

BWC Board of Directors

**Board Agenda**

**Friday, August 28, 2009**

**William Green Building**

Level 2, Room 3

8:00 a.m. – 12:00 p.m.

---

---

**Call to Order**

Bill Lhota, Board Chair

**Roll Call**

Larry Rhodebeck, Scribe

Bill Lhota, Chair

- Approval of minutes of the July 31, 2009 Board meeting
- Review meeting agenda

---

**Ethics Training**

David Freel, Executive Director, Ohio Ethics Commission

**Fiduciary Responsibility**

Ron O'Keefe, Fiduciary Counsel

---

**Committee Reports**

**Governance Committee**

Alison Falls, Committee Chair

1. General Policy and Principal Operating Units of Bureau Offices: Rules 4123-9-1 to 4123-9-12
2. 2009 Vocational Rehabilitation Services Fee Schedule, Rule 4123-18-9

**Actuarial Committee**

Chuck Bryan, Committee Chair

1. Annuity Table - rule 4123-17-60
2. PEC Application for Group Experience Rating, rule 4123-17-62
3. Public Employer Group Retrospective Rating – Application Deadline Change, rule 4123-17-73

**Audit Committee**

Ken Haffey, Committee Chair

**Investment Committee**

Bob Smith, Committee Chair

---

**FY 2010 Agency Objectives**

Ray Mazzotta, Chief Operating Officer

---

**Monthly Enterprise Report**

Tracy Valentino, Chief, Fiscal & Planning Division

---

**Administrator Briefing**

Marsha P. Ryan, Administrator

---

**Executive Session**

---

**Adjourn**

Bill Lhota, Board Chair

---

**Next Meeting: Friday, September 25, 2009**

\*Not all agenda items have material.

\*\* Agenda subject to change

Ben Rose, *Chair*  
Shirley Mays, *Vice Chair*  
Merom Brachman  
Betty Davis  
Steven Dettelbach  
Ann Marie Tracey



OHIO ETHICS COMMISSION  
8 East Long Street, 10<sup>th</sup> Floor  
Columbus, Ohio 43215  
Telephone: (614) 466-7090  
Fax: (614) 466-8368

[www.ethics.ohio.gov](http://www.ethics.ohio.gov)

David E. Freel,  
*Executive Director*

---

## DAVID E. FREEL

David E. Freel has been the Executive Director of the Ohio Ethics Commission since 1994. As Executive Director, Mr. Freel supervises a staff of twenty-three and oversees the state-wide responsibilities of the Commission. These responsibilities include: providing ethics advice to state and local public officials and employees, and private sector individuals doing business with them, before they act; confidentially investigating the alleged unethical actions of state and local public servants; managing financial disclosure made by 11,000 public office holders; conducting public education and providing information; and supervising the administrative functions of the Commission. Mr. Freel represents the Commission before the General Assembly and other governmental bodies.

Mr. Freel has also served as a special assistant prosecutor in ethics-related prosecutions. One example involved the investigation and prosecution of the former Columbiana County Treasurer, and his son, in 1994, for felony ethics violations and related crimes resulting from the son's embezzlement of millions of dollars of public funds controlled by the county.

Mr. Freel has written articles on Ohio's Ethics Law and given ethics presentations at seminars and conferences in the United States and Canada. He is a past President of the Council of Governmental Ethics Laws (COGEL), an international organization composed of federal, state, local, and provincial agencies, and individuals, responsible for the administration and implementation of ethics, financial disclosure, elections, campaign finance, and freedom of information laws and provisions. On September 18, 2007, he was named the recipient of their highest honor, the 2007 COGEL Award, at the Conference in Victoria, British Columbia, having also been recognized in 2002 with the COGEL Service Award. Mr. Freel also serves on the Executive Committee of the Council for Ethical Leadership at the Capital University School of Management.

Before joining the Ethics Commission, Mr. Freel was a faculty member of The Ohio State University College of Law, serving as a Clinical Teaching Fellow and Staff Attorney in the College of Law's Clinical Programs from 1979 to 1983. Prior to that, he was a trial attorney with the Franklin County Public Defender's Office from 1977 to 1979.

Mr. Freel received his Bachelor of Science degree in Social Science from The Ohio State University in 1974, and his Juris Doctor degree from Capital University School of Law in 1977. In 2008, Mr. Freel was recognized as Capital University's Law School Distinguished Alumnus of the Year.

Ben Rose, *Chair*  
Shirley Mays, *Vice Chair*  
Merom Brachman  
Betty Davis  
Steven Dettelbach  
Ann Marie Tracey



OHIO ETHICS COMMISSION  
8 East Long Street, 10<sup>th</sup> Floor  
Columbus, Ohio 43215  
Telephone: (614) 466-7090  
Fax: (614) 466-8368

[www.ethics.ohio.gov](http://www.ethics.ohio.gov)

David E. Freel,  
*Executive Director*

---

## THE OHIO ETHICS LAW OUTLINE

### I. INTRODUCTION TO OHIO'S ETHICS LAW

#### A. **Purposes of the Ethics Law:**

- Protect the public from the financial, family, or business conflicts of its public servants
- Encourage impartiality in governmental decisions by restricting public actions on matters in which public officials and employees have direct and definite conflicts of interest
- Promote citizen confidence in the actions of public agencies

#### B. **Ethics Law History:**

- Created by the General Assembly in 1973
- Found in Ohio Revised Code Chapter 102 and R.C. 2921.42, 2921.421, and 2921.43
- Established the Ohio Ethics Commission, and two similar state ethics agencies in the Legislature and Judiciary, to oversee all within the three branches of government
- Ethics Commission is one of nearly 40 similar state ethics boards and commissions

#### C. **The Ethics Commission Oversees:**

- All state and local public officials and employees (except legislative and judicial members)
- Private parties and corporations who do business with public offices

#### D. **The Ethics Law:**

- Requires personal financial disclosure to identify and protect against conflicts;
- Restricts unethical conduct through laws that have criminal sanctions; and
- Allows uniform review and guidance regarding ethics issues.

### II. THE OHIO ETHICS LAW – A WORKING UNDERSTANDING

**General Rule: Whenever the interests of the public official or the public official's family or business associates are present in an issue before the public official, there is an ethics question.**

#### A. **General Public Protections** – The Ethics Law contains *criminal* restrictions to:

- Restrict participation in public matters involving direct and definite personal, family and business interests of a public official or employee;
- Limit compensation for public duties to their public employer;
- Restrict personal, family, and business interests in public contracts;
- Prohibit nepotism in public hires and services;
- Condition former officials and employees' post-employment activity;
- Control the disclosure of confidential information, and;
- Provide protections against influence peddling in public agencies for personal benefit.

#### B. **Conflict of Interest and Supplemental Compensation** – R.C. 102.03(D), (E), (F), 2921.43

- **Core of Ethics Law restrictions that often appear together in analysis and violations. Ethics Law does not replace, but supplements, bribery and theft prohibitions. No quid pro quo required.**

1. **R.C. 102.03(D):**
  - a. Prohibits a public official's *active use of authority to secure* anything of value that could have a substantial and improper influence on the official. Includes voting, discussing, deliberating, or formally or informally lobbying on matters of conflict [OEC 2007-01].
  - b. Not necessary that thing of value is received by the official—could be received by family member or business associate.
2. **R.C. 102.03(E):**
  - a. Prohibits a public official's *acceptance or solicitation* of anything of value that could have a substantial and improper influence on the official [OEC 2001-03]. A thing of substantial value from an improper source would have a substantial and improper influence.
  - b. Anything of value includes money, goods, *future employment*, interest in realty, and every other thing of value [R.C. 1.03].
  - c. Improper sources include parties doing or seeking to do business with, regulated by, or interested in matters before a public agency [OEC 2003-03].
  - d. Receipt or acceptance alone creates potential violation [OEC 2001-03].
3. **R.C. 102.03(F):**
  - a. Prohibits a private party from *giving or promising* anything of value. [OEC 2008-01]
  - b. Prohibited regardless of whether official solicits the item.
4. **Application to issues of:**
  - a. Employment: A public official is prohibited from soliciting, accepting, or using his position to seek employment from “improper” sources unless the official can withdraw from participating in any actions that affect the prospective employer and his abstention is approved by supervisors, where required. Official must withdraw from participation in official matters if attempting to secure, or approached about, employment [OEC 2008-02]
  - b. Travel, meals, and lodging: A public official cannot accept anything of value, including travel, meals, and lodging, from an improper source. [OEC 2001-03]
  - c. Gifts: Cannot accept gifts from any party that is doing or seeking to do business with, regulated by, or interested in matters before the public agency [OEC 2001-04].
5. **Other Governance:**
  - a. Executive Order 2007-01S – State officials and employees under Governor
  - b. Other Agency Specific Restrictions – i.e. PUCO, public investment systems
6. **R.C. 102.03(G):** Campaign Contributions not ordinarily governed under Ethics Law, unless another violation of law. [OEC 2002-03; see also R.C. 2921.43 below].
7. **R.C. 102.01 (H)(1) – Honoraria:** Most public officials and employees who file financial disclosure are prohibited from receiving honoraria [OEC 99-003].
8. **R.C. 2921.43 - Supplemental Compensation:**
  - a. Prohibits the acceptance or giving of any compensation, other than allowed by law, for the performance of any public duty or responsibility. Separate notion of conflict; attempt to prohibit the conflict inherent in being compensated by dual employers. Public and private sectors *both* subject to supplemental compensation prohibitions [OEC 2008-01]
  - b. Prohibits the coercion of a campaign contribution [State v. Conese (2004), 102 Ohio State 3d 435]

9. **R.C. 102.03(C) - Licensing Conflicts:** Bars participation in license or rate-making where public official or immediate family members (spouse residing with official and any dependent children) own more than 5 percent.

**C. Public Contract Restraints - R.C. 2921.42 and R.C. 102.04(B)**

**1. R.C. 2921.42: Five restrictions; The three most common are:**

- a. Public officials cannot secure public contracts for himself, family member, or a business associate (includes hiring a family member into public employment) [OEC79-005; 98-004].
- b. Public officials cannot have an interest in profits or benefits of a public contract entered into by a public agency with which he is “connected” [OEC 2008-04].
- c. Public official cannot profit from a public contract he approved or that was authorized by a body of which he was a member unless the contract was competitively bid and awarded to the lowest and best bidder [OEC 88-008].

2. **R.C. 2921.42(A)(2) - Investing Public Funds:** Public officials cannot secure the investment of public funds in any share, bond, mortgage, or other security, if he, a member of his family, or any of his business associates either has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees.

3. Public contract includes public purchases or acquisitions of any property or service, including employment, grants, or improvement or maintenance of public property [OEC 87-002; 89-006].

**4. Exceptions:**

- Stockholding below 5 percent; with an affidavit.
- Four-part exception—*All four must exist* and the burden is upon official to demonstrate:
  - Necessary supplies or services;
  - Unobtainable elsewhere for the same or lower cost or continuing course of dealing;
  - Equal or preferential treatment given agency; and
  - Arm’s length, full disclosure, no participation [OEC 2000-02].

5. **R.C. 102.04(B):** Restricts state employees from conducting business with any state agencies except through competitive bidding. (See F(5)(b) below for R.C. 102.04(D) exception) [OEC 2004-04].

**D. Post-Employment and Representation Restrictions – R.C. 102.03(A), (B), and 102.04**

1. **R.C. 102.03(A)(1):** Revolving door prohibitions on a public official, during public service and for one year afterwards, from representing anyone on any matter in which he personally participated while he was a public official [OEC 2004-04].

