

C98F00
Workers' Compensation Commission

Operating Budget Data

(\$ in Thousands)

	<u>FY 04</u> <u>Actual</u>	<u>FY 05</u> <u>Working</u>	<u>FY 06</u> <u>Allowance</u>	<u>FY 05-06</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
Special Fund	\$12,671	\$12,797	\$12,283	-\$514	-4.0%
Reimbursable Fund	<u>29</u>	<u>30</u>	<u>30</u>	<u>0</u>	
Total Funds	\$12,699	\$12,827	\$12,313	-\$514	-4.0%
Contingent & Back of Bill Reductions			-40	-40	
Adjusted Total	\$12,699	\$12,827	\$12,273	-\$555	-4.3%

- The fiscal 2006 allowance is \$554,513, or 4.3% less than the fiscal 2005 working appropriation. \$410,000 of the decrease is due to completion of the Web-enabled File Management System.

Personnel Data

	<u>FY 04</u> <u>Actual</u>	<u>FY 05</u> <u>Working</u>	<u>FY 06</u> <u>Allowance</u>	<u>FY 05-06</u> <u>Change</u>
Regular Positions	128.50	126.50	126.50	0.00
Contractual FTEs	<u>8.63</u>	<u>17.75</u>	<u>17.75</u>	<u>0.00</u>
Total Personnel	137.13	144.25	144.25	0.00

Vacancy Data: Regular Positions

Turnover, Excluding New Positions	2.53	2.00%
Positions Vacant as of 12/31/04	10.5	8.30%

- There is no change in the number of either regular or contractual employees.

Note: Numbers may not sum to total due to rounding.

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Analysis in Brief

Major Trends

Non-permanency Hearings: The Workers’ Compensation Commission (WCC) exceeded its target for the percent of non-permanency hearings set within 60 days of the date when issues are filed.

Commission Orders Issued Timely: WCC surpassed its target for the percentage of orders issued within 30 days.

Issues

Consolidation of Self-insurance and Group Self-insurance: Both the Maryland Insurance Administration (MIA) and WCC support the consolidation of self-insurance and group self-insurance, provided that Group Self-Insurance is transferred to WCC.

Armed Security Provided at Each Hearing: WCC provides armed contractual security guards at each hearing at considerable cost, while the Office of Administrative Hearings does not.

Recommended Actions

	<u>Funds</u>	<u>Positions</u>
1. Delete two long-term vacant positions.	\$ 95,379	2.0
Total Reductions	\$ 95,379	2.0

Updates

Harris v. Board of Education of Howard County: The cost of workers’ compensation is increasing, but it is too early to tell if the increases are due to the Harris decision.

Frederick Hearing Site: WCC is expecting to move into its new Frederick hearing site by the end of April 2005.

