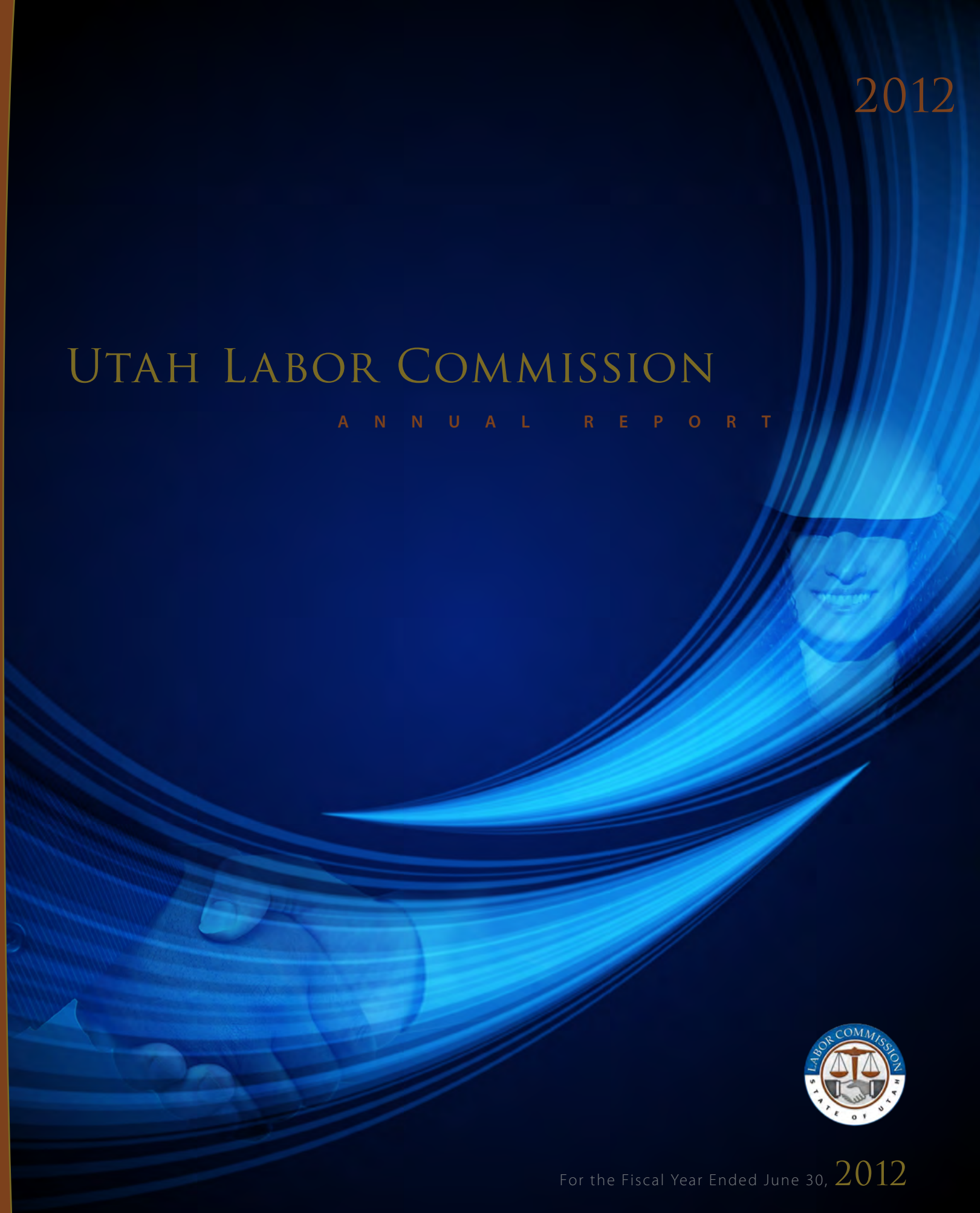
2012

Utah Labor Commission

Annual Report



For the Fiscal Year Ended June 30, 2012

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October 2012

Honorable Gary R. Herbert
Governor, State of Utah

Honorable Members of the Utah State Senate

Honorable Members of the Utah House of Representatives

It is my pleasure to provide you with the Utah Labor Commission's FY 2012 Annual Report and to thank the Governor and the Utah Legislature for your support of our efforts to serve the people of Utah.