**2. Statutory Definitions:**

- a. Matter includes any case, proceeding, application, determination, issue, or question [OEC 99-001].
- b. Personal participation includes decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other substantial exercise of administrative discretion, including supervision [OEC 91-009].
- c. Representation is formal or informal appearance before, or any written or oral communication with, *any* public agency [OEC 86-001].

**3. Exceptions:**

- Not prohibited from representing public agency the official formerly served.
- New matters and matters in which public official did not participate; prohibition is tied to personal participation.

- Ministerial functions - Not prohibited from performing functions like filing or amending tax returns, incorporation papers, and similar documents.
  - Proposal, consideration, or enactment of statutes, rules [OEC2004-04].
4. **R.C. 102.03(B) – Confidentiality:** Lifetime prohibition on disclosure of confidential information both during and after leaving public position [OEC93-012].
  5. **R.C. 102.04(A) - Representation and Influence Peddling**
    - a. Prohibits state officials from receiving compensation directly or indirectly, other than from own public agency, for any service rendered personally on any case, application, or other matter before any public agency [OEC 93-010].
    - b. **R.C. 102.04(D):** Exemption applies to non-elected employees who render services before, or sell goods and services to, state agencies other than the agency they serve [OEC 93-010].

### **III. THE OHIO ETHICS COMMISSION AND REMEDIES AVAILABLE**

#### **A. Composition:**

- The Commission is a bipartisan body comprised of six members who are appointed by the Governor and subject to confirmation by the Senate. The members serve staggered, six-year terms, and are compensated \$75 per meeting, to a maximum of \$1800 per year.
- Current members are:
 

- <i>Merom Brachman, Bexley</i>	- <i>Shirley Mays, Vice Chair, Delaware</i>
- <i>Betty Davis, Mason</i>	- <i>Ben Rose, Chair, Lima</i>
- <i>Steve Dettelbach, Cleveland</i>	- <i>Ann Marie Tracey, Cincinnati</i>
- The Ethics Commission employs an Executive Director who supervises a staff of 21 that carries out the duties of administering the Ethics Law on a day-to-day basis.

#### **B. Statutory Responsibilities of the Ohio Ethics Commission:**

1. **Advice:** The Commission possesses the unique authority to interpret and provide advice regarding the Ethics Law to public servants before they act. The Commission's written advisory opinions provide immunity to those who follow the advice. In 2008, 255 requests for advice were closed.
2. **Education:** The Commission provides free ethics education and informational materials related to ethics, conflicts of interest, and financial disclosure. In 2008, 241 educational sessions were conducted by the Commission to more than 18,000 people.
3. **Financial Disclosure:** The Commission administers the financial disclosure requirement for most public employees required to file annual disclosure statements. More than 11,000 forms are filed annually with the Commission.
4. **Investigation:** The Commission confidentially investigates alleged violations of the Ethics Law and related statutes for potential referral for criminal charges. In 2008, 168 active investigations were conducted.
5. **Legislation:** The Commission recommends legislation to the General Assembly related to ethics, conflicts of interest, and financial disclosure.

### **IV. QUESTIONS:**

**Contact the Ohio Ethics Commission at (614) 466-7090.** For more information about the Ethics Commission and its duties, searches of more than 300 formal Advisory Opinions, and common sense guidance regarding Ohio's Ethics Law, please go to [www.ethics.ohio.gov](http://www.ethics.ohio.gov), or contact the Commission.

Ben Rose, *Chair*  
Shirley Mays, *Vice Chair*  
Merom Brachman  
Betty Davis  
Steven Dettelbach  
Ann Marie Tracey



OHIO ETHICS COMMISSION  
8 East Long Street, 10<sup>th</sup> Floor  
Columbus, Ohio 43215  
Telephone: (614) 466-7090  
Fax: (614) 466-8368

[www.ethics.ohio.gov](http://www.ethics.ohio.gov)

David E. Freel,  
*Executive Director*

---

## **FINANCIAL DISCLOSURE FACT SHEET**

**What is a financial disclosure statement?**

A financial disclosure statement (FDS) is an annual report filed by many public officials and employees. In a FDS, the filer reports sources of income, investments, real estate holdings, and other financial interests.

**Where are financial disclosure statements filed?**

- Legislators file with the Joint Legislative Ethics Committee;
- Judges file with the Board of Commissioners on Grievances and Discipline of the Supreme Court; and
- All others file with the Ohio Ethics Commission.

**Who is required to file a disclosure statement?**

- Elected officials at the state, county, and city levels;
- Candidates for state, county, and city elective offices;
- School board members and candidates for school board in school districts with more than 12,000 students;
- Superintendents, treasurers, and business managers for all school districts;
- Upper-level state employees, including university presidents; and
- Members of sovereign power state boards and commissions.

**What is the purpose of a financial disclosure statement?**

- This disclosure:
- Reminds public officials of those financial interests that might impair their judgment on behalf of the public;
  - Informs the public of those interests; and
  - Assists in instilling confidence in the actions of public officials.

**What must be disclosed on the financial disclosure statement?**

- Most filers must disclose:
- All sources of **income** of any amount;
  - **Names of clients as sources of income and individual items of income** if the clients are legislative agents (except where confidentiality is protected by a code of ethics);
  - **Source and amount of income received** from any person if the filer knows or has reason to know the person is doing or seeking to do business with filer's public agency;
  - All sources of **gifts** over \$75 (excluding most family members);
  - All **investments, debtors, and creditors** over \$1000;
  - Most ownership and leasehold interests in **real property**;
  - Source **and** amount of every payment of **travel expenses** for travel inside or outside of the state incurred in connection with filer's official duties;

**Disclosure requirements (continued)**

- Source of payment of **meals, food, and beverage expenses** paid in connection with filer's official duties that exceed \$100 aggregated per calendar year; and
- Any **nondisputed information** contained in a statement received, by the filer, from a legislative agent.

University trustees, and persons serving with political subdivisions who are paid less than \$16,000 per calendar year for their public service, are required to make a different disclosure. They disclose:

- Sources of **income** of over \$500;
- Sources of **gifts** over \$500 (excluding most family members);
- **Investments, debtors, and creditors** over \$1000; and
- Most ownership and leasehold interests in **real property**.

There are also different filing requirements and disclosure statements for those who file with other ethics agencies.

- Contact the **Joint Legislative Ethics Committee** at (614) 728-5100 for information regarding legislators, their employees, and candidates for member of the General Assembly.
- Contact the **Supreme Court** at (614) 644-5800 for information regarding judges and judicial candidates.

**Are statements filed with the Ethics Commission public record?**

---

Most are, and copies are provided free of charge. However, the Ethics Law requires that some forms to be kept confidential. **Confidential** statements are those filed by:

- Uncompensated members of state boards and commissions and
- School district superintendents, treasurers, and business managers.

Each **confidential** form is reviewed by the Commission for possible conflicts of interest. Any portion of the form that shows possible conflicts is public.

---

**What are the financial disclosure filing deadlines?**

- April 15 of each year for many statements;
- Appointees to unexpired elective office: 15 days after qualification for office;
- New appointees/employees (appointed or employed between January 1 and February 15): April 15;
- New appointees/employees (appointed or employed after February 15): 90 days after employment or appointment;
- Candidates (including incumbents who are candidates): 30 days prior to first election at which candidacy will be voted upon; and
- Write-in candidates (including incumbents who are candidates): 20 days prior to first election at which candidacy will be voted upon.

---

**What are the penalties for failure to comply?**

- **Failure to file:** Fourth-degree misdemeanor; maximum 30-day sentence, \$250 fine.
- **False filing:** First-degree misdemeanor; maximum six-month sentence, \$1000 fine.
- **Late filing:** Fees will be assessed for each day the statement is late, up to a total late fee of \$250.

Ben Rose, *Chair*  
Shirley Mays, *Vice Chair*  
Merom Brachman  
Betty Davis  
Steven Dettelbach  
Ann Marie Tracey



OHIO ETHICS COMMISSION  
8 East Long Street, 10<sup>th</sup> Floor  
Columbus, Ohio 43215  
Telephone: (614) 466-7090  
Fax: (614) 466-8368

David E. Freel,  
*Executive Director*

[www.ethics.ohio.gov](http://www.ethics.ohio.gov)

---

## **THE OHIO ETHICS LAW AND OHIO ETHICS COMMISSION**

**Ohio's Ethics Law:** The Ohio General Assembly created the Ohio Ethics Law and the Ohio Ethics Commission, as the administrator of the Ethics Law for most in public service, effective January 1, 1974. The Law can be found in R.C. Chapter 102 and related sections, R.C. 2921.42 and 2921.43.

The Ethics Law enacted new laws, since enhanced, that govern all public officials and employees by:

- Requiring personal Financial Disclosure to identify and protect against conflicting interests;
- Mandating legal restrictions on unethical conduct that have criminal sanctions;
- Establishing uniform review of ethics issues by statewide ethics commissions within each of the three branches of government.\*

The Ethics Law also oversees and prohibits those in the private sector from giving improper compensation or substantial things of value to public officials and employees with whom they do business.

**Protections to the Public:** Ethics Laws promote the general public interest and support confidence by prohibiting biased public expenditures and decision-making conflicts of interest in public officials.

Among other restrictions, the Ethics Law generally prohibits every public official and employee from:

- Participating in their public role in any action that involves the direct interests of the official, or those of a family member, or another with whom the official has an ongoing private business relationship;
- Authorizing, or using a public position to secure, a public contract or the investment of public funds in any security that benefits the official, a family member, or a business associate;
- Improperly profiting from a public contract;
- Soliciting or accepting substantial and improper things of value, including, outside employment or consultation fees, gifts, or travel, meals and lodging, from those dealing with the public agency;
- Unauthorized disclosure or use of information deemed confidential by law;
- Representing others before any public agency in a matter in which the official or employee was involved, both during, and for a period of time (at least one year) after, leaving public service.