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Operating Budget Analysis

Program Description

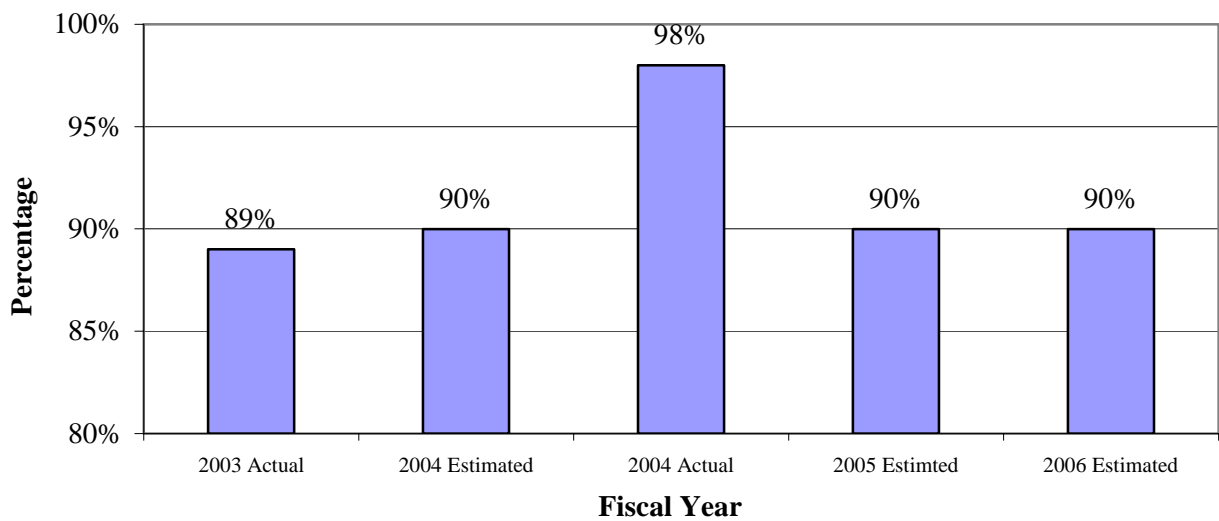
The Workers' Compensation Commission (WCC) administers the Workers' Compensation Law. This law requires most Maryland employers to obtain and maintain insurance to provide benefits for employees who sustain an accidental personal injury, occupational disease, or death in the course of their employment. WCC receives, processes, and adjudicates all workers' compensation claims and refers appropriate claimants to the Division of Vocational Rehabilitation. WCC also provides information technology support services to the Subsequent Injury Fund and the Uninsured Employers' Fund under an interagency support services agreement. WCC is a special fund agency that recovers expenditures with an annual maintenance assessment imposed on insurance carriers, the Injured Workers' Insurance Fund (IWIF), and self-insured employers. The WCC mission addresses the need for:

- the effective and timely delivery of services provided to its customers;
- a system for electronic exchange of all claims information documents; and
- the establishment of an effective system for collection and analysis of all costs associated with the delivery of workers' compensation benefits.

Performance Analysis: Managing for Results

One of the goals of WCC is to set 90% of all non-permanency hearings within 60 days of the date when issues are filed. WCC was slightly below its target in fiscal 2003 but exceeded it by a wide margin in fiscal 2004. There is no reason to believe that the agency cannot continue to meet or exceed its standard. **Exhibit 1** shows the percentage of non-permanency set within 60 days.