The Commission has worked hard to "Do more with the same." Efficiencies have been identified by staff utilizing technology, process improvement methodologies, and remarkable ingenuity. I appreciate their professionalism and dedication in working to protect the safety and fairness in Utah's workplaces.

As the Utah economy recovers from the recent recession, the importance of a healthy work environment is critical for both employers and employees. Looking forward, public and private partnerships remain the most effective means of fulfilling the mission of the Labor Commission, "Achieving safety in Utah's workplaces, and fairness in employment and housing."

Sincerely,

Sherrie Hayashi
Commissioner
(801) 530-6848
shayashi@utah.gov

A Brief History of the Utah Labor Commission

Utah is one of the youngest states in the Union. For that reason, when Utah's founders drafted its constitution in 1896, they were able to draw from experiences and problems other states had already faced. This led the founders to recognize that the well-being of Utah's citizens depended on a balance between capital and labor, and between employers and employees. To that end, Article XVI, Section 1 of the Utah Constitution mandates that "the rights of labor shall have just protection through laws calculated to promote the industrial welfare of the State."

Since 1896, the Utah Legislature has implemented Article XVI by enacting a series of statutes–administered by the Utah Labor Commission–to maintain a proper balance between the legitimate interests of employers and employees:

- **Utah Workers' Compensation Act** ***(1917)*****:** Only six years after Wisconsin enacted the first modern workers' compensation law in the United States, Utah adopted its own Act to provide compensation and medical benefits to injured workers and to protect employers from tort lawsuits.
- **Occupational Disease Act** ***(1941)*****:** The Occupational Disease Act extended the workers' compensation system to cover diseases caused or aggravated by working conditions.
- **Boiler and Elevator Safety** ***(1953/1967)*****:** Recognizing that unsafe boilers and elevators threaten the safety of employees as well as the general public, the Legislature authorized the Labor Commission to establish standards for safe design, installation and operation of boilers and elevators and to conduct periodic inspections.
- **Employment Discrimination** ***(1965)*****:** The Legislature enacted the Utah Antidiscrimination Act to insure that Utahans who were able and willing to work would not be denied that opportunity due to race, color, national origin, gender, religion, age, or disability.
- **Occupational Safety and Health** ***(1973)*****:** The Legislature committed the State of Utah to provide a coordinated state system to preserve human resources by promulgating rules to insure employers provide for the safety and health of workers.
- **Fair Housing** ***(1989)*****:** The Legislature moved to prohibit housing discrimination on the basis of race, color, national origin, gender, religion, age, disability, or source of income.
- **Coal Mine Safety** ***(2008)*****:** In the wake of the 2007 Crandall Canyon coal mine disaster, the Utah Legislature concluded that the State of Utah should play a role in bringing coal miners, mine operators, and coal mining communities together to cooperatively promote coal mine safety.
- **Worker Classification Coordinated Enforcement Council** ***(2011)*****:** The Legislature designed the Labor Commission to chair this multi-agency task force created to identify and stop instances of employee misclassification in Utah.

These constitutional provisions and statutes, enacted over a span of more than 100 years, share a common theme--gainful, productive work is essential to the well-being of Utah's employees, employers, and to the state itself. The Utah Labor Commission is proud to have played its part in implementing the Legislature's standards for workplace safety, health and fairness that allow Utah employees and employers to thrive.