### **The Ohio Ethics Commission**

Ethics Commission members are citizens from throughout the state, with significant private and public sector experience, who are appointed by the Governor to 6-year, staggered terms, and subject to Senate confirmation:

- The Commission is a bipartisan state panel, required to have 3 Democratic and 3 Republican members; Commission members elect the Chairman and Vice-Chairman
- The Commission hires an Executive Director who administers a staff of 23, including attorneys, investigators, disclosure and education staff, to carry out 5 distinct state-wide statutory duties
- The Commission was created in 1974; Ohio is one of 40 states with a State Ethics Commission

### **Commission Members:**

Merom Brachman, Bexley  
Betty Davis, Mason  
Steve Dettelbach, Cleveland

Shirley Mays, Vice Chair, Delaware  
Ben Rose, Chair, Lima  
Ann Marie Tracey, Cincinnati

**By Law, the Ohio Ethics Commission Performs Five Statutory Duties:**

Renders **Advice** and guides public officials to protect against personal, family and business conflicts:

- Issues written advisory opinions that provide legal immunity if advice is followed in future actions
- In 2008, closed 255 requests for advice and provided ethics guidance in response to 3,006 telephone calls from officials, agencies, counsel, and the general public
- Assists public entities and private businesses and non-profits in observing ethical decision-making in public processes through direct interaction and responses to questions
- Guides Financial Disclosure filers through questions involving disclosure and recognizing potential conflicts of interest

Provides **Education and Information** on Ethics Law prohibitions against conflicts of interest:

- Annually conducts educational and informational sessions
- In 2008, the Commission presented 241 separate sessions to more than 18,000 public and private sector attendees; conducts Ethics Education to all cabinet agency leadership
- Creates and distributes clear and concise informational materials on the Ethics Law
- Provides and updates a web site at [www.ethics.ohio.gov](http://www.ethics.ohio.gov) that offers easy access to useful information and dynamic search capabilities

Administers **Financial Disclosure** for more than 11,000 annual filers from more than 1,300 different public entities:

- Receives disclosures from all state, county, and city elected officeholders and candidates and tracks timely compliance for the public prior to election
- Oversees these filings, and an additional 4,000 filed by state officials and board members, each year; a 25% increase in filings since 1994
- Reviews and makes available for public inspection the vast majority (80%) of statements
- Reviews all interests contained in confidential filings required of uncompensated board members and school officials (2,200 each year) to identify potential conflicts of interest
- Secures a 99% compliance rate in annual disclosure filings to assure uniform public disclosure

Conducts confidential **Investigation** into allegations of unethical activity and secures remedial response:

- Reviews an increasing number of allegations each year, now averaging almost 500, from prosecutors, auditors, agencies and the general public
- Prioritizes the most serious charges and complaints for confidential factual investigation and possible criminal prosecution; in 2008, processed 544 investigative requests and conducted 168 active investigations
- Conducts witness interviews, issues subpoenas, and works jointly with other law enforcement
- Recent examples of the Commission's efforts include criminal investigations relating to the Attorney General's Office and prosecutions of local and county officials
- Resolves less-serious, non-continuing questions of conduct through alternative dispute remedies

**Assists the General Assembly** in the consideration of ethics-related legislation:

- S.B. 133 enacting reform in the public retirement systems
- H.B. 162 strengthening governance in Community Based Corrections Facilities
- S.B. 286 enabling public university faculty to participate in technology entrepreneurship, while protecting the public against personal and business conflicts of interest in using public resources
- S.B. 219 extending the statute of limitations for those offering improper compensation and gratuities

For more information about the Ethics Commission and its duties, searches of more than 300 formal Advisory Opinions, and common sense guidance regarding Ohio's Ethics Law, please go to [www.ethics.ohio.gov](http://www.ethics.ohio.gov), or contact the Ohio Ethics Commission at the number above.

(\* The Ohio Ethics Commission is one of three state ethics agencies, within the three branches of government that oversee and administer the Ethics Law:

- The Joint Legislative Ethics Commission (JLEC) for members and employees of the General Assembly;
- The Board of Commissioners on Grievances and Discipline for judges and court employees, and;
- The Ethics Commission for the entire Executive branch and all other state and local public officials and employees.)

Ben Rose, *Chair*  
 Shirley Mays, *Vice Chair*  
 Merom Brachman  
 Betty Davis  
 Steven Dettelbach  
 Ann Marie Tracey



OHIO ETHICS COMMISSION  
 8 East Long Street, 10<sup>th</sup> Floor  
 Columbus, Ohio 43215  
 Telephone: (614) 466-7090  
 Fax: (614) 466-8368

[www.ethics.ohio.gov](http://www.ethics.ohio.gov)

David E. Freel,  
*Executive Director*

## Evaluation

### The Ethics Law in Public Service Ethics Education Session and DVD

For every item, please place an “X” in the scoring box that most closely represents how you felt about today’s Ethics Education Session. Please comment briefly about your reasons for your score.

	6	5	4	3	2	1	
<i>Useful to my duties</i>	<input type="checkbox"/>	<i>Irrelevant</i>					

Comments?

	6	5	4	3	2	1	
<i>Helpful discussions</i>	<input type="checkbox"/>	<i>Not helpful</i>					

Comments?

	6	5	4	3	2	1	
<i>DVD effective</i>	<input type="checkbox"/>	<i>DVD not effective</i>					

Comments?

	6	5	4	3	2	1	
<i>Expectations met</i>	<input type="checkbox"/>	<i>Not met</i>					

Comments?

	6	5	4	3	2	1	
<i>Good use of time</i>	<input type="checkbox"/>	<i>Poor use of time</i>					

Comments?



M E M O R A N D U M

**DATE:** August 12, 2009  
**TO:** William J. Lhota, Chairman, Board of Directors, Ohio Bureau of Workers' Compensation  
**FROM:** F. Ronald O'Keefe, Esq., Hahn Loeser & Parks LLP  
**SUBJECT:** Overview - Fiduciary Duties of Members of the Board of Directors

---

Purpose: The Board of Directors (the "Board") of the Ohio Bureau of Workers' Compensation ("BWC") has retained fiduciary counsel. The Board Chairman has requested that fiduciary counsel make a presentation to the Board regarding the fiduciary responsibilities of the BWC Board members.

Fiduciary Responsibilities Defined: A fiduciary has been defined as "a person having a duty, created by his undertaking, to act *primarily for the benefit of another* in matters connected with his undertaking."<sup>1</sup> The monies paid into the worker's compensation fund "constitute a trust fund for the benefit of employers and employees."<sup>2</sup> The members of the BWC Board each have the duties of a trustee with respect to the workers' compensation fund. A trustee must exercise "such care and skill as a man of ordinary prudence would exercise in dealing with his own property" and that, if a "trustee has greater skill than that of a man of ordinary prudence, he is under a duty to exercise such skill."<sup>3</sup>

- Fiduciary Standards of Conduct: The members of the BWC Board are obligated by law to adhere to the highest standards of judgment and care when making decisions or taking actions that may affect the financial integrity and soundness of the workers' compensation fund.<sup>4</sup>
- Oversight Responsibilities: In addition to observing fiduciary standards of conduct with respect to making decisions and taking actions, the BWC Directors are charged with oversight responsibility of the BWC and its Administrator.

Discussion and Analysis: In order to properly discharge their fiduciary responsibilities, the BWC Directors should be guided by three primary considerations with respect to matters that come before the Board:

- The provisions of Ohio law that directly impact the BWC and the Board’s activities.
- The duty of loyalty to protect the workers’ compensation fund and to act in the interests of all the stakeholders of the BWC, taken as a whole, and.
- The duty of care in ensuring that all Board decisions and actions are the result of an informed deliberative process in which the significant information items relevant to the proposed decision or action are identified and considered by the Board.

## Discussion and Analysis:

### 1. Ohio Law.

- Under Ohio law, the Board is charged with a number of responsibilities.
- The paramount responsibility of the Board is to “safeguard and maintain the solvency” of the workers’ compensation fund. In this connection, Ohio law requires the Administrator to “fix and maintain, with the advice and consent of the Board, for each class of occupation or industry, the lowest possible rates of premium consistent with the maintenance of a solvent state insurance fund and the creation and maintenance of a reasonable surplus.”<sup>5</sup>
- Further, Ohio law requires the Administrator to “adopt rules, with the advice and consent of the Board, governing rate revisions, the object of which shall be to an equitable distribution of losses among the several classes of occupation or industry,” and, in this connection, to develop “fixed and equitable rules controlling the rating system, which rules shall conserve to each risk the basic principles of workers’ compensation insurance.”<sup>6</sup>
- Other significant statutory duties of the Board include establishing the overall administrative policy for the BWC and reviewing the progress of the BWC in meeting its cost and quality objectives.<sup>7</sup>

### 2. Duty of Loyalty.

- The duty of loyalty is observed by the Directors by keeping in the forefront the Board’s legal duties with respect to the interests of the workers’ compensation fund and all the stakeholders of the BWC, taken as a whole.
- An important element of the duty of loyalty is the requirement that the fiduciary act in “good faith,” which means making an honest effort to put one’s own interests aside with respect to the consideration of, and taking action on, a particular matter.

- The duty of loyalty is of particular importance to members of the BWC Board. In carrying out their responsibilities, Board members must separate themselves from whatever relationships they may have to any constituency that brought that member to the Board, and focus solely on his or her fiduciary responsibilities as a Board member to the BWC and the fund administered by the BWC.
- If a Board member believes that his or her personal interests in a particular matter are so compelling that the Board member cannot, in good conscience, act in “good faith” with respect to that matter, then the Board member should decline to participate in taking action on such matter. By exercising recusal under these circumstances, that Board member is, in fact, carrying out his or her fiduciary responsibilities by not breaching the duty of loyalty.

### 3. Duty of Care.

- Directors may discharge their duty of care in the context of decisions to be made by the Board by doing whatever is reasonably prudent, under the circumstances, to obtain and review information relevant to the matter at hand and examine in sufficient detail, and with the aid of the appropriate resources, the significant relevant factors with respect to that matter.
- Where the responsibility of the Board involves the actions and proposed actions of the Administrator which are to be undertaken with the Board’s “advice and consent” under the applicable statute, the Board should consider the specific standards imposed by law on the Administrator, and should generally be guided by the preservation of the solvency of the BWC fund, while considering what is fair and equitable to all BWC stakeholders.<sup>8</sup>
- In fulfilling its oversight responsibilities, it is imperative that the Board be reasonably well informed regarding the matters of significance affecting the BWC and the fund.
- In this connection, case law precedent regarding board oversight responsibilities has held that the Board has the responsibility to make certain that internal information and reporting systems are in place within the BWC to provide timely, accurate information sufficient to allow the Board to reach informed judgments concerning the matters before it, including compliance by the BWC with the laws that govern it and evaluating the progress of the BWC in meeting its cost and quality objectives.<sup>9</sup>
- The duty of care requires that the Board devote an appropriate amount of time for assimilation and deliberation among its members regarding the information obtained with respect the matter under consideration. The appropriate amount of time for

deliberation, however, will have to be balanced on a case-by-case basis against the need for prompt action with respect to the matter under consideration.

Please advise if you require any further information or clarification with respect to the items set forth in this memorandum. The advice set forth herein is provided with respect to the specific purpose set forth above, and is intended solely for the use of the Board and its Committees.

---

<sup>1</sup> Haluka v. Baker, 66 Ohio App. 308, 312 (1941) [Emphasis in original.]

<sup>2</sup> Ohio Revised Code Section 4123.30.

<sup>3</sup> Restatement (Second) of Trusts, Section 174 (1959).

<sup>4</sup> Ohio Attorney General Opinion No. 89-033 (1989).

<sup>5</sup> Ohio Revised Code Section 4123.34 [preamble].

<sup>6</sup> Ohio Revised Code Section 4123.34 (B).

<sup>7</sup> Ohio Revised Code Section 4121.12 (F) (1, 2).

<sup>8</sup> Ohio Revised Code Section 4123.29 (A) (2).

<sup>9</sup> *Stone v. Ritter*, 911 A.2d 362 (Del. 2006), citing *In Re Caremark Int'l Inc. Derivative Litigation.*, 698 A.2d 959, 971 (Del. Ch. 1996)

# **Enterprise Report**

August 2009

# Enterprise Report

BWC's financial statements are prepared in accordance with accounting principles generally accepted in the United States of America. The statements are prepared using the accrual basis of accounting and the economic resources measurement focus.

