Insurance and Self-insurance

Oregon law requires every employer to provide workers' compensation coverage for its employees. Employers have three insurance options: self-insurance, insurance through a private insurance company, or insurance through the state fund (SAIF Corporation). The department's Insurance Division provides financial, rate, and trade practices regulation of insurance companies (including SAIF), while the Workers' Compensation Division regulates benefits, coverage, and claims practices. WCD also regulates self-insured employers.

Every two years, the department studies the workers' compensation insurance rates in other states. An index is then created that applies each state's rates to Oregon's distribution of occupations. Using this measure, Oregon's average premium rate ranking was sixth highest in the nation in 1986. After the early reforms, it dropped from eighth highest in 1990 to 32nd highest in 1994. Oregon's average ranking was 41st highest in 2010.

History of reform

In the late 1980s, the Oregon workers' compensation insurance market was under financial strain. Premiums and systems losses were at all-time highs, and SAIF was losing $1 million each week. As a result, SAIF canceled the policies of thousands of small employers. Many employers were unable to get new policies from private insurers and ended up in the assigned risk pool. This situation was one of the principal reasons for the Legislature's 1990 special session.

Prior to 1990, HB 2900 (1987) allowed employers to exclude some claims costs from their loss experience. Employers were allowed to pay up to $500 in medical costs for nondisabling claims; these costs were excluded from their rating experience. HB 3318 (2005) increased the exclusionary amount from $500 to $1,500. SB 762 (2007) added an annual adjustment of this amount, based on the change in the medical services Consumer Price Index, rounded to the nearest $100.

The reforms also provided employer incentives to lower some claims costs by limiting claim duration. Through the Preferred Worker Program, employers are encouraged to hire injured workers who have not returned to work. HB 2900 excluded claim costs incurred as a result of an injury sustained by a preferred worker during the first two years of hire. SB 1197 (1990) extended this exemption from two to three years.

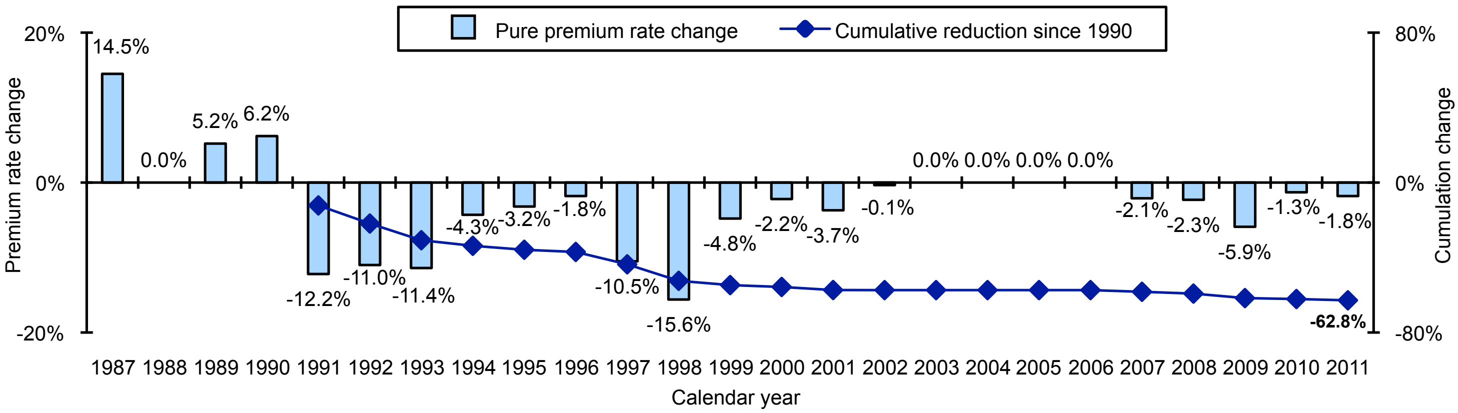
HB 2900 also restricted the eligibility for board's own motion relief (aggravation more than five years after the first claim closure) and directed that these costs be paid from the Workers' Benefit Fund and excluded from the employers' loss experience.

Workers' compensation premiums and rates

Oregon has employed a competitive ratemaking system for workers' compensation insurance since July 1, 1982. Under this system, the National Council on Compensation Insurance develops pure premium rates for each of the almost 600 rating classifications, based on expected losses. These rates are subject to the approval of the Oregon insurance commissioner. Pure premium covers benefit costs only; it is based on claims from recent injuries.

Overall pure premium rates were reduced 1.8 percent for CY 2011. Pure premium rates have been reduced or left unchanged in each of the past 21 years. There were reductions of more than 10 percent in five years between 1991 and 1998. As a result of these reductions, the CY 2011 pure premium rate is 37.2 percent of the CY 1990 rate.