Principal Statutes Administered by the Commission

	Statutory Reference (Utah Code)	Responsible Division
Employment of Minors	Title 34, Chapter 23	UALD–*Antidiscrimination and Labor Division*
Payment of Wages	Title 34, Chapter 28	UALD
Utah Minimum Wage Act	Title 34, Chapter 40	UALD
Employment Selection Procedures Act	Title 34, Chapter 45	UALD
Antidiscrimination Act	Title 34A, Chapter 5	UALD
Utah Fair Housing Act	Title 57, Chapter 21	UALD
Safety *(boilers, pressure vessels, elevators and escalators)*	Title 34A, Chapter 7	Boiler, Elevator & Coal Mine Safety
Utah Coal Mine Safety Act	Title 40, Chapter 2	Boiler, Elevator & Coal Mine Safety
Workers' Compensation Act	Title 34A, Chapter 2	Industrial Accidents
Occupational Disease Act	Title 34A, Chapter 3	Industrial Accidents
Injured Worker Reemployment Act	Title 34A, Chapter 8	Industrial Accidents
Occupational Safety and Health Act	Title 34A, Chapter 6	UOSH–*Occupational Safety and Health Division*
Workers Classification Coordinated Enforcement Council	Title 34, Chapter 47	Labor Commission

Our Mission

The mission of the Labor Commission is to achieve safety in Utah's workplaces and fairness in employment and housing.

Our Values

The Labor Commission's values are instilled in our programs, our relationships with the public we serve, our colleagues, and the community in general. The Commission embraces these values in the way we lead and support the Commission every day:

- Each person has value and worth—each individual we interact with has a point of view that is important. For these reasons, we respect individual lives and histories and treat each person equitably.
- We respect and follow the statutes and regulations that govern our activities.
- The public interest is advanced by transparent and open processes.
- We owe the people of Utah and our colleagues at the Commission the highest level of competency and service.
- Commission employees deserve a workplace that provides support, safety, and respect.
- Professional development is essential to a competent, dedicated staff and, ultimately, to the success of the Commission.

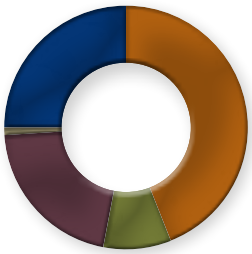
Organization

Utah Labor Commission Budget Summary | FY2012

Fiscal Year Ended June 30, 2012 with Comparative Totals for Year Ended June 30, 2011

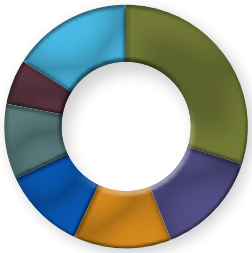
Revenues:	FY 2012	FY 2011
General Funds appropriated by the legislature	$5,426,300	$5,872,100
General Fund that was returned at the end of the year	-4,300	-6,300
Workplace Safety Funds appropriated by the legislature	1,563,600	1,563,200
Adjustment necessary to reduce Workplace Safety appropriation to amount that was available in the fund	-488,300	-447,200
Industrial Accidents Restricted Account	2,555,700	2,084,500
Amount returned at the end of the year	0	-143,200
Employers Reinsurance Fund	73,600	73,000
Unused Employers Reinsurance Fund appropriation that was returned	0	-6,000
Federal Grants	3,006,400	2,373,900
Miner Certification	19,500	25,000
Total Revenues	**$12,152,500**	**$11,389,000**
Expenditures by Division:		
By Division:		
Utah Occupational Safety & Health Division	$3,798,700	$3,530,900
Antidiscrimination & Labor	1,695,200	1,603,200
Industrial Accidents Division	1,531,900	1,346,100
Boiler, Elevator & Coal Mine Safety Division	1,297,500	1,262,500
Adjudication Division	1,166,400	1,167,500
Workplace Safety Projects & Grants	710,800	680,700
Management, Administrative, Computer Support and Central Office Costs	1,952,000	1,798,100
Total Expenditures by Division	**$12,152,500**	**$11,389,000**
By Type of Expense / Expense Category:		
Salaries & Benefits	$8,984,700	$8,696,900
Travel Costs	85,200	55,800
Data Processing	1,201,800	991,600
Other Operating Expenses	1,189,200	1,041,800
Pass Through Workplace Safety Grants	691,600	602,900
Total Expenditures by Type of Expense / Expense Category	**$12,152,500**	**$11,389,000**