## **Statement of Operations**

This statement reports operating revenues and expenses, as well as net investment revenues for the current fiscal year to date, projected, and prior fiscal year to date. A combining schedule for the statement of operations presents the current fiscal year to date revenue and expenses by fund. *Pages 5 and 6.*

## **Statement of Investment Income**

This statement provides information on the sources of investment income, changes in investment fair value, and investment expenses. Information is presented for the current fiscal year to date, projected, and prior fiscal year to date. *Page 7.*

## **Administrative Cost Fund Budget Summary**

This statement reports actual fiscal year to date administrative expenses and budget compared to the budget for the fiscal year and prior fiscal year to date expenses for BWC. The fiscal year budget is also compared to the agency appropriation. *Pages 8 and 9.*

## **State Insurance Fund Administrative Expense Summary**

This statement reports administrative expenses that are permitted to be paid from the State Insurance Fund for the current and prior fiscal year to date along with the remaining open encumbrances for each of the contracts. *Page 10.*

## **Statement of Cash Flows**

This statement presents cash flows from operating, capital and related financing activities, and investing activities. Cash collections and payments are reflected in this statement to arrive at the net increase or decrease in cash and cash equivalents. *Page 11.*

## **Statement of Net Assets**

This statement presents information reflecting BWC's assets, liabilities, and net assets. Net assets represent the amount of total assets less liabilities. This statement would be referred to as a balance sheet in the private sector. A combining schedule presents this information by fund. *Pages 12 and 13.*

## **Financial Performance Metrics**

Financial ratios reflecting BWC's performance are presented here. These financial ratios are insurance industry recognized financial metrics. *Page 14.*

## **Operational Performance Metrics**

Measures reflecting BWC's operational performance are presented here. *Pages 15 through 17.*

## **Performance Metrics Glossary**

Glossary provides definitions and information on calculations for each performance metric. *Page 18.*

## July Financial Analysis

BWC's net assets increased by \$495 million in July resulting in net assets of almost \$3 billion at July 31, 2009 compared to \$2.5 billion at June 30, 2009.

<i>(\$ in millions)</i>	<b>Fiscal YTD</b> July 31, 2009
Operating Revenues	\$168
Operating Expenses	205
Operating Transfers Out	–
Net Operating Gain (Loss)	(37)
Net Investment Income (Loss)	532
Increase (Decrease) in Net Assets	495
Net Assets End of Period	\$2,950

- o Premium and assessment income of \$183 million net of a \$15 million reduction in the provision for uncollectible accounts receivable resulted in operating revenues of \$168 million in July.
- o Benefits and compensation adjustment expenses of \$199 million along with other expenses of \$6 million resulted in operating expenses of \$205 million in July.
- o A \$463 million increase in portfolio market value in July along with interest and dividend income of \$70 million for the month, resulted in a net investment income of \$532 million for the month after investment expenses. The increase in portfolio market value is comprised of \$130 million in net realized losses and \$593 million in unrealized gains.
- o Cash and cash equivalents include \$1 billion in money market holdings in the U.S. Aggregate fixed income transition manager account. These funds are committed to covering a \$1 billion investment trade payable for purchases that will settle in August.
- o Other cash receipts include \$1.5 million in rebates from pharmaceutical drug manufacturers.
- o Claim payments issued in July were \$159 million, including \$12.5 million in claim settlements and \$4 million in Ohio Hospital Association (OHA) settlement payments.

## Fiscal Year-to-Year Comparisons

BWC's total net assets have increased by \$495 million for fiscal year-to-date 2010 resulting in net assets of \$2.95 billion at July 31, 2009 compared to \$2.3 billion at July 31, 2008.

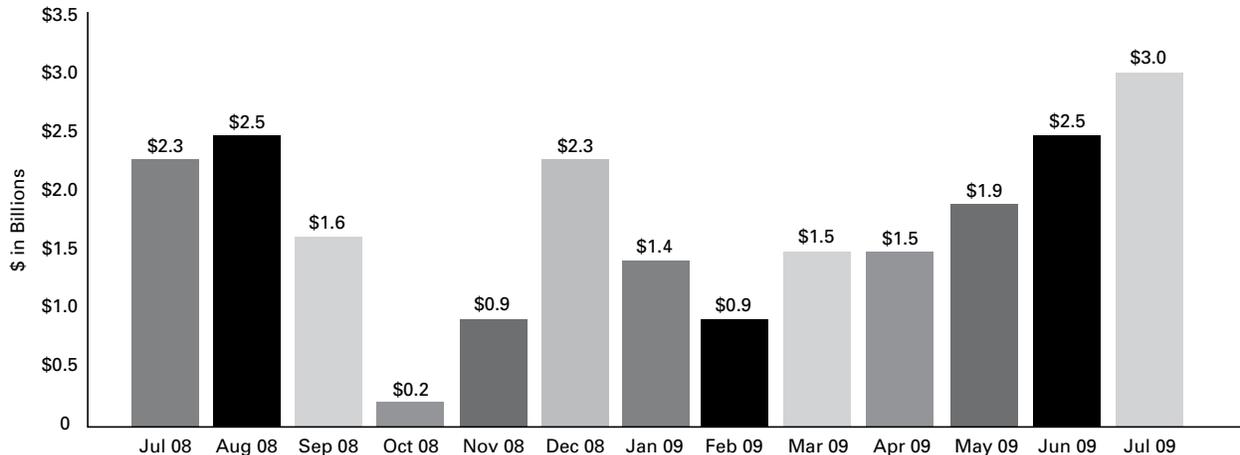
<i>(\$ in millions)</i>	<b>Fiscal YTD</b> July 31, 2009	<b>Projected FYTD</b> July 31, 2009	<b>Fiscal YTD</b> July 31, 2008
Operating Revenues	\$168	\$182	\$191
Operating Expenses	205	213	241
Operating Transfer Out	–	(1)	–
Net Operating Gain (Loss)	(37)	(32)	(50)
Net Investment Income (Loss)	532	70	(135)
Increase (Decrease) in Net Assets	495	38	(185)
Net Assets End of Period	\$2,950	\$2,494	\$2,318

- o BWC's operating revenues for fiscal year-to-date 2010 are \$168 million, a decrease of \$23 million compared to fiscal year-to-date 2009. This decrease is primarily due to decreases in premium rates for private and state agency employers effective July 1, 2009. These decreases are tempered by increased assessment rates for self-insured employers.
- o Benefit and compensation adjustment expenses decreased by \$34 million for fiscal year-to-date 2010 primarily due to a decrease in the change in reserves for compensation and compensation adjustment expenses. The reserves increased \$27 million in 2010 compared to \$47 million in 2009. Benefit payments have declined by \$10 million primarily as a result of decreased claims settlements.
- o BWC's net investment income for fiscal year-to-date 2010 totaled \$532 million, comprised of \$130 million in net realized losses and \$593 million in net unrealized gains, along with \$70 million of interest and dividend income net of \$410 thousand in investment expenses.
- o Fiscal year-to-date 2010 premium collections are \$12 million less than projected and \$14 million less than prior fiscal year-to-date.

**Conditions expected to affect financial position or results of operations include:**

- o Fiscal year-to-date premium collections are \$12 million less than projected. Premium collections through August 13, 2009 are 7% percent higher than during the same collection period six months ago but are 12% lower than the same collection period one year ago.

**Net Assets**



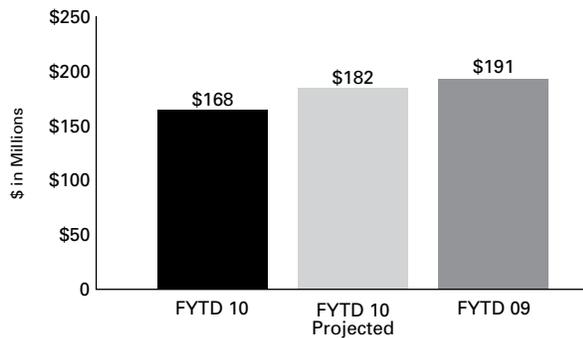
# Statement of Operations

Fiscal year to date July 31, 2009

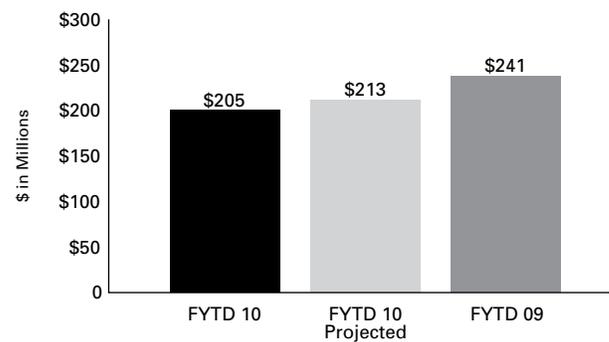
(in millions)

	Actual	Projected	Variance to Projected	Prior Yr. Actual	Year to Year Increase (Decrease)
<b>Operating Revenues</b>					
Premium & Assessment Income	\$183	\$186	\$(3)	\$200	\$(17)
Provision for Uncollectibles	(15)	(4)	(11)	(9)	(6)
Other Income	—	—	—	—	—
<b>Total Operating Revenue</b>	<b>168</b>	<b>182</b>	<b>(14)</b>	<b>191</b>	<b>(23)</b>
<b>Operating Expenses</b>					
Benefits & Compensation Adj. Expense	199	208	9	233	(34)
Other Expenses	6	5	(1)	8	(2)
<b>Total Operating Expenses</b>	<b>205</b>	<b>213</b>	<b>8</b>	<b>241</b>	<b>(36)</b>
<b>Operating Transfers</b>	<b>—</b>	<b>(1)</b>	<b>1</b>	<b>—</b>	<b>—</b>
<b>Net Operating Gain (Loss)</b>	<b>(37)</b>	<b>(32)</b>	<b>(5)</b>	<b>(50)</b>	<b>13</b>
<b>Net Investment Income (Loss)</b>	<b>532</b>	<b>70</b>	<b>462</b>	<b>(135)</b>	<b>667</b>
<b>Increase (Decrease) in Net Assets</b>	<b>\$495</b>	<b>\$38</b>	<b>\$457</b>	<b>\$(185)</b>	<b>\$680</b>

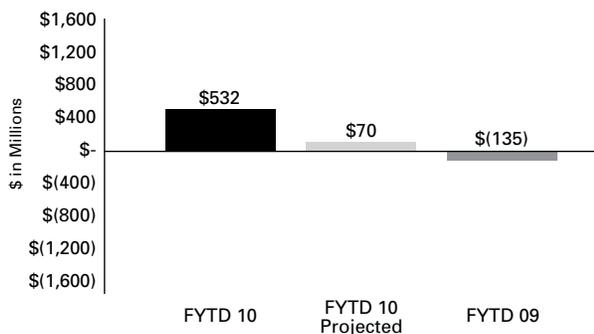
Operating Revenues



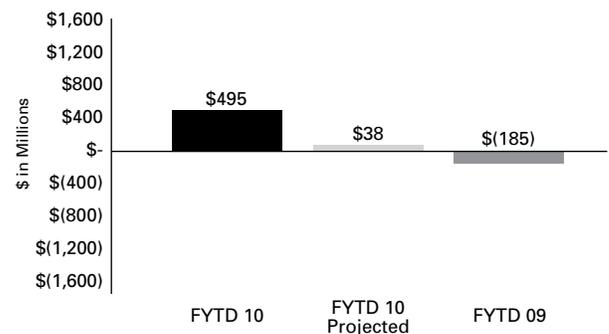
Operating Expenses



Net Investment Income (Loss)



Change in Net Assets



# Statement of Operations – Combining Schedule

Fiscal year to date July 31, 2009

(in thousands)