Figure 15. Pure premium rate changes, 1987-2011

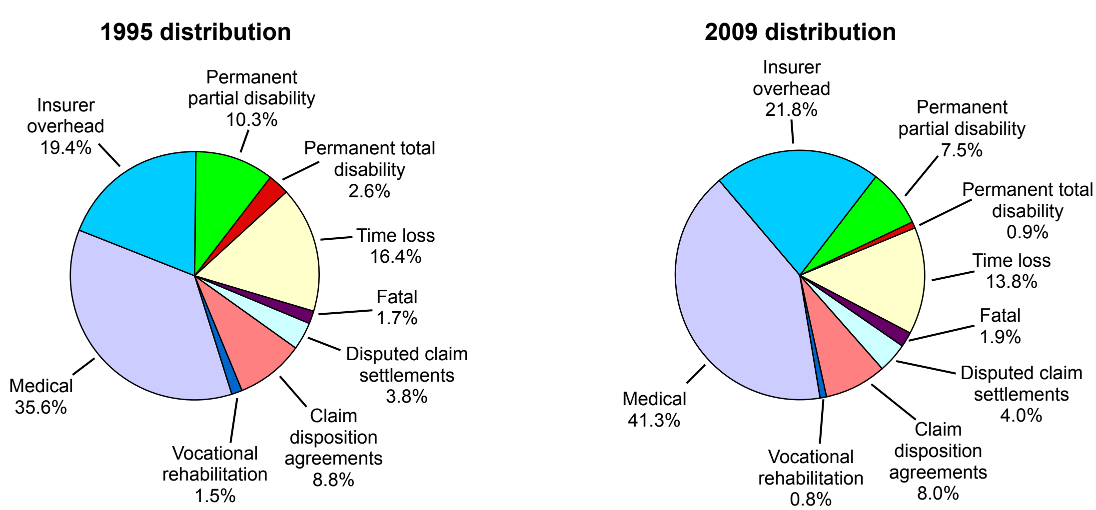


Under Oregon's ratemaking system, each insurer develops an expense-loading factor to cover operating expenses, taxes, profit, and contingencies. This factor is multiplied by the pure premium rate for a classification to arrive at the manual rate to be applied to the employer's payroll to determine gross premium. The average expense-loading factor for SAIF and private insurers dropped in 2009 to 26.9 percent. This is down from the 2007 factor of 30 percent, which was the highest percentage in recent years.

Workers' compensation total system written premiums totaled $766.7 million in 2009. The department defines total system written premiums as the premium written by insurers, the simulated premium that the department calculates for each self-insured employer to set its workers' compensation assessment, and the estimated premium from large-deductible premium policies. Premiums had grown steadily from $607.6 million in 1999 to more than $1 billion in 2007, an annual growth rate of 7 percent. From 2007 to 2009, the premium dropped 27 percent to $766.6 million.

The loss ratio (defined as incurred losses divided by earned premiums) is one measure of an insurer's financial condition. SAIF's loss ratio was 88.6 percent in 2009. SAIF's loss ratio had been above 100 percent in five of the 10 years prior to

Figure 16. Breakdown of workers' compensation premium, calendar years 1995 and 2009



2009. Its loss ratio has been volatile, due in part to substantial adjustments to its reserves. Private insurers' average loss ratio was 66.2 percent, its lowest level since 1997. The combined loss ratio for SAIF and private insurers in 2009 was 79.1 percent.

Insurers may pay dividends to their policyholders. Dividends depend on premiums and insurers' profitability in previous years. Dividends have not been an important part of the Oregon workers' compensation system, with the notable exceptions of SAIF's dividends of $60 million in 2007 and $200 million in 2010. In recent years, private insurers have paid between $1 million and $3 million annually in dividends.

There have been changes over time in the distribution of the costs that premiums cover. The percent of premiums paying for medical benefits increased from 36 percent in 1995 to 41 percent in 2009, while the percent paying for indemnity benefits decreased from 45 percent to 37 percent. Insurer overhead expenses were 22 percent of premiums in 2009.

Large-deductible premium policies

In 1996, large-deductible premium policies were added as an option to workers' compensation in Oregon. Under deductible policies, insurers administer the workers' compensation claims and pay the claims costs. Employers reimburse insurers for claims costs up to the specified deductible amount. In return for purchasing policies with a deductible, employers pay lower premiums. Insurers and employers are assessed on premium prior to deductible credits.

