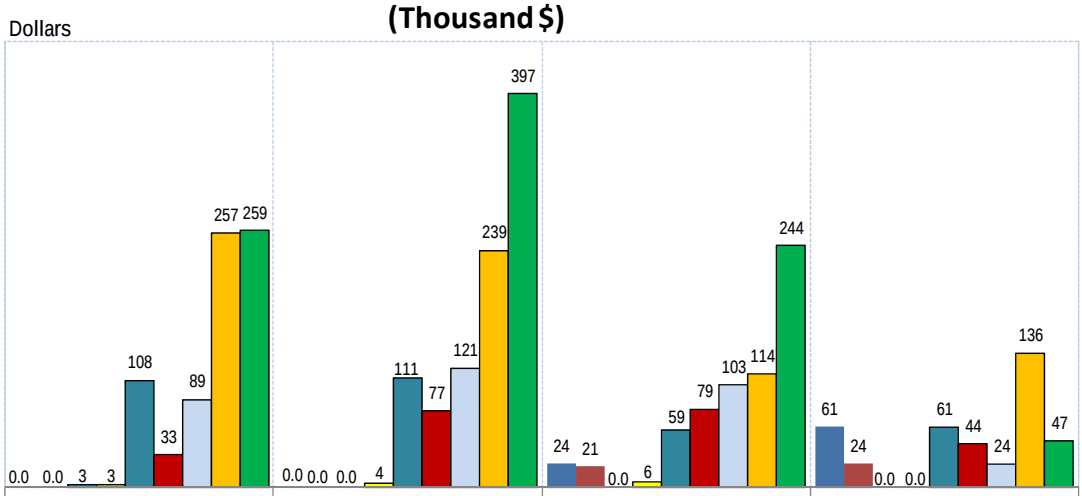
Dollars



	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
Auto Body	0.0	0.0	152	465
Pallet	0.0	0.0	189	129
Race Track	3	0.3	0.0	0.0
Janitorial	5	6	7	0.0
Restaurant	213	179	112	124
Car Wash	107	183	178	133
Garment	441	421	516	302
Agriculture	360	388	285	525
Construction	453	669	387	330

Data Source: DIR - DOSH

EEEC Report: Penalties Collected FY 2005/06 - FY 2008/09 (Thousand $)



	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
Auto Body	0.0	0.0	24	61
Pallet	0.0	0.0	21	24
Race Track	3	0.0	0.0	0.0
Janitorial	3	4	6	0.0
Restaurant	108	111	59	61
Car Wash	33	77	79	44
Garment	89	121	103	24
Agriculture	257	239	114	136
Construction	259	397	244	47

Data Source: DIR - DOSH

High Hazard Identification, Consultation and Compliance Programs

The 1993 reforms of the California workers' compensation system required Cal/OSHA to focus its consultative and compliance resources on "employers in high hazardous industries with the highest incidence of preventable occupational injuries and illnesses and workers' compensation losses."

High Hazard Employer Program

The High Hazard Employer Program (HHEP) is designed to:

- Identify employers in hazardous industries with the highest incidence of preventable occupational injuries and illnesses and workers' compensation losses.
- Offer and provide consultative assistance to those employers to eliminate preventable injuries and illnesses and workers' compensation losses.
- Inspect those employers on a random basis to verify that they have made appropriate changes in their health and safety programs.
- Develop appropriate educational materials and model programs to aid employers in maintaining a safe and healthful workplace.

In 1999, the passage of Assembly Bill (AB) 1655 gave DIR the statutory authority to levy and collect assessments from employers to support the targeted inspection and consultation programs on an ongoing annual basis.

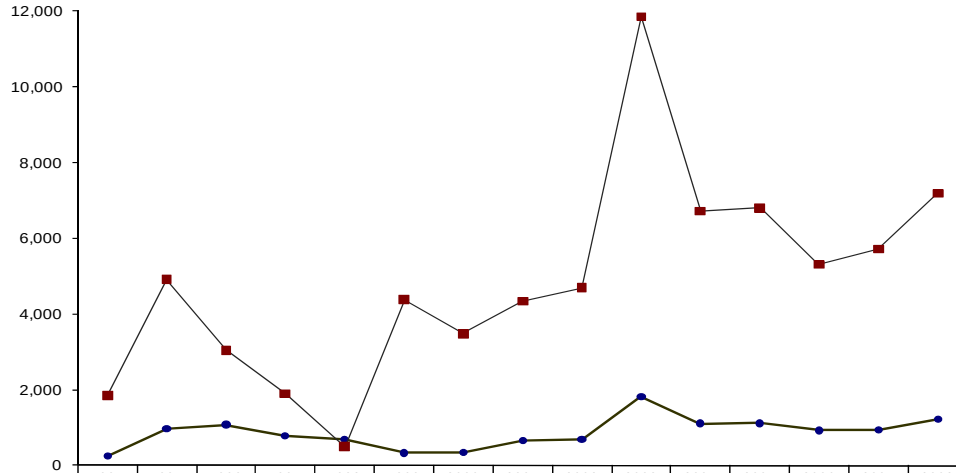
High Hazard Consultation Program

DOSH reports that in 2008, it provided on-site high hazard consultative assistance to 1,231 employers, as compared to 942 employers in 2007. During consultation with these employers, 7,190 Title 8 violations were observed and corrected as a result of the provision of consultative assistance.

Since 1994, 12,939 employers have been provided direct on-site consultative assistance, and 72,701 Title 8 violations have been observed and corrected. Of these violations, 37.2 percent or 27,045 were classified as "serious."

The following chart indicates the yearly number of consultations and violations observed and corrected during the years 1994-2008. It should be noted that for years 2002 and 2003, all Consultative Safety and Health Inspection Projects (SHIPs) were included in the High Hazard Consultation Program figures. Effective 2004, only SHIPs with experience modification (Ex-mod) rates of 125 percent and above are included in the High Hazard Consultation Program figures.

High Hazard Consultation Program Production by Year



	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Number of Employers with High Hazard Consultative Assistance	249	978	1,080	773	680	329	348	663	688	1,824	1,112	1,116	926	942	1,231
Total Number of Title 8 Violations Observed and Corrected	1,848	4,912	3,045	1,898	496	4,385	3,481	4,336	4,691	11,861	6,725	6,808	5,308	5,717	7,190

Data Source: Division of Occupational Safety and Health

The efficacy of High Hazard Consultation is measured by comparisons of employer lost-and-restricted-workday data. Beginning in 2001, Log 200 was replaced with Log 300 as the source for lost and restricted workday data. The use of the Lost Work Day Case Incidence (LWDI) rate was transitioned and replaced with the Days Away, Restricted, or Transferred (DART) rate. Additionally, High Hazard Consultation uses Ex-mod rates to measure efficacy.

High Hazard Enforcement Program

DOSH reports that in 2008, 427 employers underwent a targeted high hazard enforcement inspection, down from 477 employers in 2007. During these inspections in 2008, 2,328 violations were observed and cited, whereas in 2007, 2,405 violations were observed and cited.

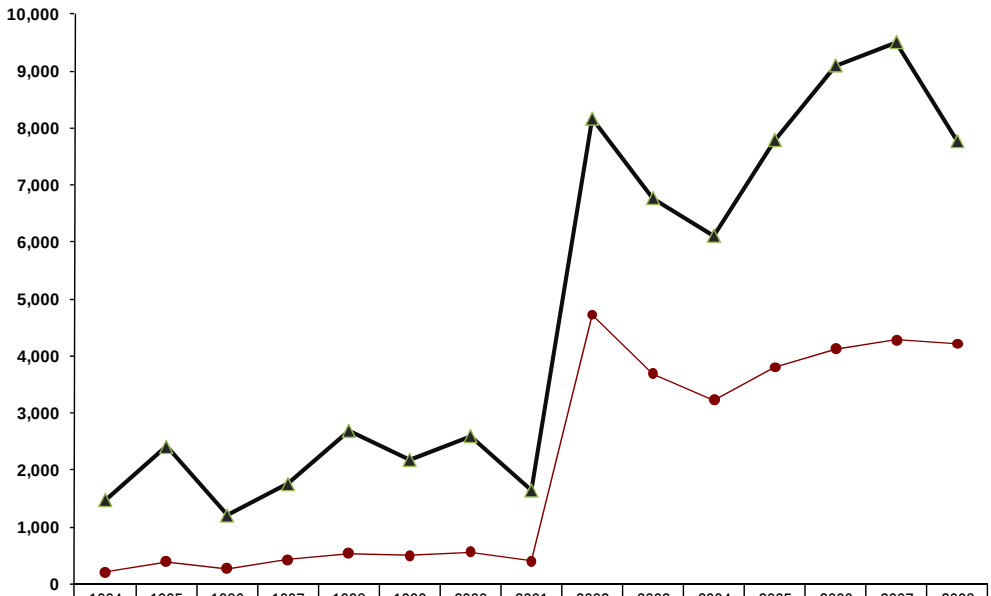
In addition, in 2008, 845 employers underwent an inspection as part of the Agricultural Safety and Health Inspection Project (ASHIP). Of these, 31 inspections were also targeted. During these inspections, 1,335 violations were observed and cited.

In addition, in 2008, 2,942 employers underwent an inspection as part of the Construction Safety and Health Inspection Project (CSHIP). Of these, 21 inspections were also targeted. During these inspections, 4,108 violations were observed and cited.

Since 1994, 31,874 employers have undergone a high hazard enforcement inspection, and 71,861 Title 8 violations have been observed and cited. Of these violations, 33.9 percent were classified as "serious."

The chart below indicates the yearly number of targeted inspections and violations observed and cited during the years 1994-2008. It should be noted that effective 2002, the Safety and Health Inspection Projects (SHIPs) are included in the High Hazard Enforcement Program figures.

High Hazard Enforcement Program Inspections and Violations



	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Total High Hazard Inspections	207	396	270	423	540	499	560	401	4,724	3,692	3,229	3,804	4,128	4,277	4,214
Total High Hazard Violations	1,482	2,411	1,211	1,761	2,696	2,186	2,603	1,650	8,164	6,774	6,113	7,791	9,098	9,506	7,771

Data Souce: Division of Occupational Safety and Health

The same lost-and-restricted-workday methodology is used for both the High Hazard Consultation and Enforcement programs. Efficacy is measured by comparisons of employer lost-and-restricted-workday data.

Beginning in 2001, Log 200 was replaced with Log 300 as the source for lost-and-restricted-workday data. The use of the LWDI rate was transitioned and replaced with the DART rate.

Safety Inspections

DOSH has two major units devoted to conducting inspections to protect the public from safety hazards:

- The Elevator, Ride and Tramway Unit conducts public safety inspections of elevators, amusement rides, both portable and permanent, and aerial passenger tramways or ski lifts.
- The Pressure Vessel Unit conducts public safety inspections of boilers (pressure vessels used to generate steam pressure by the application of heat, air and liquid storage tanks), and other types of pressure vessels.

Health and Safety Standards

The Occupational Safety and Health Standards Board (OSHSB), a seven-member body appointed by the Governor, is the standards-setting agency within the Cal/OSHA program. The mission of OSHSB is to promote, adopt and maintain reasonable and enforceable standards that will ensure a safe and healthy workplace for California workers.

To meet the DIR Goal 1 on ensuring that California workplaces are lawful and safe, the Board shall pursue the following goals:

- Adopt and maintain effective occupational safety and health standards.
- Evaluate petitions to determine the need for new or revised occupational safety and health standards.
- Evaluate permanent variance applications from occupational safety and health standards to determine if equivalent safety will be provided.

OSHSB also has the responsibility to grant or deny applications for variances from adopted standards and respond to petitions for new or revised standards. The OSHSB safety and health standards provide the basis for Cal/OSHA enforcement.

For further information …

www.dir.ca.gov/OSHSB/oshsb.html

Ergonomics Standards

Efforts to adopt an ergonomics standard in California and the U.S. are outlined in the following state and federal histories.

Ergonomics Standard in California: A Brief History

July 16, 1993
Governor Pete Wilson signs a package of bills that enacts major reform of California's workers' compensation system. A provision in AB 110 (Peace) added Section 6357 to the Labor Code requiring the Occupational Safety and Health Standards Board (OSHSB) to adopt workplace ergonomics standards by January 1, 1995, in order to minimize repetitive motion injuries.

January 18 and 23, 1996
OSHSB holds public hearings on the proposed ergonomics standard and receives over 900 comments from 203 commentators. The proposed standards are revised.

July 15, 1996
OSHSB provides a 15-day public comment period on revisions to proposed standards.

September 19, 1996
OSHSB discusses the proposal at its business meeting and makes further revisions.

October 2, 1996
OSHSB provides a 15-day public comment period on the further revisions.

November 14, 1996
OSHSB adopts the proposal at its business meeting and submits it to the state Office of Administrative Law (OAL) for review and approval.

January 2, 1997
OAL disapproves the proposed regulations based on clarity issues.

February 25, 1997
OSHSB provides a 15-day public comment period on new revisions addressing OAL concerns.

April 17, 1997
OSHSB adopts the new revisions and resubmits the proposal to OAL.

June 3, 1997
Proposed ergonomics standard is approved by OAL and becomes Title 8, California Code Regulations (8 CCR), Section (§) 5110, Repetitive Motion Injuries.

July 3, 1997
The ergonomics standard – 8 CCR §5110 - becomes effective.

September 5, 1997
Sacramento Superior Court holds a hearing to resolve the legal disputes filed by labor and business industries.

October 15, 1997
Judge James T. Ford of the Sacramento Superior Court issued a Peremptory Writ of Mandate, Judgment, and Minute Order relative to challenges brought before the Court. The Order invalidated the four parts of the standard.

December 12, 1997
OSHSB appealed Judge Ford's Order with its legal position that the Judge's Order would be stayed pending a decision by the Court of Appeal.

(Continued on following page)

Source: OSHSB

Federal Ergonomics Standard: A Brief History

1990
Former United States Secretary of Labor Elizabeth Dole pledges to "take the most effective steps necessary to address the problem of ergonomic hazards on an industry-wide basis."

July 1991
OSHA publishes "Ergonomics: The Study of Work." More than 30 organizations petition Secretary of Labor to issue an Emergency Temporary Standard.

April 1992
Secretary of Labor denies petition for Emergency Temporary Standard.

August 1992
OSHA publishes an Advance Notice of Proposed Rulemaking on ergonomics.

1993
OSHA conducts survey to obtain information on the extent of ergonomics programs.

March 1995
OSHA begins meeting with stakeholders to discuss approaches to drafting an ergonomics standard.

January 1997
OSHA/NIOSH conference on successful ergonomics programs.

February 1998
OSHA begins meetings with national stakeholders about the draft ergonomics standard under development.

February 1999
OSHA begins small business review (SBREFA) of its draft and makes draft regulatory text available to the public.

April 1999
OSHA receives SBREFA report on draft and begins to address the concerns raised in the report.

November 23, 1999
OSHA publishes proposed ergonomics program standard by filing in the Federal Register (64 FR 65768). OSHA asks for written comments from the public, including materials such as studies and journal articles and notices of intention to appear at informal public hearings.

March-May 2000
Informal public hearings held in Washington D.C. (March 13 - April 7, May 8-12), Chicago (April 11-21) and Portland (April 24 - May 5).

May 24, 2000
The House Appropriations Committee votes to amend $342 billion spending bill by barring the Occupational Safety and Health Administration from using their budget to promulgate, issue, implement, administer or enforce any ergonomics standard. President Clinton responds by threatening to veto the bill.

Source: OSHSB

(Continued on following page)

Federal Ergonomics Standard: A Brief History (continued)

November 14, 2000
OSHA issues Ergonomics Program Standard.

January 16, 2001
Final Ergonomics Program Standard - 29 CFR 1910.900 - becomes effective. The standard was challenged in court with over 30 lawsuits.

March 20, 2001
President George W. Bush signs into law S.J. Res. 6, a measure that repeals the ergonomic regulation. This is the first time the Congressional Review Act has been put to use. The Congressional Review Act allows Congress to review every new federal regulation issued by the government agencies and, by passage of a joint resolution, overrule a regulation.

April 23, 2001
Federal OSHA publishes a notice in the Federal Register stating that the former 29 CFR 1910.900 was repealed as of that date.

April 26, 2001
Secretary of Labor Elaine L. Chao testifies before the Subcommittee on Labor, Health and Human Services, and Education of the Senate Appropriations Committee, about reducing musculoskeletal disorders in the workplace.

April 5, 2002
The Occupational Safety and Health Administration unveils a comprehensive plan designed to reduce ergonomic injuries through "a combination of industry-targeted guidelines, tough enforcement measures, workplace outreach, advanced research, and dedicated efforts to protect Hispanic and other immigrant workers."

Source: OSHSB

Occupational Health and Safety Appeals Board (OSHAB)

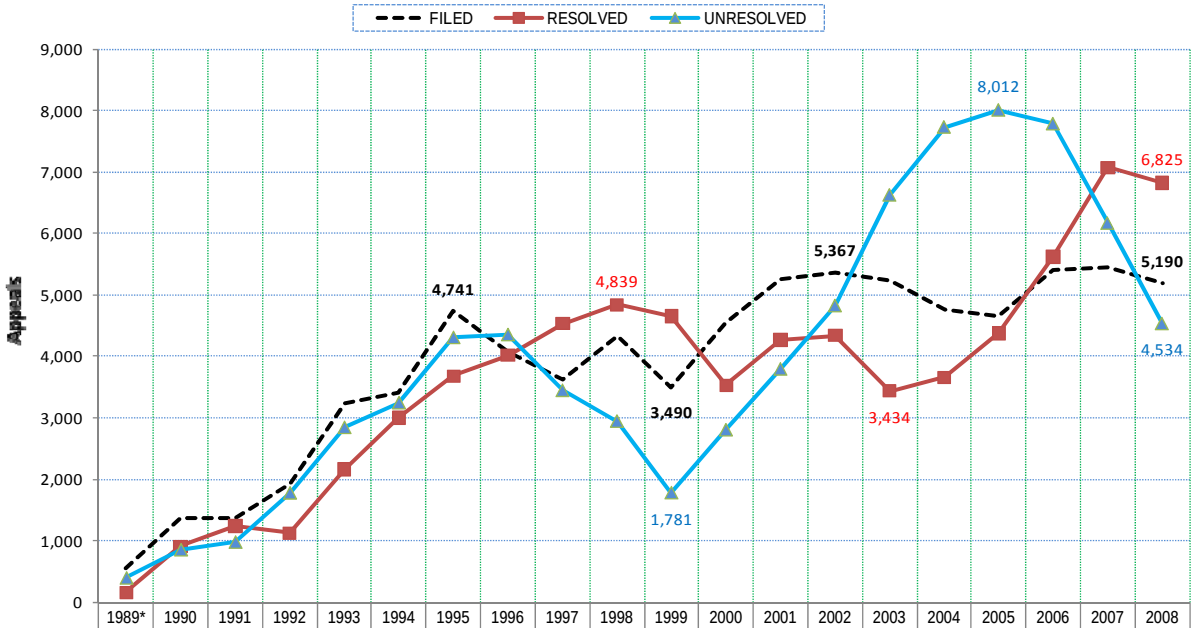
The Occupational Safety and Health Appeals Board (OSHAB) consists of three members appointed by the governor for four-year terms. By statute, the members are selected each from the field of management, labor and the general public. The chairman is selected by the governor.

The mission of OSHAB is to fairly, timely and efficiently resolve appeals and to provide clear, consistent guidance to the public, thereby promoting workplace health and safety. OSHAB handles appeals from private and public sector employers regarding citations issued by DOSH for alleged violation of workplace health and safety laws and regulations.

The chart below shows the OSHAB workload: appeals filed, resolved, and unresolved. From 1989, when Cal/OSHA Program was reintroduced, the numbers of appeals filed with OSHAB yearly have been growing steadily until 1995, reaching 4,741 cases in 1995. From 1995 to 2008, the number of appeals filed yearly stabilized at average number of 4,720 cases, with a maximum 5,367 appeals filed in 2002.

From 1989 to 1996, an average of 82 percent of filed appeals was resolved each year. From 1997 to 2000, the OSHAB processed appeals in a shorter time frame (10 months) than the Fed/OSHA standard, averaging 123 percent of yearly filed cases; therefore, the number of unresolved appeals reached its minimum in 1999. From 2000 to 2006, the processed appeals had slowed down again because an average of 83 percent of filed appeals was resolved each year, increasing the number of unresolved cases to its maximum of 8,000 cases in 2005. From 2005 to 2008, the numbers of unresolved cases decreased by 43 percent because an average of 131 percent of yearly filed cases were resolved in 2007 and 2008.

Occupational Health and Safety Appeals Board (OSHAB) Workload, 1989*- 2008



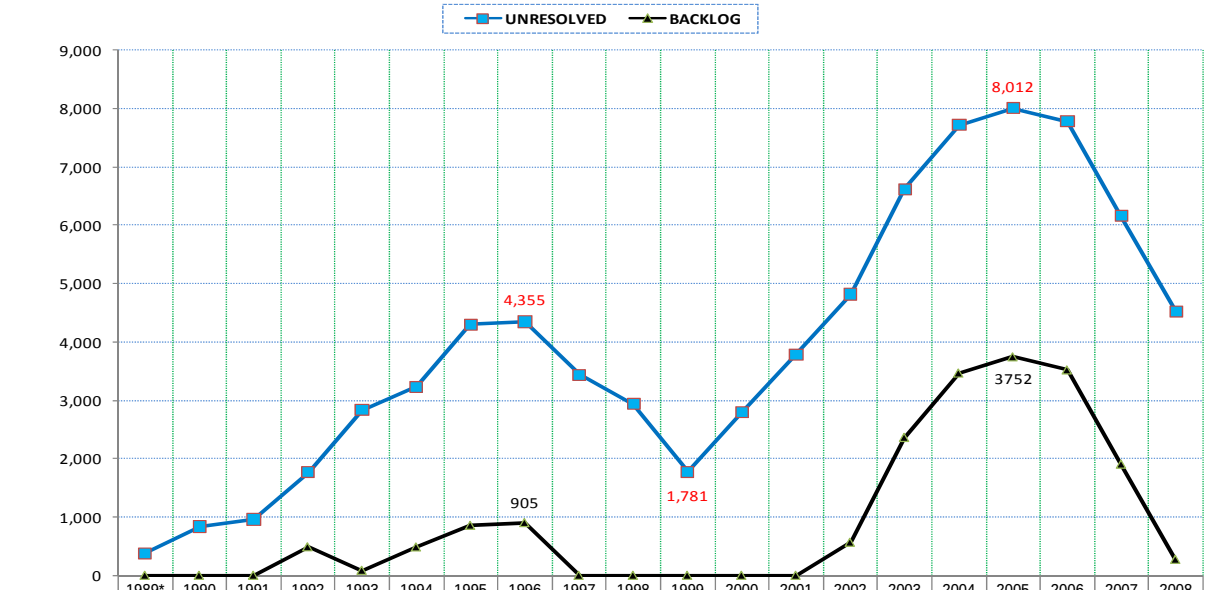
	1989*	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
FILED	550	1,369	1,367	1,923	3,228	3,400	4,741	4,067	3,623	4,338	3,490	4,555	5,255	5,367	5,235	4,762	4,651	5,396	5,457	5,190
RESOLVED	156	911	1,241	1,123	2,161	2,999	3,679	4,020	4,531	4,839	4,655	3,530	4,265	4,336	3,434	3,656	4,373	5,621	7,075	6,825
UNRESOLVED	394	852	978	1,778	2,845	3,246	4,308	4,355	3,447	2,946	1,781	2,806	3,796	4,827	6,628	7,734	8,012	7,787	6,169	4,534

* 1989 was the year when the Cal/OSHA Program was re-engaged

Data Source: OSHAB

The trend and level of backlogged appeals reflect changes in unresolved cases as they accumulate from previous years. As the chart below shows, the pattern of backlog repeats the pattern of unresolved cases described in the above paragraph.