	State Insurance Fund Account	Disabled Workers' Relief Fund Account	Coal-Workers Pneumoconiosis Fund Account	Public Work Relief Employees' Fund Account	Marine Industry Fund Account	Self-Insuring Employers' Guaranty Fund Account	Administrative Cost Fund Account	Totals
<b>Operating Revenues:</b>								
Premium & Assessment Income	\$144,015	\$8,451	\$-	\$19	\$46	\$3,021	\$27,570	\$183,122
Provision for Uncollectibles	(14,626)	(537)	-	-	-	388	(156)	(14,931)
Other Income	(153)	-	-	-	-	-	168	15
<b>Total Operating Revenues</b>	<b>129,236</b>	<b>7,914</b>	<b>-</b>	<b>19</b>	<b>46</b>	<b>3,409</b>	<b>27,582</b>	<b>168,206</b>
<b>Operating Expenses:</b>								
Benefits & Compensation Adj Expenses	171,320	6,938	(237)	(16)	57	3,021	18,106	199,189
Other Expenses	2,107	10	3	-	(2)	-	4,453	6,571
<b>Total Operating Expenses</b>	<b>173,427</b>	<b>6,948</b>	<b>(234)</b>	<b>(16)</b>	<b>55</b>	<b>3,021</b>	<b>22,559</b>	<b>205,760</b>
Net Operating Income (Loss) before Operating Transfers Out	(44,191)	966	234	35	(9)	388	5,023	(37,554)
Operating Transfers Out	(16)	-	-	-	-	-	(197)	(213)
<b>Net Operating Income (Loss)</b>	<b>(44,207)</b>	<b>966</b>	<b>234</b>	<b>35</b>	<b>(9)</b>	<b>388</b>	<b>4,826</b>	<b>(37,767)</b>
<b>Investment Income:</b>								
Investment Income	63,377	4,854	1,036	-	-	11	504	69,782
Net Realized Gains (Losses)	(129,995)	(250)	(79)	-	-	-	-	(130,324)
Net Unrealized Gains (Losses)	554,494	31,888	6,871	95	71	-	-	593,419
Total Realized & Unrealized Capital Gains (Losses)	424,499	31,638	6,792	95	71	-	-	463,095
Investment Manager & Operational Fees	(372)	(23)	(13)	(1)	(1)	-	-	(410)
Gain (Loss) on Disposal of Fixed Assets	-	-	-	-	-	-	(5)	(5)
Total Non-Operating Revenues, Net	487,504	36,469	7,815	94	70	11	499	532,462
<b>Increase (Decrease) in Net Assets (Deficit)</b>	<b>443,297</b>	<b>37,435</b>	<b>8,049</b>	<b>129</b>	<b>61</b>	<b>399</b>	<b>5,325</b>	<b>494,695</b>
<b>Net Assets (Deficit), Beginning of Period</b>	<b>2,119,860</b>	<b>841,895</b>	<b>170,472</b>	<b>20,621</b>	<b>15,331</b>	<b>6,935</b>	<b>(719,656)</b>	<b>2,455,458</b>
<b>Net Assets (Deficit), End of Period</b>	<b>\$2,563,157</b>	<b>\$879,330</b>	<b>\$178,521</b>	<b>\$20,750</b>	<b>\$15,392</b>	<b>\$7,334</b>	<b>\$(714,331)</b>	<b>\$2,950,153</b>

This report shows operating activity for each of the funds administered by BWC.

The deficit in net assets for the Administrative Cost Fund is a result of recognizing the actuarially estimated liabilities for loss adjustment expenses while funding for ACF is on a pay-as-you-go basis.

# Statement of Investment Income

Fiscal year to date July 31, 2009

(in thousands)

	Actual	Projected	Variance to Projected	Prior Yr. Actual	Year to Year Increase (Decrease)
<b>Investment Income</b>					
Bond Interest	\$64,018	\$54,410	\$9,608	\$86,850	\$(22,832)
Dividend Income—Domestic & International	5,230	6,490	(1,260)	4,627	603
Money Market/Commercial Paper Income	116	416	(300)	549	(433)
Misc. Income (Corp Actions, Settlements)	418	400	18	62	356
Private Equity	—	—	—	—	—
<b>Total Investment Income</b>	<u>69,782</u>	<u>61,716</u>	<u>8,066</u>	<u>92,088</u>	<u>(22,306)</u>
<b>Realized &amp; Unrealized Capital Gains and (Losses)</b>					
Bonds – Net Realized Gains (Losses)	(120,424)	—	(120,424)	(1,584)	(118,840)
Stocks – Net Realized Gains (Losses)	(9,900)	—	(9,900)	(2,889)	(7,011)
Subtotal – Net Realized Gains (Losses)	<u>(130,324)</u>	<u>—</u>	<u>(130,324)</u>	<u>(4,473)</u>	<u>(125,851)</u>
Bonds – Net Unrealized Gains (Losses)	327,417	—	327,417	(194,091)	521,508
Stocks – Net Unrealized Gains (Losses)	266,002	8,620	257,382	(27,811)	293,813
Subtotal – Net Unrealized Gains (Losses)	<u>593,419</u>	<u>8,620</u>	<u>584,799</u>	<u>(221,902)</u>	<u>815,321</u>
<b>Net Gain (Loss) – PE</b>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<b>Change in Portfolio Value</b>	<u>463,095</u>	<u>8,620</u>	<u>454,475</u>	<u>(226,375)</u>	<u>689,470</u>
<b>Investment Manager &amp; Operational Fees</b>	<u>(410)</u>	<u>(552)</u>	<u>142</u>	<u>(259)</u>	<u>151</u>
<b>Net Investment Income (Loss)</b>	<u>\$532,467</u>	<u>\$69,784</u>	<u>\$462,683</u>	<u>\$(134,546)</u>	<u>\$667,013</u>

# Administrative Cost Fund Expense Analysis

July 2009

- o BWC Administrative Cost Fund expenses are approximately \$4.7 million (16.5%) less than budgeted and approximately \$689 thousand (3%) more than last fiscal year.
- o Decreases in payroll, in Customer Service, Infrastructure and Technology, Special Investigations and Communications are due to hiring controls implemented by OBM and a payroll period not requiring health care premium payments.
- o The timing of the receipt of invoices for payment in fiscal year 2010 caused actual expenditures to be less than the amount budgeted in July. More timely processing of payments to special counsel, fees to the Attorney General and rent in fiscal year 2010 led to increases in Personal Service and Maintenance compared to the prior fiscal year.
- o Identification of additional costs savings, a payroll period not requiring health care premium payments and approved projects awaiting final cost estimates led to a reduction in the fiscal year 2010 budget as of July 31st.
- o BWC's current fiscal year 2010 budget is approximately \$29.6 million (9%) less than appropriated by the General Assembly.

# Administrative Cost Fund Budget Summary

As of July 31, 2009

Expense Description	FTE's	Actual FY10	Budgeted FYTD10	FYTD10 Variance	FYTD10 Percentage Variance	FY10 Budget	FYTD09 Expenses	Increase (Decrease) in FY10	FYTD10 Percentage Increase (Decrease)
<b>Payroll</b>									
BWC Board of Directors	12	70,880	70,880	0	0.00%	766,096	85,082	(14,202)	-16.69%
BWC Administration	13	150,911	150,911	0	0.00%	1,625,648	87,467	63,444	72.53%
Customer Service	1,461	11,974,007	11,991,059	17,052	0.14%	110,757,977	12,908,763	(934,756)	-7.24%
Medical	132	1,258,193	1,258,291	98	0.01%	11,701,087	1,226,356	31,837	2.60%
Special Investigations	135	1,164,330	1,164,660	330	0.03%	10,988,707	1,300,626	(136,296)	-10.48%
Fiscal and Planning	67	577,786	578,137	351	0.06%	5,235,875	544,238	33,548	6.16%
Actuarial	23	221,985	221,016	(969)	-0.44%	2,429,936	188,987	32,998	17.46%
Investments	11	139,894	140,056	162	0.12%	1,354,272	131,072	8,822	6.73%
Infrastructure & Technology	302	3,169,962	3,183,229	13,267	0.42%	29,762,372	3,455,804	(285,842)	-8.27%
Legal	78	754,397	754,397	0	0.00%	7,045,311	751,032	3,365	0.45%
Communications	21	183,292	183,518	226	0.12%	1,698,232	337,102	(153,810)	-45.63%
Human Resources	63	576,334	576,355	21	0.00%	5,332,463	632,063	(55,729)	-8.82%
Internal Audit	14	152,921	152,921	0	0.00%	1,340,133	156,557	(3,636)	-2.32%
Ombuds Office	8	65,840	65,840	0	0.00%	661,537	56,968	8,872	15.57%
<b>Total Payroll</b>	<b>2,340</b>	<b>20,460,732</b>	<b>20,491,270</b>	<b>30,538</b>	<b>0.15%</b>	<b>190,699,646</b>	<b>21,862,117</b>	<b>(1,401,385)</b>	<b>-6.41%</b>
<b>Personal Services</b>									
Information Technology		26,466	721,959	695,493	96.33%	8,557,196	55,484	(29,018)	-52.30%
Legal - Special Counsel		1,764	126,250	124,486	98.60%	1,515,000	0	1,764	
Legal - Attorney General		1,007,745	1,155,463	147,718	12.78%	4,621,850	0	1,007,745	
Other Personal Services		64,778	558,366	493,588	88.40%	7,045,471	30,262	34,516	114.06%
<b>Total Personal Services</b>		<b>1,100,753</b>	<b>2,562,038</b>	<b>1,461,285</b>	<b>57.04%</b>	<b>21,739,517</b>	<b>85,746</b>	<b>1,015,007</b>	<b>1183.74%</b>
<b>Maintenance</b>									
William Green Rent		0	0	0	0.00%	19,871,795	0	0	0.00%
Other Rent and Leases		1,501,605	2,270,916	769,311	33.88%	14,160,934	58,729	1,442,876	2456.84%
Software and Equipment Maintenance and Repairs		126,772	1,545,387	1,418,615	91.80%	18,539,264	397,717	(270,945)	-68.13%
Inter Agency Payments		130,567	185,839	55,272	29.74%	3,676,023	102,879	27,688	26.91%
Communications		265,072	632,429	367,357	58.09%	6,852,637	353,216	(88,144)	-24.95%
Safety Grants and Long Term Care Loan		42,839	166,667	123,828	74.30%	6,000,000	36,808	6,031	16.39%
Supplies and Printing		34,538	285,459	250,921	87.90%	3,385,263	67,166	(32,628)	-48.58%
Other Maintenance		254,923	318,718	63,795	20.02%	3,959,703	267,544	(12,621)	-4.72%
<b>Total Maintenance</b>		<b>2,356,316</b>	<b>5,405,415</b>	<b>3,049,099</b>	<b>56.41%</b>	<b>76,445,619</b>	<b>1,284,059</b>	<b>1,072,257</b>	<b>83.51%</b>
<b>Equipment</b>		<b>4,599</b>	<b>187,488</b>	<b>182,889</b>	<b>97.55%</b>	<b>10,316,691</b>	<b>1,645</b>	<b>2,954</b>	<b>179.57%</b>
<b>Total Administrative Cost Fund Expenses</b>		<b>23,922,400</b>	<b>28,646,211</b>	<b>4,723,811</b>	<b>16.49%</b>	<b>299,201,473</b>	<b>23,233,567</b>	<b>688,833</b>	<b>2.96%</b>

Total Agency Appropriation 328,821,765  
 Budget to Appropriation Variance 29,620,292  
 Percentage Variance 9.01%

# State Insurance Fund

## Administrative Expense Summary

As of July 31, 2009

	Actual FY 2010	Encumbrance Balance	FYTD Actual & Encumbrance	Encumbrance Closing Date	Actual FY 2009
<b>Investment Administrative Expenses</b>					
UBS Securities LLC	\$0	\$0	\$0	6/30/08	\$0
JP Morgan Chase - Performance Reporting	5,792	2,959	8,751	6/30/08	0
Mercer Investment Consulting	39,583	496,910	536,493	6/30/10	0
Other Investment Expenses	<u>53,312</u>	<u>505,724</u>	<u>559,036</u>	6/30/10	<u>0</u>
	98,687	1,005,593	1,104,280		0
<b>Actuarial Expenses</b>					
Mercer Oliver Wyman	22,403	858,959	881,362	12/31/09	179,506
Oliver Wyman Consulting	82,556	1,336,390	1,418,946	12/31/09	0
Deloitte Consulting LLP	0	4,547,067	4,547,067	12/31/11	479,698
Shoenfelt Consulting	<u>0</u>	<u>5,550</u>	<u>5,550</u>	3/31/09	<u>0</u>
	104,959	6,747,966	6,852,925		659,204
<b>Ohio Rehabilitation Services</b>	<u>0</u>	<u>0</u>	<u>0</u>	6/30/09	<u>605,407</u>
<b>TOTAL</b>	<u>\$203,646</u>	<u>\$7,753,559</u>	<u>\$7,957,205</u>		<u>\$1,264,611</u>

The above expenses are paid from the non-appropriated State Insurance Fund.