Revenues *(percent of total)*
Fiscal Year Ended June 30, 2012



45% General Funds
9% Workplace Safety Fund
21% Uninsured Employers Fund
1% Employers Reinsurance Fund
25% Federal Grants

Expenditures *(percent of total)*
Fiscal Year Ended June 30, 2012



31% Utah Occupational Safety & Health Division
14% Antidiscrimination | Labor Division
13% Industrial Accidents Division
11% Boiler, Elevator & Coal Mine Safety Division
10% Adjudication Division
6% Workplace Safety Projects | Grants
16% Management, Administration, Computer Support & Central Office Cost (DTS & DHRM)

2012 Accomplishments

During fiscal year 2012, the Commission focused on its core regulatory responsibilities and continued to develop efficiencies using technology. Increasing case demands continue to challenge the Commission's goals of efficient and timely processing of complaints.

Workload Accomplishments

(Additional detail can be seen in the Division Section of this report.)

- Industrial Accidents was recognized by the Work Loss Data Institute as having the best workers' compensation program among all the states.
- The Wage Claim Unit collected $622,000 in unpaid wages for claimants.
- The Employment Discrimination Unit dramatically reduced the number of active cases over 450 days. In FY2010, 11% of its cases were older than 450 days. As of July 1, 2011, this number was reduced to 3%.
- Similarly, the Fair Housing Unit reduced the average age of its cases by 18% in FY2011.
- Boiler, Elevator and Coal Mine Safety Division performed over 22,000 inspections.
- UOSH Division completed 1,521 (Compliance/Consultation) interventions improving safety in the workplace for over 235,000 employees.
- The Labor Commission awarded $681,000 in grants to 23 organizations for workplace safety programs.
- The Adjudication Division issued 319 final decisions on the merits and closed 420 cases on procedural grounds.
- Utah's Appellate Courts completed review of Labor Commission decisions in 11 separate appeals. The courts affirmed the Commission's decision in 9 of those cases.

Major Labor Commission Initiatives

Governor's Operational Excellence

Governor Herbert, in coordination with the state's Optimization Commission, asked state agencies to undertake a thorough review of processes in order to improve quality and efficiency. During FY2012, the Compliance Section of the Utah OSHA Division and the Wage Claim Unit of the Utah Antidiscrimination and Labor Division (UALD) completed formal analyses of their operations with significant improvements made.

- The Compliance Section of the Utah OSHA Division used a Lean Six Sigma management process resulting in considerable improvement reducing time to complete cases. 52% of cases were completed in 20 days or less, and only 21% took over 40 days to complete. This reduces processing to nearly half the time.

- The Wage Claim Section of the Utah Antidiscrimination & Labor Division (UALD) made substantial gains in reducing the amount of time it takes to successfully process a case. The waiting time to schedule a hearing went from 60 days to 14 days. Also, the time it took to write a decision after a hearing took place went from 150 days to less than 60. In 2011 the Section set a record for the number of wage claims processed in a year: 1,444 cases.

Both Divisions plan to expand the Operational Excellence studies to other parts of their Divisions.

Employee Classification for Workers' Compensation Insurance

In 2011, the Utah Legislature established the Worker Classification Coordinated Enforcement Council within the Labor Commission. The Council brings together representatives from the Labor Commission, Department of Commerce, Department of Workforce Services, the State Tax Commission and the Attorney General to coordinate regulatory and law enforcement efforts related to employee misclassification. Some companies have attempted to avoid purchasing the state-required workers' compensation insurance by misclassifying their employees as independent contractors or owners.