Occupational Health and Safety Appeals Board (OSHAB) Backlogs, 1989* - 2008



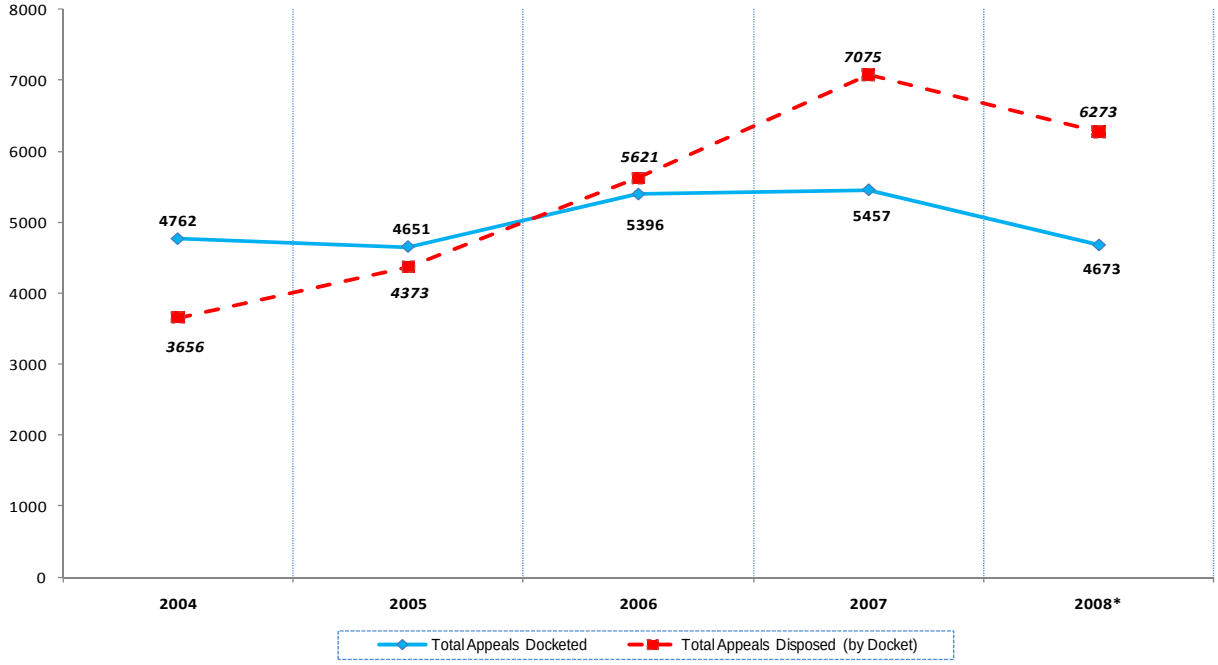
	1989*	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
UNRESOLVED	394	852	978	1,778	2,845	3,246	4,308	4,355	3,447	2,946	1,781	2,806	3,796	4,827	6,628	7,734	8,012	7,787	6,169	4,534
BACKLOG	0	0	0	488	85	486	858	905	0	0	0	0	0	567	2368	3474	3752	3527	1909	274

* 1989 was the year when the Cal/OSHA Program was re-engaged

Data Source: OSHAB

The chart below shows the total number of appeals docketed and disposed from 2004 to 2008.

Occupational Safety and Health Appeals Board (OSHAB)
Appeals Docketed and Disposed



* Data was available for 11 months.

Data Source: OSHAB

Educational and Outreach Programs

In conjunction and cooperation with the entire health and safety and workers' compensation community, DIR administers and participates in several major efforts to improve occupational health and safety through education and outreach programs.

Worker Occupational Safety and Health Training and Education Program

The Commission on Health and Safety and Workers' Compensation (CHSWC) is mandated by Labor Code Section 6354.7 to maintain the Worker Occupational Safety and Health Training and Education Program (WOSHTEP). The purpose of WOSHTEP is to promote injury and illness prevention programs.

The California Partnership for Young Worker Health and Safety

CHSWC has convened the California Partnership for Young Worker Health and Safety. The Partnership is a statewide task force that brings together government agencies and statewide organizations representing educators, employers, parents, job trainers and others. The Partnership develops and promotes strategies to protect youth at work and provides training, educational materials, technical assistance, and information and referrals to help educate young workers.

Cal/OSHA Consultation

Consultative assistance is provided to employers through on-site visits, telephone support, publications and educational outreach. All services provided by Cal/OSHA Consultation are provided free of charge to California employers.

Partnership Programs

California has developed several programs that rely on industry, labor, and government to work as partners in encouraging and recognizing workplace health and safety programs that effectively prevent and control injuries and illnesses to workers. These partnership programs include the Voluntary Protection Program (VPP), Golden State, SHARP, Golden Gate, and special alliances formed between industry, labor and OSHA.

WORKERS' COMPENSATION SYSTEM PERFORMANCE

Introduction

CHSWC examines the overall performance of the entire health and safety and workers' compensation system to determine whether it meets the State's Constitutional objective to "accomplish substantial justice in all cases expeditiously, inexpensively, and without encumbrance of any character."

In this section, CHSWC has attempted to provide performance measures to assist in evaluating the system impact on everyone, particularly workers and employers.

- Workers' Compensation Appeals Board (WCAB) Workload
  - DWC Opening Documents
  - DWC Hearings
  - DWC Decisions
  - DWC Lien Decisions
  - DWC Audits
- Disability Evaluation Unit Data
- Medical Provider Networks and Healthcare Organizations
- Carve-outs – Alternative Workers' Compensation Systems
- Fraud Statistics

WCAB WORKLOAD

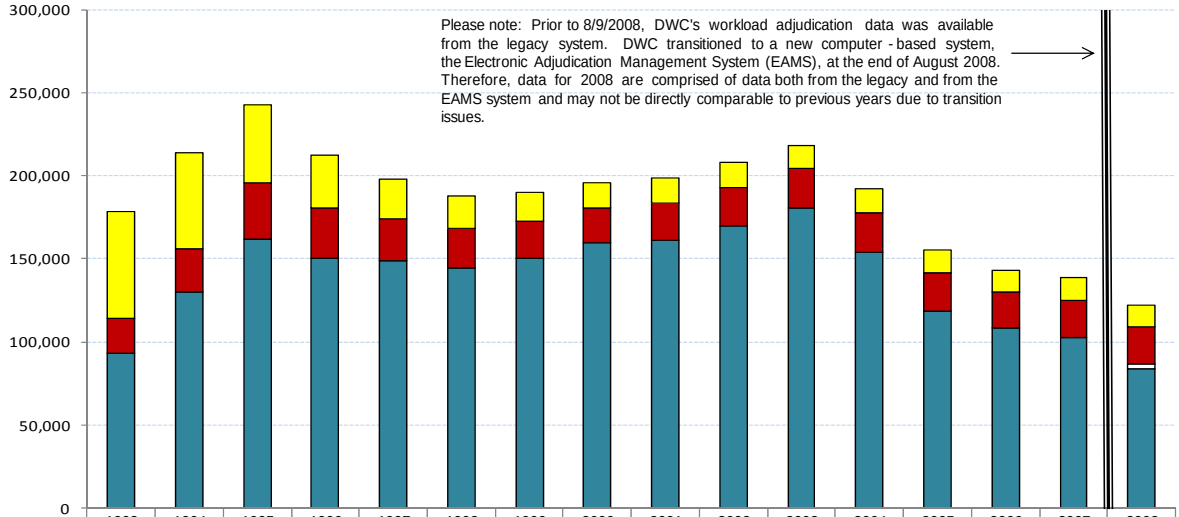
Division of Workers' Compensation Opening Documents

Three types of documents open a Workers' Compensation Appeals Board (WCAB) case. The following chart shows the numbers of Applications for Adjudication of Claim (Applications), Original Compromise and Releases (C&Rs), and Original Stipulations (Stips) received by the Division of Workers' Compensation (DWC).

The number of documents filed with DWC to open a WCAB case on a workers' compensation claim fluctuated during the early and mid-1990s, leveled off during the late 1990s, increased slightly between 2000 and 2003, and decreased between 2003 and 2007. Prior to August 9, 2008, DWC's workload adjudication data were available from the legacy system. DWC transitioned to a new computer-based system, the Electronic Adjudication Management System (EAMS), at the end of August 2008. Therefore, data for 2008 are comprised of data both from the legacy and from the EAMS system and may not be directly comparable to previous years due to transition issues.

The period from 1993 to 1996 shows substantial increases in Applications, slight increases in Stips, and significant decreases in C&Rs during the period from 1993 to 1995. Through 2003, C&Rs continued to decline, while Applications increased. Between 2003 and 2007, Applications declined substantially, and C&Rs decreased slightly. 2007 was the lowest year since 1992 for all three documents combined, with C&Rs nearing a historic low in 2006 followed by a slight increase in 2007.

DWC Opening Documents

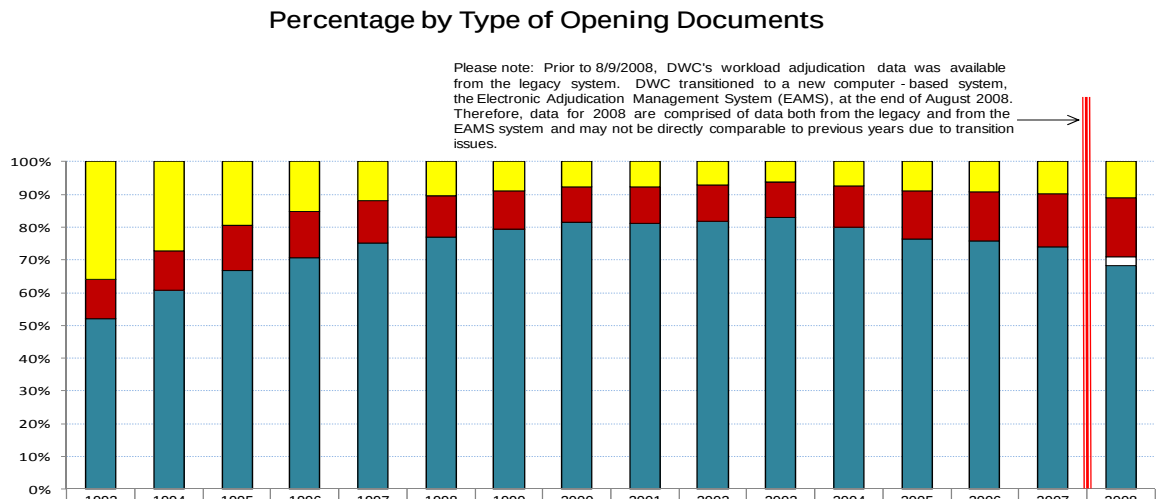


	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Original C&R	64,468	58,191	46,777	32,223	23,344	19,526	16,809	14,884	15,374	14,729	13,665	14,115	13,868	13,156	13,602	13,297
Original Stips	21,348	25,650	34,056	30,143	25,467	23,578	22,394	21,288	22,052	22,972	23,600	24,281	23,015	21,723	22,513	22,246
Other	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	3,136
Applications	92,944	130,217	161,724	150,344	148,787	144,855	150,612	159,467	161,469	169,996	180,782	153,625	118,524	108,313	102,498	83,528
Total	178,760	214,058	242,557	212,710	197,598	187,959	189,815	195,369	198,895	207,697	218,047	192,021	155,407	143,192	138,613	122,207

Data Source: DWC

Mix of DWC Opening Documents

As shown in the following graph, the proportion or mix of the types of case-opening documents received by DWC varied during the 1990s. The proportion of Applications was rising from 1993 through 2003 and declining slightly from 2003 to 2007**.** The proportion of original (case-opening) Stips averaged 12 percent from 1993 to 2003 and then increased from 2003 to 2007. The proportion of original C&Rs declined from 1993 to 2003 and then increased from 2003 to 2007.



	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Original C&R	36%	27%	19%	15%	12%	10%	9%	8%	8%	7%	6%	7%	9%	9%	10%	11%
Original Stips	12%	12%	14%	14%	13%	13%	12%	11%	11%	11%	11%	13%	15%	15%	16%	18%
Other	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	3%
Applications	52%	61%	67%	71%	75%	77%	79%	82%	81%	82%	83%	80%	76%	76%	74%	68%

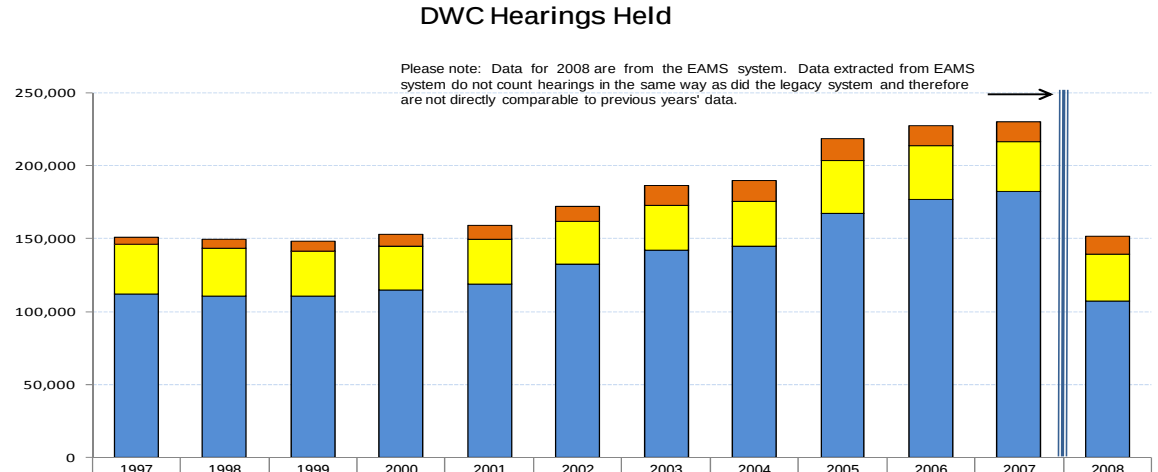
Data Source: DWC

Division of Workers' Compensation Hearings

Numbers of Hearings

The graph below indicates the numbers of different types of hearings held in DWC from 1997 through 2008. While the total number of hearings held increased by 52 percent from 1997 to 2007, the number of expedited hearings grew by about 162 percent during the same period.

Expedited hearings for certain cases, such as determination of medical necessity, may be requested pursuant to Labor Code Section 5502(b). Per Labor Code Section 5502(d), Initial 5502 Conferences are to be conducted in all other cases within 30 days of the receipt of a Declaration of Readiness (DR), and Initial 5502 Conference. Trials are to be held within 75 days of the receipt of a DR if the issues were not settled at the Initial 5502 Conference.



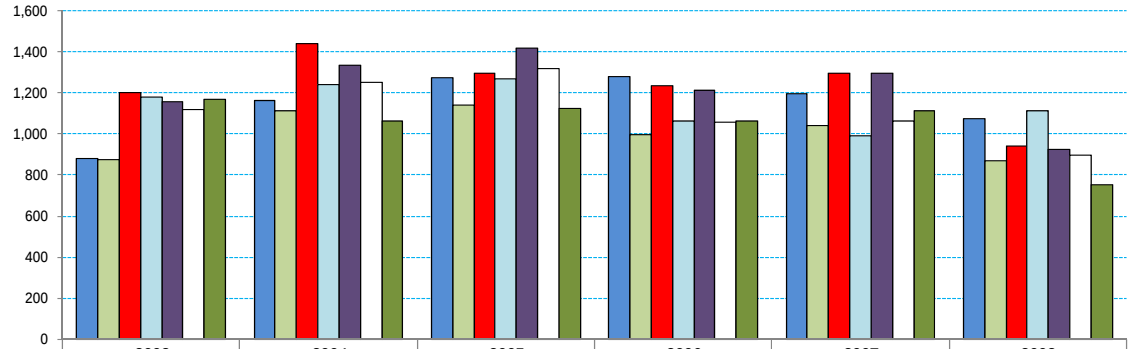
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Expedited Hrg	5,077	5,944	7,247	8,195	9,693	10,321	13,722	14,640	14,662	13,353	13,307	12,612
Initial 5502 Trials	34,011	33,114	30,811	30,245	30,285	29,635	30,967	30,100	36,235	36,788	34,110	31,967
Initial 5502 Conf	111,811	110,498	110,412	114,705	118,921	132,389	141,703	145,022	167,417	176,731	182,454	107,260
Total	150,899	149,556	148,470	153,145	158,899	172,345	186,392	189,762	218,314	226,872	229,871	151,839

Data Source: DWC

DWC Expedited Hearings

The chart below compares the number of expedited hearings from January through July of 2003, to 2008. Except for July the number of hearings during each month increased between 2003 and 2005. However between 2005 and 2008, the number of expedited hearings decreased in all the months.

DWC Expedited Hearings Held
(January - July, 2003-2008)



	2003	2004	2005	2006	2007	2008
Jan	882	1,165	1,272	1,277	1,197	1,072
Feb	876	1,114	1,141	999	1,040	870
Mar	1,202	1,438	1,295	1,233	1,295	939
Apr	1,182	1,241	1,266	1,061	992	1,113
May	1,156	1,337	1,420	1,215	1,293	927
Jun	1,116	1,253	1,316	1,056	1,062	896
Jul	1,167	1,061	1,124	1,065	1,115	753

Data Source: DWC

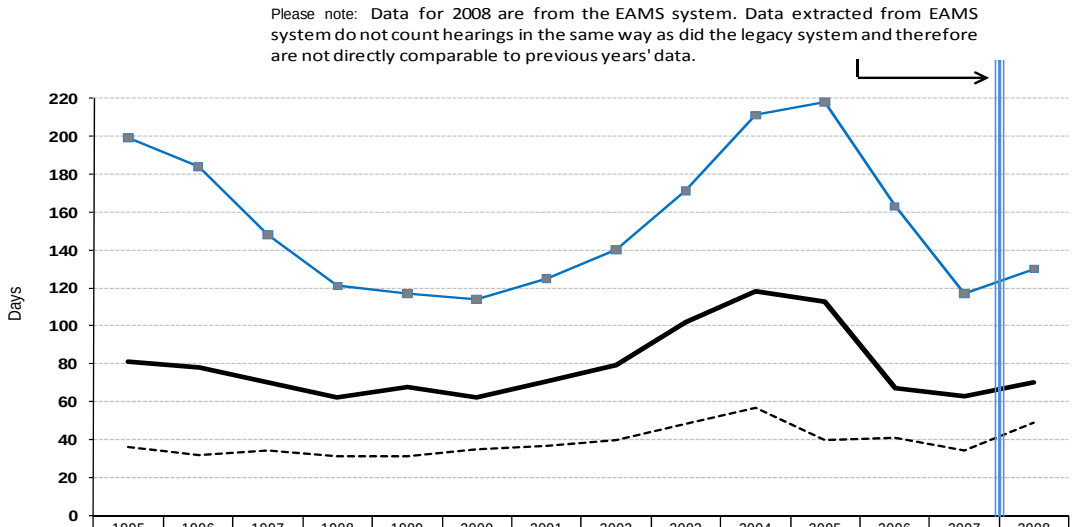
Timeliness of Hearings

California Labor Code Section 5502 specifies the time limits for various types of hearings conducted by DWC on WCAB cases. In general:

- A conference is required to be held within 30 days of the receipt of a request in the form of a DR.
- A trial must be held either within 60 days of the request or within 75 days if a settlement conference has not resolved the dispute.
- An expedited hearing must be held within 30 days of the receipt of the DR.

As the following chart shows, the average elapsed time from a request to a DWC hearing decreased in the mid-1990s to late-1990s and then remained fairly constant. From 2000 to 2004, all of the average elapsed times have increased from the previous year's quarter and none were within the statutory requirements. However, between 2005 and 2007, the average elapsed time from the request to a trial decreased by 46 percent. The average elapsed time for conferences decreased by 44 percent, while the average time for expedited hearings decreased by 15 percent.

Elapsed Time in Days from Request to DWC Hearing (4th Quarter)



	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
First 5502 Conference	81	78	70	62	68	62	71	79	102	118	113	67	63	70
First 5502 Trial	199	184	148	121	117	114	125	140	171	211	218	163	117	130
Expedited Hearing	36	32	34	31	31	35	37	40	48	57	40	41	34	49

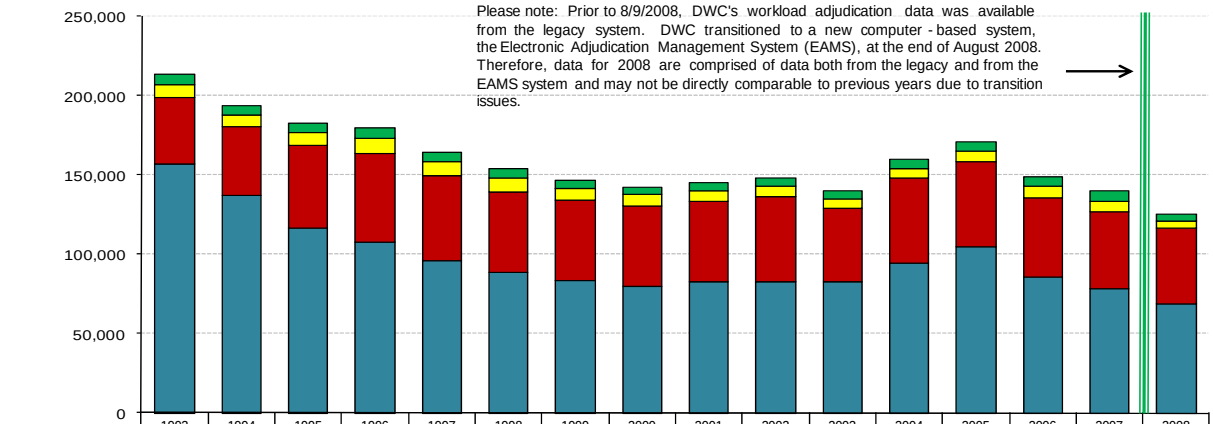
Source: DWC

Division of Workers' Compensation Decisions

DWC Case-Closing Decisions

The number of decisions made by DWC that are considered to be case-closing declined overall during the 1990s, with a slight increase from 2000 to 2002, followed by a decrease in 2003, and then an increase between 2003 and 2005**.** In 2007, the total for case-closing decisions decreased by 18 percent compared to 2005.