The investment administrative expense are included in the investment expenses reported on the statement of investment income on page 7.

The encumbrance balance is the amount remaining on the contract and may extend beyond the end of this fiscal year.

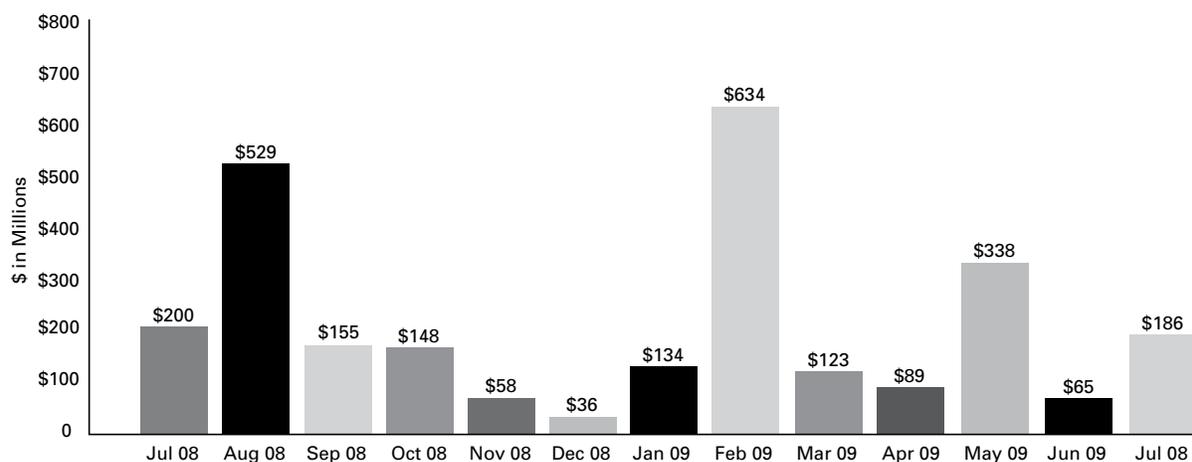
# Statement of Cash Flows

Fiscal year to date July 31, 2009

(in millions)

	Actual	Projected	Variance to Projected	Prior Yr. Actual	Year to Year Increase (Decrease)
<b>Cash Flows from Operating Activities:</b>					
Cash Receipts from Premiums	\$186	\$198	\$(12)	\$200	\$(14)
Cash Receipts – Other	5	2	3	2	3
Cash Disbursements for Claims	(175)	(175)	–	(179)	4
Cash Disbursements for Other	<u>(39)</u>	<u>(41)</u>	<u>2</u>	<u>(52)</u>	<u>13</u>
<b>Net Cash Provided (Used) by Operating Activities</b>	(23)	(16)	(7)	(29)	6
<b>Net Cash Flows from Noncapital Financing Activities</b>	–	(1)	1	(1)	1
<b>Net Cash Flows from Capital and Related Financing Activities</b>	–	–	–	–	–
<b>Net Cash Provided (Used) by Investing Activities</b>	<u>1,102</u>	<u>–</u>	<u>1,102</u>	<u>18</u>	<u>1,084</u>
<b>Net Increase (Decrease) in Cash and Cash Equivalents</b>	1,079	(17)	1,096	(12)	1,091
<b>Cash and Cash Equivalents, Beginning of Period</b>	<u>503</u>	<u>503</u>	<u>–</u>	<u>378</u>	<u>125</u>
<b>Cash and Cash Equivalents, End of Period</b>	\$1,582	\$486	\$1,096	\$366	\$1,216

## Premium and Assessment Receipts



# Statement of Net Assets

As of July 31, 2009

(in millions)

	Actual	Prior Yr. Actual	Year to Year Increase (Decrease)
<b>Assets</b>			
Bonds	\$13,108	\$13,607	\$(499)
Stocks	3,833	3,149	684
Private Equities	–	3	(3)
Cash & Cash Equivalents	1,582	366	1,216
Total Cash and Investments	18,523	17,125	1,398
Accrued Premiums	4,482	4,502	(20)
Other Accounts Receivable	206	220	(14)
Investment Receivables	398	326	72
Other Assets	107	118	(11)
<b>Total Assets</b>	<b>23,716</b>	<b>22,291</b>	<b>1,425</b>
<b>Liabilities</b>			
Reserve for Compensation and Compensation Adj. Expense	\$19,316	\$19,483	\$(167)
Accounts Payable	42	55	(13)
Investment Payable	1,209	182	1,027
Other Liabilities	199	253	(54)
<b>Total Liabilities</b>	<b>20,766</b>	<b>19,973</b>	<b>793</b>
<b>Net Assets</b>	<b>\$2,950</b>	<b>\$2,318</b>	<b>\$632</b>

# Statement of Net Assets – Combining Schedule

As of July 31, 2009

(in thousands)

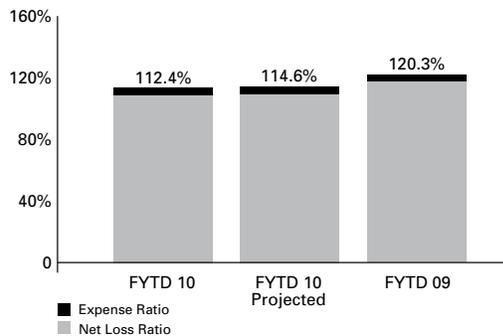
	State Insurance Fund Account	Disabled Workers' Relief Fund Account	Coal-Workers Pneumoconiosis Fund Account	Public Work Relief Employees' Fund Account	Marine Industry Fund Account	Self-Insuring Employers' Guaranty Fund Account	Administrative Cost Fund Account	Eliminations	Totals
<b>Assets</b>									
Bonds	\$ 11,981,511	\$ 893,954	\$ 191,609	\$ 23,316	\$ 17,420	\$ –	\$ –	\$ –	\$13,107,810
Stocks	3,549,001	234,808	49,408	–	–	–	–	–	3,833,217
Private Equities	197	–	–	–	–	–	–	–	197
Cash & Cash Equivalents	<u>1,502,397</u>	<u>10,810</u>	<u>1,313</u>	<u>260</u>	<u>196</u>	<u>54,116</u>	<u>12,426</u>	<u>–</u>	<u>1,581,518</u>
Total Cash & Investments	\$ 17,033,106	\$ 1,139,572	\$ 242,330	\$ 23,576	\$ 17,616	\$ 54,116	\$ 12,426	\$ –	\$18,522,742
Accrued Premiums	1,975,026	1,540,260	–	132	–	715,840	251,404	–	4,482,662
Other Accounts Receivable	144,323	24,409	(2)	29	5	5,263	31,767	–	205,794
Interfund Receivables	15,682	53,414	2	–	4	486	103,082	(172,670)	–
Investment Receivables	376,973	17,647	3,776	–	–	11	–	–	398,407
Other Assets	<u>25,281</u>	<u>22</u>	<u>–</u>	<u>–</u>	<u>–</u>	<u>–</u>	<u>81,621</u>	<u>–</u>	<u>106,924</u>
<b>Total Assets</b>	<b>\$ 19,570,391</b>	<b>\$ 2,775,324</b>	<b>\$ 246,106</b>	<b>\$ 23,737</b>	<b>\$ 17,625</b>	<b>\$ 775,716</b>	<b>\$ 480,300</b>	<b>\$ (172,670)</b>	<b>\$23,716,529</b>
<b>Liabilities</b>									
Reserve for Compensation & Compensation Adj. Expense	\$ 15,519,472	\$ 1,872,611	\$ 64,597	\$ 2,972	\$ 2,141	\$ 764,965	\$ 1,089,689	\$ –	\$19,316,447
Accounts Payable	40,343	–	–	–	–	–	1,886	–	42,229
Investment Payable	1,197,309	9,001	2,140	–	–	–	–	–	1,208,450
Interfund Payables	154,847	14,291	87	12	16	3,417	–	(172,670)	–
Other Liabilities	<u>95,263</u>	<u>91</u>	<u>761</u>	<u>3</u>	<u>76</u>	<u>–</u>	<u>103,056</u>	<u>–</u>	<u>199,250</u>
<b>Total Liabilities</b>	<b>17,007,234</b>	<b>1,895,994</b>	<b>67,585</b>	<b>2,987</b>	<b>2,233</b>	<b>768,382</b>	<b>1,194,631</b>	<b>(172,670)</b>	<b>20,766,376</b>
<b>Net Assets</b>	<b>\$ 2,563,157</b>	<b>\$ 879,330</b>	<b>\$ 178,521</b>	<b>\$ 20,750</b>	<b>\$ 15,392</b>	<b>\$ 7,334</b>	<b>\$ (714,331)</b>	<b>\$ –</b>	<b>\$ 2,950,153</b>

# Financial Performance Metrics

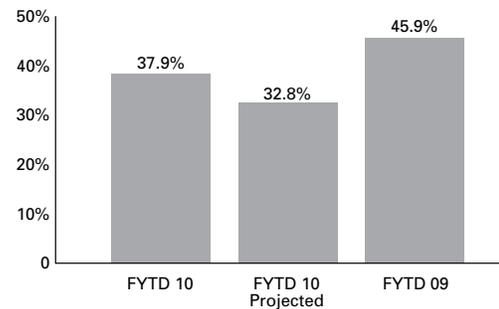
	Actual FY10 As of 7/31/09	Projected FY10 As of 7/31/09	Actual FY09 As of 7/31/08	Guidelines
<b>Funding Ratio (State Insurance Fund)</b>	<b>1.18</b>	<b>1.16</b>	<b>1.14</b>	<b>1.02 to 1.35</b>
<b>Net Leverage Ratio (SIF)</b>	<b>6.11</b>	<b>6.85</b>	<b>7.78</b>	<b>3.0 to 8.0</b>
Loss Ratio	91.3%	94.7%	97.8%	
LAE Ratio - MCO	7.5%	7.5%	7.1%	
LAE Ratio - BWC	10.0%	9.7%	11.7%	
<b>Net Loss Ratio</b>	<b>108.8%</b>	<b>111.9%</b>	<b>116.6%</b>	<b>120.0%</b>
Expense Ratio	3.6%	2.7%	3.7%	5.0%
<b>Combined Ratio</b>	<b>112.4%</b>	<b>114.6%</b>	<b>120.3%</b>	<b>125.0%</b>
Net Investment Income Ratio	37.9%	32.8%	45.9%	
<b>Operating Ratio (Trade Ratio)</b>	<b>74.5%</b>	<b>81.8%</b>	<b>74.4%</b>	<b>100.0%</b>

Guidelines represent long-term goals for the agency. Business practices, peer group results, and historical data were considered in the establishment of the guidelines.