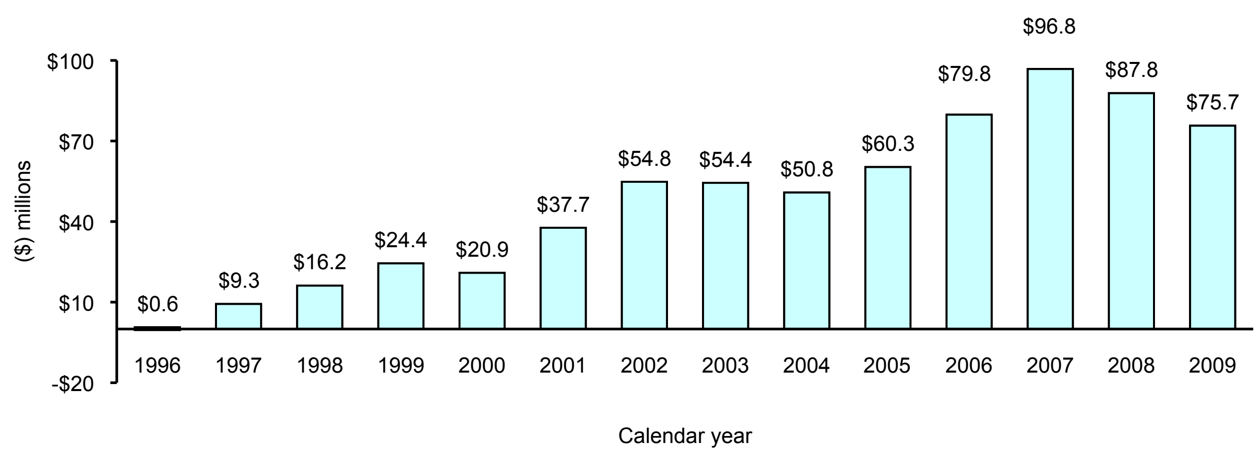
Few credits were applied in 1996, but the program has grown rapidly to $96.8 million in 2007, followed by a decline. An estimated $80.0 million of credits were applied in 2009. This amount was 24 percent of private insurers' written premium.

Self-insured employers and groups

There were 135 self-insured employers active in Oregon at the end of 2009. These employers must meet specific financial criteria and must obtain excess workers' compensation insurance from an authorized company. This excess insurance protects the self-insured employer in the event of a catastrophic claim. In addition, the self-insured employer must have deposits with the Workers' Compensation Division. These deposits protect injured employees in the event of the employer's bankruptcy.

There are also seven self-insured employer groups, combining about 1,300 employers. Employers can form groups if all of the employers in the group are members of an organization; the employers in the group constitute at least 50 percent of the employers in the organization (unless the number of covered workers in the group exceeds 500, in which case the employers in the group must constitute at least 25 percent of the employers in the organization); and the grouping of

Figure 17. Earned large-deductible premium credits, 1996-2009



employers is likely to improve accident prevention, claims handling for the employers, and reduce expenses. Employers who are members of the group are jointly liable for one another's workers' compensation claims.

Market share

Workers' compensation market share can be determined using total system written premiums, including the estimated premiums for self-insured employers and for large-deductible premium credits. In 2009, SAIF's share of the market was 41 percent. SAIF's largest market share in recent history was 46 percent in 2005.

Although 438 private insurers were authorized to write workers' compensation insurance in Oregon, only 184 reported positive premium written in 2009. Private insurers, including Liberty Northwest, had 42 percent of the market; Liberty Northwest's market share was 10 percent. Self-insured employers made up 18 percent of the market.

Oregon Workers' Compensation Insurance Plan (Assigned Risk Pool)

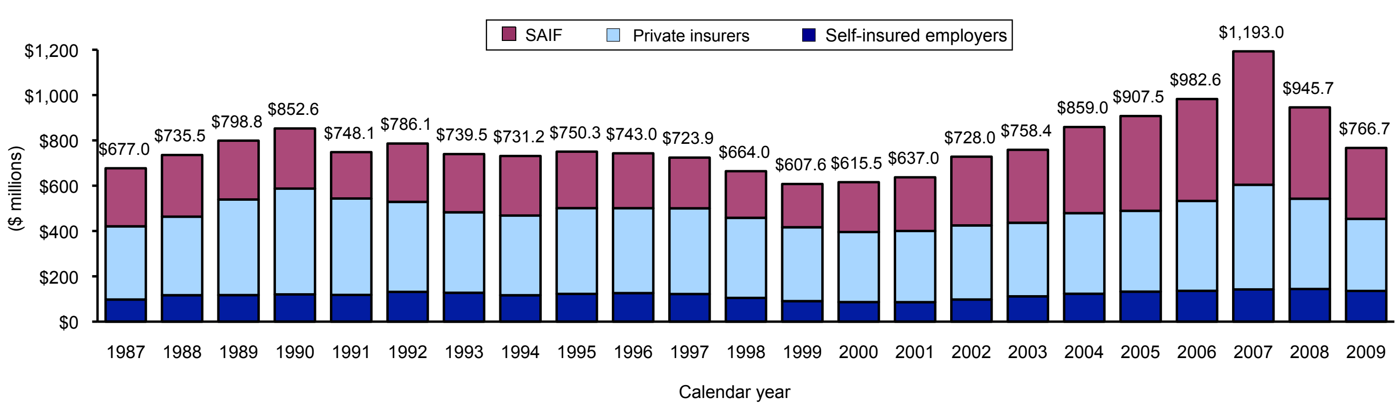
When the Legislature created SAIF in 1965, it provided that, if requested by either SAIF or the National Council on Compensation Insurance, the insurance commissioner had to promulgate an assigned risk plan to make workers' compensation insurance available to employers unable to obtain coverage in the voluntary market. The law was amended in 1979 to implement a plan. In 1980, the commissioner adopted rules constituting the Oregon Workers' Compensation Insurance Plan and establishing the state's assigned risk pool.