DWC Case-Closing Decisions



	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
F & O	6,461	5,877	6,043	6,780	6,261	6,021	5,205	4,606	4,470	4,866	4,677	5,221	5,873	5,883	6,331	4,666
F & A	8,304	7,560	7,890	9,450	8,656	8,290	7,487	7,313	6,786	6,996	5,910	5,989	6,634	7,265	6,865	4,475
Stipulation	41,881	43,318	52,537	56,368	53,863	51,074	50,371	50,223	51,113	53,640	46,248	54,216	53,889	49,748	48,469	48,140
C & R	156,999	137,162	116,485	107,407	95,760	88,501	83,512	80,039	82,506	82,433	83,060	94,153	104,829	85,641	78,120	68,444
Total Case Closing	213,645	193,917	182,955	180,005	164,540	153,886	146,575	142,181	144,875	147,935	139,895	159,579	171,225	148,537	139,785	125,726

Data Source: DWC

The preceding chart shows the following:

- The numbers of Findings and Awards (F&As) have shown an overall decline of 10.5 percent from 1993 to 2007.
- Findings and Orders (F&Os) inconsistently changed between 1993 and 2007. From 1993 to 1994, F&Os declined by 9 percent, but between 1994 and 1996, they increased by 15 percent. For the next five years (1996 to 2001), F&Os declined by 34 percent, and this was followed by a 9 percent increase between 2001 and 2002 and then a 4 percent decrease from 2002 to 2003. From 2003 and 2007, F&Os increased by 35 percent.
- The number of Stips issued changed throughout the decade: they leveled off from 1993 to 1994, rose again in 1995 and 1996, and remained stable through 2000. Stips increased slightly in 2001 and 2002, decreased in 2003, increased between 2003 and 2004, and decreased between 2004 and 2007.
- The use of C&Rs increased by 15.6 percent from 1992 to 1993. C&Rs declined steadily by 49 percent from 1993 through 2000, increased in 2001, remained stable in 2002 and 2003, increased by 26.2 percent between 2003 and 2005, and decreased by 25.5 percent between 2005 and 2007.

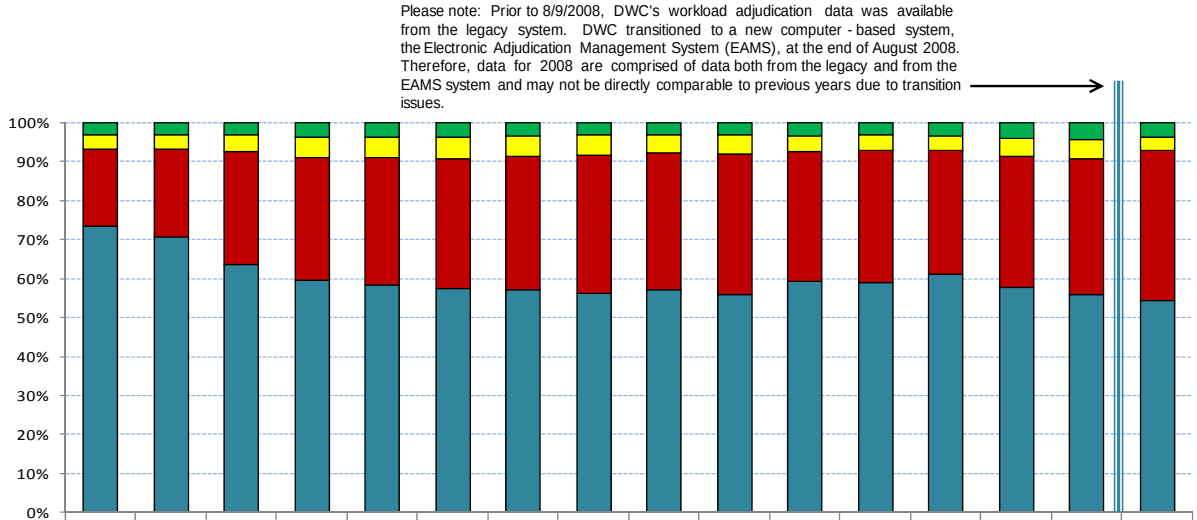
Mix of DWC Decisions

As shown on the charts on the previous page and this page, again, the vast majority of the case-closing decisions rendered during the 1990s were in the form of a WCAB judge's approval of Stips and C&Rs which were originally formulated by the case parties.

During the period from 1993 through the beginning of 2000 and beyond, the proportion of Stips rose, while the proportion of C&Rs declined. This reflects the large decrease in the issuance of C&Rs through the 1990s.

Only a small percentage of case-closing decisions evolved from an F&A or F&O issued by a WCAB judge after a hearing.

DWC Decisions: Percentage Distribution by Type of Decisions



	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
F & O	3.0%	3.0%	3.3%	3.8%	3.8%	3.9%	3.6%	3.2%	3.1%	3.3%	3.3%	3.3%	3.4%	4.0%	4.5%	3.7%
F & A	3.9%	3.9%	4.3%	5.2%	5.3%	5.4%	5.1%	5.1%	4.7%	4.7%	4.2%	3.8%	3.9%	4.9%	4.9%	3.6%
Stips	19.6%	22.3%	28.7%	31.3%	32.7%	33.2%	34.4%	35.3%	35.3%	36.3%	33.1%	34.0%	31.5%	33.5%	34.7%	38.3%
C & R	73.5%	70.7%	63.7%	59.7%	58.2%	57.5%	57.0%	56.3%	56.9%	55.7%	59.4%	59.0%	61.2%	57.7%	55.9%	54.4%

Data Source: DWC

Division of Workers' Compensation Lien Decisions

DWC has been dealing with a large backlog of liens filed on WCAB cases. The majority of the liens have been for medical treatment and medical-legal reports. However, liens are also filed to obtain reimbursement for other expenses:

- The Employment Development Department (EDD) files liens to recover disability insurance indemnity and unemployment benefits paid to industrially injured workers.

- Attorneys have an implied lien during representation of an injured worker. If an attorney is substituted out of a case and seeks a fee, the attorney has to file a lien.

- District Attorneys file liens to recover spousal and/or child support ordered in marital dissolution proceedings of the injured worker.

- Although relatively rare now, a private disability insurance policy holder will occasionally file a lien on workers' compensation benefits on the theory that the proceeds from the benefits were used for living expenses of the injured worker.

- Some defendants will file liens in lieu of petitions for contribution where they have paid or are paying medical treatment costs to which another carrier's injury allegedly contributed.

- Liens are sometimes used to document recoverable (non-medical) costs, e.g., photocopying of medical records, interpreters' services and travel expenses.

Among medical liens, there are several reasons liens may be filed:

- In the past, some providers routinely filed liens when they submitted medical bills or medical-legal bills without waiting to see whether bills would be paid or disputed.

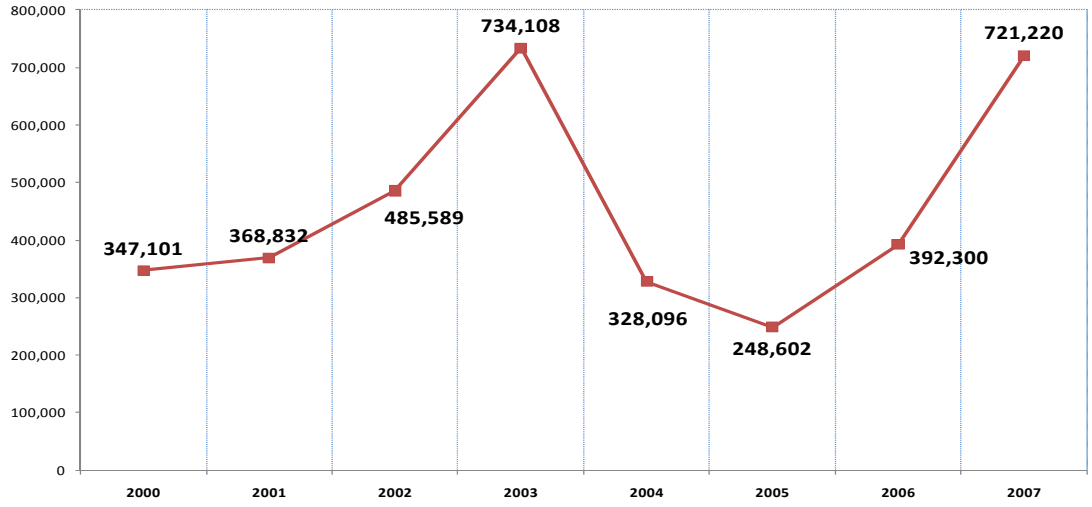
- In some cases, treatment is provided "on lien" because: the claims administrator has disputed liability for the injury; the claims administrator has failed or refused to provide the treatment; or treatment is provided "on lien" without first seeking authorization. In some cases, even for authorized treatment, the amount payable is in dispute.

- Of particular concern is the practice of using the lien process to seek additional payment after services have already been reimbursed pursuant to the applicable fee schedule and accepted by the provider without dispute. This practice is apparently driven by independent collection services that get a portion of whatever they can collect on these written-off balances.

A lien filing fee of $100 was enacted in an attempt to discourage the filing of premature or frivolous medical liens. Labor Code Section 4903.05 was enacted by Senate Bill (SB) 228 in 2003 and amended by SB 899 in 2004. The volume of lien filings was promptly cut in half, but DWC encountered difficulties in carrying out the filing fee program. Effective July 1, 2006, budget trailer bill language in Assembly Bill (AB) 1806 repealed the lien filing fee and added Section 4903.6 to forbid the premature filing of medical liens at DWC district offices. The volume of lien filings promptly doubled after the repeal of the filing fee.

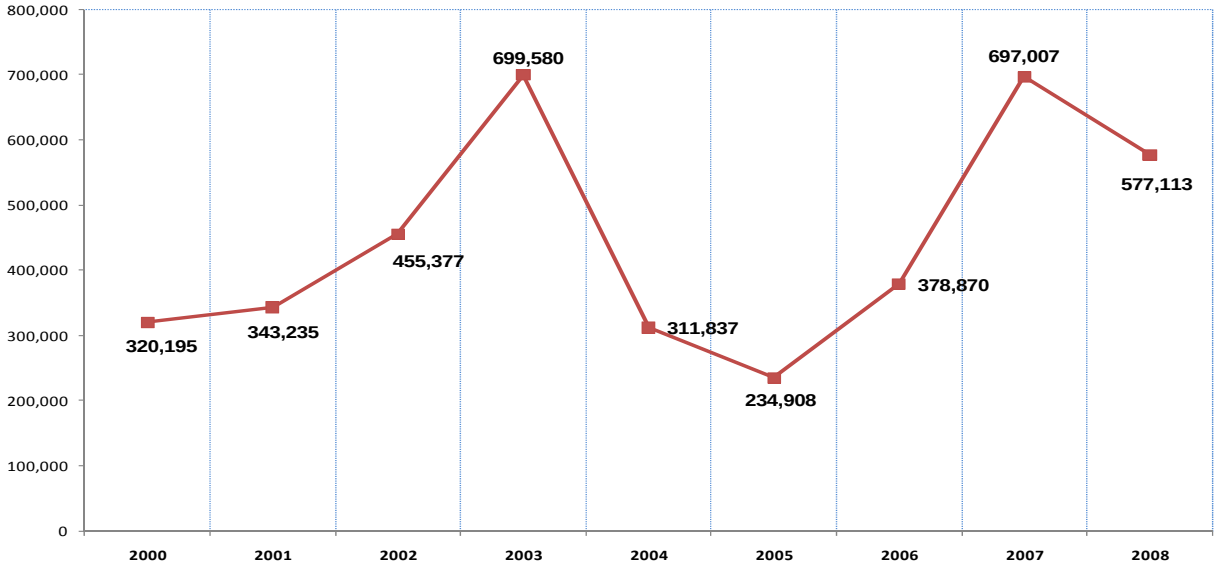
As shown in the following two charts, the number of liens has increased by more than 110 percent between 2000 and 2003, decreased by 66 percent between 2003 and 2005, increased by more than 190 percent between 2005 and 2007, and decreased by 17 percent from 2007 to 2008.

Number of Liens Filed, 2000 - 2007
(Legacy System data)



Data Source: DIR

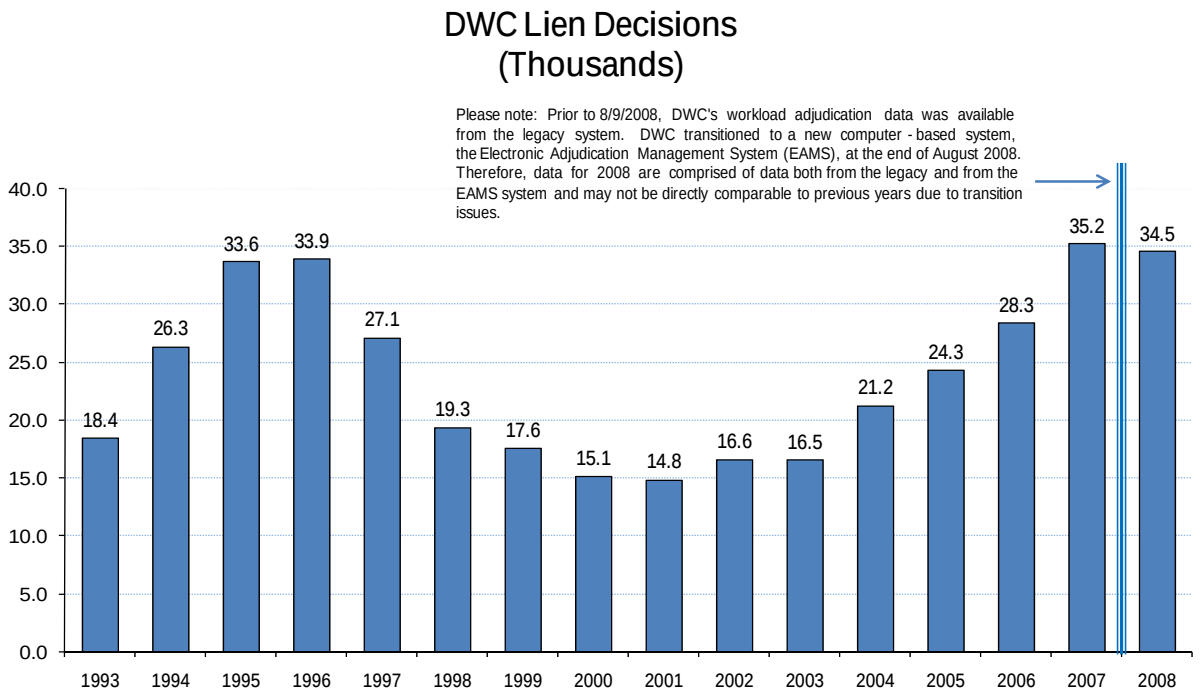
Number of Liens Filed, 2000 - 2008
(EAMS)*



* Please Note that data from Electronic Adjudication Management System (EAMS) does not include Informational liens

Data Source: DWC

The following chart shows a large growth in decisions regarding liens filed on WCAB cases and a concomitant expenditure of DWC staff resources on the resolution of those liens.



Data Source: DWC

DIVISION OF WORKERS' COMPENSATION AUDIT AND ENFORCEMENT PROGRAM

Background

The 1989 California workers' compensation reform legislation established an audit function within DWC to monitor the performance of workers' compensation insurers, self-insured employers, and third-party administrators to ensure that industrially injured workers are receiving proper benefits in a timely manner.

The purpose of the audit and enforcement function is to provide incentives for the prompt and accurate delivery of workers' compensation benefits to industrially injured workers and to identify and bring into compliance those insurers, third-party administrators, and self-insured employers who do not deliver benefits in a timely and accurate manner.

Assembly Bill 749 Changes to the Audit Program

Assembly Bill (AB) 749, effective January 1, 2003, resulted in major changes to California workers' compensation law and mandated significant changes to the methodologies for file selection and assessment of penalties in the audit program.

Labor Code Sections 129 and 129.5 were amended to ensure that each audit unit will be audited at least once every five years and that good performers will be rewarded. A profile audit review (PAR) of every audit subject will be done at least every five years. Any audit subject that fails to meet a profile audit standard established by the Administrative Director (AD) of the DWC will be given a full compliance audit (FCA). Any audit subject that fails to meet or exceed the FCA performance standard will be audited again within two years. Targeted PARs or FCAs may also be conducted at any time based on information indicating that an insurer, self-insured employer, or third-party administrator is failing to meet its obligations.

To reward good performers, profile audit subjects that meet or exceed the PAR performance standard will not be liable for any penalties but will be required to pay any unpaid compensation. FCA subjects that meet or exceed standards will only be required to pay penalties for unpaid or late paid compensation, as well as any unpaid compensation.

Labor Code Section 129.5(e) was amended to provide for civil penalties up to $100,000 if an employer, insurer, or third-party administrator has knowingly committed or (rather than "and") has performed with sufficient frequency to indicate a general business-practice act discharging or administering its obligations in specified improper manners. Failure to meet the FCA performance standards in two consecutive FCAs will be rebuttably presumed to be engaging in a general business practice of discharging and administering compensation obligations in an improper manner.

Review of the civil penalties assessed is obtained by written request for a hearing before WCAB rather than by application for a writ of mandate in the Superior Court. Judicial review of the Board's F&O is as provided in Sections 5950 et seq.

Penalties collected under Section 129.5 and unclaimed assessments for unpaid compensation under Section 129 are credited to the Workers' Compensation Administration Revolving Fund (WCARF).

Audit and Enforcement Unit Data

The following charts and graphs depict workload data from 2000 through 2008. As noted on the charts, data before 2003 cannot be directly compared with similar data in 2003 and after because of the significant changes in the program effective January 1, 2003.

Overview of Audit Methodology

Selection of Audit Subjects

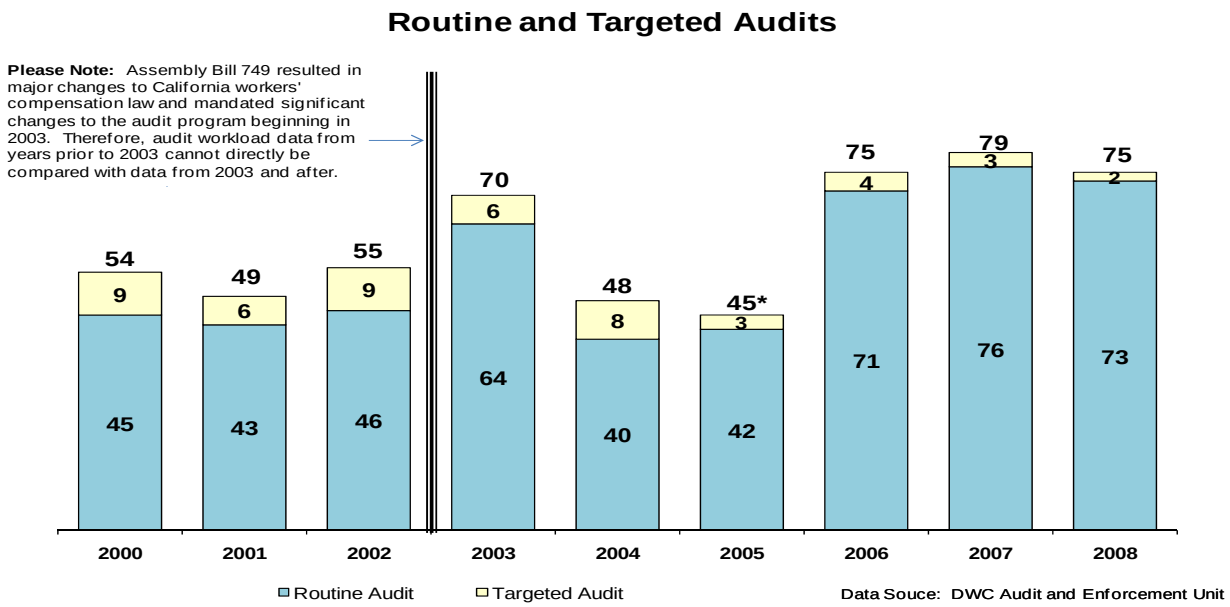
Audit subjects, including insurers, self-insured employers and third-party administrators, are selected randomly for routine audits.

The bases for selecting audit subjects for targeted audits are specified in 8 California Code of Regulations (CCR) Section 10106.1(c), effective January 1, 2003:

- Complaints regarding claims handling received by DWC.
- Failure to meet or exceed FCA Performance Standards.
- High numbers of penalties awarded pursuant to Labor Code Section 5814.
- Information received from the Workers' Compensation Information System (WCIS).
- Failure to provide a claim file for a PAR.
- Failure to pay or appeal a Notice of Compensation Due ordered by the Audit Unit.

Routine and Targeted Audits

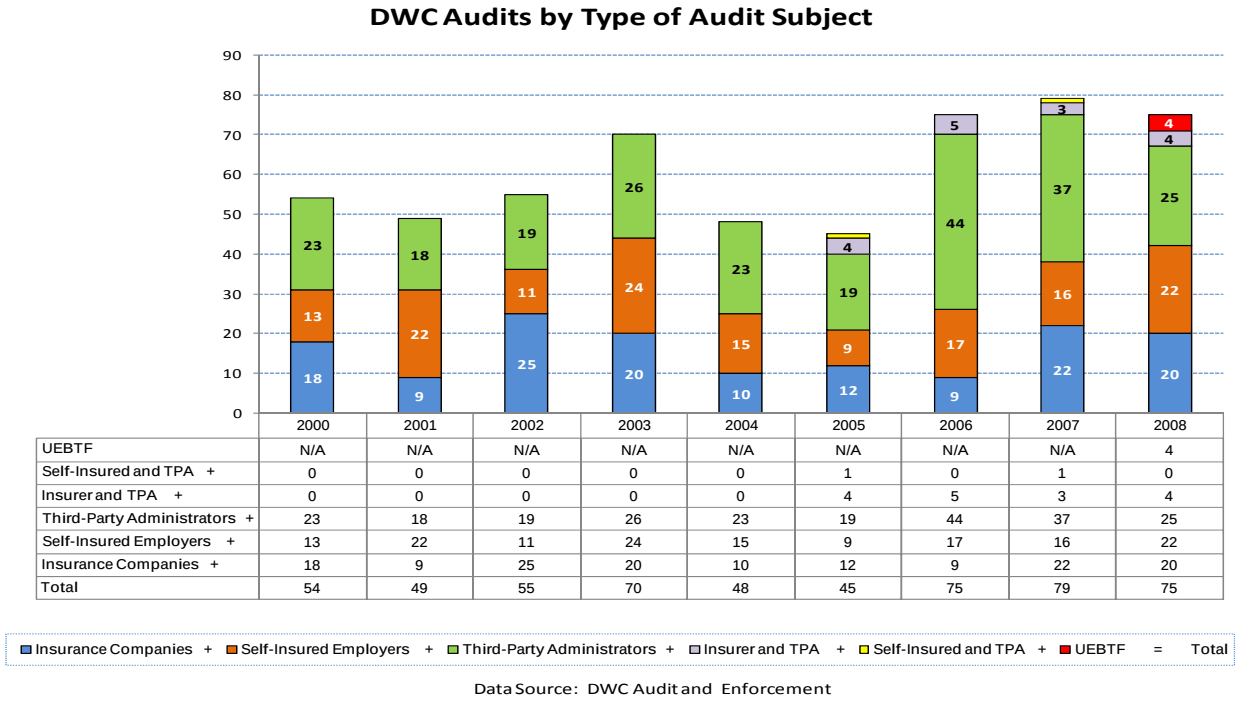
The following chart shows the number of routine audits and targeted audits and the total number of audits conducted each year.



