

# WORKERS' COMPENSATION ADVISORY COUNCIL

## FISCAL YEAR 2017 ANNUAL REPORT

THE WORKERS' COMPENSATION ADVISORY COUNCIL, AS SET FORTH IN M.G.L. C23E, §9, §17 AND M.G.L. C152, REPORTS ON ALL ASPECTS OF THE WORKERS' COMPENSATION SYSTEM, EXCEPT THE ADJUDICATION OF CLAIMS OR COMPLAINTS.



## CHAIRMAN'S WELCOME

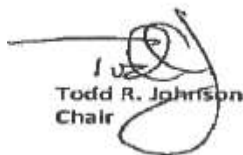
On behalf of the Workers' Compensation Advisory Council ("WCAC"), we are pleased to present the Workers' Compensation Advisory Council Fiscal Year 2017 Annual Report.

The Council is charged with providing an analysis of the workers' compensation system in Massachusetts, in accordance with MGL Chapter 23E, Section 17, including operations at the Department of Industrial Accidents (DIA). This report is focused on meeting that specific obligation. Readers will note that the format of the report has been changed significantly this year to make this more concise and user friendly in an electronic format. To that end, much of the data and content is the same as prior years, but there is extensive use of links and hyperlinks to data and information that previously was contained in the narrative itself. We hope readers find this new format interesting and helpful. The Council's web page contains all prior year reports for reference as necessary.

This report is a product of the commitment, contributions, and collaboration of all Council members who volunteer their time to analyze a variety of workers' compensation issues with the goal of identifying priority focus areas. The Council is hopeful that this report will serve to highlight recent system successes, perceived challenges, and to offer guidance to policymakers looking to improve the system.

In a fast-paced and constantly changing workers' compensation environment, the Council renews its mission each year to evaluate our Massachusetts workers' compensation system. All stakeholders should be proud of our system and its performance. While there are always areas to improve upon, the Council feels that the Massachusetts model is one of the premier workers' compensation systems in the country. That said, the Council looks forward to working with all stakeholders to continue to improve the Commonwealth's highly regarded workers' compensation system.

On Behalf of The Council,



Todd R. Johnson  
Chair

Todd R. Johnson JD, AIC, ARM-P, ARM-E  
Chairman



John Pulgini  
Vice-Chair

John Pulgini, Esq.  
Vice Chairman

# FISCAL YEAR 2017 ANNUAL REPORT

## WORKERS' COMPENSATION ADVISORY COUNCIL

### OUR MISSION

The Workers' Compensation Advisory Council is statutorily mandated to report annually on the state of the Massachusetts workers' compensation system. The Annual Report for 2017 contains the evaluation and the operations of the **Department of Industrial Accidents (DIA)** as of the end of Fiscal Year 2017 [June 30, 2017], major milestones, other areas of the workers' compensation system, and several **priority focus areas**.

As we look ahead to Fiscal Year 2018, the opioid epidemic and the medical rates and reimbursements are two areas of focus by the Commonwealth. Governor Baker has brought forward additional legislation to combat opioid addiction. **House Bill 4033** - *An Act relative to combating addiction, accessing treatment, reducing prescriptions, and enhancing prevention* was filed in the House of Representatives in November, 2017 and referred to the **Joint Committee on Mental Health, Substance Abuse, and Recovery (JMH)**.

With respect to medical rates and reimbursements, under **M.G.L Chapter 152**, the **Executive Office of Health and Human Services (EOHHS)** has statutory authority under M.G.L Chapter 152 Sections 13 and Chapter 118E to establish rates of payments for hospitals and healthcare providers for services covered by insurers and other purchasers. In the months ahead, the DIA will be participating in discussions with EOHHS regarding potential rate increases.

### 2017 HIGHLIGHTS

- **The Civil Litigation Unit** recovered over **\$2.4 million** dollars against uninsured employers.
- **The Office of Safety** was able to fund 45 grants which trained nearly 4,800 Massachusetts workers. Safety Grant awards totaled \$695,691.
- **Referral Fees:** Over \$4 million dollars was collected in referral fees: \$4,473,611.
- **The DIA Office of Investigations** Enforcement and Compliance:
  - Stop Work Orders (SWOs): 1,909
  - Over \$ 1 million dollars collected in Enforcement/Compliance fines: \$1,067,449.
  - The Office of Investigations completed 84,450 compliance checks.
- **Direct Upload:** Provides a secure and more efficient method of submitting medical records to the Department of Industrial Accidents.
- **The Dispute Resolution Process:** Continues to resolve case efficiently. The time between Conciliation and Conference is between 10-14 weeks. The Resolution rate at Conciliation is in the 50% range. The average waiting period between Conference and Hearing is between 10-16 weeks.

## PRIORITY FOCUS AREAS

- 1 - Fraud
- 2 - Legislation
- 3 - DIA Funding
- 4 - Opioids

### 1 - FRAUD

Insurance fraud drives up costs for **all** consumers.

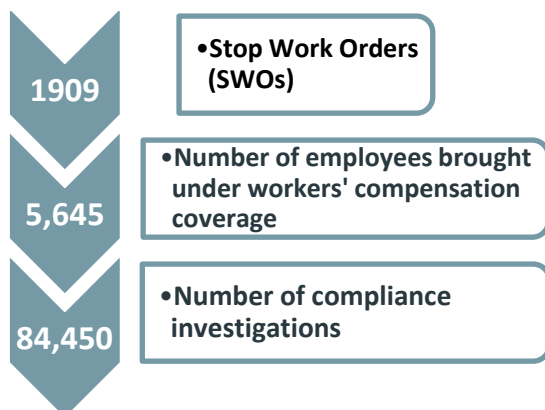
**Employee:** When employees intentionally fail to disclose earned income while collecting workers' compensation benefits or falsify reports of injuries, they cost insurance companies added expenses. False claims drive up the costs of annual premiums.

**Employer:** When employers intentionally misclassify their employees or operate without workers' compensation insurance, they obtain an unfair advantage over competitors, which costs honest business owners and taxpayers millions of dollars annually.

### DIA OFFICE OF INVESTIGATIONS

In the Commonwealth of Massachusetts, every private sector employer, **with one or more employees**, is required to maintain workers' compensation insurance. This requirement can be satisfied by purchasing a commercial insurance policy, becoming a member in a self-insurance group, or maintaining a license as a self-insured employer. Any employer rejected for workers' compensation insurance can obtain coverage through the residual market - the **Assigned Risk Pool**.

**The Office of Investigations** is charged with enforcing this mandate by: Investigating whether employers are maintaining insurance policies and imposing penalties when violations are uncovered. During a field investigation, an investigative team will request that the business provide proof of workers' compensation insurance coverage. If a business fails to provide proof of coverage, a stop work order (SWO) is immediately issued. The Office of Investigations collected \$1,071,885 in fines and conducted 4,529 field compliance checks. For more information see chart below.



#### RECOMMENDATION:

The Advisory Council recommends continued focus on fraud reduction and continued vigilance by the DIA in investigating, issuing Stop Work Orders (SWOs) to employers operating without workers' compensation insurance and aggressively pursuing uninsured employers to recoup funds paid by the Trust Fund.

