

**PUBLIC OVERSIGHT ROUNDTABLE
ON THE
REVIEW OF THE DISTRICT OF COLUMBIA'S WORKERS'
COMPENSATION PROGRAM**

**Before the
Committee on
Business, Consumer, and Regulatory Affairs**

The Honorable Vincent B. Orange, Sr., Chairman

**Friday, September 26, 2014, 10:00 a.m.
Council Chambers, Room 500**



**Testimony of
Jeffrey S. DeWitt
Chief Financial Officer
Government of the District of Columbia**

Good morning, Chairman Orange and members of the Committee on Business, Consumer, and Regulatory Affairs. I am Jeff DeWitt, Chief Financial Officer of the District of Columbia. I am pleased to appear before you today to testify on the District's workers' compensation program.

I am joined by my colleagues who will assist in answering specific questions that the Committee may have. With me today are Associate Chief Financial Officer, Mohamed Mohamed; Associate Chief Financial Officer, Cyril Byron; Fiscal Officer, Natalie Mayers; and Cluster Controller, Belete Sitota. Significant details regarding the District's workers' compensation program and the role of the Office of the Chief Financial Officer are outlined in the attached presentation.



District of Columbia

Workers' Compensation Program

(Administered by the Department of Employment Services)

Briefing

Jeffrey S. DeWitt, CFO

Office of the Chief Financial Officer
Government of the District of Columbia



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Topics

- Overview of Workers' Compensation Program
- Workers' Compensation Funds
- Historical Financial Highlights
- Audit Requirements and Status
- The Financial Crisis and FY2011 Legislative Actions
- The OCFO Role in the Transfer of Funds
- FY2012 Legislative Actions Impacting the Fund
- Legality of Requested Transfer of Funds
- Reviews and Observations



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Overview of Workers' Compensation Program

- Created in 1982, pursuant to D.C. Code § 32-1501 et seq.
- Administered by the Department of Employment Services (DOES)
- Types of compensation include:
 - Lost wages
 - Temporary disability indemnity
 - Death benefits for survivors
 - Medical treatment
 - Permanent disability indemnity
 - Vocational Rehabilitation benefits



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Workers' Compensation (WC) Funds

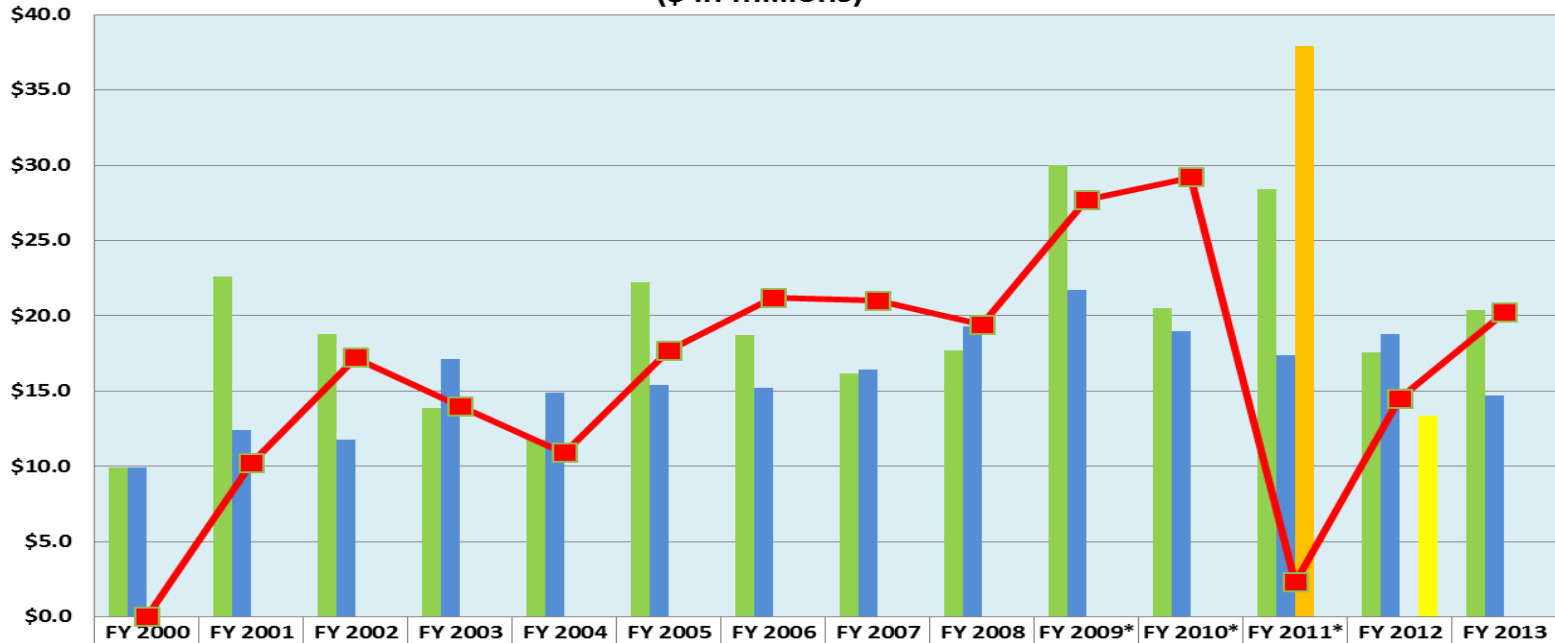
- Two Special Purpose Revenue (O-Type) funds (*per D.C. Code § 32-1540 and D.C. Code § 32-1541*)