* Note: An additional target audit was conducted based on a return agreement in a previous stipulation of civil penalty in year 2000.

Audits by Type of Audit Subject

The following chart depicts the total number of audit subjects each year with a breakdown by whether the subject is an insurance company (insurer), a self-insured employer, or a third-party administrator.



	2000	2001	2002	2003	2004	2005	2006	2007	2008
UEBTF	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	4
Self-Insured and TPA +	0	0	0	0	0	1	0	1	0
Insurer and TPA +	0	0	0	0	0	4	5	3	4
Third-Party Administrators +	23	18	19	26	23	19	44	37	25
Self-Insured Employers +	13	22	11	24	15	9	17	16	22
Insurance Companies +	18	9	25	20	10	12	9	22	20
Total	54	49	55	70	48	45	75	79	75

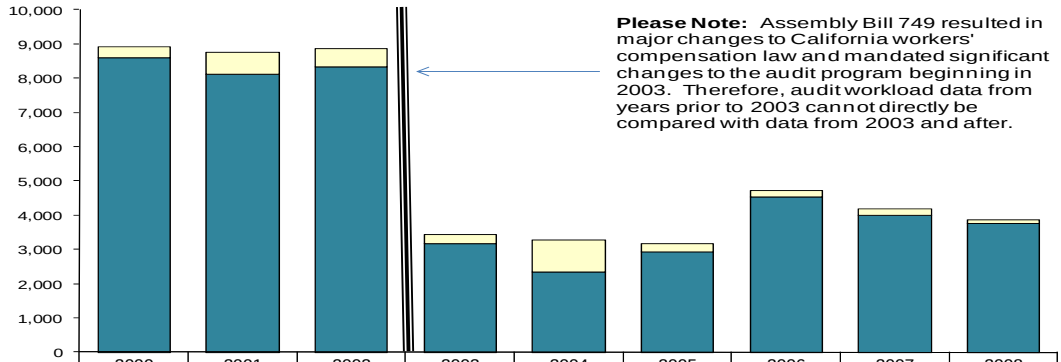
Selection of Files to be Audited

The majority of claim files are selected for audit on a random basis, with the number of indemnity and denied cases being selected based on the numbers of claims in each of those populations of the audit subject:

- Targeted files are selected because they have attributes that the audits focus on.
- Additional files include claims chosen based on criteria relevant to a targeted audit but for which no specific complaints had been received.
- The number of claims audited is based upon the total number of claims at the adjusting location and the number of complaints received by DWC related to claims-handling practices. Types of claims include indemnity, medical-only, denied, complaint and additional.

The following chart shows the total number of files audited each year, broken down by the method used to select them.

Files Audited by Method of Selection



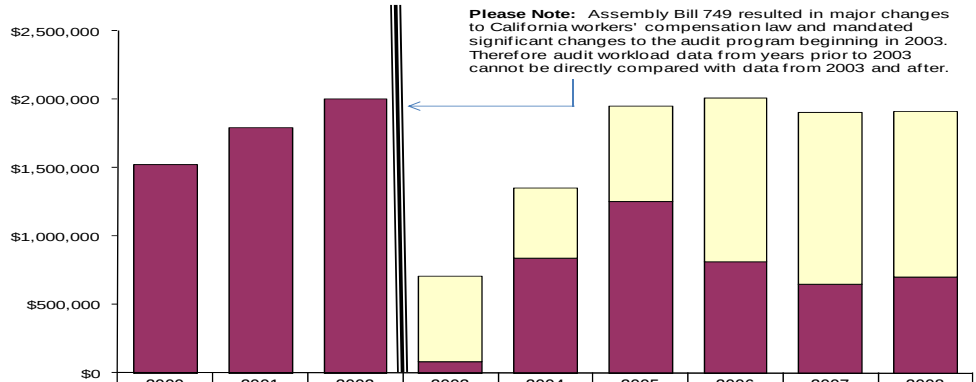
	2000	2001	2002	2003	2004	2005	2006	2007	2008
Target	321	644	532	262	939	228	180	191	118
Random	8,600	8,105	8,329	3,163	2,337	2,940	4,538	4,004	3,755
Total Files Audited	8,921	8,749	8,861	3,425	3,276	3,168	4,718	4,195	3,873

Data Source: DWC Audit and Enforcement Unit

Administrative Penalties

As shown in the following chart, the administrative penalties assessed have changed significantly since the reform legislation changes to the Audit and Enforcement Program beginning in 2003.

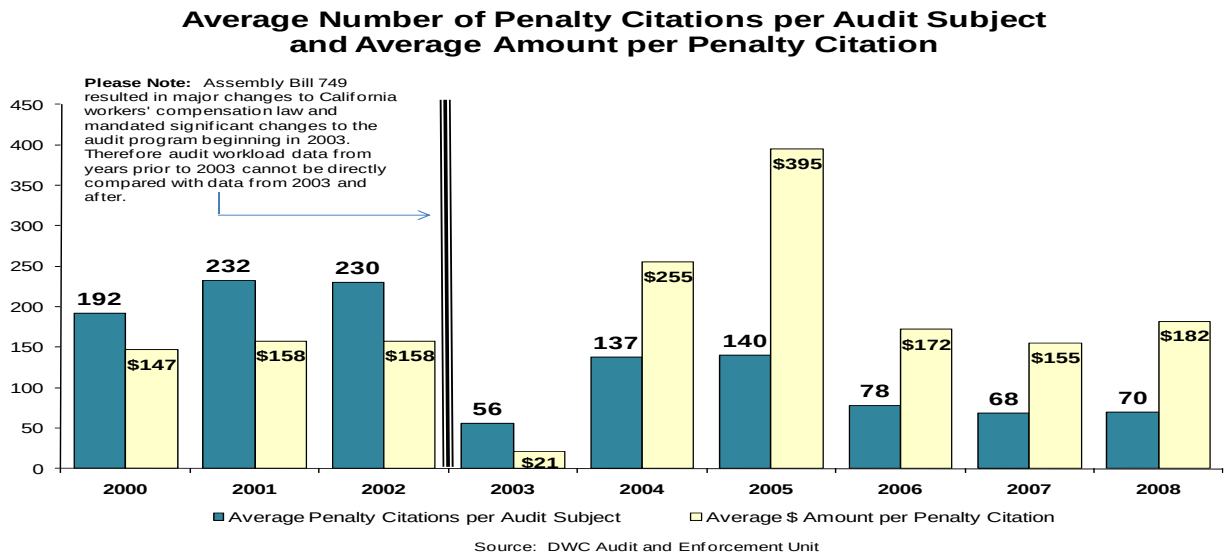
DWC Audit Unit - Administrative Penalties



	2000	2001	2002	2003	2004	2005	2006	2007	2008
Assessable penalties waived per LC§129.5(c) and regulatory authority	N/A	N/A	N/A	$624,835	$518,605	$696,125	$1,200,800	$1,254,320	$1,210,176
Total penalties Assessed	$1,524,470	$1,793,065	$2,004,890	$81,645	$835,988	$1,252,153	$811,146	$649,840	$703,295

Source: DWC Audit and Enforcement Unit

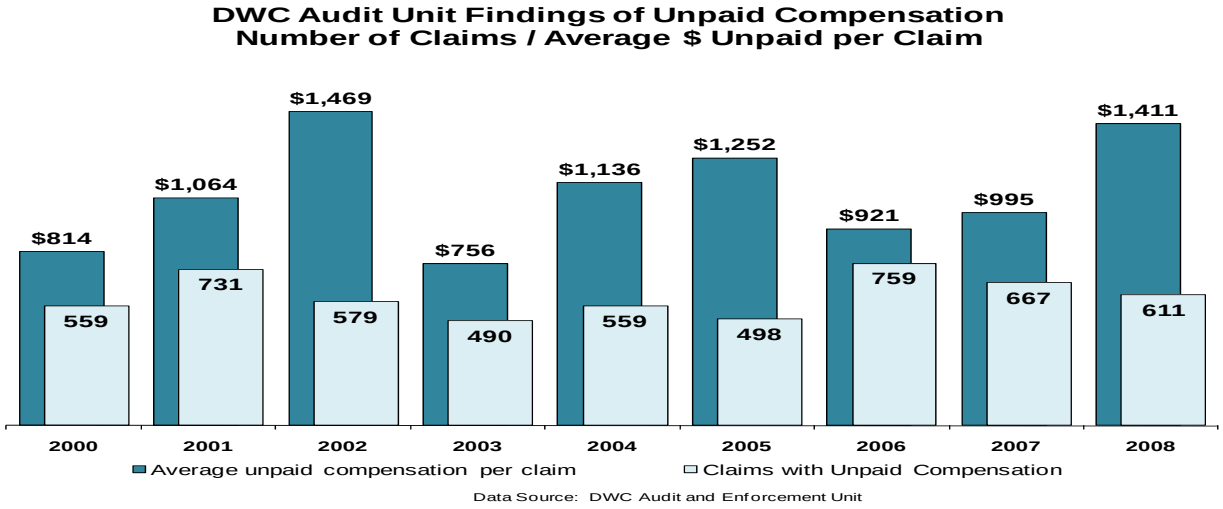
The following chart shows the average number of penalty citations per audit subject each year and the average dollar amount per penalty citation.



Unpaid Compensation Due To Claimants

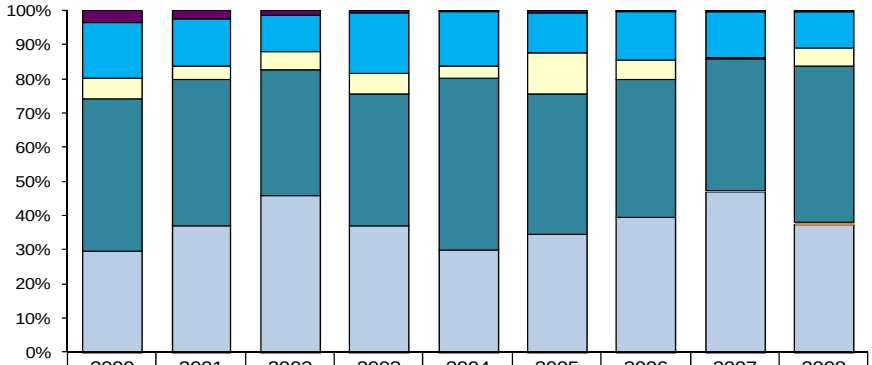
Audits identify claim files in which injured workers were owed unpaid compensation. The administrator is required to pay these employees within 15 days after receipt of a notice advising the administrator of the amount due, unless a written request for a conference is filed within 7 days of receipt of the audit report. When employees due unpaid compensation cannot be located, the unpaid compensation is payable by the administrator to WCARF. In these instances, application by an employee can be made to DWC for payment of monies deposited by administrators into this fund.

The following chart depicts the average number of claims per audit where unpaid compensation was found and the average dollar amount of compensation due per claim.



The following chart shows unpaid compensation each year, broken down by percentage of the specific type of compensation that was unpaid.

Unpaid Compensation in Audited Files
Type by Percentage of Total



	2000	2001	2002	2003	2004	2005	2006	2007	2008
Interest and penalty and/or unreimbursed medical expenses	3.5%	2.5%	1.6%	0.8%	0.2%	0.8%	0.3%	0.4%	0.4%
Self-imposed increases for late indemnity payments	16.5%	13.9%	10.7%	17.6%	16.0%	11.6%	14.2%	13.7%	10.6%
Voc. Rehab Maintenance Allowance	5.9%	3.7%	5.2%	6.0%	3.8%	12.1%	5.9%	0.1%	5.3%
Permanent Disability	44.5%	42.9%	36.6%	38.4%	50.0%	40.9%	40.3%	38.8%	45.4%
Death Benefits	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.4%	0.9%
TD & salary continuation in lieu of TD	29.7%	36.9%	45.8%	37.1%	30.0%	34.5%	39.3%	46.7%	37.3%

Data Source: DWC Audit and Enforcement Unit

For further information …

DWC Annual Audit Reports may be accessed at http://www.dir.ca.gov/dwc/audit.html

CHSWC "Report on the Division of Workers' Compensation Audit Function" (1998) http://www.dir.ca.gov/CHSWC/FinalAuditReport.html

UNINSURED EMPLOYERS BENEFITS TRUST FUND

Current Funding Liabilities and Collections

Claims are paid from the Uninsured Employers Benefit Trust Fund (UEBTF) when illegally uninsured employers fail to pay workers' compensation benefits awarded to their injured employees by WCAB.

UEBTF Funding Mechanisms

The funding for the UEBTF comes primarily from assessments on both insured and self-insured employers. According to Labor Code Section 62.5(e), the "total amount of the assessment is allocated between the employers in proportion to the payroll paid in the most recent year for which payroll information is available."[22]

The assessment for the insured employers is based on a percentage of the premium, while the percentage for self-insured employers is based on a percentage of indemnity paid during the most recent year.

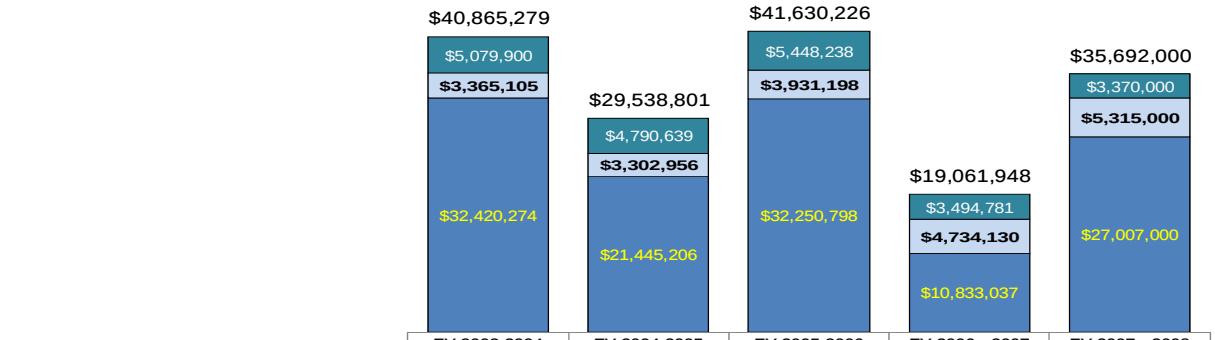
Apart from the assessments on employers required by Labor Code Section 62.5, UEBTF is funded by two other sources:

- Fines and penalties collected by the DIR. These include both the Division of Labor Standards and Enforcement (DLSE) penalties as well as Labor Code Section 3701.7 penalties on self-insured employers.
- Recoveries from illegally uninsured employers per Labor Code Section 3717.

[22] Prior to the workers' compensation reforms of 2004, the funding for UEBTF came from the General Fund.

The chart below shows monies collected by the source of the revenue.[23]

UEBTF Revenues, FY 2003-04 to FY 2007-08



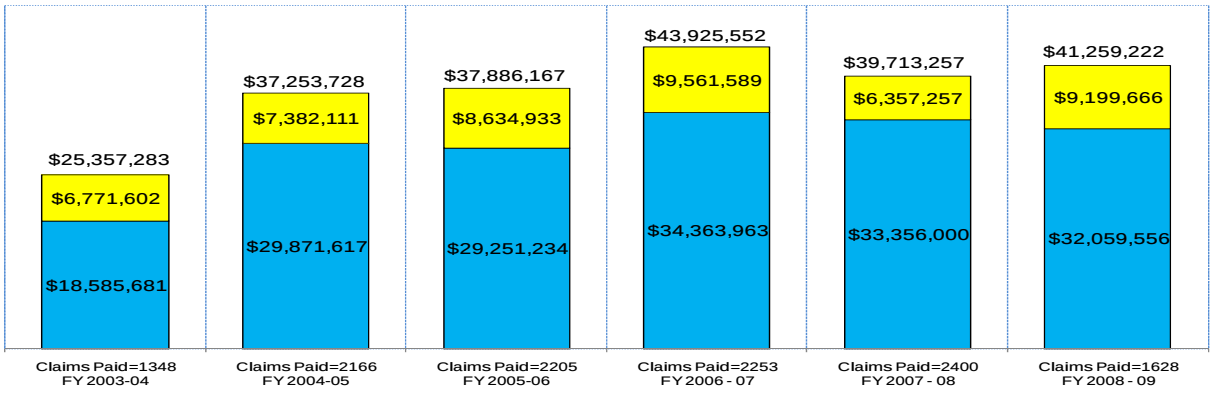
	FY 2003-2004	FY 2004-2005	FY 2005-2006	FY 2006 - 2007	FY 2007 - 2008
Revenue Collected Pursuant to Labor Code Section 3717	$5,079,900	$4,790,639	$5,448,238	$3,494,781	$3,370,000
Fines and Penalties Collected	$3,365,105	$3,302,956	$3,931,198	$4,734,130	$5,315,000
Assessments Collected Pursuant to Labor Code Section 62.5	$32,420,274	$21,445,206	$32,250,798	$10,833,037	$27,007,000
Total Revenue	$40,865,279	$29,538,801	$41,630,226	$19,061,948	$35,692,000

Data Source: DWC

Costs of the Uninsured Employers Benefits Trust Fund

The number of uninsured claims paid increased by 78 percent from FY 2003-04 through FY 2007-08. The total cost of claims increased by 86 percent from FY 2003-04 through FY 2006-07 and then decreased by 16 percent from FY 2006-07 to FY 2007-08. Administrative costs associated with the claim-payment activities have increased by 41 percent from FY 2003-04 through FY 2006-07 and decreased by 33 percent from FY 2006-07 to FY 2007-08. Details are provided in the chart below.[24]

Number of UEBTF Claims Paid and Costs
FY 2003-04 to FY 2008-09



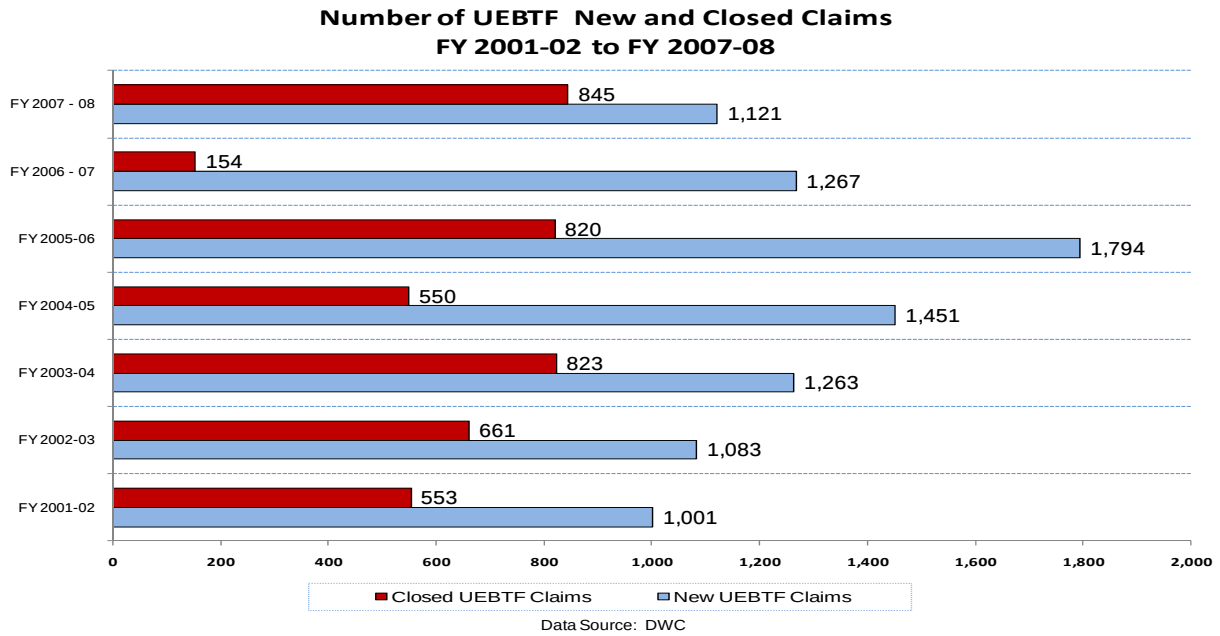
Data Source: DWC

[23] The data in the chart "UEBTF Revenues" can be found at DWC/ Special Funds Unit/UEBTF website http://www.dir.ca.gov/dwc/UEF/UEF_LC3716_1.pdf.