Currently under Oregon's assigned risk plan, SAIF, Liberty Northwest, and Travelers Indemnity act as service providers. Premium rates paid by employers for coverage reflect state pure premium rates and an expense loading factor recommended by NCCI and subject to the commissioner's approval. The National Workers' Compensation Reinsurance Association provides reinsurance with the cost borne by all insurers in proportion to their share of all Oregon workers' compensation premiums written.

The assigned risk pool premium was in the range of 3 percent to 4 percent of written premium between 1997 and 2000. The pool grew between 2000 and 2003, becoming more than 9 percent of premium in 2003. Since then, the pool has declined as a percentage of written premium. The number of employers in the pool grew from 2000 to 2005 and has declined each year since, a drop of 29 percent over the past four years. The pool premium for 2009 was 4.5 percent of all written premium, the lowest share since 2001.

A tiered rating plan was first mandated in 1991 for assigned risk plan employers too small to qualify for experience rating plans. Under the plan, small employers receive a premium discount. Most of

Figure 18. Total system written premiums, by insurer type, 1987-2009



NOTE: SAIF Corporation reports that its 2007 written premium amount is artificially inflated due to a policy system conversion, which now recognizes annual written premium at policy inception. SAIF estimates that this one-time adjustment has inflated 2007's written premium by $143.8 million.

the employers in the assigned risk plan received a non-experience-rated credit of 11 percent. In 1994, a second-tier credit was added to the assigned risk plan for new small businesses. The additional credit is for 15 percent. The tiered rating plan has resulted in savings in premium of about $1 million a year.

A major study of the Oregon Assigned Risk Plan (ARP) was undertaken by the Workers' Compensation Division, Insurance Division, Information Management Division, and the Office of the Ombudsman for Small Business with technical expertise and guidance from the National Council of Compensation Insurance. The study report, released in 2007, found that the Oregon Assigned Risk Program is working well and does not need major changes. Recommendations were made in three areas:

1. Improve assigned risk plan operations and pricing.
2. Help assigned risk plan employers obtain voluntary market coverage where possible.
3. Improve incentives and programs that may keep employers from entering the plan.

HB 2250, effective Jan. 1, 2008, allows a surcharge to plan members to help pay the costs of assigned risk pool losses when they exceed premiums. Prior to this, when losses exceeded premiums the voluntary market had to make up the difference. There is no current plan to implement this surcharge, but to carry on as before. This bill implements one of the recommendations from the ARP study.

Oregon Insurance Guaranty Association

The Oregon Insurance Guaranty Association is an insurance organization that pays claims costs when one of its member insurers becomes insolvent. Membership is mandatory for all private insurers. The OIGA collects assessments from its insurers to cover these costs.

In 2003, HB 3051 changed the method for generating these assessments. It authorizes the insurers to recoup the assessments by assessing each policyholder an amount that is based on the policyholder's premium.

Workers' Compensation Premium Assessment

An assessment on workers' compensation premium funds much of the regulation of the Oregon workers' compensation system. Insurers collect the assessment revenue based on workers' compensation premiums earned in Oregon. For self-insured employers and self-insured employer groups, the assessment is based on a simulated premium calculated by the department.

Effective Jan. 1, 2011, the assessment is 6.4 percent of premium. Self-insured employers and self-insured groups pay an additional 0.2 percent into a reserve to pay claims in the event of a bankruptcy. The assessment has decreased four times since 2002; however, the 2011 rate represents a 1.8 percentage-point increase from 2010.

The revenue is deposited into the Premium Assessment Operating Account. The PAOA also receives some fines and penalties, federal grant money, investment income, and other miscellaneous revenue. The account funds the department's programs related to workplace safety and workers' compensation. Senate Bill 592 in 1999 established the current rules for setting the assessment rate. Some funds are paid to Oregon Health and Science University for its Center for Research on Occupational and Environmental Toxicology. At times, the account has also been used to fund other programs.