**Exhibit 1
Percent of Non-permanency Hearings Set within 60 Days**

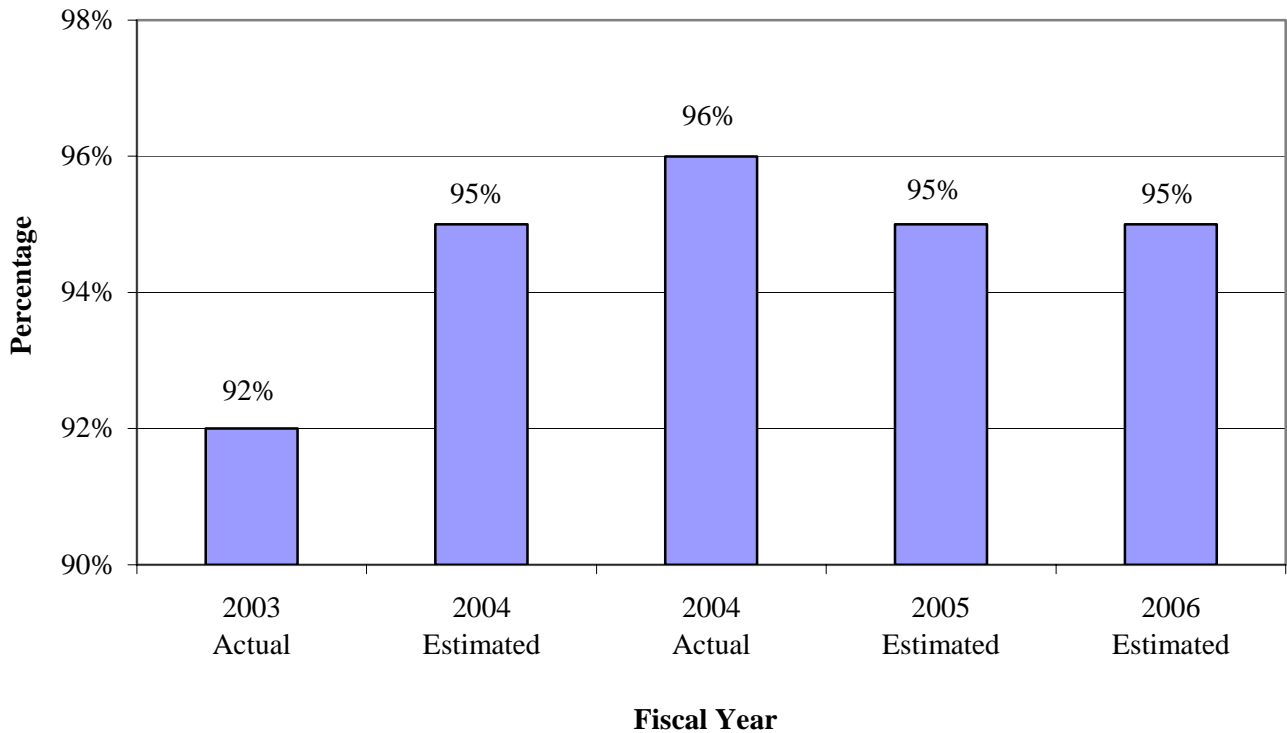


Source: Workers’ Compensation Commission

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WCC seeks to issue 95% of its orders within 30 days of the conclusion of a hearing. In fiscal 2003 the agency failed to meet its target but exceeded it in fiscal 2004. **Exhibit 2** provides the actual results for fiscal 2003, the estimate and actual for 2004, as well as the estimates for fiscal 2005 and 2006.

Exhibit 2
Percent of Commission Orders Issued within 30 Days

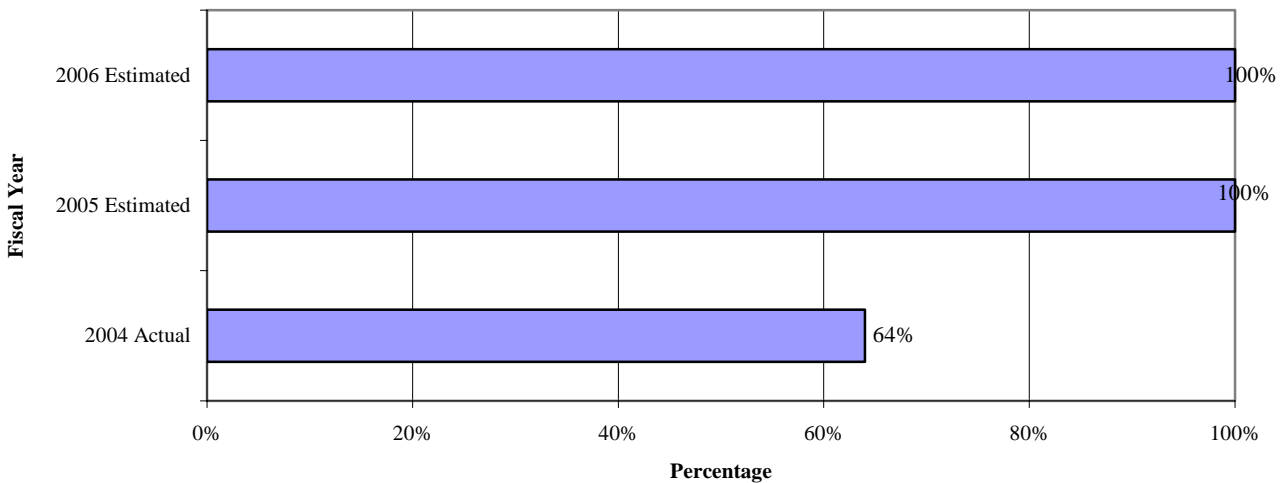


Source: Workers’ Compensation Commission

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Finally, WCC plans to have 100% of its critical business functions capable of resumption within 24 hours of a declaration of a disaster. **Exhibit 3** illustrates the agency’s progress in achieving their target.