## 2 - LEGISLATION

The Commonwealth of Massachusetts Joint Committee on Labor and Workforce Development considers all matters concerning discrimination with respect to employment, labor laws, workers' compensation and other matters. For more information on the Joint Committee on Labor and Workforce Development please refer to the Appendices on Page 21.

The Workers' Compensation Advisory Council is monitoring all legislative bills as they relate to Chapter 152 - Workers' Compensation.

The following House and Senate Bills relate to Chapter 152 - Workers' Compensation:

**\*House Bill Number:**

1006 / 1014 / 1015 / 1028 / 1031 / 1039 / 2360 / 2362 / 3151 / 3161

**\*Senate Bill Number:**

998 / 1011 / 1026 / 1029 / 1058

\*To read the full text of the House and Senate Bills listed above or to track a bill's legislative history [click here](#) and enter the bill number.

In Fiscal Year 2017, the Advisory Council voted to oppose House Bill 3151 and Senate Bill 1011.

- <https://malegislature.gov/Bills/190/H3151>  
Sponsor: Representative Robert Koczera
- <https://malegislature.gov/Bills/190/S1011>  
Sponsor: Senator James Eldridge

### 3 - DIA FUNDING

Since 1985, the DIA has operated as an agency that is fully funded by the employers of Massachusetts and is **not a tax-funded agency**.

The DIA receives funding through assessments and the collection of fees, fines and penalties and reimbursement.

Funds are allotted to the Workers' Compensation Trust Fund (not appropriated) and the Special Fund (Operating Budget subject to appropriation). Funds are used for operations, uninsured claimants, and insurer reimbursements.

The Workers' Compensation Advisory Council is concerned that in recent years, including Fiscal Year 2017, policymakers have treated the DIA as a tax-funded agency, reducing the Agency's budget and imposing midyear reductions and account transfers.

*Potential sweep of the Workers' Compensation Trust Fund and Special Fund budgets (estimates up to \$5M) as part of a broader effort to balance the Fiscal Year 2018 state budget. The Workers' Compensation Advisory Council is concerned with the negative implications this action could cause to the Massachusetts workers' compensation system as a whole.*

## 4 - OPIOIDS

*While the scope of prescription drug abuse problems extends beyond the workers' compensation context, it is a critical issue in the treatment of injured workers in Massachusetts.*

*The Advisory Council continues to make it a priority to support the DIA in its efforts to address opioid abuse in the Massachusetts workers' compensation system. The Advisory Council will continue to monitor legislation enacted by Governor Baker as well as other efforts by the Massachusetts government.*

*According to the Department of Public Health, "The number of opioid-related overdose deaths in Massachusetts fell an estimated 8.3 percent from 2016 to 2017, marking the first year-over-year decline in several years."*

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**<http://www.wbur.org/commonhealth/2018/02/14/opioid-overdose-deaths-down>**

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### ***Update:***

With respect to the Opioid Pathway Alternative Treatment Program, there are 30 candidates at various stages in the program, as of April 18, 2018.

### **Opioid Alternative Treatment Pathway Announcement - June 2017**

## **ADDITIONAL FOCUS AREAS**

### ***Timeframes on Judicial Evaluations:***

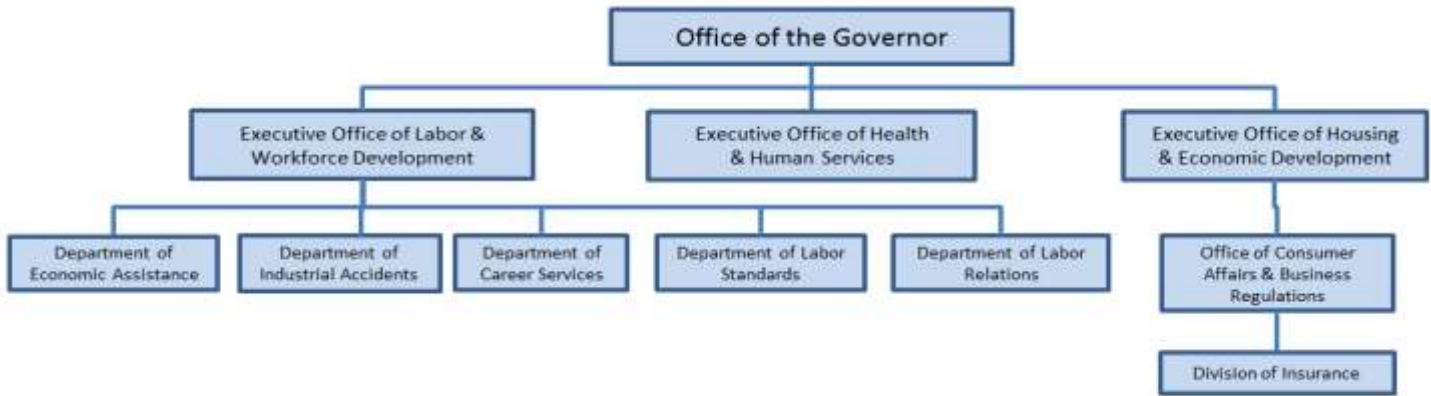
The Advisory Council recommends that the Senior Judge continue to examine appropriate timeframes in which to evaluate judicial performance levels.

### ***Public Awareness Strategies:***

The Advisory Council recommends that the DIA pursue **public awareness strategies** to ensure that anyone who employs people in Massachusetts is aware of their obligations under the workers' compensation law, in addition to encouraging collaboration with other state agencies to efficiently identify and address non-compliant employers.

# GOVERNMENT REGULATION OF WORKERS' COMPENSATION

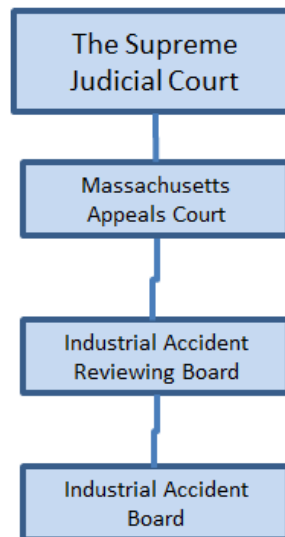
## EXECUTIVE BRANCH



## LEGISLATIVE BRANCH



## APPEAL PROCESS



Note: The Advisory Council monitors and reports on all aspects of the workers' compensation system.



## DIA FUNDING AND ASSESSMENTS

Prior to the 1985 Reform Act, the DIA experienced funding shortfalls that led to costly delays in the dispute resolution system.

To ensure that the DIA had adequate funding, the Legislature transferred the Agency's cost burden from the General Fund to the Commonwealth's employer community via assessments collected by workers' compensation insurance carriers.

**The DIA is not funded by general tax revenue.** The DIA's funding structure is highlighted in the Revenue Sources Chart, below.