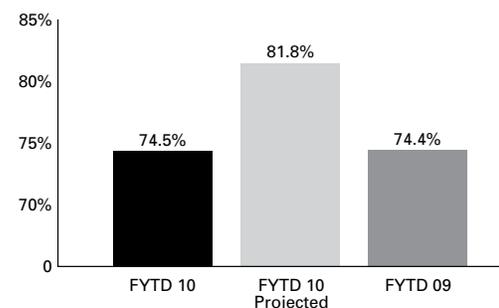
**Combined Ratio**



**Investment Income Ratio**

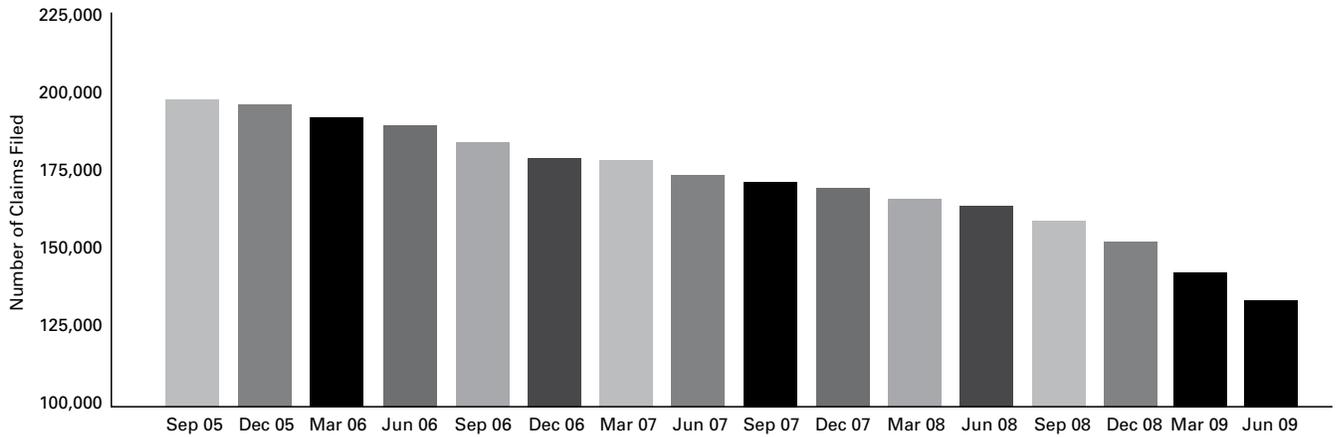


**Operating Ratio**

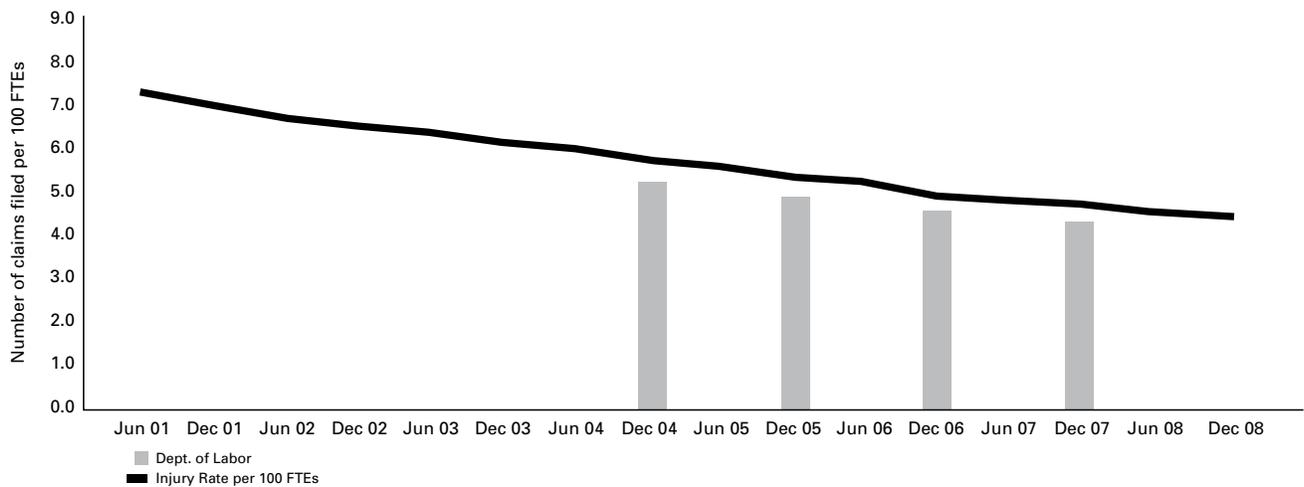


# Operational Performance Metrics

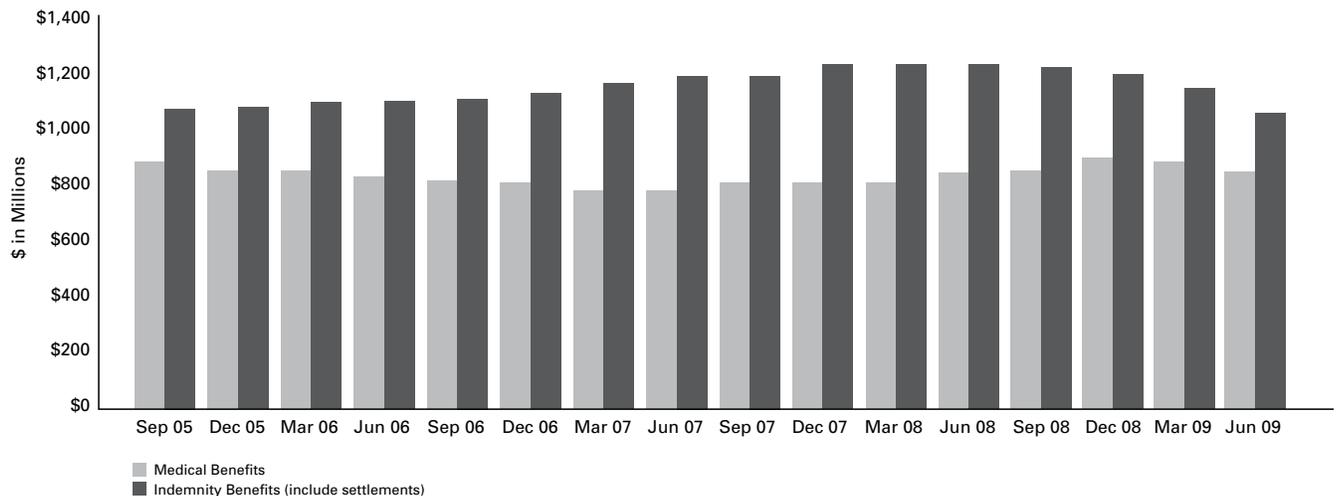
**New Claims Filed - Twelve months ended**



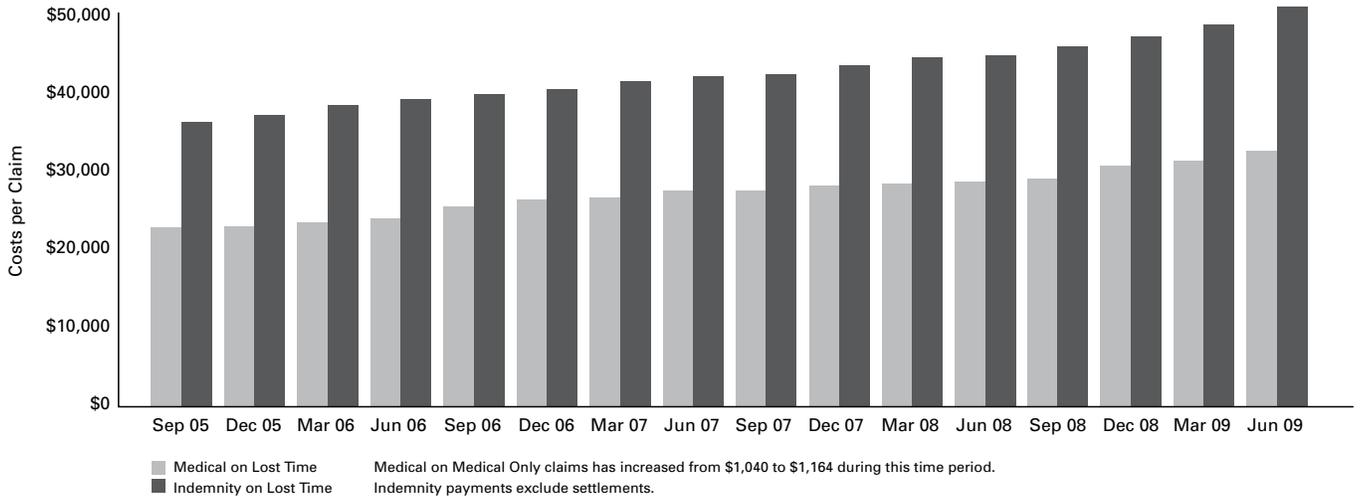
**Frequency - Reported semi-annually**



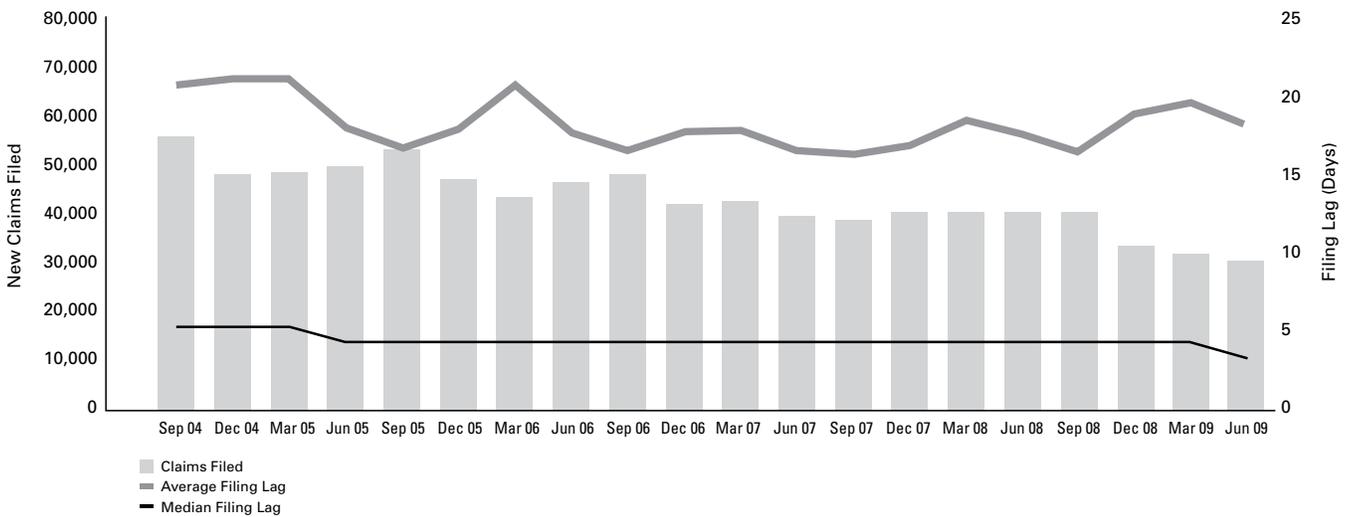
**Benefit Payments - Twelve months ended**