Exhibit 3
Percentage of Critical Business Functions Capable of Resumption within 24 Hours



Note: In fiscal 2003 the Emergency Data Recovery Plan was revised. In fiscal 2004 some of the equipment necessary to achieve a 100% target was cut from the agency's budget.

Source: Workers’ Compensation Commission

Governor’s Proposed Budget

As shown in **Exhibit 4**, the fiscal 2006 allowance is \$554,513 less than in fiscal 2005. Some of the significant changes responsible for this difference include increments, employee and retiree health insurance, cost-of-living adjustments (COLAs), a one-time purchase of two computers which negated the need for a lease/purchase agreement, and the final installment of funding for the Web-enabled File Management System, which occurred in fiscal 2005.

WCC is in the third and final phase of the Web-enabled File Management System. Phase 1, which was completed at the end of 2002, allows employers to electronically file Employers’ First Reports of Injury, register on-line for web access, and view claim-related documents on-line. Phase 2 permits an attorney to request or postpone a hearing and submit numerous claim-related forms. Phase 3 will include automatic routing to e-mail accounts of forms and notices to all registered users, which will significantly reduce the handling and postage of most of WCC’s daily mail.

**Exhibit 4
Governor's Proposed Budget
Workers’ Compensation Commission
(\$ in Thousands)**

How Much It Grows:	<u>Special Fund</u>	<u>Reimbursable Fund</u>	<u>Total</u>
2005 Working Appropriation	\$12,797	\$30	\$12,827
2006 Governor's Allowance	12,283	30	12,313
Contingent & Back of Bill Reductions	<u>-40</u>	<u>0</u>	<u>-40</u>
Adjusted Allowance	12,243	30	12,273
Amount Change	-\$555	\$0	-\$555
Percent Change	-4.3%		-4.3%
Where It Goes:			
Personnel Expenses			
Increments and other compensation			\$103
Employee and retiree health insurance.....			-110
Reconciliation to account for fiscal 2005 position abolition.....			-83
Reconciliation to account for fiscal 2005 COLA			125
Hire employees at base pay			-30
Other fringe benefit adjustments			-16
Other Changes			
Reduction in contract pricing for data lines allowing connectivity between headquarters (HQ) and regional hearing sites			-22
Equipment repairs and maintenance.....			-17
Deletion of the remote network monitoring service.....			-63
Systems software maintenance for AS400 covered by a three-year contract			-37
Contractual payroll COLAs.....			28
Increase built into lease agreements for HQ and regional hearing sites.....			28
One-time purchase of two AS400 computers to replace existing units.....			-72
Supplies increased with additional computer equipment purchased for use at the disaster recovery center located at the Abingdon Regional Hearing Site			20
Final funding for the Web-enabled File Management System was appropriated in fiscal 2005			-410
Miscellaneous			1
Total			-\$555

Note: Numbers may not sum to total due to rounding.

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Contingent Actions

The fiscal 2006 allowance reflects the elimination of \$40,381 (subobject 0172), the appropriation for matching employee deferred compensation contributions up to \$600, contingent upon enactment of a provision in budget reconciliation legislation.