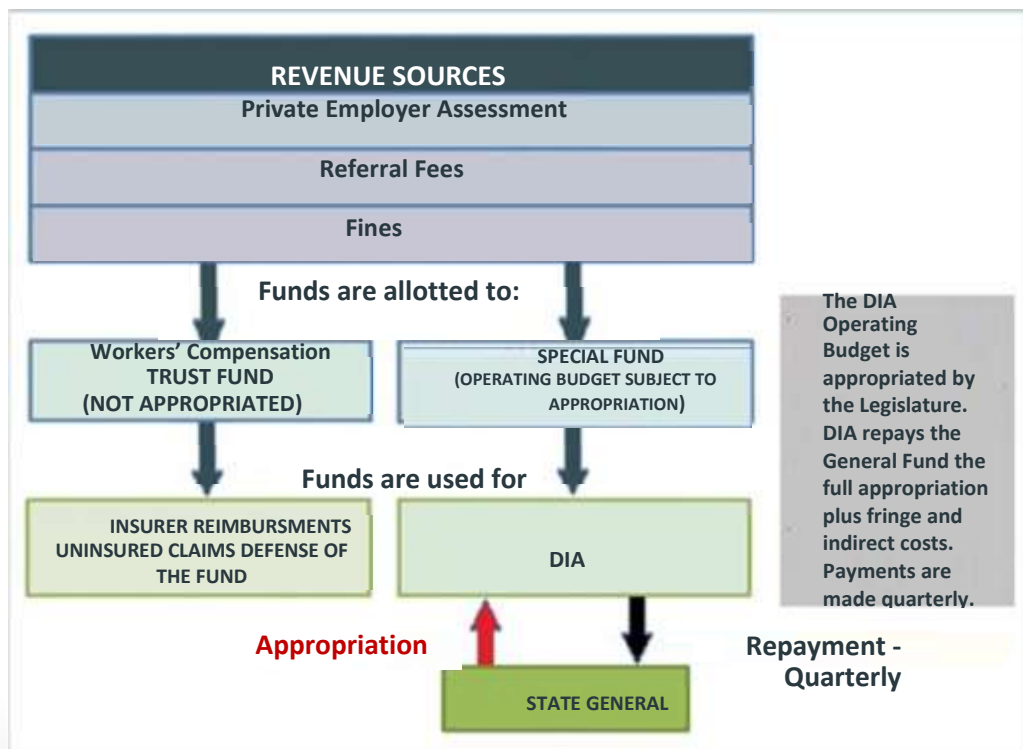
Private employers fund the DIA through an assessment on their workers' compensation insurance premiums. For Fiscal Year 2017, the private employer opt-in assessment rate was calculated to be 5.600% of standard premium, a decrease from the Fiscal Year 2016 rate (5.750%).

The operating budget of the DIA is appropriated by the Legislature even though employer assessments fund the Agency.

On July 8, 2016, Governor Charles D. Baker signed the **Fiscal Year 2017 General Appropriations Act (GAA)** which allocated \$19,412,000 for DIA operating expenses (line item 7003-0500).

The Revenue Sources chart below shows the DIA's operating expenses are appropriated by the General Fund, but the Agency, using funds collected through employer assessments, repays the General Fund the full amount of the appropriation plus fringe and indirect costs.

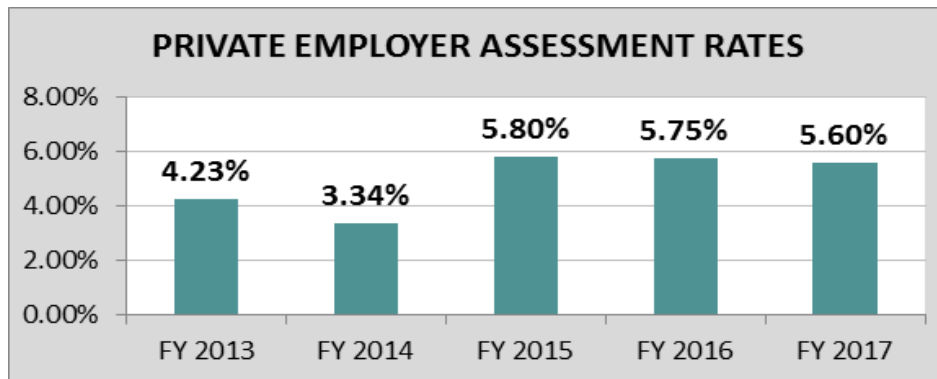
For more information on the funding process click here: [FUNDING](#)



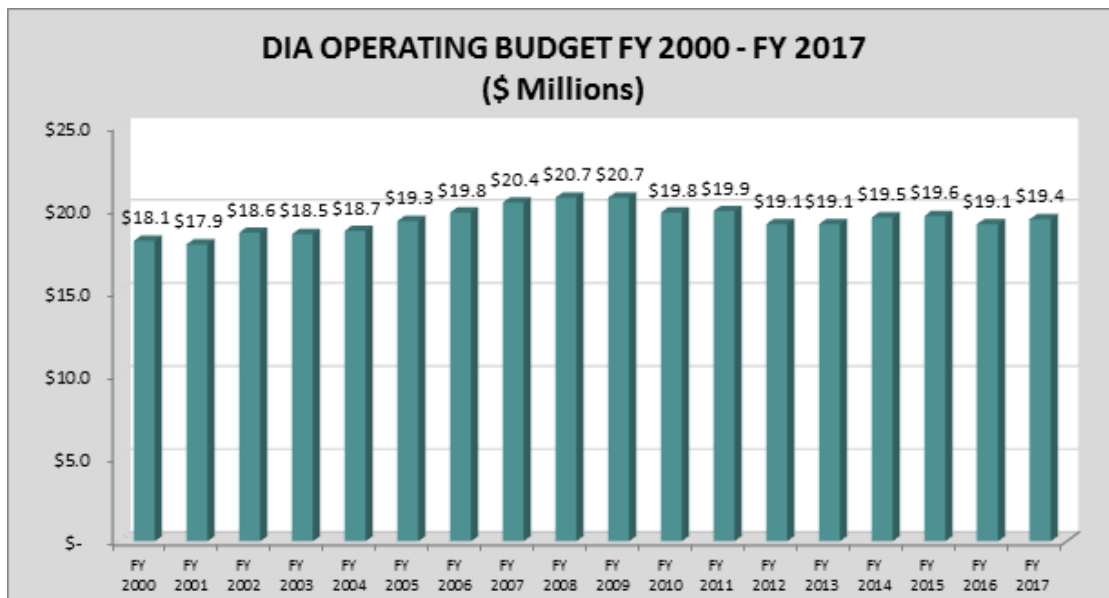
As previously mentioned, employers fund the DIA through an assessment on their workers' compensation insurance premiums, see Private Employer Assessment Rates Chart below.

The operating budget of the DIA is appropriated by the Legislature even though employer assessments fund the Agency. The Agency, therefore, must abide by the budget process in the same manner as most other tax-funded government agencies.

Collections, expenditures, public trust fund and private trust fund balances dating back to Fiscal Year 2013 are highlighted in the Collections and Expenditures Chart on Pages 10-14.



For a historical view of the DIA operating budget dating back to Fiscal Year 2000, please refer to the chart below.