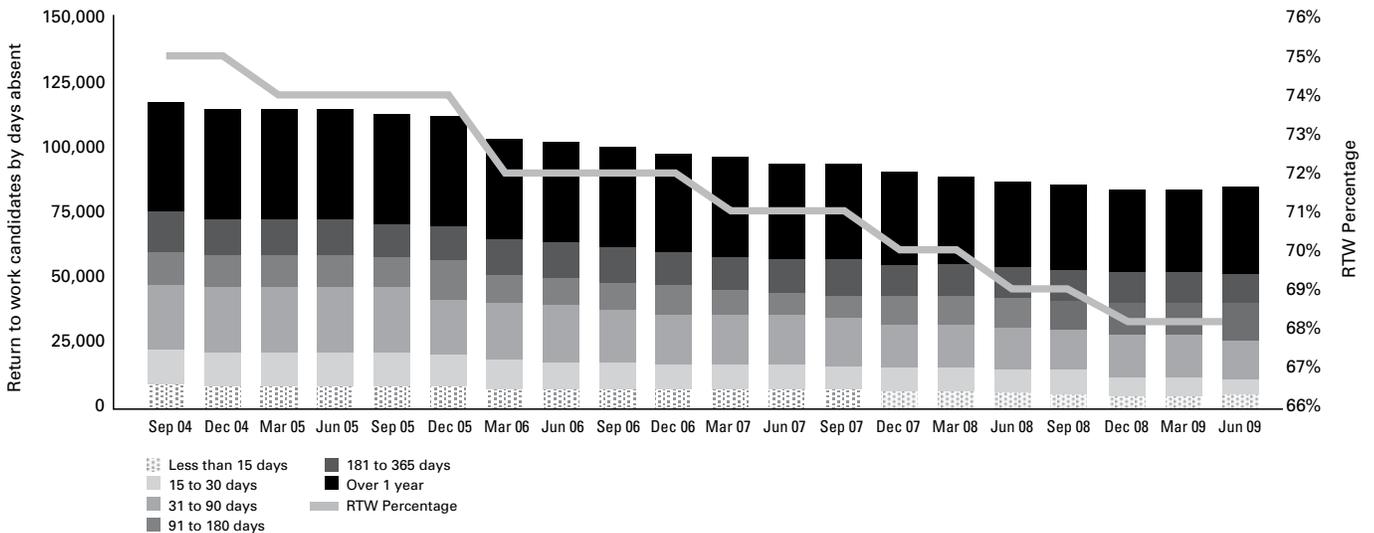
### Severity



### Claim Filing Lag



### Return to work

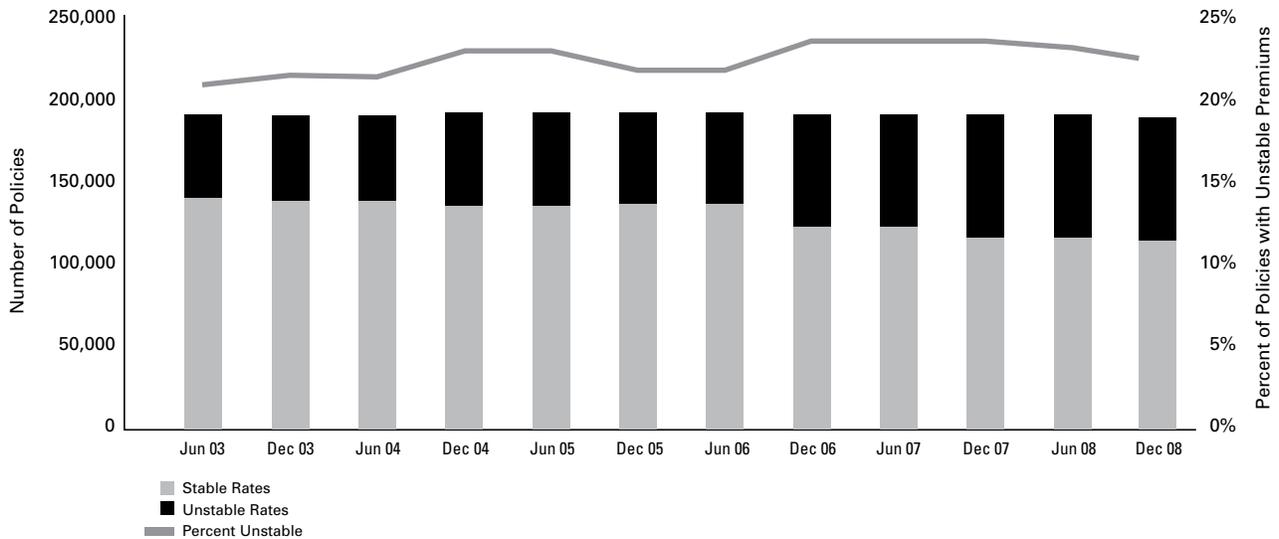


**Aggregate Reported Payroll – Twelve Months Ending**

(\$ in millions)	Private	PEC	PES	Black Lung	Marine
Dec 2002	\$82,400	\$17,611	\$5,823	\$64	\$3
Jun 2003	\$83,090	\$17,611	\$5,924	\$51	\$4
Dec 2003	\$83,304	\$18,022	\$6,005	\$59	\$4
Jun 2004	\$83,741	\$18,022	\$6,076	\$73	\$3
Dec 2004	\$85,492	\$18,545	\$6,184	\$84	\$3
Jun 2005	\$86,530	\$18,545	\$6,266	\$82	\$4
Dec 2005	\$87,902	\$18,594	\$6,388	\$87	\$4
Jun 2006	\$90,414	\$18,594	\$6,524	\$98	\$5
Dec 2006	\$91,830	\$18,946	\$6,654	\$98	\$5
Jun 2007	\$93,636	\$18,946	\$6,788	\$100	\$4
Dec 2007	\$94,890	\$19,427	\$6,914	\$107	\$4
Jun 2008	\$95,027	\$19,427	\$7,032	\$117	\$5
Dec 2008	\$94,580	\$19,778	\$7,065	\$134	\$5

PEC employers report payroll only once per year, while other employers report twice per year. Therefore, the same PEC payroll is presented twice in each fiscal year in the above table.

**Premium Stability**



# Performance Metrics Glossary

## **Funding Ratio**

Provides an indication of financial strength and security – Funded assets divided by funded liabilities.

## **Net Leverage Ratio**

Measures the combination of BWC's exposure to pricing errors and errors in estimating its liabilities in relation to net assets. Premium income plus reserves for compensation and compensation adjustment expense divided by net assets.

## **Loss Ratio**

Measures loss experience – Compensation benefit expenses divided by premium and assessment income.

## **LAE Ratio**

Measures loss adjustment experience – Loss adjustment expenses divided by premium and assessment income.

## **Net Loss Ratio**

Measures underlying profitability or total loss experience – Sum of the loss ratio and the LAE ratios.

## **Expense Ratio**

Measures operational efficiency – Other administrative expenses divided by premium and assessment income.

## **Combined Ratio**

Measures overall underwriting profitability – Sum of net loss and expense ratios.

## **Net Investment Income Ratio**

Measures the investment income component of profitability – Interest and dividend income less investment expenses divided by premium and assessment income. This ratio does not include realized or unrealized capital gains and losses.

## **Operating Ratio**

Measures overall profitability from underwriting and investing activities – Combined ratio less net investment income ratio.

## **New Claims Filed**

Measures the number of new State Insurance Fund claims filed for rolling twelve month periods measured quarterly.

## **Frequency**

Measures the number of injuries reported per 100 workers covered by the State Insurance Fund updated semi-annually.

## **Benefit Payments**

Measures the dollar amount of medical and indemnity payments for rolling twelve month periods updated quarterly.

## **Severity**

Measures the average cost of medical and indemnity expenses per lost time claim.

## **Claim Filing Lag**

Measures the average and median number of days from the date of injury to the date of claim filing.

## **Return to Work Rates**

Measures the percentage of injured workers who have returned to work relative to the claim population eligible to return to work.

## **Aggregate Reported Payroll**

Measures reported payroll by employer type for a rolling twelve month period, updated semi-annually.

## **Premium Stability**

Measures the number of employers whose premium rate changed more than 5 percent and total premium changed more than \$500 from the prior year.

# **Board**

## **Legislative Report**

**No report this month**

# **FY 2010 Agency Objectives**

August 28, 2009

# Make Ohio's workers' compensation system more competitive

O = Owner C = Co-owner X = Participants	ACT	AUD	COM	CSD	F&P	HR	INV	IT	LEG	MED	S&H
Develop a properly priced group-rating structure	O		x	x				x	x		
Implement a split-experience-rating system with sound parameters such as credibility values	O		x	x				x			
Develop new products that expand available options for employers	O			x	x			x	x		
Evaluate Deloitte recommendations and implement where appropriate	O	x	x	x	x	x		x	x	x	x
Strengthen investment returns and controls through a new investment policy statement		x			x		O				
Continue to work with other state agencies to create mutual benefits (e.g., compliance efforts)		x	x	O	x	x		O	x	x	x

# Maintain the highest level of quality care for injured workers

O = Owner    C = Co-owner X = Participants	ACT	AUD	COM	CSD	F&P	HR	INV	IT	LEG	MED	S&H
Benefit plan design – continue to develop and execute quality, cost-effective design & fee appropriate schedules										O	
Managed Care Process: Enhance MCO performance metrics including DODM replacement										O	
Medical Providers - Create provider performance metrics including administrative performance										O	
Implement a comprehensive, integrated model for service delivery			X	O		X				C	X
Expand our medical resources and research through a partnership with OSU's College of Public Health				X					X	O	C
Implement a new process for the BWC Board of Directors to increase focus on medical issues			X						X	O	
Redesign the Drug-Free Workplace Program into a more relevant and contemporary program			X	X					X		O
Evaluate and Redesign Safety Service delivery				X							O

# Reinforce the BWC brand of operational excellence through efficiency, improved customer service and expanded capabilities/skills

O = Owner C = Co-owner X = Participants	ACT	AUD	COM	CSD	F&P	HR	INV	IT	LEG	MED	S&H
Correspondence audit – a complete review of what we send out ,why, and how	x		O	x				x	x	x	
E-communication/business – retool processes to optimize our electronic interaction with customers	x	x	O	C	x			C	x	x	
Continue agency-wide process mapping and quality-improvement processes (e.g., Kaizen)	x	x	x	x	x	x	x	O	x	x	x
Develop and maintain a highly skilled, professional work force in a demanding environment	x	x	x	x	x	O	x	x	x	x	x
Develop customer and industry profiles to better understand service needs and resources	x		x	O	x			x		x	x
Provider Payment - Complete RFP and vendor selection for integrated bill payment system with medical documentation functionality.										O	

# Develop and implement strategies to improve financial and operational soundness/stability

O = Owner C = Co-owner X = Participants	ACT	AUD	COM	CSD	F&P	HR	INV	IT	LEG	MED	S&H
Continue to develop the enterprise report to measure BWC against key industry metrics	X	X	X	X	O		X	X	X	X	
Align processes to proactively enable enterprise-wide risk assessment to financial/legal exposures	X			X	X				O	X	X
Accomplish BWC fiscal year 2010 portfolio of projects using the project governance process	X	X	X	X	X	X	X	O	X	X	X
Execute internal audit plan for fiscal year 2010, including consulting services	X	O	X	X	X	X	X	X	X	X	X
Work with the self-insuring community to improve participation and guarantee fund requirements	X		X	O	X	X		X	X	X	X