Issues

1. Consolidation of Self-insurance and Group Self-insurance

The Commission on the Structure and Efficiency of State Government, better known as the Mandel Commission, recognized that the regulation of self-insured companies and group self-insured companies was a similar function. Given this finding, the committees were concerned about inefficiencies and inconsistent oversight. Thus, in the 2004 *Joint Chairmen’s Report*, it was requested that both WCC and the Maryland Insurance Administration (MIA) provide a report on the viability of consolidating the regulation of self-insured and group self-insured companies. WCC and MIA, which regulate Individual and Governmental Self-insured Employers (individual) and Workers’ Compensation Self-insured Groups (group), respectively, support the consolidation of individual and group insurance, provided that group oversight is transferred to WCC, as opposed to individual oversight being transferred to MIA. The principle reason for this is that MIA lacks the necessary staff and resources to absorb individual oversight effectively. However, because the group program is approximately one-tenth the size of the existing WCC individual program, WCC could absorb the group program without hiring additional staff assuming that a current vacancy is filled.

Neither agency believes that efficiencies or cost savings will be realized by transferring group oversight to WCC. Furthermore, there is insufficient authority to regulate and monitor the claim reserves for the groups and establish sufficiency, regardless of the agency in which oversight is housed. The primary benefit is seen in having only one agency responsible for the regulation of individual and group programs. **WCC should indicate what action is required to implement the transfer of group regulation from MIA to WCC and whether legislation would be required.**

2. Armed Security Provided at Each Hearing

Prior to December 2000, the Department of General Services (DGS) provided security for WCC hearings because they were conducted in a State owned building, occupied by the Maryland State Department of Education (MSDE) in downtown Baltimore. Due to a desire by MSDE to consolidate their personnel into one location, WCC was forced to move. In December 2000, the agency moved to its current location and in subsequent years opened several hearing sites throughout the State, all in privately owned buildings. DGS will not provide security at these locations because the buildings are not owned by the State. This led to WCC hiring armed contractual security guards to provide security at each hearing site, including headquarters. For fiscal 2006, the cost of providing this security will be \$184,010.

The Office of Administrative Hearings (OAH), which also adjudicates thousands of cases, does not have any security at all. If OAH has reason to believe that a defendant may pose a threat, the agency calls the local State Police barrack and requests that a State Trooper be present at the hearing. According to OAH, the State Police have never hesitated to send a trooper when requested. **Since WCC’s hearings are administrative in nature, it is not apparent why the agency requires armed security personnel at all of its hearings. The Department of Legislative Services (DLS) recommends that WCC explain to the committees the need for hearing security, whether or not**

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the agency has explored less expensive alternatives to armed guards, such as guards carrying pepper spray or Taser guns as opposed to firearms, and what differentiates WCC hearings from OAH hearings.

Recommended Actions

	<u>Amount Reduction</u>	<u>Position Reduction</u>
1. Delete two long-term vacant positions. A Personnel Officer III and Computer Operator II position have been vacant since July 18, 2003, and August 15, 2003, respectively. A hiring exemption was granted by the Department of Budget and Management on August 20, 2003, for the Personnel Officer III position and on May 10, 2004, for the Computer Operator II position. Turnover expectancy for fiscal 2006 will require 2.5 vacancies, but as of December 31, 2004, the agency had 10.5 vacancies.	\$ 95,379 SF	2.0
Total Special Fund Reductions	\$ 95,379	2.0

Updates

1. Harris v. Board of Education of Howard County

In June 2003 the Court of Appeals issued a ruling that significantly altered the legal community’s definition of “unusual activity.” In short, the activity underlying the “accidental injury” is not required to be unusual, as it had been in the past. Pursuant to this ruling, the committees requested in the 2004 *Joint Chairmen’s Report* that WCC submit a report on the effects of the Harris decision. Specifically, the committees were concerned that the potential for increased workers’ compensation costs be balanced with the rights of injured workers. The following is a summary of the WCC report.

The report issued by WCC provides a snapshot of the caseload impact of the Harris decision. According to the report, which covered the time period of January 1, 2001, through December 31, 2003, the cost of workers’ compensation is increasing. However, approximately six months of the report’s time span is post Harris, which is not enough time to ascertain trends and cost drivers.