## COLLECTIONS AND EXPENDITURES REPORT FISCAL YEAR 2017 - FISCAL YEAR 2013

<i>SPECIAL FUND</i>	<i>FY'17</i>	<i>FY'16</i>	<i>FY'15</i>	<i>FY'14</i>	<i>FY'13</i>
<b><u>COLLECTIONS</u></b>					
INTEREST	24,387	11,243	5,316	5,057	5,740
ASSESSMENTS	22,129,907	20,662,324	14,677,534	11,794,002	12,941,590
LESS RET. CHECKS	0	0	0	(13,054)	(14,697)
LESS REFUNDS	(212,215)	(346,009)	(21,280)	0	(8,388)
<b>SUB-TOTAL</b>	<b>21,917,692</b>	<b>20,316,315</b>	<b>14,656,254</b>	<b>11,780,948</b>	<b>12,918,505</b>
REFERRAL FEES	4,475,217	4,281,551	3,912,134	3,644,241	4,049,061
LESS RET. CHECKS	0	0	0	(8,339)	(762)
LESS REFUNDS	(1,606)	(76,402)	(136,907)	(24,564)	(64,108)
OPERATING TRANSFER	0	0	0	0	0
<b>SUB-TOTAL</b>	<b>4,473,611</b>	<b>4,205,149</b>	<b>3,775,227</b>	<b>3,611,338</b>	<b>3,984,191</b>
1ST REPORT FINES	198,811	248,430	252,716	140,622	58,658
LESS RET. CHECKS	(1,000)	0	0	(500)	(2,400)
LESS REFUNDS	0	0	(4,662)	(900)	(500)
<b>SUB-TOTAL</b>	<b>197,811</b>	<b>248,430</b>	<b>248,054</b>	<b>139,222</b>	<b>55,758</b>
STOP WORK ORDERS	1,020,522	1,111,280	1,180,461	1,467,999	1,356,053
LESS REFUNDS	(5,567)	(4,250)	(4,407)	(33,300)	(1,200)
EDS FEE	52,494	0	12,487	(1,459)	0
LESS BAD CHECKS	0	0	0	(2,475)	(3,300)
MERCHANT FEE	0	0	0	(166)	(287)
<b>SUB-TOTAL</b>	<b>1,067,449</b>	<b>1,107,030</b>	<b>1,188,541</b>	<b>1,430,599</b>	<b>1,351,266</b>
LATE ASSESS. FINES	97,660	101,980	149,304	139,446	111,973
MISCELLANEOUS	0	(500)	49,464	53,230	50,689
ADJUSTMENT	0	0	0	0	0
<b>SUB-TOTAL</b>	<b>97,660</b>	<b>101,480</b>	<b>198,769</b>	<b>192,676</b>	<b>162,662</b>
<b>TOTAL SPECIAL FUND COLLECTIONS</b>	<b>27,778,610</b>	<b>25,989,646</b>	<b>20,072,162</b>	<b>17,159,840</b>	<b>18,478,122</b>
BALANCE BRGT FWD	7,082,154	4,980,445	7,534,484	12,252,405	14,294,169
<b>TOTAL</b>	<b>34,860,764</b>	<b>30,945,046</b>	<b>27,606,646</b>	<b>29,412,245</b>	<b>32,772,291</b>
LESS EXPENDITURES	(24,684,426)	(23,887,937)	(22,626,201)	(21,877,761)	(20,521,034)
ADJUSTMENT	0	0	0	0	1,148
<b>BALANCE</b>	<b>10,176,338</b>	<b>7,082,154</b>	<b>4,980,445</b>	<b>7,534,484</b>	<b>12,252,405</b>
<b><u>EXPENDITURES</u></b>					
TOTAL DIRECT	739,239	959,520	263,116	0	0
REPAYMENT - SALARIES	13,995,106	13,836,825	13,722,012	13,516,002	12,805,181
FRINGE BENEFITS	4,574,381	3,970,076	3,722,851	3,530,765	3,310,925
INDIRECT COSTS	478,633	507,811	537,903	389,121	286,923
NON-PERSONNEL COSTS	4,711,929	4,612,697	4,397,893	4,441,873	4,118,005
OTHER INDIRECT COSTS	185,138	1,007	(17,574)	0	0
IP INDIRECT-EXPENSE	0	0	0	0	0
ADJUSTMENT FRINGE	0	0	0	0	0
<b>TOTAL REPAYMENT</b>	<b>23,760,049</b>	<b>22,927,410</b>	<b>22,363,085</b>	<b>21,877,761</b>	<b>20,521,034</b>
<b>TOT. SPECIAL FUND EXPENDITURES</b>	<b>24,684,426<sup>1</sup></b>	<b>23,887,937</b>	<b>22,626,201</b>	<b>21,877,761</b>	<b>20,521,034</b>

<i>PUBLIC TRUST FUND</i>	<i>FY'17</i>	<i>FY'16</i>	<i>FY'15</i>	<i>FY'14</i>	<i>FY'13</i>
<b><u>COLLECTIONS</u></b>					
INTEREST	256	864	409	388	441
ASSESSMENTS	0	0	0	0	0
LESS FUNDS TRANSFERRED	0	0	0	0	0
TOTAL ASSESSMENTS	0	0	0	0	0
TOTAL PUBLIC TRUST COLLECTIONS	256	864	409	388	441
BALANCE BRGT FWD	0	409,125	408,716	408,328	407,887
TOTAL	256	409,890	409,125	408,716	408,328
LESS EXPENDITURES	0	(409,989)	0	0	0
BALANCE	256	0	409,125	408,716	408,328
<b><u>EXPENDITURES</u></b>					
RR COLAS	0	0	0	0	0
TOT. PUBLIC TRUST EXPENDITURES	0	409,989 <sup>2</sup>	0	0	0

<i>PRIVATE TRUST FUND</i>	<i>FY'17</i>	<i>FY'16</i>	<i>FY'15</i>	<i>FY'14</i>	<i>FY'13</i>
<b><u>COLLECTIONS</u></b>					
INTEREST	38,347	17,679	12,922	12,320	13,982
ASSESSMENTS	67,886,338	64,384,880	56,907,836	38,535,520	47,216,893
LESS RET. CHECKS	0	0	0	(62,943)	(8,130)
LESS REFUNDS	(9,039)	(119,788.83)	(629,833)	(28,575)	(15,651)
SUB-TOTAL	67,877,299	63,186,994	56,278,003	38,444,002	47,193,112
REIMBURSEMENTS	2,481,274	1,746,315	1,556,069	1,015,107	1,387,682
RET. CHECK	0	0	0	(1,550)	(18,833)
REFUNDS	0	0	0	0	0
SUB-TOTAL	2,481,274	1,746,315	0	1,013,557	1,368,849
SEC. 30 H	0	0	0	7,259	0
OTHER TRUST FUND	0	26,873	0	0	0
TOT.PRIVATE TRUST COLLECTIONS	70,396,920	64,977,861	\$57,846,994	39,477,138	48,575,942
BALANCE BRGT FWD	16,530,628	6,229,734	8,199,807	28,599,262	34,101,000
TOTAL	86,927,548	71,207,595	66,046,801	68,076,399	82,676,942
LESS EXPENDITURES	(51,830,260)	(54,676,967)	(59,817,067)	(59,876,592)	(54,077,680)
ADJUSTMENT	0	0	0	0	0
BALANCE	35,097,288	16,530,628	6,229,734	8,199,807	28,599,262