	Workers' Compensation Funds	
	Administration Fund	Special Fund
Purposes	<ul style="list-style-type: none">Payment of all expenditures to administer the program	Payment on special cases: <ul style="list-style-type: none">Adequate rehabilitation servicesInjury combined with pre-existing disabilityWhen employer is insolvent or fails to pay compensation
Sources of Revenue	<ul style="list-style-type: none">Assessment on employers	<ul style="list-style-type: none">Assessment from self-insured employersSurcharges by insurance carriersFines & penalties



Historical Financial Highlights

WORKERS' COMPENSATION FUND - HISTORICAL FINANCIAL HIGHLIGHT
(\$ in millions)



	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009*	FY 2010*	FY 2011*	FY 2012	FY 2013
Revenues	9.9	22.6	18.8	13.9	11.8	22.2	18.7	16.2	17.7	30.0	20.5	28.4	17.6	20.4
Expenditures	9.9	12.4	11.8	17.1	14.9	15.4	15.2	16.4	19.3	21.7	19.0	17.4	18.8	14.7
Transfers Out	-	-	-	-	-	-	-	-	-	-	-	37.9	-	-
Transfers In	-	-	-	-	-	-	-	-	-	-	-	-	13.4	-
Fund Balance	-	10.2	17.2	14.0	10.9	17.7	21.2	21.0	19.4	27.7	29.2	2.3	14.5	20.2

*FY2009 expenditures include \$1.3MM reprogramming to Transitional Employment Program (TEP) and \$2.1MM transfer for payment to Excel Institute; and FY2010 & FY2011 expenditures include \$1.5MM & \$0.06MM respectively budget allocation to TEP.



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Audit Requirements and Status

- D.C. Code § 32-1541 (k) and D.C. Code § 32-1540 (e) stipulated:
 - The Department of Employment Services to conduct annual audit of the fund.
 - Audited financial report to be filed with the Council by March 1st.
- The last audited financial reports issued were for FY2006
- May, 2014 DOES entered into a contract to conduct independent audit from FY2007 to FY2011

Fiscal Year	Workers' Compensation Fund	
	Administration Fund	Special Fund
2007 -2008	Currently being audited	Field work done but audit not yet finalized
2009-2011	Currently being audited	Currently being audited
2012-2014	Pending audit contract solicitation	Pending audit contract solicitation



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The Financial Crisis & FY2011 Legislative Actions

- The District of Columbia Government (like most other state and local governments) in response to the 2008 financial crisis took various measures to avoid deep cuts in providing essential public services including:
 - Use of fund balances (available reserves) in FY2011:
 - a) Transfer of certified revenues and fund balances from Special Purpose Revenue (O-Type) funds to the General Fund (City-wide basis)....\$274.6 million.
 - b) Transfer from Workers' Compensation Fund...\$37.9 million.



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FY2011 Legislative Actions Impacting the Fund (cont'd.)

Overview of FY 2011 Transfer of Funds to the General Fund

		(\$ in millions)	
From Special Purpose Revenue Funds (O-Type) (city-wide)			\$274.6
From Workers' Compensation Fund			
	FY2011 Budget Support Act of 2010 (B18-731)	24.5	
	FY2012 Budget Support Act of 2011 (B19-203)	<u>13.4</u>	
	Total from Workers' Compensation Fund		37.9
FY2011 Total Transfer of funds from Special Purpose Revenue Funds (O-Type) to the General fund (city-wide)			<u>\$312.5</u>



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The OCFO Role in the Transfer of Funds

- Legislation required for the CFO to transfer funds
- The OCFO implemented the legislation by transferring certified revenues and fund balances.
- Sample Excerpts:

1. Sec.7052 of FY2011 Budget Support Act of 2010 (B18-0731)

*“..., **the Chief Financial Officer shall transfer from the certified fund balance**... to the unrestricted fund balance of the General Fund of the District of Columbia (“General Fund”)...”*

- From Workers’ Compensation Special Fund\$7.6 million
- From Workers’ Compensation Administration Fund.... 16.9 million
- **Total from Workers’ Compensation Fund..... \$24.5 million**



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The OCFO Role in the Transfer of Funds (cont'd)

2. Sec.10004. FY2012 Budget Support Act of 2011 (B19-203)

*“..., **the Chief Financial Officer shall undesignate the full remaining balance at the end of fiscal year 2011** in those accounts to the unrestricted fund balance of the General Fund of the District of Columbia....”*

- Undesignate FY2011 fund balance of Workers' Compensation Administration Fund **\$13.4 million**



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FY2012 Legislative Actions Impacting the Fund

Actions taken by D.C. Council to return funds to the Workers' Compensation Fund:

- 1) FY2012 Deposit of local revenue to Workers' Compensation Fund..... \$3.8 million
(*Sec.1004, FY2012 Budget Support Act of 2011*)
- 2) FY2013 Redesignation of Undesignated fund balance..... 9.6 million
(*Sec.8012, FY2013 Budget Support Act of 2012*)

Total Funds Returned to Workers' Compensation Fund.....\$13.4million



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Summary of Transfer of Funds to the General Fund

		(\$ in millions)	
Transfer of funds from Workers' Compensation Fund			
	FY2011 Budget Support Act of 2010 (B18-731)	\$24.5	
	FY2012 Budget Support Act of 2011 (B19-203)	<u>13.4</u>	
	Total transferred from Workers' Compensation Fund		\$37.9
Return of funds to Workers' Compensation Fund			
	FY2012 deposit of local revenue into WC funds (B19-203)	\$3.8	
	FY2013 Redesignation of local revenue into WC funds (B19-0743)	<u>9.6</u>	
	Total funds returned to Workers' Compensation Fund		<u>13.4</u>
Net amount of funds transferred from Workers' Compensation Fund to the General Fund			<u>\$24.5</u>



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The Legality of Requested Transfer of Funds

- District legislation directed the CFO to withdraw and replenish funds from specific funds
- District of Columbia Court of Appeals in Washington, D.C. Association of Realtors, Inc., et. al. v. District of Columbia (May 24, 2012)
 - \$3.3 million transferred from Real Estate Guarantee and Education Fund to the General Fund
- The Court ruled the transfer was valid.



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Reviews and Observations

- The OCFO implemented transfer of funds to the General Fund pursuant to the District Law.
 - *The transfer of funds from workers' compensation fund was part of broader (city-wide) budget gap closing transfers.*
- An independent audit of the fund needs to be made current
 - DOES is working to ensure that outstanding audits are brought current in FY2015
 - OCFO recommends that DOES enter into long term audit contracts (5 years) to provide continuity and predictability
- Independent actuarial analysis is needed to determine required minimum fund balance.
- OCFO recommends that DOES review (a) the methodology used to determine annual assessments and (b) the rate methodology should take into account the use of fund balance.

**DEPARTMENT OF EMPLOYMENT SERVICES
WORKERS' COMPENSATION FUND
OVERVIEW OF HISTORICAL FINANCIAL CONDITION
(\$ in Millions)**

Fiscal Year (FY)	Sources and Uses of Fund			Other Financing Uses / Sources		Fund Balance
	Revenues	Expenditures	Excess (Deficiency)	Transfers In	Transfers Out	
2000	9.9	9.9	-			-
2001	22.6	12.4	10.2			10.2
2002	18.8	11.8	7.0			17.2
2003	13.9	17.1	(3.2)			14.0
2004	11.8	14.9	(3.1)			10.9
2005	22.2	15.4	6.8			17.7
2006	18.7	15.2	3.5			21.2
2007	16.2	16.4	(0.2)			21.0
2008	17.7	19.3	(1.6)			19.4
2009	30.0	21.7	8.3			27.7
2010	20.5	19.0	1.5			29.2
2011	28.4	17.4	11.0		37.9	2.3
2012	17.6	18.8	(1.2)	13.4		14.5
2013	20.4	14.7	5.7			20.2
2014*	10.7	13.4	(2.7)			17.5
Total	279.4	237.4	-42.0	13.4	37.9	17.5

Note:

** 1) FY2014 amounts represent the total revenue and expenditures up to August 31, 2014.*