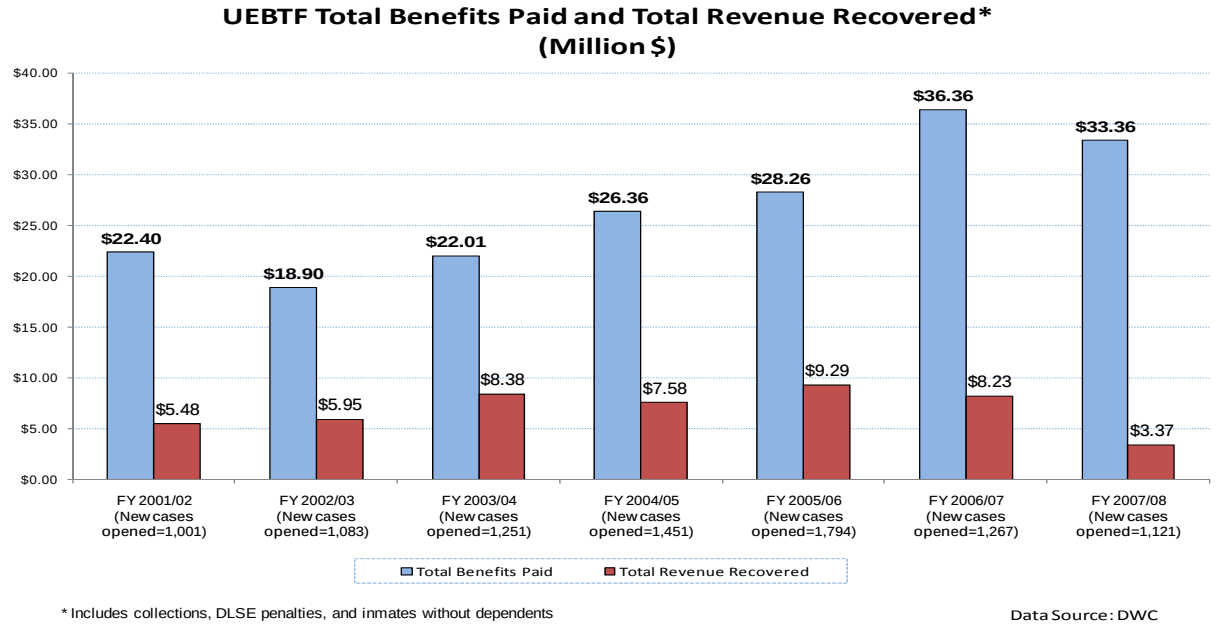
[24] The data in the chart "Number of UEBTF Claims Paid and Costs" can be found at DWC/ Special Funds Unit/UEBTF website http://www.dir.ca.gov/dwc/UEF/UEF_LC3716_1.pdf.

The projected UEBTF annual program cost for the most recent fiscal year 2008-09 is $34.4 million.[25] This cost includes the administrative costs associated with claims payment activities as well as the payout on claims filed by injured workers of illegally uninsured employers.

As shown in the chart below, the number of new UEBTF claims is back to its level in FY 2002-03.



The number of new UEBTF cases and dollar amounts associated with new opened claims for the past five fiscal years are shown below:



[25] Division of Workers' Compensation, "Report of the Uninsured Employers Benefit Trust Fund in Compliance with Labor Code Section 3716.1(c) for Fiscal Year 2007-08."

DISABILITY EVALUATION UNIT

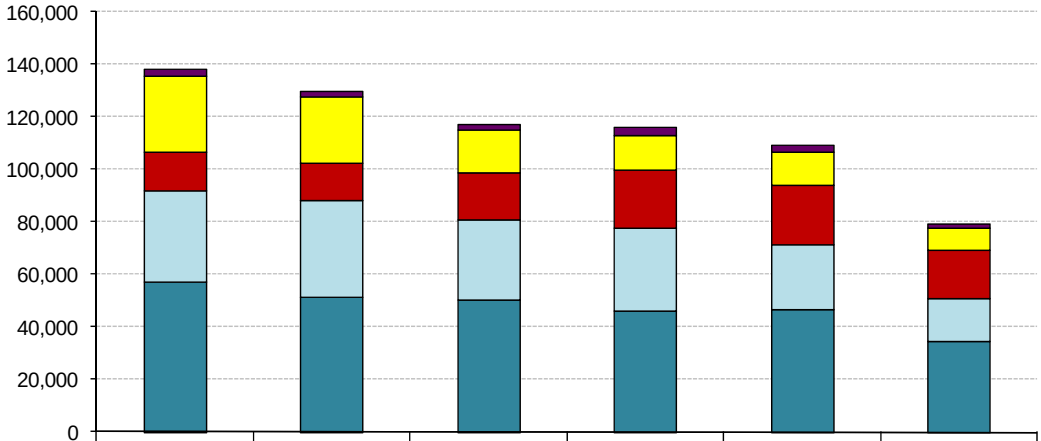
The DWC Disability Evaluation Unit (DEU) determines permanent disability (PD) ratings by assessing physical and mental impairments in accordance with the Permanent Disability Rating Schedule (PDRS). The ratings are used by workers' compensation judges, injured workers, and insurance claims administrators to determine PD benefits.

DEU prepares three types of ratings: formal, done at the request of a workers' compensation judge; consultative, done at the request of an attorney or DWC Information & Assistance (I&A) Officer; and summary, done at the request of a claims administrator or injured worker. Summary ratings are done only on non-litigated cases, and formal consultative ratings are done only on litigated cases.

The rating is a percentage that estimates how much a job injury permanently limits the kinds of work the injured employee can do. It is based on the employee's medical condition, date of injury, age when injured, occupation when injured, how much of the disability is caused by the employee's job, and his or her diminished future earning capacity. It determines the number of weeks that the injured employee is entitled to PD benefits.

The following charts depict DEU's workload during 2003 and 2008. The first chart shows the written ratings produced each year by type. The second chart illustrates the total number of written and oral ratings each year.

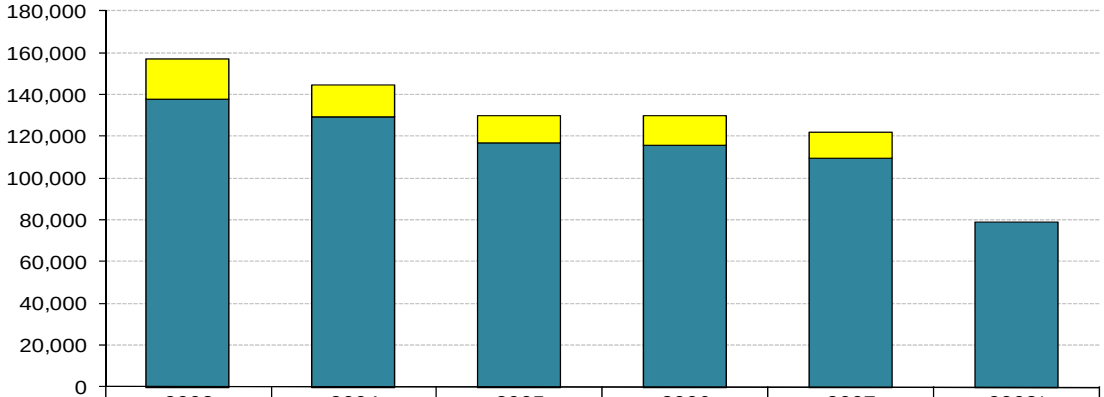
DEU Written Ratings 2003-2008



	2003	2004	2005	2006	2007	2008
Formal Ratings	2,386	1,995	2,299	2,874	2,786	1,584
Summary - Treating Doctor	29,198	25,385	15,922	13,422	12,361	8,440
Summary - Panel QME	14,753	14,147	18,001	22,139	23,142	18,027
Consultative - Walk-In	34,369	36,563	30,553	31,181	24,528	16,383
Consultative - Other	57,367	51,442	50,275	46,210	46,530	34,607
Total Written Ratings	138,073	129,532	117,050	115,826	109,347	79,041

Data Source: DWC Disability Evaluation Unit

DEU Oral and Written Ratings by Type 2003-2008



	2003	2004	2005	2006	2007	2008*
Oral Ratings	18,856	15,283	12,591	14,273	12,662	N/A
Written Ratings	138,073	129,532	117,050	115,826	109,347	79,041
Total Ratings	156,929	144,815	129,641	130,099	122,009	N/A

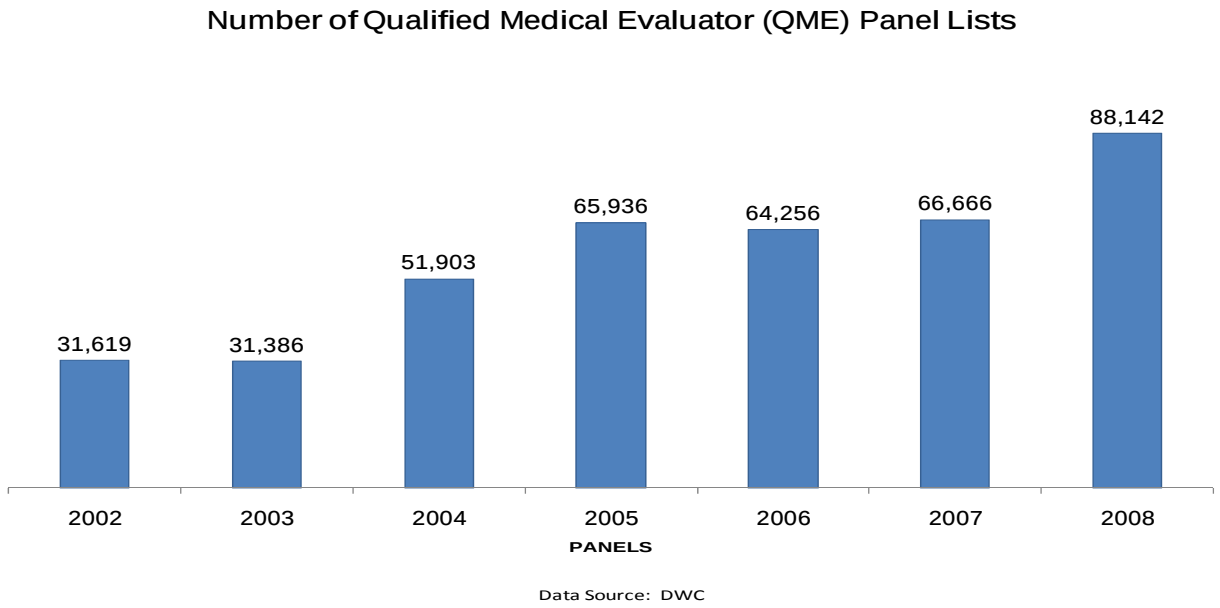
* From 2008, statistics on Oral Ratings are not mantained.

Source: DWC Disability Evaluation Unit

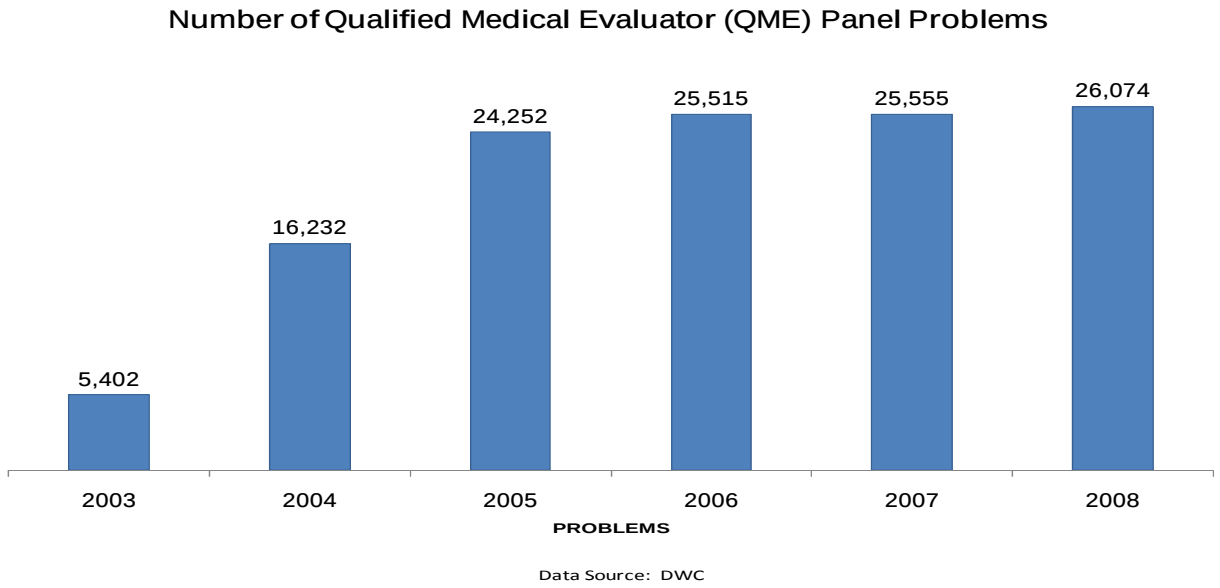
QUALIFIED MEDICAL EVALUATOR PANELS

DWC assigns panels composed of three QMEs from which an injured worker without an attorney selects the evaluator for a medical dispute. Beginning in 2005, a similar process became effective for cases where the worker has an attorney. This resulted in an increased number of QME panels. The changes contributed to a larger percentage of problems with the panel assignments.

The chart below indicates the number of Qualified Medical Evaluator (QME) Panel Lists issued each year.



The following chart indicates the number of problems with the original QME panel issued necessitating a replacement list. Some of the problems with panel assignment include parties not submitting documentation or submitting inadequate documentation, parties not being eligible for a QME panel, or DWC needing additional information in order to make a determination for panel eligibility.



MEDICAL PROVIDER NETWORKS AND HEALTH CARE ORGANIZATIONS[26]

Medical Provider Networks

Background

In recent years, the California workers' compensation system has seen significant increases in medical costs. Between 1997 and 2003, workers' compensation medical treatment expenses in California increased by an estimated 138 percent,[27] outpacing the costs for equivalent medical treatment provided in non-industrial settings. To abate this rise in costs, major reforms were made in 2003 and 2004. One such effort was the signing into law of SB 899 in April of 2004. One major component of SB 899 was the option for self-insured employers or insurers to establish a medical provider network (MPN), as promulgated in Labor Code Section 4616 et. seq. MPNs were implemented beginning January 1, 2005.

An MPN is a network of providers established by an insurer, self-insured employer, Joint Powers Authority (JPA), the State, a group of self-insured employers, a self-insurer security fund, or California Insurance Guarantee Association (CIGA) to treat work-related injuries.

The establishment of an MPN gives significant medical control to employers. With the exception of employees who have a pre-designated physician, according to California Labor Code Section 4600, employers that have established an MPN control the medical treatment of employees injured at work for the life of the claim as opposed to 30 days of medical control that employers had prior to SB 899. Having an MPN means the employer has more control with regard to who is in the network and who the injured worker sees for care for the life of the claim. The employer gets to choose who the injured worker goes to on the first visit: after the first visit, the injured worker can go to a doctor of his/her choosing in the MPN.

Before the implementation of an MPN, insurers and employers are required to file an MPN application with DWC for review and approval, pursuant to Title 8 CCR § 9767.1 et. seq.

Application Review Process

California Labor Code Section 4616(b) mandates that DWC review and approve MPN plans submitted by employers or insurers within 60 days of plan submission. If DWC does not act on the plan within 60 days, the plan is deemed approved by default.

Upon receipt of an MPN application, DWC does an initial cursory review of all applications received. The result of the review is communicated to each applicant in a "complete" or "incomplete" letter, as applicable. Applicants with sections missing in their application will be asked to complete the missing part(s). Applicants with a complete application will receive a "complete" letter indicating the target date of when the full review of their application will be completed. The clock for the 60-day time frame within which DWC should act starts from the day a complete application is received at DWC.

The full review of an application involves a thorough scrutiny, using a standard checklist, to see if the application followed the statutory and regulatory requirements set forth in California Labor Code Section 4616 et. seq. and the California Code of Regulations sections 9767.1 et. seq. The full review culminates with an approval letter if no deficiency is discovered in the submitted application. Applicants with deficient applications are sent a disapproval letter listing deficiencies that need to be corrected.

Material modification filings go through a similar review process as an initial application. Except in cases where an applicant was approved under the emergency regulations and is now updating the application

[26] The information in this section was provided by the DWC Medical Unit, with minor edits by CHSWC staff.

[27] Based on WCIRB annual report *California Workers' Compensation Losses and Expenses* prepared pursuant to § 11759.1 of the California Insurance Code.

to the permanent regulations, reviews of material modifications are done only for those sections of the applications affected by the material change.

Applications Received and Approved

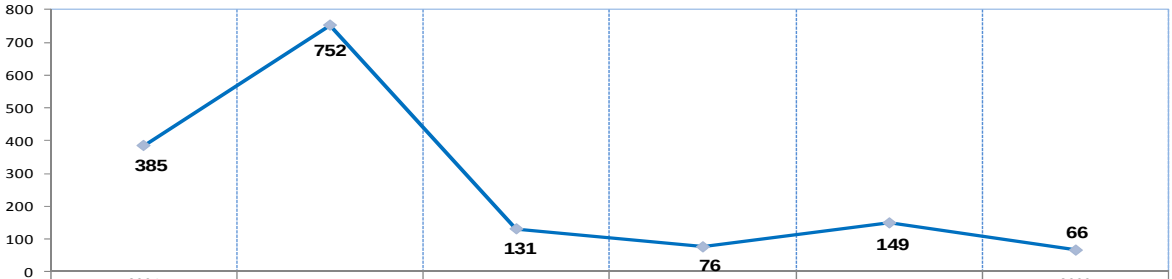
The Table below provides a summary of MPN program activities from the inception of the MPN program in November 1, 2004, to August 04, 2009. During this time frame, the MPN program received 1,557 MPN applications. Of these, 19 were ineligible as they were erroneously submitted by insured employers who under the MPN regulations are not eligible to set up an MPN. As of August 4, 2009, 1,416 applications were approved. Of these, 987 were approved under the emergency regulations and the remaining 429 under the permanent regulations. Seventeen (17) approved applications were revoked by DWC. The reason for revocation was the applicants' erroneous reporting of their status as self-insured when in fact they were insured entities. One hundred and five (105) were withdrawn after approval and forty-three (43) were withdrawn before approval. The reasons for the withdrawals were either that the applicant decided not to pursue an MPN or there was a duplicate submission of the same application.

Table: MPN Program Activities from November 1, 2004, to August 4, 2009

MPN Applications	Numbers
Received	1,557
Approved	1,416
Material Modifications	1,571
Withdrawn	148
Revoked	17
Ineligible	19

The chart below shows the time of receipt of MPN applications by month and year. The bulk of applications, 48.2 percent (752), were received in 2005. About 8.4 percent (131) were received in 2006, 4.9 percent (76) were received in 2007, and 9.6 percent (149) were received in 2008.

Number of MPN Applications Received
by Month and Year of Receipt (Total = 1,559)

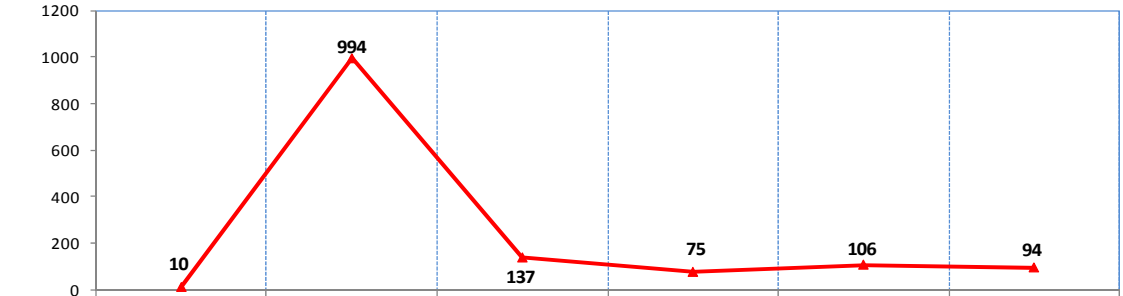


	2004 (NOV-DEC)	2005	2006	2007	2008	2009 (JAN-JUL)
JANUARY		175	28	3	15	11
FEBRUARY		168	14	6	9	12
MARCH		74	12	8	10	12
APRIL		95	9	5	10	9
MAY		64	18	4	4	7
JUNE		71	5	5	4	9
JULY		35	4	14	15	6
AUGUST		12	7	5	6	
SEPTEMBER		20	18	3	18	
OCTOBER		13	5	7	32	
NOVEMBER	125	13	10	4	17	
DECEMBER	260	12	1	12	9	
TOTAL	385	752	131	76	149	66

Data Source: DWC

The chart below shows that 70.2 percent (994) of MPN applications were approved in 2005, while only 9.7 percent (137) were approved in 2006, 5.3 percent (75) were approved in 2007, and 7.5 percent (106) were approved in 2008.

Number of MPN Applications Approved by Month and Year(Total = 1,416)



	2004 (DEC)	2005	2006	2007	2008	2009 (JAN-JUL)
JANUARY		29	10	6	6	15
FEBRUARY		138	6	8	2	11
MARCH		288	18	11	10	10
APRIL		121	20	4	5	10
MAY		129	27	5	8	36
JUNE		71	10	6	17	9
JULY		89	9	7	9	3
AUGUST		76	8	6	9	
SEPTEMBER		36	14	6	6	
OCTOBER		8	3	3	6	
NOVEMBER		0	2	10	14	
DECEMBER	10	9	10	3	14	
TOTAL	10	994	137	75	106	94

Data Source: DWC

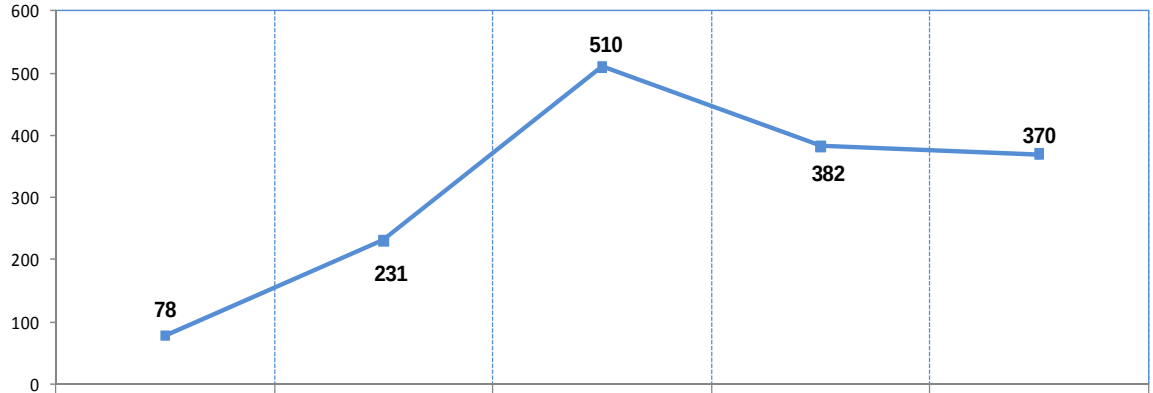
Material Modifications

MPN applicants are required by Title 8 CCR §9767.8 to provide notice to DWC for any material change to their approved MPN application. In addition, MPN applicants approved under the emergency regulations must update their application to conform to the permanent MPN regulations when providing notice of material change to their approved application.

As of August 4, 2009, 1,571 applicants had filed a material modification with DWC. Some applicants have more than one material modification. Two hundred and ninety-three (293) applicants had two material modification filings and 72 had three filings, while 1 had 27 filings.

The following chart shows how many material modification filings were received at DWC; 78 material modifications were filed in 2005, 231 in 2006, 510 in 2007, 382 in 2008, and 370 from January to August 2009.