<i>PRIVATE TRUST FUND</i>	<i>FY'17</i>	<i>FY'16</i>	<i>FY'15</i>	<i>FY'14</i>	<i>FY'13</i>
<b><u>CLAIMANTS - EXPENDITURES</u></b>					
RR SEC. 34	1,148,166	1,108,354	1,120,950	1,824,561	1,297,249
RR SEC. 35	348,188	434,169	499,721	574,785	344,000
RR LUMP SUM	1,966,349	1,844,071	1,801,203	2,149,430	1,064,508
RR SEC. 36	214,642	107,669	351,484	142,923	108,877
RR SEC. 31	166,317	245,624	176,642	162,689	150,847
RR SEC. 34, PERM. TOTAL	736,439	925,489	865,685	948,058	676,761
RR COLA ADJ	192,994	866,228	281,448	243,368	242,981
RR EE MEDICAL	52,193	51,727	33,698	35,409	22,727
RR EE TRAVEL	1,474	5,000	9,196	8,000	3,500

RR EE MISC. EXPENSE	0	369	905	957	222
RR BURIAL BENEFITS	11,125	0	0	0	0
RR LEGAL FEES	674,864	925,689	676,763	868,540	506,708
RR VOC. REHAB SERVICES	13,941	8,482	14,091	3,965	5,378
RR REHAB (PRIOR YEAR)	0	0	0	0	0
RR MEDICAL	2,947,041	1,384,551	1,789,068	1,695,603	1,497,220
EE Books & Supplies	1,724	60	0	0	0
<b>SUB-TOTAL CLAIMANT PAYMENTS</b>	<b>8,475,457</b>	<b>7,907,482</b>	<b>7,620,855</b>	<b>8,658,285</b>	<b>5,920,979</b>
MM TUITION	8,991	5,975	0	4,795	0
<b>TOTAL CLAIMANTS</b>	<b>\$8,484,448</b>	<b>7,913,457</b>	<b>7,620,855</b>	<b>8,663,080</b>	<b>5,920,979</b>
<b><u>INSURERS - EXPENDITURES</u></b>					
RR COLAS	8,960,571	10,679,718	14,073,608	15,458,218	14,967,542
RR SEC. 19 COLA LUMP SUM	271,353	338,590	270,653	286,050	515,501
RR LATENCY SEC. 35C	55,001	172,154	436,956	410,002	249,478
RR LATENCY SEC. 35C QUARTERLY	109,025	135,485	110,992	375,253	124,836
RR SEC. 37	18,178,616	17,626,489	20,682,433	19,717,765	15,773,208
RR SEC. 37 QUARTERLY	7,563,905	10,393,381	9,999,957	8,749,683	6,470
RR SEC. 37 INTEREST	0	0	0	0	10,999,885
<b>TOTAL PAYMENT TO INSURERS</b>	<b>35,138,471</b>	<b>39,345,817</b>	<b>45,574,599</b>	<b>44,996,971</b>	<b>42,636,920</b>
<b><u>OEVR - EXPENDITURES</u></b>					
MM TUITION	0	942	0	0	0
RR REHAB-30H	0	4	170	0	0
EE OTHER	0	0	0	0	0
RR EE TRAVEL	0	0	0	0	0
RR EE BOOKS & SUPPLIES	0	0	0	0	0
<b>SUB-TOTAL OEVR EXP.</b>	<b>0</b>	<b>946</b>	<b>170</b>	<b>0</b>	<b>0</b>

<i>PRIVATE TRUST FUND</i>	<i>FY'17</i>	<i>FY'16</i>	<i>FY'15</i>	<i>FY'14</i>	<i>FY'13</i>
<b><u>DEFENSE - EXPENDITURES</u></b>					
AA PAYROLL - SALARY	4,626,702	4,285,094	3,878,899	3,667,146	3,195,287
AA STAND-BY PAY	1,516	35	0	0	0
AA VACATION-IN-LEU	16,619	10,678	7,638	1,054	1,757
AA BONUS AND AWARDS	18,058	2,000	0	0	0
AA OVERTIME COSTS	3,700	1,067	415	696	1,620
AA SICK LEAVE BUY BACK	12,280	1,633	0	0	0
<b>SUB-TOTAL</b>	<b>4,678,874</b>	<b>4,300,506</b>	<b>3,886,951</b>	<b>3,668,896</b>	<b>3,198,664</b>
BB TRAVEL	46,623	48,997	44,646	51,017	59,399
BB CONFERENCE TRAINING	1,497	(916)	5,540	2,385	1,860
BB EMPLOYEE REIMBURS AP	0	0	0	0	0
BB EE REIMBURSEMENT	(187)	22	11	61	77
BB EMPLOYEE REIMBURS	242	151	154	188	227
<b>SUB-TOTAL</b>	<b>48,175</b>	<b>48,253</b>	<b>50,351</b>	<b>53,651</b>	<b>61,563</b>
CONTRACTED STUDENT INTERNS	0	0	27,773	30,339	30,151
<b>SUB-TOTAL</b>	<b>0</b>	<b>0</b>	<b>27,773</b>	<b>30,339</b>	<b>30,151</b>
DD FRINGE	1,627,614	1,320,920	1,120,020	1,015,522	871,791
DD MEDICAL EXPENSES	951	0	0	19	0
DD BOND	0	0	0	0	0
DD WC CHARGEBACK	6,619	1,965	1,208	932	0
DD HEALTH SERVICES CORP	0	0	0	0	0
<b>SUB-TOTAL</b>	<b>1,635,185</b>	<b>1,322,885</b>	<b>1,121,228</b>	<b>1,016,472</b>	<b>871,791</b>

EE RENTAL/MV CHRГ-BACK	0	0	0	0	0
EE DEST. OLD RECORDS	0	0	6,562	0	6,715
EE ADVERTISING	168	431	0	0	0
EE BOOKS/SUPPLIES	55,507	31,155	30,354	45,675	44,168
EE IMPARTIAL APPEALS	24,518	26,777	13,650	18,612	26,825
EE CENTRAL REPRO.	0	0	0	7,950	999
EE POSTAGE	19,890	1,317	18,055	25,058	46,655
EE WATER	996	996	100	1,430	1,421
EE TRAINING / TUITION	2,104	191	500	500	298
EE TEMP USE SPACE	188	51	0	176	325
EE PRINTING	4,798	1,551	1,071	2,421	4,870
EE CONFERENCE, INCIDEN.	6,624	6,427	9,924	5,464	3,337
EE INDIRECT COSTS	159,029	157,377	152,069	103,330	70,012
EE POSTAGE CHRГ-BACK	164	1,394	2,101	2,246	1,382
EE MEMBERSHIPS	2,806	2,558	1,972	1,625	3,450
EE STATE SINGLE AUDIT CHGBK	0	0	0	398	117
<b>SUB-TOTAL</b>	<b>276,791</b>	<b>230,222</b>	<b>236,357</b>	<b>214,884</b>	<b>210,574</b>
FF MED SUP/TOILETRIES & PERSONL	0	5,267	331	10,027	71
FF STATE OFFICE MAINTENANCE	27,541	84,209	114,509	92,586	0
<b>SUB-TOTAL</b>	<b>27,541</b>	<b>89,476</b>	<b>114,840</b>	<b>102,614</b>	<b>71</b>
GG BOSTON LEASE	602,464	528,681	494,226	491,459	454,249
GG ELECTRICITY - BOSTON	0	0	0	0	0
GG FUEL FOR VEHICLES	60	0	0	4	570
<b>SUB-TOTAL</b>	<b>602,525</b>	<b>528,681</b>	<b>494,226</b>	<b>491,463</b>	<b>454,819</b>
HH CONSULTANTS	364,467	234,176	183,669	202,104	169,029
<b>SUB-TOTAL</b>	<b>364,467</b>	<b>234,176</b>	<b>183,669</b>	<b>202,104</b>	<b>169,029</b>