The report provides data according to five segments of insurers: IWIF’s State Agency Self-Insurance Program, voluntary market insurers, self-insured employers, private group self-insured employers, and IWIF’s Commercial Insurance Program. All segments are shown to have increasing acceptance rates, ranging from 0.6% for IWIF’s State Agency Self-Insurance Program to 10.6% for private group self-insured employers. Both the IWIF State Agency Self-Insurance Program and IWIF Commercial Insurance Program have experienced declines in incurred losses, while paid losses declined for the private group self-insured employers segment only. The self-insured employers experienced a decline of 6.8 and 0.7% in claims processed and claims accepted, respectively.

Unfortunately, due to the short period of time in which the report and analysis had to be completed, the responses of 15% of the self-insured employers and 30% of the voluntary market insurers are not included in the report. With two exceptions, these absences should not significantly affect the report. A more comprehensive report on the impact of the Harris decision was due on or about December 31, 2004. To date, DLS has yet to receive a copy of the report.

2. Frederick Hearing Site

WCC has established regional hearing sites as required by Section 9-724 of the Labor and Employment Article. In April and October 2003, WCC opened the Abingdon and La Plata regional sites respectively, while the Beltsville and Cambridge hearing sites opened in 2004. The Frederick hearing site has been delayed due to difficulty in finding suitable office space. However, office space has now been located, and the landlord submitted a permit request for construction to the county during the first week of January. Permit approval is expected to take four to six weeks. Once the permit has been approved, construction will begin, and it is anticipated to take approximately two to three months. Currently, hearings in Frederick are being held at an area hotel.

Current and Prior Year Budgets

Current and Prior Year Budgets Workers' Compensation Commission (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2004					
Legislative Appropriation	\$0	\$12,773	\$0	\$29	\$12,802
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	0	0	0	0	0
Cost Containment	0	0	0	0	0
Reversions and Cancellations	0	-103	0	0	-103
Actual Expenditures	\$0	\$12,670	\$0	\$29	\$12,699
Fiscal 2005					
Legislative Appropriation	\$0	\$12,673	\$0	\$30	\$12,703
Budget Amendments	0	125	0	0	125
Working Appropriation	\$0	\$12,798	\$0	\$30	\$12,828

Note: Numbers may not sum to total due to rounding.

Fiscal 2005

The fiscal 2005 working appropriation has increased by \$124,566 over the legislative appropriation. The entire amount was used to pay for COLAs that became effective on July 1, 2004. WCC, because it is a special fund agency, must increase its fiscal 2005 appropriation via a budget amendment to procure funding for such adjustments.

Audit Findings

Audit Period for Last Audit:	May 11, 1999 – March 3, 2002
Issue Date:	September 2002
Number of Findings:	6
Number of Repeat Findings:	2
% of Repeat Findings:	33%
Rating: (if applicable)	

Finding 1: The commission’s legal responsibility to identify employers who have not obtained workers’ compensation insurance was unclear.

Finding 2: The commission did not verify employer payroll data used to determine annual assessments to insurance companies and self-insured employers.

Finding 3: **Proper internal controls were not established over the processing of certain purchasing and disbursement transactions.**

Finding 4: **Security measures to protect critical network resources were deficient in several areas.**

Finding 5: The commission’s disaster recovery and contingency plan was incomplete.

Finding 6: The commission improperly recorded \$79,000 in expenditures during the fiscal 2001 budget closeout process.

*Bold denotes item repeated in full or part from preceding audit report.