Number of MPN Material Modifications Received
by Month and Year (Total = 1,571)



	2005	2006	2007	2008	2009
JANUARY		21	20	44	36
FEBRUARY	1	12	62	18	50
MARCH		13	12	41	53
APRIL	1	2	18	14	67
MAY		6	74	15	28
JUNE	7	9	72	13	40
JULY	2	5	40	35	93
AUGUST	26	13	62	2	3
SEPTEMBER	9	60	33	68	
OCTOBER	10	22	42	68	
NOVEMBER	11	44	22	55	
DECEMBER	11	24	53	9	
TOTAL	78	231	510	382	370

Data Source: DWC

MPN Applicants

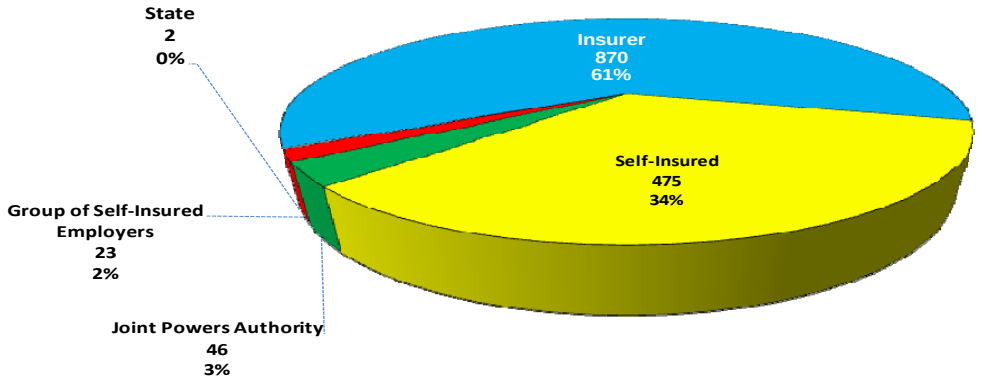
The table below shows the numbers of MPN applicants by type of applicant. The majority, 61.4 percent, of MPN applications were filed by insurers, followed by self-insured employers (33.5 percent).

Table: Distribution of Approved MPN Applications by Type of Applicant (Total for all years = 1,416)

Type of Applicant	2004	2005	2006	2007	2008	2009
Insurer	7	611	68	31	79	74
Self-Insured	3	346	55	37	22	12
Joint Powers Authority		33	4	4	3	2
Group of Self-Insured Employers		2	10	3	2	6
State		2				
Total	10	994	137	75	106	94

The chart below shows the distribution of MPN applicants by type.

Distribution of All Approved MPN Applications by Type of Applicant from 2004 to 2009 (Total = 1,416)



Data Source: DWC

HCO Networks

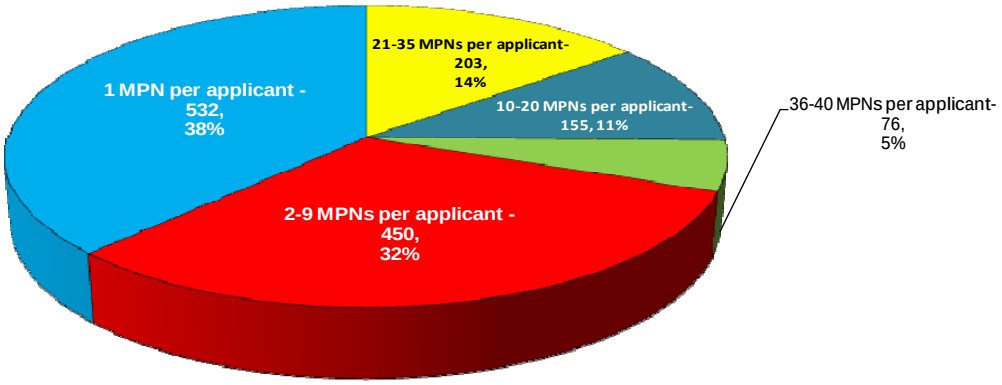
HCO networks are used by 668 (47.2 percent) of the approved MPNs. The distribution of MPNs by HCO is shown in the Table below. First Health HCO has 31.5 percent of the MPN market share followed by Corvel HCO, which has 8.7 percent, and Prudent Buyer HCO, which has 4.5 percent. There seems to be a decrease in the use of HCO networks for MPNs.

MPN applicants are allowed to have more than one MPN. As a result, 62.4 percent of applicants have more than one MPN, including 19.7 percent with 21 to 40 MPNs. (See Table, Distribution of Approved Applicants by Number of MPNs per Applicant, above). The names of MPN applicants with 10 or more approved MPNs are shown in the Table on the next page (Names of MPN Applicants with 10 or More Approved MPNs). ACE American Insurance Company leads with 40 MPNs followed by Zurich American Insurance Company with 36 MPNs, and American Home Assurance Company with 33 MPNs.

Table: Number of MPN Applicants Using HCO Networks

Name of HCO	Number	% Applications Received	% Applications Approved
CompAmerica (First Health)	446	66.8%	31.5%
Corvel	114	17.1%	8.7%
Prudent Buyer (Blue Cross)	64	9.6%	4.5%
Medex	35	5.2%	2.4%
CompPartners	5	0.7%	0.5%
Net-Work	3	0.4%	0.2%
Intracorp	1	0.1%	0.1%
Total Using HCO	**668**	**100.0%**	**47.2**

Distribution of Approved MPNs
by Number of MPNs per Applicant, 2009



Data Source: DWC

Table: Names of MPN Applicants with 10 or More Approved MPNs

Name of Applicant	Number of MPNs
ACE American Insurance Company	40
Zurich American Insurance Company	36
American Home Assurance Company	33
The Insurance Company of the State of Pennsylvania	28
Fidelity and Guaranty Insurance Company	27
National Union Fire Insurance Company of Pittsburgh, PA	25
United States Fidelity and Guaranty Company	23
Discover Property and Casualty Insurance Company	23
Fidelity & Guaranty Insurance Underwriters, Inc	22
Old Republic Insurance Company	22
New Hampshire Insurance Company, Ltd.	17
American Zurich Insurance Company	16
Commerce and Industry Insurance Company	16
ARCH Insurance Company	15
AIG Casualty Company	13
Granite State Insurance Company	13
XL Specialty Insurance Company	12
Safety National Casualty Corporation (SNCC)	12
American Guarantee & Liability Insurance Company	11
Continental Casualty Company (CNA)	10
Landmark Insurance Company	10
Hartford Insurance Company of the Midwest	10

Covered employees

The number of MPN applicants reporting employees under their MPN has increased since the last report, as more and more MPN applicants are reporting the number of employees covered under the MPN, at the time of filing their material modification to update their MPN application to conform to the MPN permanent regulations. Currently, we have information on 73.8 percent (1038) of approved MPN applicants. The total estimated number of covered employees, as reported by these MPN applicants, is 27,752,709. DWC recommends that this number be used with caution, as it believes this number to possibly be inflated due to insurers' multiple counting of covered employees in their multiple MPN applications.

Employers/Insurers with MPN

Neither the number nor the name of insured employers using MPNs can be obtained from MPN applications. Insurers are not required to report who among their insured employers are using their MPN. The list of self-insured employers with a self-reported number of covered employees greater than five thousand is shown below. This list includes some large self-insured companies such as Albertsons, AT&T, FedEx, Safeway, Home Depot, Target Corporation, Raley's, and Federated Department Store.

MPN Complaints

The MPN program has set up a complaint logging and resolution system. Complaints are received by phone, fax, email and mail. Since January 2006, DWC has received 194 complaints. DWC has contacted the liaison of the MPNs and resolved and closed 194 of the complaints.

Status of the MPN Program

The MPN program is a new program that is growing and as such, the intake, application tracking and review process are works in progress. The program has improved over time but there is still room for improvement. Professional as well as clerical staff could benefit from more training on programs such as Excel and Access which could facilitate the intake logging process. In addition, scanning of copies of application documents could reduce the space that is currently being used by MPN applications. Currently, two hard copies of each application are kept by DWC.

During the past year, the main focus of the program has been to review and approve MPN material modifications and to process the change of MPN notice. However, more research on the MPN provider networks and the functioning of MPNs needs to be undertaken on the following: what percentage of the different networks overlap, i.e., which networks have the same doctors? what are the economic profiling policies of the different networks? which areas of the State are covered by MPNs and which areas lack providers? and which provider specialties are lacking?

DWC does not have any mechanism to monitor if approved MPNs are indeed functioning according to their approved application. However, a complaint-tracking system has been put in place, and so far, DWC has received 172 complaints. Most of the complaints were regarding insufficient provider listings given to the injured worker.

List of Self-Insured MPN Applicants with Covered Employees of 5,000 or More, August 2009

Name of Applicant	Name of MPN	Number of Covered employees
Regents of The University of California	Regents of The University of California MPN	189,925
Los Angeles Unified School District	Sedgwick CMS Extended Medical Provider Network	138,000
County of Los Angeles	CorVel HCO	94,000
Target Corporation	Target Medical Provider Network	75,300
Safeway, Inc.	Safeway Select MPN	60,000
Kelly Services, Inc	Kelly Services Medical Provider Network	58,500
The Home Depot	The Home Depot Medical Provider Network	58,048
Target Corporation	Sedgwick CMS/Harbor Net-Target	50,000
K-Mart Corporation	Sedgwick CMS / Harbor Net - SHG	40,000
Macy's Inc.	Macy's Inc. Medical Provider Network	32,575
Pacific Bell Telephone Company	Sedgwick CMS Extended Medical Provider Network	31,500
Costco Wholesale	Costco MPN	31,000
Kaiser Foundation Hospitals, a California Corporation	Kaiser Permanente MPN	29,880
New Albertsons, Inc.(A SuperValu Company)	New Albertson's Inc. CA MPN	27,000
Southern California Permanente Medical Group	Kaiser Permanente MPN	26,353
Kimco Staffing Services, Inc.	First Health CompAmerica Primary Network	26,000
Mainstay Business Solutions	WellComp Medical Provider Network	22,500
County of Orange	WellComp Medical Provider Network	22,000
San Diego Unified School District	State Fund Medical Provider Network	22,000
County of Orange	Cambridge Orange County MPN	21,500
County of Orange	Intracorp	21,400
Pacific Gas and Electric Company	PG&E /Blue Cross Medical Provider Network	21,000
San Diego Unified School District	wellComp Medical Provider Network	20,762
Marriott International, Inc.	Marriott's Medical Provider Network	20,511
Manpower Inc.	Concentra MPN	20,320
The County of Riverside	First Health Comp America Select	20,173
City and County of San Francisco	City and County of San Francisco Medical Provider Network	20,000

Name of Applicant	Name of MPN	Number of Covered employees
San Diego Unified School District	TRISTAR - CompAmerica Primary HCO	20,000
Sun Microsystems, Inc. (Sun)	First Health Network	20,000
Walt Disney World Co (The Disneyland Resort Division)	Disneyland Resort Medical Provider Network	20,000
Ventura County Schools Self-Funding Authority	WellComp Medical Provider Network	19,566
County of Riverside	CorVel MPN/County of Riverside	19,000
Manpower, Inc.	Sedgwick CMS MPN	19,000
Viacom International Services, Inc.	First Health Comp America HCO Select Network	18,913
Countrywide Financial Corporation	Countrywide Network	18,000
Nordstrom Inc.	Nordstrom Medical Provider Network	17,000
Securitas Security Services USA, Inc.	Securitas Broadspire SNP	16,890
Hewlett Packard Company	Sedgwick CMS Extended Medical Provider Network	16,500
COP/CPB of the Church of Jesus Christ of the Latter-day Saints	Deseret MPN	16,000
American Building Maintenance (ABM)	ABM Network	15,800
Southern California Edison	SCE Select	15,514
Federal Express Corporation	Intracorp	14,878
County of San Bernardino	CorVel MPN	14,000
The Walt Disney Company	The Liberty Mutual Group MPN	13,924
Alliance of Schools for Cooperative Insurance Programs	WellComp Medical Provider Network	13,764
Raley's	Raley's Quality Medical Provider Network	13,500
Lockheed Martin Corporation	INTRACORP/Lockheed Martin MPN	13,400
Intel Corporation	Broadspire MPN	13,223
Barrett Business Services, Inc.	BBSI/CorVel MPN	12,000
AT&T	Sedgwick CMS Extended Medical Provider Network	11,500
Lowe's HIW, Inc.	Lowe's CA MPN	11,500
Santa Barbara County Schools - SIPE	PacMed, Inc. HCO	11,000
Dole Food Company, Inc.	First Health CompAmerica Select HCO Network (or "First Health Select")	10,980
Memorial Health Services	TRISTAR CompAmerica Primary HCO	10,827

Name of Applicant	Name of MPN	Number of Covered employees
County of Kern	County of Kern Medical Provider Network	10,800
Saugus Union School District	Prime Advantage Medical Network	10,707
Tenet Healthcare Corporation	First Health CompAmerica Primary HCO Network (or "First Health Primary")	10,642
Foster Farms	CorVel Custom MPN	10,000
LFP, Inc. and Affiliates	CorVel MPN	10,000
99¢ Only Stores	WellComp Medical Provider Network	9,976
Circuit City Stores, Inc.	Sedgwick CMS Extended Medical Provider	9,775
San Francisco Unified School District	First Health CompAmerica Primary HCO	9,500
United Airlines	CorVel/UAL/Kaiser MPN	9,500
Foster Poultry Farms	Foster Farms Custom CorVel MPN	9,200
Smart & Final, Inc.	Sedgwick CMS Extended Medical Provider Network	9,000
BCI Coca-Cola Bottling Company of Los Angeles (Coca-Cola Enterprises, Inc.)	Sedgwick CMS Medical Provider Network	8,500
Alameda County	First Health CompAmerica Primary Network	8,494
Kaiser Foundation Health Plan, Inc. A California Corporation	Kaiser Permanente MPN	8,448
Save Mart Supermarkets, Inc.	The Status MPN-Save Mart	8,000
The County of Fresno	The County of Fresno MPN	7,500
BLP Schools' Self-Insurance Authority	WellComp Medical Provider Network	7,132
Whittier Area Schools Insurance Authority	WellComp Medical Provider Network	6,850
MERGE Risk Management JPA	WellComp Medical Provider Network	6,778
Santa Ana Unified School District	WellComp Medical Provider Network	6,677
City of Long Beach	TRISTAR CompAmerica Primary HCO	6,674
Providence Health System	Intracorp/Providence Medical Provider Network	6,500
Raley's	CorVel HCO/CorVel HCO Select	6,000
Los Angeles County Office of Education	Los Angeles County Office of Education - Comp Care MPN	5,857
City of Glendale	City of Glendale/Concentra	5,641
New United Motor Manufacturers, Inc.	NUMMI MPN	5,536

Name of Applicant	Name of MPN	Number of Covered employees
Orange Unified School District	WellComp Medical Provider Network	5,449
The Salvation Army	Red Shield	5,440
Circuit City Stores, Inc.	SRS First Health CompAmerica Primary	5,336
Oakland Unified School District	Oakland Unified School District MPN	5,217
San Mateo County	San Mateo County MPN	5,200
San Jose Unified School District	First Health CompAmerica Primary HCO	5,141
County of Monterey	Liberty Mutual Group MPN	5,046
International Paper Company	Sedgwick CMS Medical Provider Network	5,000
Yellow Transportation, Inc.	CorVel MPN	5,000

Health Care Organization Program

Health Care Organizations (HCOs) were created by the 1993 workers' compensation reforms. The statutes for HCOs are given in California Labor Code Sections 4600.3 through 4600.7 and Title 8 California Code of Regulations (CCR) sections 9770 through 9779.3.

HCOs are managed care organizations established to provide health care to employees injured at work. A health care service plan (HMO), disability insurer, workers' compensation insurer, or a workers' compensation third-party administrator can be certified as an HCO.

Employers who contract with an HCO can direct treatment of injured workers from 90 to 180 days depending on the contribution of the employer to the employees' non-occupational health care coverage.

An HCO must file an application and be certified according to Labor Code Section 4600.3 et seq. and Title 8 CCR sections 9770 et. seq. HCOs pay a fee of $20,000 at the time of initial certification and a fee of $10,000 at the time of each three-year certification. In addition, annually, HCOs are required to pay $1.00 per enrollee based on their enrollment figure as of December 31 of each year. The HCO loan from the General Fund has been paid off in full. Therefore, the $0.50 per enrollee surcharge has been eliminated as of July 2007.

DWC has revised regulations to reduce the certification application fee and recertification fee and to remove redundant data collection requirements of HCOs. A public hearing was held on Title 8 CCR Sections 9771, 9778, 9779, 9779.5, and 9779.9 in July 2009. The revised regulations are effective January 1, 2010.

Currently, the HCO program has 9 certified HCOs. The list of certified HCOs and their most recent date of certification/recertification are given in the table below. Even though there are 9 certified HCOs, only 6 have enrollees. The rest are keeping their certification and use their provider network as a deemed entity for MPNs.

Table 1: List of Currently Certified HCOs by Date of Certification/Recertification

Name of HCO	Date of Certification/Recertification
CompPartners	07/24/2008
Corvel Corporation	12/30/2008
First Health/ CompAmerica Primary	10/05/2007
First Health/ CompAmerica Select	10/05/2007
Kaiser On The Job HCO	12/03/2006
MedeEx Health Care	03/16/2007
MedEx 2 Health Care	10/10/2006
Network HCO	04/16/2007
Promesa Inc. HCO	04/12/2007

HCO Enrollment

At its maximum, mid-2004, the HCO enrollment had reached about half a million enrollees. However, with the enactment of the MPN laws, the enrollment for the large HCOs such as First Health and Corvel declined considerably. Compared to the 2004 enrollment, First Health lost 100 percent of its enrollees while CorVel's declined by 96.6 percent to 3,384. As of June 2009, the total enrollment figure had fallen by 69.6 percent from the 2004 number of 481,337 to 146,056. Table 2 shows the number of enrollees as of December 31 of each year 2004 through 2008 and as of June 30, 2009.

Table 2: List of HCOs by Number of Enrollees for 2004 Through June 2009

	Year					
Name of HCO	**Dec-04**	**Dec-05**	**Dec-06**	**Dec-07**	**Dec-08**	**Jun-09**
CompPartners	60,935	61,403	53,279	13,210	1,765	0
CorVel/ Corvel Select	100,080	20,403	3,719	3,050	3,384	0
CompAmerica Primary/ Select (First Health)	218,919	2,403	0	0	0	0
Intracorp	6,329	3,186	2,976	2,870	0	0
Kaiser	30,086	67,147	66,138	69,602	77,567	73,074
Medex/ Medex 2	62,154	66,304	46,085	69,410	69,783	54,800
Net Work HCO	1,204	0	0	0	0	
Promesa	na	na	na	na	21,197	18,182
Prudent Buyer (Blue Cross)	1,390	0	0	0	0	0
Sierra	240	0	0	0	0	0
TOTAL	**481,337**	**220,846**	**172,197**	**158,142**	**173,696**	**146,056**

Health Care Organization Program Status

Even though HCO enrollment has decreased significantly, because HCOs use their network as deemed entities for MPNs, DWC still has the mandate to ensure that all HCO documentation is up to date and all fees are collected. In 2008, the HCO staff work load included a review of two recertification filings, CompPartners and Corvel Corporation.

Proposed Regulatory Changes

HCOs are required to file a data report annually according to Labor Code Section 4600.5(d)(3) and Title 8 CCR section 9778. However, since Workers' Compensation Information System (WCIS) now requires reporting of medical services provided on or after 9/22/2006, as mandated by Title 8 CCR section 9700 et seq., the HCO data collection on the same subject is redundant. DWC revised its regulations to eliminate duplicative HCO reporting requirements. Effective January 1, 2010, information collected by WCIS will not be required to be resubmitted to DWC by HCOs.

Pre-designation laws for HCOs in Labor Code Section 4600.3 should be in accord with the pre-designation for MPNs as stated in Labor Code Section 4600.

For further information …

http://www.dir.ca.gov/dwc/DWCPropRegs/hco/HCO_Regulations.htm

Pre-Designation Under Health Care Organization versus Medical Provider Networks

An employee's right of pre-designation under an HCO has become different from the right under an MPN. The general right of pre-designation under Labor Code Section 4600 as it existed in 1993 was mirrored in Section 4600.3 for HCOs. Eligibility to pre-designate was subsequently restricted by the 2004 amendments of Section 4600. The provisions of the HCO statutes were not amended to conform, so employees who would not otherwise be eligible to pre-designate a personal physician may become eligible if their employers adopt an HCO. An HCO may lose medical control more frequently than an MPN due to this lack of conformity in the statute. Unless there is a change in the legislation, Labor Code Section 4600(d), the right to predesignate, will sunset on December 31, 2009.

For further information …

www.dir.ca.gov/dwc and http://www.dir.ca.gov/dwc/MPN/DWC_MPN_Main.html

ADJUDICATION SIMPLIFICATION EFFORTS

Carve-outs: Alternative Workers' Compensation Systems

A provision of the workers' compensation reform legislation in 1993, implemented through Labor Code Section 3201.5, allowed construction contractors and unions, via the collective bargaining process, to establish alternative workers' compensation programs, also known as carve-outs.

CHSWC is monitoring the carve-out program, which is administered by DWC.

CHSWC Study of Carve-Outs

CHSWC engaged in a study to identify the various methods of alternative dispute resolution (ADR) that are being employed in California carve-outs and to begin the process of assessing their efficiency, effectiveness and compliance with legal requirements.

Since carve-out programs have operated only since the mid-1990s, the data collected are preliminary. The study team found indications that: the most optimistic predictions about the effects of carve-outs on increased safety, lower dispute rates, far lower dispute costs, and significantly more rapid RTW have not occurred; and that the most pessimistic predictions about the effect of carve-outs on reduced benefits and access to representation have not occurred.

For further information …

> *How to Create a Workers' Compensation Carve-out in California: Practical Advice for Unions and Employers*, CHSWC (2006).
> http://www.dir.ca.gov/CHSWC/carve-out1.pdf.

Impact of Senate Bill 228

Senate Bill (SB) 228 adds Labor Code Section 3201.7, establishing the creation of a new carve-out program for any unionized industry that meets the requirements. This is in addition to the existing carve-out in the construction industry (already covered in current law by Labor Code Section 3201.5).

Only the union may initiate the carve-out process by petitioning the Administrative Director (AD). The AD will review the petition according to the statutory requirements and issue a letter allowing each employer and labor representative a one-year window for negotiations. The parties may jointly request a one-year extension to negotiate the labor-management agreement.