<i>PRIVATE TRUST FUND</i>	<i>FY'17</i>	<i>FY'16</i>	<i>FY'15</i>	<i>FY'14</i>	<i>FY'13</i>
JJ OPERATIONAL SERV.	209,580	158,940	153,882	166,411	194,367
<b>SUB-TOTAL</b>	<b>209,580</b>	<b>158,940</b>	<b>153,882</b>	<b>166,411</b>	<b>194,367</b>
KK EQUIPMENT	1,793	1,815	13,027	8,092	4,951
<b>SUB-TOTAL</b>	<b>1,793</b>	<b>1,815</b>	<b>13,027</b>	<b>8,092</b>	<b>4,951</b>
LL AUTOMOBILE RENT/LEASE	64,035	64,311	51,564	58,710	42,257
LL OFFICE EQUIP RENT/LEASE	1,895	676	911	1,747	1,269
LL PRINT/COPY EQUIP RENT/LEASE	6,397	17,764	12,139	6,761	5,392
LL OFFICE EQUIP MAINTENANCE	11,728	1,197	1,453	358	351
LL PRINT/COPY EQUIP MAINT	167	8	837	410	222
<b>SUB-TOTAL</b>	<b>84,222</b>	<b>83,956</b>	<b>66,904</b>	<b>67,986</b>	<b>49,491</b>
UU TELECOM SERVICES - DATA	23,130	28,629	23,858	27,618	21,512
UU TELECOM SERVICES - VOICE	20,001	17,427	17,894	30,382	27,119
UU SOFTWARE LICENSES	2,284	71,932	2,341	29,199	1,223
UU INFO TECH CHARGEBACK	31,925	31,416	30,920	24,078	72,147
UU INFO TECH PROFESSIONALS	17,985	0	2,929	7,278	1,563
UU INFO TECH CABLING	0	0	0	9	0
UU INFO TECH EQUIP PURCHASE	3,126	112,842	138,969	38,342	93,830
UU IT TELP LEASE-PURCHASE	0	0	0	0	48
UU INFO TECH MAINTENANCE	164,555	152,648	50,510	34,702	56,663
UU INFO TECH CONTRACT SVCS	13,085	0	2,570	0	0
<b>SUB-TOTAL</b>	<b>276,091</b>	<b>414,894</b>	<b>269,992</b>	<b>191,607</b>	<b>274,105</b>
NN NON-MAJOR INFRA MAINT	158	1,525	784	723	0

NN INFRA MAINT TOOLS/SUPPLIES	261	0	0	10	5
NN HAZARDOUS WASTE	0	0	0	0	0
NN NON- HAZARDOUS WASTE	1,676	1,417	1,458	1,248	0
<b>SUB-TOTAL</b>	<b>2,096</b>	<b>2,942</b>	<b>2,242</b>	<b>1,982</b>	<b>5</b>
TT LOANS AND SPECIAL PMNTS	0	0	0	40	0
Sub-total	0	0	0	40	0
RR PENALTIES SEC. 8	0	0	0	0	200
<b>SUB-TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>200</b>
<b>TOTAL DEFENSE EXPENDITURES</b>	<b>8,207,341</b>	<b>7,416,747</b>	<b>6,621,443</b>	<b>6,216,542</b>	<b>5,519,780</b>
<b>TOTAL PRIV. TRUST EXPENDITURES</b>	<b>51,830,260</b>	<b>54,676,967</b>	<b>59,817,067</b>	<b>59,876,592</b>	<b>54,077,680</b>

**DIA - INCOME SUMMARY**

<i>INCOME SUMMARY</i>	<i>FY'17</i>	<i>FY'16</i>	<i>FY'15</i>	<i>FY'14</i>	<i>FY'13</i>
<b>Total Assessments (All 3 Funds)</b>	89,794,991	83,503,309	70,934,257	50,224,950	60,111,617
<b>Total Filing Fees</b>	4,473,611	4,205,149	3,775,227	3,611,338	3,984,191
<b>Total First Report Fines</b>	197,811	248,430	248,054	139,222	55,758
<b>Total SWOs</b>	1,067,449	1,107,030	1,188,541	1,430,599	1,351,266
<b>Total Misc. Fines</b>	26,127	0	49,464	53,230	50,689
<b>Total 5% Fines (Late Assess.)</b>	97,660	101,980	149,304	139,446	111,973
<b>Total Reimbursements</b>	2,481,274	1,746,315	1,556,069	1,013,557	1,368,849
<b>Total 30H</b>	0	0	0	7,259	0
<b>Total Other Trust Fund</b>	0	26,373	0	0	0
<b>Yr. Adj. for Refunds to TF</b>	0	0	0	0	0
<b>Total Interest</b>	62,990	29,785	18,647	17,765	20,163
<b>TOTAL INCOME</b>	<b>98,201,913</b>	<b>90,967,871</b>	<b>77,919,564</b>	<b>56,637,366</b>	<b>67,054,506</b>

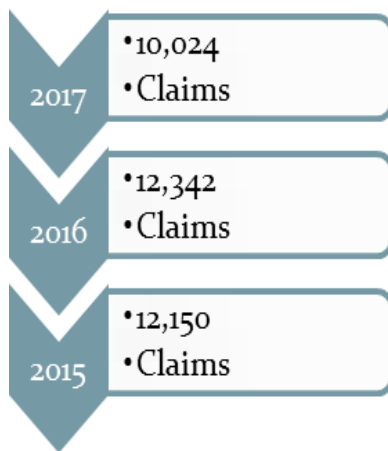
<sup>1</sup> Collection and expenditure amounts reported in relation to the Special Fund and the Private Trust Fund may vary from year to year for several reasons. Factors include, but are not limited to, assessment base amounts, workers' compensation insurance premium rates, disbursements from either fund and balances in either fund existing at the end of each fiscal year. Pursuant to M.G.L. c. 152, §65(4)(c), both the Special Fund and the Private Trust Fund may retain balances of up to 35% of the previous fiscal year's disbursement from the respective funds. At the end of each fiscal year, balances remaining in both funds, in part, ensure that there are no interruptions in payments or reimbursements made from either fund when transitioning from one fiscal year to another. Accordingly, fluctuations in collection and expenditure amounts may occur for several reasons and do not, on their own, indicate a negative outlook for either fund.

<sup>2</sup> During Fiscal Year 2016, pursuant to the mechanism set forth in M.G.L. c. 29, § 13A, the unexpended balance of the Public Trust Fund was transferred to the General Fund.