**Object/Fund Difference Report
Workers' Compensation Commission**

<u>Object/Fund</u>	<u>FY04 Actual</u>	<u>FY05 Working Appropriation</u>	<u>FY06 Allowance</u>	<u>FY05 - FY06 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	128.50	126.50	126.50	0	0%
02 Contractual	8.63	17.75	17.75	0	0%
Total Positions	137.13	144.25	144.25	0	0%
Objects					
01 Salaries and Wages	\$ 7,806,207	\$ 8,264,597	\$ 8,293,769	\$ 29,172	0.4%
02 Technical & Spec Fees	424,087	758,764	794,521	35,757	4.7%
03 Communication	511,949	656,321	637,421	-18,900	-2.9%
04 Travel	132,739	112,419	121,563	9,144	8.1%
06 Fuel & Utilities	27,273	35,000	45,000	10,000	28.6%
07 Motor Vehicles	117,650	92,329	92,001	-328	-0.4%
08 Contractual Services	1,519,831	1,209,103	683,556	-525,547	-43.5%
09 Supplies & Materials	186,593	179,826	185,926	6,100	3.4%
10 Equip - Replacement	15,301	0	0	0	0.0%
11 Equip - Additional	462,139	87,038	0	-87,038	-100.0%
12 Grants,Subsidies,Contr	52,387	52,387	52,387	0	0%
13 Fixed Charges	1,175,406	1,379,455	1,406,963	27,508	2.0%
14 Land & Structures	267,738	0	0	0	0.0%
Total Objects	\$ 12,699,300	\$ 12,827,239	\$ 12,313,107	-\$ 514,132	-4.0%
Funds					
03 Special Fund	\$ 12,670,603	\$ 12,797,085	\$ 12,282,953	-\$ 514,132	-4.0%
09 Reimbursable Fund	28,697	30,154	30,154	0	0%
Total Funds	\$ 12,699,300	\$ 12,827,239	\$ 12,313,107	-\$ 514,132	-4.0%

Note: The fiscal 2005 appropriation does not include deficiencies, and the fiscal 2006 allowance does not reflect contingent reductions.

**Fiscal Summary
Workers' Compensation Commission**

<u>Program/Unit</u>	<u>FY04 Actual</u>	<u>FY05 Wrk Approp</u>	<u>FY06 Allowance</u>	<u>Change</u>	<u>FY05 - FY06 % Change</u>
01 General Administration	\$ 11,969,905	\$ 12,417,519	\$ 12,313,107	-\$ 104,412	-0.8%
02 Processing And Adjudication Of Claims	729,395	409,720	0	-409,720	-100.0%
Total Expenditures	\$ 12,699,300	\$ 12,827,239	\$ 12,313,107	-\$ 514,132	-4.0%
Special Fund	\$ 12,670,603	\$ 12,797,085	\$ 12,282,953	-\$ 514,132	-4.0%
Total Appropriations	\$ 12,670,603	\$ 12,797,085	\$ 12,282,953	-\$ 514,132	-4.0%
Reimbursable Fund	\$ 28,697	\$ 30,154	\$ 30,154	\$ 0	0%
Total Funds	\$ 12,699,300	\$ 12,827,239	\$ 12,313,107	-\$ 514,132	-4.0%

Note: The fiscal 2005 appropriation does not include deficiencies, and the fiscal 2006 allowance does not reflect contingent reductions.

**Fiscal 2006 Cost Containment Actions
As Submitted by the Agency
Estimated Fiscal 2006 Savings
Compared to Fiscal 2005**

<u>Program Code</u>	<u>Sub- Program Code</u>	<u>Total Funds</u>	<u>General Funds</u>	<u>Special Funds</u>	<u>Positions Reduced</u>	<u>Impact of Action*</u>
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The Workers' Compensation Commission's (WCC) fiscal 2006 allowance is comparable to its fiscal 2005 appropriation. However, reductions in computer maintenance and telecommunications subobjects will hopefully enable the WCC to absorb anticipated increases in personnel-related expenditures and fixed costs. Increases are anticipated in personnel-related expenditures attributable to the fiscal 2005 COLA, as well as lease payments and utilities expenditures for Regional Hearing Sites.

* How does the reduction impact agency operations and customers? Will fewer people be served?