In order to be considered, the carve-out must meet several requirements including:

- The union has petitioned the AD as the first step in the process.
- A labor-management agreement has been negotiated separate and apart from any collective bargaining agreement covering affected employees.
- The labor-management agreement has been negotiated in accordance with the authorization of the AD between an employer or groups of employers and a union that is recognized or certified as the exclusive bargaining representative that establishes any of the following:
    - An ADR system governing disputes between employees and employers or their insurers that supplements or replaces all or part of those dispute resolution processes contained in this division, including, but not limited to, mediation and arbitration. Any system of arbitration shall provide that the decision of the arbiter or board of arbitration is subject to review by the Appeals Board in the same manner as provided for reconsideration of a final order, decision, or award made and filed by a workers' compensation administrative law judge.
    - The use of an agreed list of providers of medical treatment that may be the exclusive source of all medical treatment provided under this division.
    - The use of an agreed, limited list of qualified medical evaluators (QMEs) and agreed medical evaluators (AMEs) that may be the exclusive source of QMEs and AMEs under this division.
    - A joint labor-management safety committee.

- o A light-duty, modified job or return-to-work program.
- o A vocational rehabilitation or retraining program utilizing an agreed list of providers of rehabilitation services that may be the exclusive source of providers of rehabilitation services under this division.

- The minimum annual employer premium for the carve-out program for employers with 50 employees or more is $50,000, and the minimum group premium is $500,000.
- Any agreement must include right of counsel throughout the ADR process.

Impact of Senate Bill 899

Construction industry carve-outs were amended per Labor Code Section 3201.5 and carve-outs in other industries were amended per Labor Code Section 3201.7 to permit the parties to negotiate any aspect of the delivery of medical benefits and the delivery of disability compensation to employees of the employer or group of employers who are eligible for group health benefits and non-occupational disability benefits through their employer.

Recognizing that many cities and counties, as well as private industries, are interested in knowing more about carve-outs and about health and safety training and education within a carve-out, CHSWC hosted a conference devoted to carve-outs/alternative dispute resolution on August 2, 2007, in Emeryville, California. The conference was for all stakeholders in the workers' compensation system including: those in existing carve-outs; those considering establishing a carve-out; unions and employers; risk managers; government agencies; third-party administrators; insurers; policymakers; attorneys; and health care providers.

The conference provided an opportunity for the health and safety and workers' compensation communities and the public to share ideas for establishing carve-outs which have the potential to: improve safety programs and reduce injury and illness claims; achieve cost savings for employers; provide effective medical delivery and improved quality of medical care; improve collaboration between unions and employers; and increase the satisfaction of all parties.

Carve-Out Participation

As shown in the following table, participation in the carve-out program has grown, with significant increases in the number of employees, work hours, and amount of payroll.

Table: Participation in Carve-Out Program

Carve Out Participation	1995	1996	1997	1998	1999	2000*	2001*	2002	2003*	2004*	2005*	2006	2007	2008
Employers	242	277	550	683	442	260	143	512	316	462	739	981	1,087	1,274
Work Hours (in millions)	6.9	11.6	10.4	18.5	24.8	16.9	7.9	29.4	22.9	25.4	24.5	49.4	56.1	76.5
Employees (full-time equivalent)	3,450	5,822	5,186	9,250	12,395	8,448	3,949	14,691	11,449	12,700	12,254	24,680	28,028	38,269
Payroll (in million $)	158	272	243	415	585	443	202	634	624	1,200	966	1,348	1,777	2,300

* Please note that data are incomplete Source: DWC

Aggregate Data Analysis of Carve-out Programs

Due to a lack of available historical data and a discrepancy between the reporting requirements of Labor Code Section 3201.9 and the data collection requirements of CCR section 10203, the earliest data presented here are from 2004 forward.

Person hours and payroll covered by agreements filed

Carve-out programs reported that for the 2007 calendar year, they covered 56.1 million work hours and $1.8 billion in payroll.

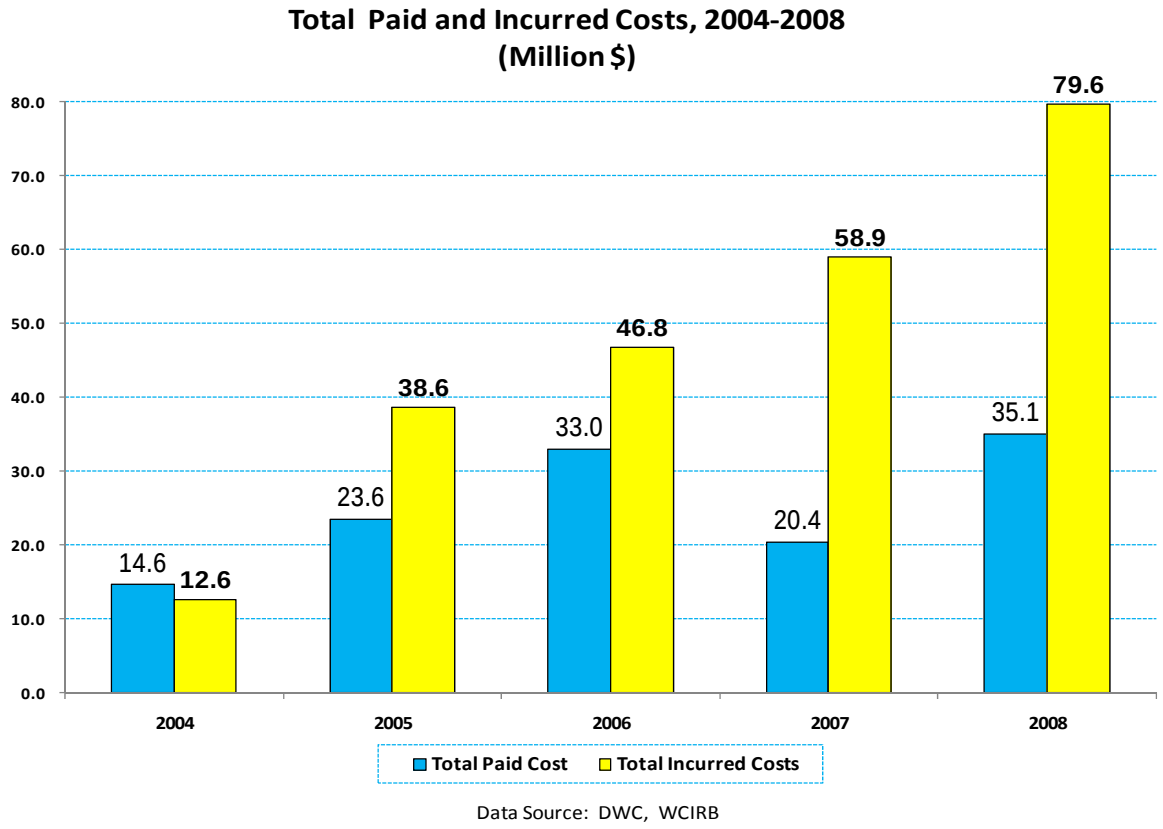
For the 2008 calendar year, carve-out programs reported that they covered 76.5 million work hours and $2.3 billion in payroll.

Number of claims filed

During 2008, there were a total of 4,855 claims filed, of which 2,425 (49.9 percent) claims were medical-only claims, and 2,430 (50.1 percent) were indemnity claims.

Paid, incurred and average cost per claim

The chart below shows projected total paid and incurred costs for all claims combined. The paid costs for claims filed in 2008 increased 71.7 percent compared to 2007, while the total incurred costs increased 35 percent from 2007.



According to the chart above, the actual costs for claims filed in 2008 totaled $35,063,167, while the incurred costs totaled $79,639,281. The largest share of costs is attributable to payment of medical and temporary disability benefits. These benefits accounted for 44.5 percent and 47.6 percent of total actual costs, and 60.4 percent and 27.3 percent of total incurred costs, respectively.

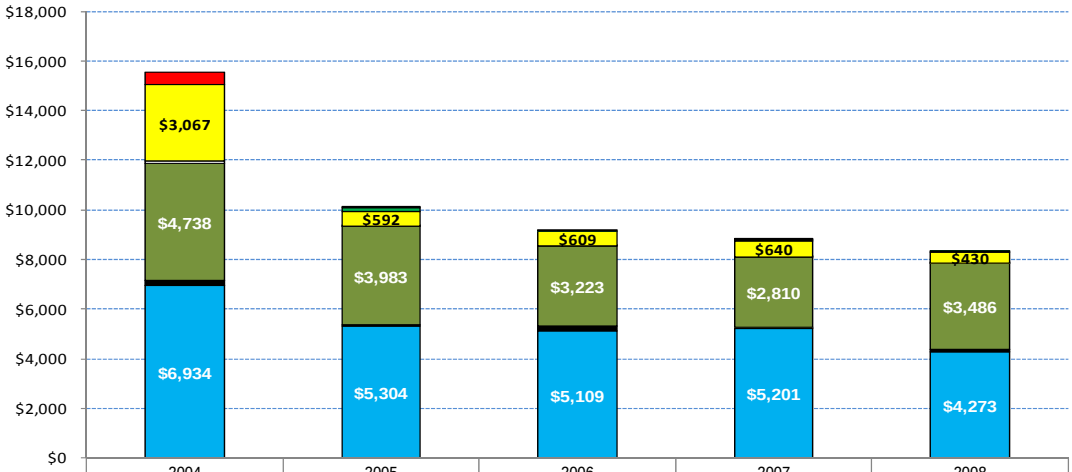
.

Table: Total Actual and Incurred Costs, Overall and by Cost Component in 2008

	Total Actual Cost	Total Incurred Cost
All Claim Components[28]	**$ 35,063,167**	**$ 79,639,281**
Medical	$ 15,619,355	$ 48,137,679
Temporary Disability[29]	$ 16,676,018	$ 21,778,468
Permanent Disability	$ 2,053,041	$ 5,086,155
Death Benefit	$ 279,913	$ 2,824,359
Life Pension	$0	$0
Vocational Rehabilitation	$ 39,573	$ 752,312
Medical-legal	$ 395,268	$ 1,060,309

The following two charts show the average paid and incurred costs per claim by cost components across all claims from 2004 to 2008.

Average Paid Cost per Claim by Cost Components, 2004 - 2008



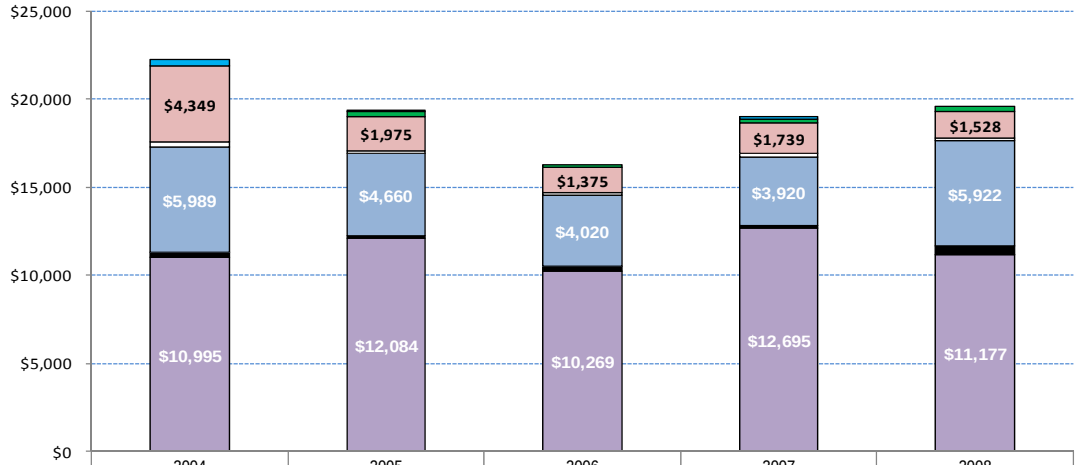
	2004	2005	2006	2007	2008
Life Pension	$500	$45	$0	$41	$0
Death Benefit	$0	$146	$44	$46	$24
Permanent Disability	$3,067	$592	$609	$640	$430
Vocational Rehabilitation	$97	$13	$18	$25	$5
Temporary Disability	$4,738	$3,983	$3,223	$2,810	$3,486
Medical-legal	$197	$61	$201	$84	$108
Medical	$6,934	$5,304	$5,109	$5,201	$4,273
All Claim Components	$16,321	$10,519	$9,204	$8,968	$8,284

Data Source: DWC, WCIRB

[28] The calculation of total actual cost for all claim components excludes temporary disability data from one carve-out that failed to provide accurate information on actual temporary disability costs. However, the remainder of the individual cost components for this carve-out is included in the calculation of the total actual costs of all claim components.

[29] The calculation of average actual temporary disability cost per claim excludes data from one carve-out that failed to provide accurate information on actual temporary disability costs.

Average Incurred Cost per Claim by Cost Components, 2004 - 2008



	2004	2005	2006	2007	2008
Life Pension	$361	$45	$0	$144	$0
Death Benefit	$0	$229	$201	$187	$258
Permanent Disability	$4,349	$1,975	$1,375	$1,739	$1,528
Vocational Rehabilitation	$256	$166	$153	$166	$157
Temporary Disability	$5,989	$4,660	$4,020	$3,920	$5,922
Medical-legal	$308	$143	$280	$121	$512
Medical	$10,995	$12,084	$10,269	$12,695	$11,177
All Claim Components *	$24,398	$19,058	$15,925	$19,664	$19,552

* With regard to average incurred costs for all claim components, only carve-outs reporting data on every cost component are included in computing the average.

Data Source: DWC, WCIRB

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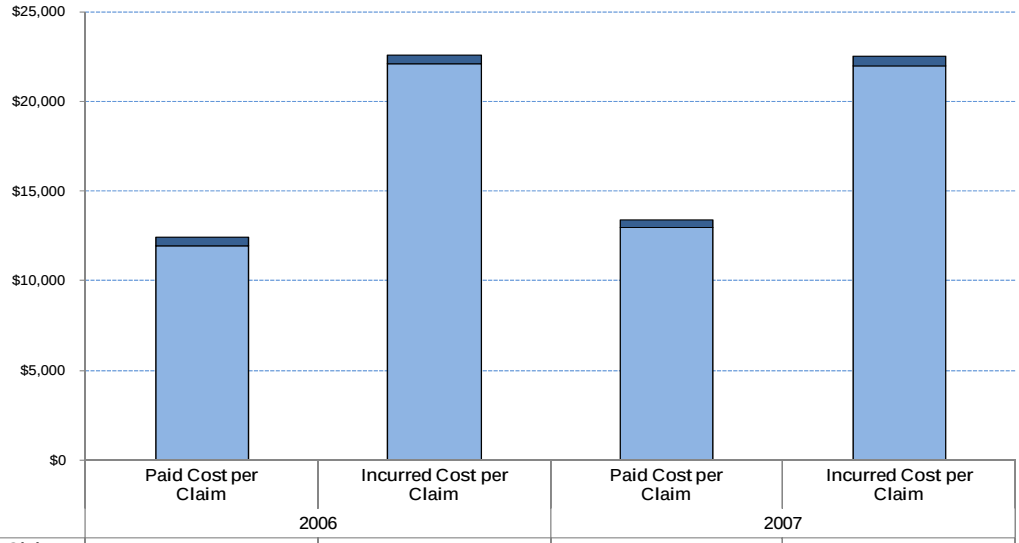
In contrast, the following chart shows the cost by the type of claims filed in 2006 and 2007 (latest available data.)

Average Paid and Incurred Cost by Claim Type, 2006 and 2007



	2006		2007	
	Paid Cost per Claim	Incurred Cost per Claim	Paid Cost per Claim	Incurred Cost per Claim
Total Medical-Only Claims	$433	$481	$400	$490
Total Claims with Indemnity	$11,970	$22,116	$13,000	$22,000

Data Source: DWC, WCIRB

Number of disputed claims

The tables below show the numbers and distribution of claims resolved by stage of dispute resolution process in total claims in carve-outs for years 2004 through 2008. Among the subset of carve-outs with acceptable data reporting, the percentage of claims that were disputed varied from less than one percent in 2004 to 13.4 percent in 2006. Since 2004, these programs reported that 7 out of 67 (10.4 percent) disputed claims have been heard by the WCAB or the Court of Appeals.

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Table: Total Disputed Carve-Out Claims in Programs Reporting

	2004	2005	2006	2007	2008
Number of Programs Reporting	4	4	4	5	9
Total Number of Claims	150	77	97	603	1157
Total Number of Disputed Claims	**1**	**2**	**13**	**7**	**44**
Percentage of Disputed Claims in Total	**0.67%**	**2.60%**	**13.40%**	**1.20%**	**3.80%**

Data Source: DWC

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Table: Number of Disputed Claims by Type of Resolution

	2004	2005	2006	2007	2008
By Mediation	0	0	6	6	32
By Arbitration	0	0	4	1	11
By WCAB	1	0	3	0	1
By Court of Appeals	0	2	0	0	0
Total Number Disputed	**1**	**2**	**13**	**7**	**44**

Data Source: DWC

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Table: Distribution of Disputed Claims by Type of Resolution in Total Claims

	2004	2005	2006	2007	2008
By Mediation	0.0%	0.0%	6.19%	1.00%	2.77%
By Arbitration	0.0%	0.0%	4.12%	0.17%	0.95%
By WCAB	0.67%	0.0%	3.09%	0.0%	0.1%
By Court of Appeals	0.0%	2.60%	0.0%	0.0%	0.0%
Total for Disputed Claims	**0.67%**	**2.60%**	**13.40%**	**1.20%**	**3.80%**

Data Source: DWC

Number of contested claims resolved prior to arbitration

Among the subset of carve-outs with acceptable data reporting, no contested claims were reported resolved[30] prior to arbitration in 2004 or 2005, while 6 and 32 claims were reported resolved prior to arbitration in 2007 and 2008 respectively.

[30] "Resolved" means that ultimate liability has been determined, even though payments for the claim may be made beyond the reporting period.

Table: Number of Contested Claims Resolved Prior to Arbitration

	2004	2005	2006	2007	2008
Total Number of Contested Claims[31]	0	0	6	6	32
Number of Programs Reporting	4	4	4	5	9
Average Per Program	0	0	1.5	1.2	3.6

Data Source: DWC

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Safety history

The number of injuries reported on OSHA Form 300[32] is significantly lower than the number of claims filed. In 2007, 99 incidents were filed with the U.S. Department of Labor using OSHA Form Number 300. OSHA requires employers to file an injury and/or illness with Form Number 300 if a work-related injury results in death, loss of consciousness, days away from work, restricted work activity, and/or medical care beyond first aid. In 2007, this reporting was 20.8 percent less per program than 2006. There was a significant increase in number of injuries reported on OSHA Form Number 300 in 2008.

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Table: Number of Injuries Filed Using OSHA Form 300

	2004	2005	2006	2007	2008
Number of injuries filed on OSHA Form 300	0	3	125	99	2,059
Number of Programs Reporting	10	14	16	18	N/A
Average per Program	0.0	0.2	7.8	5.5	N/A

Data Source: DWC

The number of workers participating in vocational rehabilitation programs

The ADR/carve-out system for 2008 reported 11 workers participating in a vocational rehabilitation program. From 2004 to 2007, the number of employees taking part in a vocational rehabilitation program was never more than 7.

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Table: Number of Workers in a Vocational Rehabilitation Program

	2004	2005	2006	2007	2008
Number of Programs Reporting[33]	7	12	16	20	22
Number of Workers	5	6	7	6	11
Average per Program	0.7	0.5	0.4	0.3	0.5

Data Source: DWC

The number of workers participating in light-duty programs

From 2004 to 2008, the number of workers participating in a light-duty program has grown 14,400 percent, from 2 to 290 participants. The average number of participants per program has grown from 0.2 to 12.6 over the same time period.

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[31] The total number of contested claims resolved prior to arbitration was calculated by aggregating each program's answer to the GV-1 Form question on the number of claims that were resolved at or after mediation.

[32] OSHA requires employers to file an injury and or illness Form 300 if work-related injuries result in death, a loss of consciousness, days away from work, restricted work activity, and/or medical care beyond first aid.

[33] Excludes programs reporting vocational rehabilitation costs but not vocational rehabilitation program participants.

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Table: Number of Workers Participating in Light-Duty Programs

	2004	2005	2006	2007	2008
Number of Programs Reporting	12	16	19	21	23
Number of workers	2	61	101	108	290
Average per Program	0.2	3.8	5.3	5.1	12.6

Data Source: DWC

Worker satisfaction

Labor Code Section 3201.7 also requires non-construction ADR/carve-out programs to include information on worker satisfaction. However in 2007, due to the confidentiality concerns raised by having only one active non-construction program, the worker satisfaction component of Labor Code Section 3201.9 was not conducted for this report.

In 2008, two Section 3201.7 programs did not report the results of a worker satisfaction survey for 2008. One Section 3201.7 program reported that 78.3 percent of injured workers surveyed were satisfied with how their workers' compensation claim was handled by their ADR/Carve-out program.

A listing of employers and unions in carve-out agreements follows.

Status of Carve-out Agreements

The following charts show the current status of carve-out agreements pursuant to Labor Code Sections 3201.5 and 3201.7, as reported by DWC.