## OFFICE OF CLAIMS ADMINISTRATION

When an employee is disabled or incapable of earning full wages for five or more calendar days, or dies, as the result of a work-related injury or disease, the employer must file a First Report of Injury (FRI). This form must be sent to the Office of Claims Administration at the Department of Industrial Accidents (DIA), the insurer, and the employee within seven days of notice of the injury. Failure to file, or timely file, an FRI three or more times within any year is punishable by a fine of \$100 for each violation.

For more information on eligibility click here: [Workers' Compensation for Injured Workers](#)



Since last fiscal year there has been a decrease in claims filed at the DIA. Total number of cases filed for Fiscal Year 2017, 11,924.

Please note that a case is an employee claim, an insurers request for discontinuance or a third party claim/lien.

**93%** (31,545) of First Report of Injury filings (FRI) are filed electronically.

During Fiscal Year 2017 there were 10,627 Conciliations; 46.8% (4,975) were resolved during Conciliation. 53.2% (5,652) were sent to Conference and almost \$200,000 was collected in first-report fines (FRIs), \$197,810.

### DIA LOCATIONS

The DIA's main office is located in Boston and there are four regional offices throughout the Commonwealth of Massachusetts.

Main Office: [Boston](#) Regional Offices: [Fall River](#) [Springfield](#) [Lawrence](#) [Worcester](#)

The DIA's Boston Office had 10,941 visitors and 24,208 incoming telephone calls.

The DIA's Regional Offices had over 51,000 visitors and received 38,927 incoming telephone calls.



## WORKERS' COMPENSATION TRUST FUND

**Section 65** of Chapter 152 established a special revenue fund in the state treasury, known as the Workers' Compensation Special Fund.

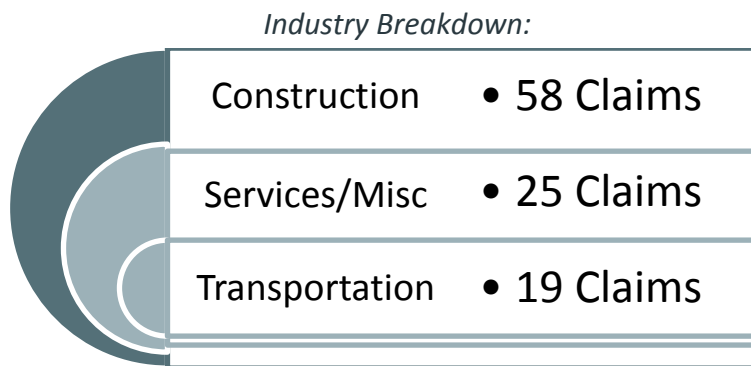
When an employer fails to carry a workers' compensation insurance policy and an injury occurs at their workplace, the claim is paid from the Workers' Compensation Trust Fund (WCTF). The DIA aggressively pursues uninsured employers to recoup monies paid out from the Trust Fund. The Civil Litigation Unit recovered over **\$2.4 million** against uninsured employers.

The **Workers' Compensation Trust Fund** (WCTF) is a trust fund established in the state treasury in order to make payments to injured workers whose employers unlawfully failed to obtain workers' compensation insurance. In certain circumstances, pursuant to Section 30H, the WCTF pays for vocational rehabilitation for injured workers when insurers refuse to pay for such services. The WCTF also reimburses insurers for certain compensation paid pursuant to sections 34B, 35C, 37 and 37A.

The Second Injury Fund was created by the Legislature in an effort to encourage employers to hire previously injured workers. This fund offsets any financial disincentives associated with the employment of the injured workers. Section 37 allows WCTF to reimburse the insurers when compensation has been paid.

**WCTF is funded entirely by the employers** who purchase workers' compensation policies and is administered by the DIA. For more information [click here](#).

### Section 65 Uninsured Claims against the Trust Fund for 2017 = 128



The remaining claims fall under Retail/Manufacturing [5], Home Services [6], Restaurant/Food [5] and Landscaping/Tree Services [10].

Additional information on WCTF proceeds can be found here: [General Information](#)

## OFFICE OF SAFETY

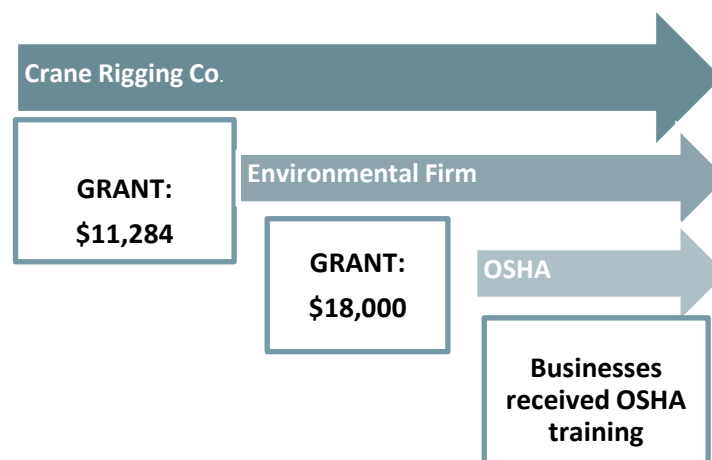
According to the **Bureau of Labor Statistics**, “the third consecutive annual increase in fatal injuries was recorded in the United States in 2016 (5,190), a **7%** increase from 2015 (4,836)”.

Massachusetts experienced 109 workplace fatalities in 2016, an *increase* of 40 fatalities from the prior calendar year. In the state of Massachusetts, **transportation-related incidents** were the leading cause of death.

In Fiscal Year 2017, despite a budget shortfall, the **Office of Safety** was able to fund **45 grants** which trained nearly 4800 Massachusetts workers. Grant awards are highlighted in the chart below.

- The Department of Industrial Accidents Office of Safety administers and manages the Workplace Safety Training and Education Grant program, designed to encourage the creation of safe workplaces.
- Approximately \$800,000 is budgeted to the grant program each year. Each business that is selected may receive *up to* \$25,000 for safety programs.
- **Executive Order 511** establishes Health and Safety Advisory Committees in the Commonwealth.

For more information click here: [Safety Grant Application & Guidelines](#)



## DISPUTE RESOLUTION

The Dispute Resolution process begins at Conciliation. A dispute that is not resolved at Conciliation will be referred to a Conference. The case then moves to a Hearing if either party timely appeals the Conference Order where the Administrative Judge reviews the dispute and related documents. The last stage of the dispute resolution process is the Reviewing Board level, where a panel of three Administrative Law Judges reviews the evidence presented at the hearing.

For Fiscal Year 2017:

- Conferences Scheduled: **7,525**
- Hearings Scheduled: **4,197**
- Orders Issued: **4,664**

## PENDING HEARING DECISIONS

The Pending Hearing Decisions, decisions outstanding over six months have been trending downward since Fiscal Year 2016.