Construction Industry Carve-out Participants as of November 30, 2009
Labor Code Section 3201.5

*Key: (1) = one employer, one union; (2) = one union, multi employer; (3) = project labor agreement

No.	Union	Company	Exp. Date
1. (3)	CA Building & Construction Trades Council	Metropolitan Water District So. CA - Diamond Valley Lake	11/7/06
2. (2)	International Brotherhood of Electrical Workers (IBEW)	National Electrical Contractors Association (NECA)	8/14/10
3. (2)	So. CA District of Carpenters & 19 local unions	6 multi-employer groups - 1000 contractors	8/14/10
4. (2)	So. CA Pipe Trades Council 16	Multi employer - Plumbing & Piping Industry Council	8/24/10
5. (1)	Steamfitters Local 250	Cherne - two projects completed in 1996	Complete
6. (1)	International Union of Petroleum & Industrial Workers	TIMEC Co., Inc./TIMEC So. CA., Inc.	7/31/10
7. (3)	Contra Costa Building & Construction Trades Council	Contra Costa Water District - Los Vaqueros	Complete
8. (2)	So. CA District Council of Laborers	Association General Contractors of CA, Building Industry Association; So. CA, So. CA Contractors' Association; Engineering Contractors' Association.	7/31/08
9. (3)	CA Building & Construction Trades Council	Metropolitan Water District So. CA Inland Feeder Parsons	Ended 12/31/02
10. (3)	Building & Construction Trades Council of Alameda County	Parsons Constructors, Inc. National Ignition Facility - Lawrence Livermore	9/23/09 ended 7/2/06
11. (2)	District Council of Painters	LA Painting & Decorating Contractors' Association	10/28/12
12. (1)	Plumbing & Pipefitting Local 342	Cherne Contracting - Chevron Base Oil 2000 project	Complete
13. (3)	LA Building & Construction Trades Council AFL-CIO	Cherne Contracting - ARCO	Complete
14. (2)	Operating Engineers Local 12	So. CA Contractors' Association	4/1/11
15. (2)	Sheet Metal International Union	Sheet Metal-A/C Contractors National Association	4/1/11
16. (3)	Building & Construction Trades Council San Diego	San Diego County Water Authority Emergency Storage Project	2/20/12
17. (3)	LA County Building & Construction Trades Council	Cherne Contracting – Equilon Refinery – Wilmington	3/1/07
18. (3)	Plumbers & Steamfitters	Cherne Contracting – Chevron Refinery – Richmond	7/1/05
19. (3)	Plumbers & Steamfitters	Cherne Contracting – Tesoro Refinery – Martinez	7/1/05
20. (3)	LA/Orange Counties Building & Construction Trade Council	Cherne Contracting – Chevron Refinery – El Segundo	7/26/05

No.	Union	Company	Exp. Date
21. (2)	District Council of Iron Workers- State CA & Vicinity	California Ironworker Employers Council	2/25/12
22. (2)	Sheet Metal Workers International Association #105	Sheet Metal & A/C Labor Management Safety Oversight Committee (LMSOC)	4/17/12
23. (2)	United Union of Roofers, Waterproofers & Allied workers, Local 36 and 220	Union Roofing Contractors Association	7/31/11
24. (2)	United Union of Roofers, Waterproofers & Allied Workers, Locals 27, 40, 81 & 95	Associated Roofing Contractors of the Bay Area Counties	7/31/10
25. (2)	United Association-Journeyman & Apprentices - Plumbers & Pipefitters, Local #447	No.CA Mechanical Contractors Association & Association Plumbing & Mechanical Contractors of Sacramento. Inc.	11/7/12
26. (2)	Operatives Plasterers & Cement Masons International Association, Local 500 & 600	So. CA Contractors Association, Inc.	4/1/11
27. (1)	International Unions Public & Industrial Workers	Irwin Industries, Inc.	3/23/10
28. (2)	PIPE Trades District Council.# 36	Mechanical Contractors Council of Central CA	4/14/10
29. (2)	No. CA Carpenters Regional Council	Basic Crafts Workers' Compensation Benefits Trust	8/30/10
30. (2)	No. CA District Council of Laborers	Basic Crafts Workers' Compensation Benefits Trust	8/30/10
31. (2)	Operating Engineers Local 3	Basic Crafts Workers' Compensation Benefits Trust	8/30/10
32. (1)	Industrial, Professional & Technical Workers	Irish Construction	12/20/10
33. (3)	Building Trades Council of Los Angeles Orange County	Los Angeles Community College District Prop A & AA Facilities Project	5/6/11

Key: (1) = one employer, one union; (2) = one union, multi employer; (3) = project labor agreement

Non-Construction Industry Carve-Out Participants as of August 31, 2009
(Labor Code Section 3201.7)

No.	Union	Company	Permission to Negotiate Date/Expires	Application for Recognition of Agreement	Agreement Recognition Letter Date
1.	United Food & Commercial Workers Union Local 324	Super A Foods-2 locations 76 employees	09/01/04-09/01/05		
2.	United Food & Commercial Workers Union Local 1167	Super A Foods – Meat Department 8 employees	09/01/04-09/01/05		
3.	Teamsters Cal. State Council-Cannery & Food Processing Unions, IBT, AFL-CIO	Cal. Processors, Inc. Multi-Employer Bargaining Representative	07/06/04- 07/05/05		
4.	United Food & Commercial Workers Union Local 770	Super A Foods – 10 locations - ~ 283 members	09/01/04-09/01/05		
5.	United Food & Commercial Workers Union Local 1036	Super A Foods - All employees, except those engaged in janitorial work or covered under a CBA w/Culinary Workers and demonstrators	09/01/04-09/01/05		Withdrawn 7/28/09
6.	Operating Engineers-Local 3 Non-Construction	Basic Crafts Workers' Compensation Benefits Trust Fund	12/09/04-12/09/05	02/15/05	02/28/05
7.	Laborers - Non-Construction	Basic Crafts Workers' Compensation Benefits Trust Fund	12/09/04-12/09/05	02/15/05	02/28/05
8.	Carpenters- Non-Construction	Basic Crafts Workers' Compensation Benefits Trust Fund	12/09/04-12/09/05	02/15/05	02/28/05
9.	United Food & Commercial Workers Union Local 588	Mainstay Business Solutions	8/11/05-8/11/06	09/02/05	09/12/05
10.	Teamsters Local 952	Orange County Transportation Authority Coach Operators	04/17/06- 04/17/07		Withdrawn 7/28/09

No.	Union	Company	Permission to Negotiate Date/Expires	Application for Recognition of Agreement	Agreement Recognition Letter Date
11.	Teamsters Local 630	SYSCO Food Services	06/22/07-06/22/08		Withdrawn 7/30/09
12.	Teamsters Local 848	SYSCO Food Services	06/22/07-06/22/08		Withdrawn 7/30/09
13.	Teamsters Local 952	Orange County Transportation Authority Maintenance Workers	07/31/06-07/31/07		
14.	Long Beach Peace Officers' Assoc. & Long Beach Firefighters Assoc. Local 372	City of Long Beach	12/11/06-12/11/07	11/2/07	11/13/07
15.	SEIU Local 1877	Various Maintenance Companies	04/13/07-04/13/08	2/12/08	2/28/08
16.	SEIU Local 721	City of LA	06/18/07-06/18/08	4/15/08	5/8/08
17.	United Food & Commercial Workers Union (UFCW) Local 5	Berkeley Bowl	07/07/08-07/07/09		
18.	UFCW Local 5	Smoked Prime Meats, Inc.	07/07/08-07/07/09		
19.	UFCW Local 5	Milan Salami	07/07/08-07/07/09		

For further information …

The latest information on carve-outs may be obtained at:
http://www.dir.ca.gov./dwc/carveout.html

How to Create a Workers' Compensation Carve-out in California: Practical Advice for Unions and Employers. CHSWC (2006).
http://www.dir.ca.gov/CHSWC/carve-out1.pdf.

Carve-outs: A Guidebook for Unions and Employers in Workers' Compensation. CHSWC (2004).
http://www.dir.ca.gov/chswc/CARVEOUTSGuidebook2004.pdf

Carve-Outs' in Workers' Compensation: An Analysis of Experience in the California Construction Industry (1999).
http://www.dir.ca.gov/CHSWC/CarveOutReport/Carveoutcover.html

ANTI-FRAUD ACTIVITIES

Background

During the past decade, there has been a dedicated and rapidly growing campaign in California against workers' compensation fraud. This report on the nature and results of that campaign is based primarily on information obtained from the CDI Fraud Division, as well as applicable Insurance Code and Labor Code sections and data published in periodic Bulletin[s] of the California Workers' Compensation Institute (CWCI).

Suspected Fraudulent Claims

Suspected Fraudulent Claims (SFCs) are reports of suspected fraudulent activities received by CDI from various sources, including insurance carriers, informants, witnesses, law enforcement agencies, fraud investigators, and the public. The number of SFCs represents only a small portion that has been reported by the insurers and does not necessarily reflect the whole picture of fraud since many fraudulent activities have not been identified or investigated.

According to CDI Fraud Division, the number of suspected fraudulent claims increased near the end of fiscal year 2003-2004. Several reasons for this increase include:

- The extensive efforts to provide training to the insurance claim adjusters and Special Investigation Unit (SIU) personnel by the Fraud Division and District Attorneys.

- Changing submission of SFCs by filling out the FD-1 Form electronically through the Internet.

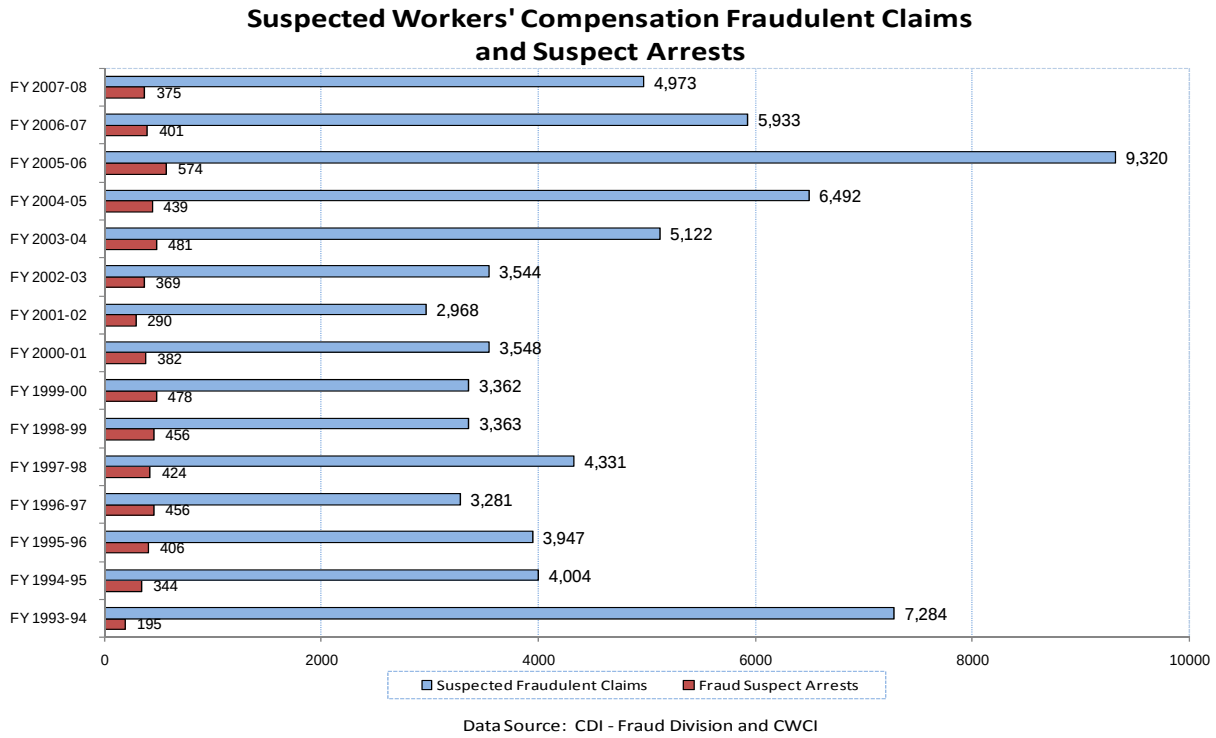
- The Department promulgated new regulations to help insurance carriers step up their anti-fraud efforts and become more effective in identifying, investigating, and reporting workers' compensation fraud. A work plan to increase the number of audits performed by the Fraud Division SIU Compliance Unit has been established and continues with an aggressive outreach plan to educate the public on anti-fraud efforts and how to identify and report fraud. This has ensured a more consistent approach to the oversight and monitoring of the SIU functions with the primary insurers as well as the subsidiary companies.

- Finally, CDI is strengthening its working relationship with the Workers' Compensation Insurance Rating Bureau (WCIRB) to support the Department's anti-fraud efforts.

For fiscal year 2007-08, the total number of SFCs reported is 4,973.

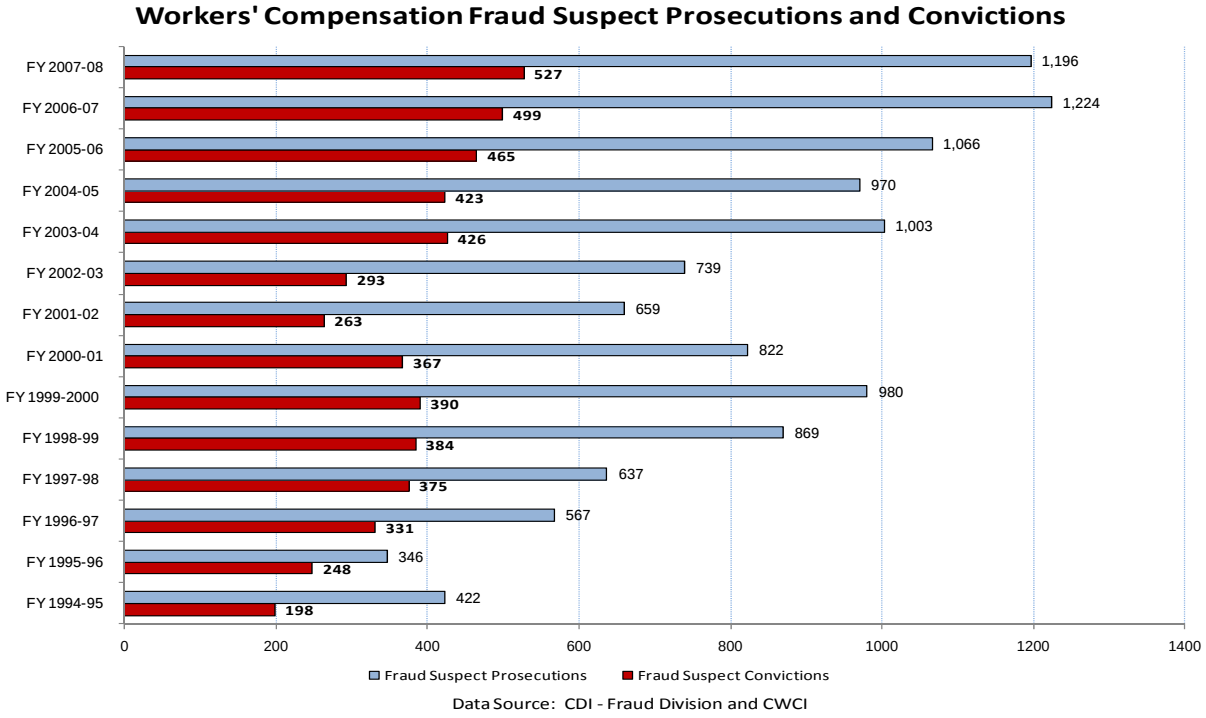
Workers' Compensation Fraud Suspect Arrests

After a fraud referral, an investigation must take place before any warrants are issued or arrests are made. The time for investigation ranges from a few months to a few years depending on the complexity of the caseload. For this reason, the number of arrests does not necessarily correspond to the number of referrals in a particular year. (See the following chart.)



Workers' Compensation Fraud Suspect Convictions

Based on information from the Fraud Division and CWCI Bulletin[s], the number of workers' compensation fraud suspects *convicted* annually while many cases are still pending in court is reported in the chart below.



Workers' Compensation Fraud Investigations

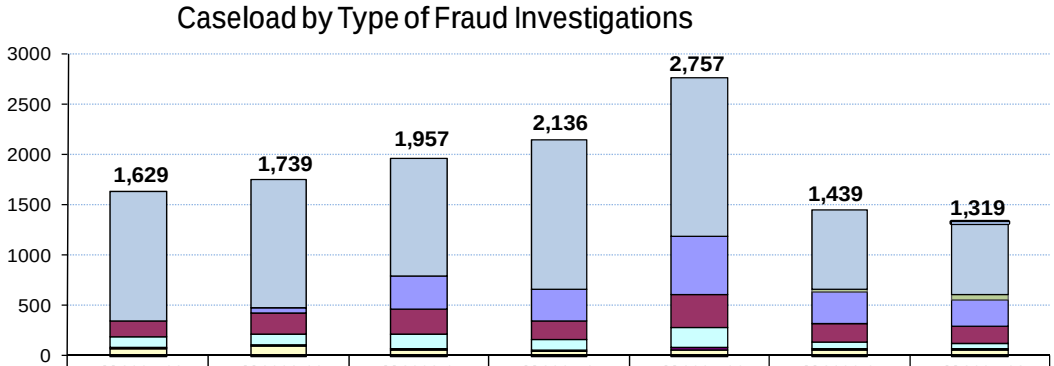
Types of Workers' Compensation Fraud Investigations

The charts "Caseload by Type of Fraud Investigations" and "Type of Fraud Investigations by Percentage of Total" on the next page indicate the number and types of investigations opened and carried from fiscal years 2001-02 to 2007-08 reported by district attorneys. Applicant fraud appears to be the area generating the most cases followed by premium fraud and medical provider fraud.

Some of the categories for fraud-related investigations were changed in the fiscal years 2005-2006, 2006-2007, and 2007-2008 as reflected in the following charts. In 2008, two new categories Legal and Pharmacy were introduced as separate categories.

Trends in Workers' Compensation Fraud Investigations

The chart below shows that there was a 69 percent increase in workers' compensation fraud investigations from FY 2001-02 to FY 2005-06 followed by 52 percent decrease from FY 2005-06 to FY 2007-08.

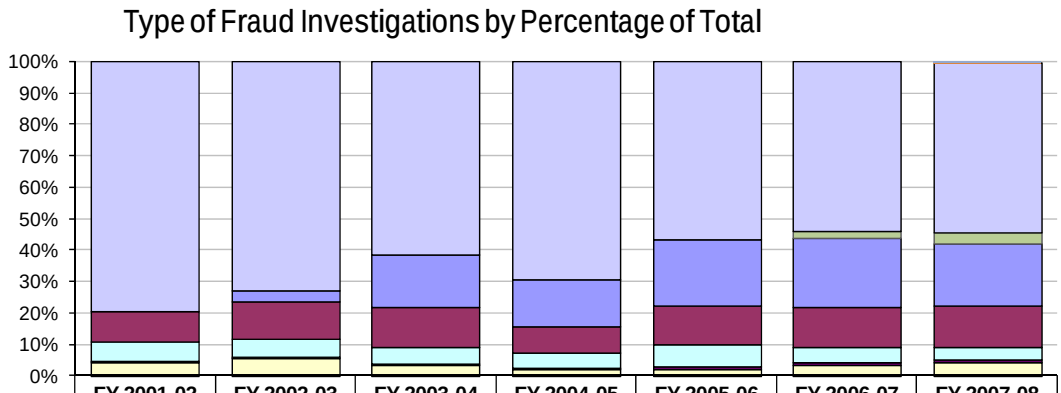


	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
Legal	N/A	N/A	N/A	N/A	N/A	N/A	8
Pharmacy	N/A	N/A	N/A	N/A	N/A	N/A	1
Applicant	1,293	1,263	1,177	1,478	1,573	778	714
Defrauding Employee	N/A	N/A	N/A	N/A	N/A	36	42
Uninsured Employer	0.0%	61	327	325	580	312	265
Premium*	159	207	242	172	331	186	172
Medical Provider**	105	109	141	112	193	69	50
Insider	8	6	14	6	25	12	12
Other	64	93	56	43	55	46	55
Total	1,629	1,739	1,957	2,136	2,757	1,439	1,319

*** For FY 2006-2007 and 2007-2008, Includes Misclassification, Underreported Wages, and X-Mod Evasion**
**** From FY 2005-06, includes Capping and Fraud Rings that had been separate categories before, and for 2006-07, includes Legal Provider and Treatment frauds**

Data Source: California Department of Insurance, Fraud Division

As seen in the chart below, the focus of the investigations has been changing. Applicant fraud investigations have dropped from nearly 80 percent of the total in 2001-02 to about 54 percent of the total number of investigations in FY 2007-08. At the same time, there has been an increase in the percentage of investigations of uninsured employers and premium fraud. The percentage of investigations of medical provider fraud decreased from 7 percent to 3.8 percent between 2005-06 and 2007-08.



	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
Legal	N/A	N/A	N/A	N/A	N/A	N/A	0.61%
Pharmacy	N/A	N/A	N/A	N/A	N/A	N/A	0.08%
Applicant	79.4%	72.6%	60.1%	69.2%	57.1%	54.1%	54.1%
Defrauding Employee	0.0%	0.0%	0.0%	0.0%	0.0%	2.5%	3.2%
Uninsured Employer	0.0%	3.5%	16.7%	15.2%	21.0%	21.7%	20.1%
Premium*	9.8%	11.9%	12.4%	8.0%	12.0%	12.9%	13.0%
Medical Provider**	6.0%	5.6%	5.0%	4.9%	7.0%	4.8%	3.8%
Insider	0.5%	0.3%	0.7%	0.3%	0.9%	0.8%	0.9%
Other	3.9%	5.3%	2.9%	2.0%	2.0%	3.2%	4.2%

*** For FY 2006-2007, Includes Misclassification, Underreported Wages, and X-Mod evasion**
**** From FY 2005-06, includes Capping and Fraud Rings that had been separate categories before, and for 2006-07, includes Legal Provider and Treatment frauds**

Data Source: California Department of Insurance, Fraud Division

In addition, the *2008 Annual Report of the Insurance Commissioner* notes that the great majority of suspected fraudulent claims in calendar year 2008 came from Los Angeles County (1,777 or 35 percent of total cases) followed by Orange County (527 or 10 percent), and then San Diego County (383 or 7.5 percent).

Underground Economy

While most California businesses comply with health, safety and workers' compensation regulations, there are businesses that do not. Those businesses are operating in the "underground economy." Such businesses may not have all their employees on the official company payroll or may not report wages paid to employees that reflect their real job duties. Businesses in the underground economy are therefore competing unfairly with those that comply with the laws. According to EDD, the California underground economy is estimated at $60 billion to $140 billion.[34]

Potential Areas for Improvement in Workers' Compensation Anti-Fraud Efforts

CHSWC has engaged in many studies that focus on improving workers' compensation anti-fraud efforts. (See the 2009 Annual Report of the Commission on Health and Safety and Workers' Compensation.)

[34] http://www.edd.ca.gov/taxrep/txueoind.htm#What_Does_It_Cost_You

ENDNOTES (See "System Costs and Benefits Overview").

i. CHSWC estimate based on Employment Development Department report, as above, showing 1,304,291 businesses. Of these, 893,427 were businesses with 0 to 4 employees. For this estimate, half of those businesses are assumed to have no employees subject to workers' compensation. 1,304,291 – (893,427/2) = 857,578. http://www.labormarketinfo.edd.ca.gov/?pageid=138

ii. US Department of Commerce, Bureau of Economic Analysis, http://www.bea.gov/regional/gsp/, accessed June 2, 2009.

iii. The latest year for which Workers' Compensation Information System (WCIS) reports are reasonably complete. Data are from the Division of Workers' Compensation (DWC) report from the WCIS database, "Workers' Compensation Claims (in 000's) by Market Share with Eight Year History and Cumulative Totals, 2000-2008," May 5, 2009, http://www.dir.ca.gov/dwc/WCIS/WCC-MarketShare.pdf. Due to delayed reporting, the number of claims reported to WCIS for a given year may grow by more than 5 percent between the second and the fourth years after the end of the accident year. Boden, Leslie I. and Al Ozonoff, "Reporting Workers' Compensation Injuries in California: How Many are Missed?" (2008). CHSWC Report.

iv. Data for 2006 are from the Division of Workers' Compensation report from the WCIS database, "Workers' Compensation Claims (in 000's) by Market Share with Eight Year History and Cumulative Totals, 2000-2007," April 25, 2008. From 2002 through 2006, the average shares varied by no more than =0.5/-0.4 for the insured share, =0.7/-0.5 for the self-insured share, and =/-0.2 for the State. CHSWC omits the years 2000 and 2001 from these averages because reasonably complete reporting was not achieved until mid-2001.