MONTHS	May 2017	August 2017	November 2017	February 2018
6-9	13	12	3	2
9-12	1	3	2	0
12-36	0	1	3	1
36 +	0	0	0	0

## REVIEWING BOARD

For Fiscal Year 2017, the Reviewing Board activity is highlighted below:

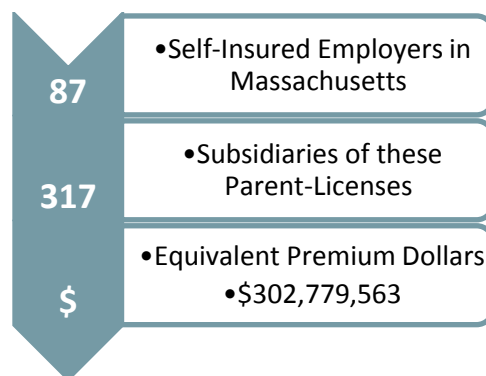
- **127** Appeals resolved, **53** Published decisions, **49** Summary Affirmations, **6** Lump Sum approvals and **19** cases were withdrawn or dismissed for failing to provide briefs/memos of disposition
- As of June 30, 2017 there were **72** cases in the Review Board inventory.
- Other Review Board matters in this fiscal year totaled **1,508**
- **85** lump sums were scheduled / **1,607** lump sum walk-ins were created / **1416** Section 15 petitions were heard / **7** Section 46A conferences were heard
- For Review Board Decisions please click on the following link: [\*\*REVIEW BOARD\*\*](#)

## OFFICE OF INSURANCE

**THREE CORE GROUPS** make up the workers' compensation system: Insurance Companies, Self-Insured Employers, and Self-Insurance Groups (SIGs). On an **annual** basis, employers are required to pay an assessment to the Workers' Compensation Trust Fund. The Office of Insurance issues self-insurance licenses, monitors all self-insured employers, maintains the insurer register, and monitors insurer complaints. The number of Inquiries in Fiscal Year 2017 to the Office of Insurance was 2,370.

- The Insurance Unit maintains a record of the workers' compensation insurer for every employer in the state. This record, known as the insurer register, dates back to the 1930s and facilitates the filing and investigation of claims after many years. Any injured worker may contact this office directly to obtain the insurance information of an employer.
- For more information on the Division of Insurance, SIGs in Massachusetts click on the links: **[DIVISION OF INSURANCE](#)**, **[SELF-INSURED GROUPS \(SIGS\)](#)**, **[List of SIGs in Massachusetts](#)**

A license to self-insure is available for qualified employers with at least 300 employees and \$750,000 in annual standard premium. To be self-insured, employers must have enough capital to cover the expenses associated with self-insurance (i.e. bond, reinsurance, and a third party administrator (TPA)). However, many smaller and medium-sized companies have also been approved to self-insure. The Office of Insurance evaluates employers annually to determine their eligibility for self-insurance and to establish new bond amounts. Any business seeking self-insurance status must first provide the Office of Insurance with the company's most current annual report, a description of the business, and credit rating from at least one of the following companies: Dun & Bradstreet, Moody's or Standard & Poor's.



The Office of Assessment and Compliance reports over three million assessments. **\$3,342,859** were remitted as a result of Certified Public Accountant (CPA) reviews. The amount collected from insurance companies totaled **\$89,345,402**.

**WORKERS' COMPENSATION ADVISORY COUNCIL MEMBERS**

<u>LABOR</u>		<u>BUSINESS</u>	
<p><b>JOHN A. PULGINI, VICE-CHAIR *</b> Pulgini &amp; Norton, LLP 10 Forbes Road West, Suite 240 Braintree, MA 02184 Tel: (781) 843-2200</p> <p><b>STEPHEN JOYCE *</b> N.E. Carpenters Labor Management Program 750 Dorchester Avenue Boston, MA 02125-1132 Tel: (617) 268-3400</p> <p><b>STEPHEN P. FALVEY *</b> N.E. Regional Council of Carpenters 750 Dorchester Avenue Boston, MA 02125-1132 Tel: (617) 307-5132</p> <p><b>MICKEY LONG *</b> AFL-CIO 193 Old Colony Avenue, P.O. Box E-1 Boston, MA 02127 Tel: (617) 269-0229</p> <p>VACANT</p> <p><b>* DENOTES VOTING MEMBER</b></p>		<p><b>TODD R. JOHNSON, CHAIR *</b> USI Insurance Services LLC 23 Gill Street, Suite 5500 Woburn, MA 01801 Tel: (781) 376-2682</p> <p><b>JOHN REGAN *</b> Associated Industries of Massachusetts (AIM) One Beacon Street, 16th Floor Boston, MA 02108 Tel: (617) 262-1180</p> <p><b>TERI A. MCHUGH *</b> Boyle Shaughnessy Law 695 Atlantic Avenue Boston, MA 02111 Tel: (617) 451-2000</p> <p><b>FRANK RUEL *</b> Raytheon Company 870 Winter Street Waltham, MA 02451 Tel: (781) 522-3018</p> <p><b>JAMES STEENBRUGGEN *</b> First Electric Motor Service Inc. 17 Olympia Avenue Woburn, MA 01801 Tel: (781) 491-1100</p>	
<u>CLAIMANT'S BAR</u>	<u>INSURANCE</u>	<u>VOC. REHAB.</u>	<u>MEDICAL PROVIDER</u>
<p><b>BERNARD J. MULHOLLAND</b> Ford, Mulholland &amp; Moran, P.C. 288 North Main St. Brockton, MA 02303 Tel: (508) 586-5353</p>	<p><b>MICHAEL KELLEY</b> HUB International New England 299 Ballardvale Street Wilmington, MA 01887 Tel: (978) 661-6819</p>	VACANT	VACANT
<u>EX OFFICIO</u>			
<p><b>SECRETARY ROSALIN ACOSTA</b> Exec. Office of Labor &amp; Workforce Dev. One Ashburton Place, Suite 2112 Boston, MA 02108 Tel: (617) 626-7100</p>		<p><b>SECRETARY JAY ASH</b> Exec. Office of Housing and Economic Dev. One Ashburton Place, Suite 2101 Boston, MA 02108 Tel: (617) 727-8380</p>	
<u>STAFF</u>			
<p><b>MAUREEN O'CONNELL</b>, Executive Director Workers' Compensation Advisory Council</p>			

## APPENDICES

**Workers' Compensation Advisory Council  
Prior Fiscal Year Annual Reports**

<https://www.mass.gov/lists/workers-compensation-advisory-council-annual-reports>

**Workers' Compensation Advisory Council  
Prior Council Studies**

<https://www.mass.gov/service-details/workers-compensation-advisory-council-studies>

**Executive Office of Labor and Workforce Development**

<https://www.mass.gov/orgs/executive-office-of-labor-and-workforce-development>

**Massachusetts State House  
Joint Committee on Labor & Workforce Development**

<https://malegislature.gov/Committees/Detail/J43/190>

**Industrial Accident Board Nominating Panel**

<https://www.mass.gov/files/documents/2018/04/03/judicial-nominating-panel.pdf>

**Roster of Judicial Expiration Dates**

<https://www.mass.gov/service-details/dia-judicial-term-expirations>

**Governor's Council**

<https://www.mass.gov/service-details/councillors>

**Health Care Services Board**

<https://www.mass.gov/service-details/health-care-services-board-members>

For more information on prior fiscal year Workers' Compensation Advisory Council annual reports, studies, judicial terms, and the agencies associated with the Advisory Council and the Department of Industrial Accidents please refer to the links in the Appendices.



**WORKERS' COMPENSATION ADVISORY COUNCIL**

One Congress Street

10<sup>th</sup> Floor

Boston, MA. 02114

617.727.4900 x7379