Council members and other interested persons meet regularly to review various ways employees are misclassified and the extent of such misclassification. The Council shares information and discusses enforcement efforts among its member agencies. Representatives from the United States Department of Labor, Workers Compensation Fund, and others have also participated. Also, the Labor Commission has established an employee misclassification "hotline" to receive complaints from individuals regarding employee misclassification. Information received from the hotline is referred to the Council members for appropriate enforcement action.

On September 19, 2011, Commissioner Sherrie Hayashi traveled to Washington D.C. to meet with the U.S. Secretary of Labor, Hilda Solis and other state Labor Commissioners. At that meeting, the US Dept. of Labor's Wage & Hour Division signed agreements with the Utah Labor Commission, eight other states and the Internal Revenue Service to share information in efforts to address the issue of misclassification of workers who should be classified as employees.

Web Site Redesign

A major revision of the website in February produced a more user-friendly navigation and gives easy access to information about specific services. New features include:

- A "Quick Search" option for faster location of forms and publications needed to file a variety of requests with the Commission.
- Online service to determine if an employer has the required Workers' Compensation insurance coverage.
- New and improved in-depth categories for frequently asked questions.
- Easy to find information on how to file forms, claims or appeals.
- Access to training videos, including several safety video productions.
- Links to workplace posters required by the federal and state government at no cost to the public.
- Public meetings calendar.

Utah Antidiscrimination & Labor Division (UALD)

Overview

The Division enforces equal employment and housing laws, as well as Utah's laws regarding payment of wages, employment of minors and minimum wage laws.

The Division is organized into three units: the Employment Discrimination Unit; the Fair Housing Unit; and the Wage Claim Unit. The Division also has an effective education program to teach employers, employees, housing providers, tenants, and the general public about the rights and responsibilities under the various laws enforced by the Division.

The Division has a new Director. Heather Gunnarson is now serving as the Director of the Adjudication Division and Kerry L. Chlarson has been appointed to take her place as the Director of the Antidiscrimination & Labor Division.

2012 Highlights

Employment Discrimination Unit:

- Responded to about 8,511 public inquiries;
- Collected $589,490 in damages;
- Conducted free antidiscrimination training for more than 2,249 people, including hundreds of high school seniors entering the work force.
- Closed 489 claims; and
- 95% of cases were less than 450 days old

Fair Housing Unit:

- Responded to over 291 public inquiries;
- Conducted 31 settlement conferences;
- Closed 50 claims; and
- Provided free training for nearly 650 tenants, landlords and other housing providers on housing discrimination laws.

Mission

To achieve equal employment and fair housing opportunity for all, and assure that Utah employees are paid the wages they have earned.

Kerry L. Chlarson, *Director*
(801) 530-6921
kchlarson@utah.gov

Wage Claim Unit:

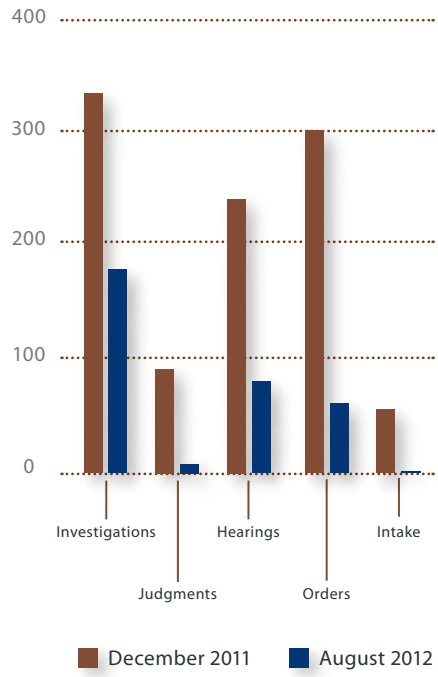
- Responded to over 36,400 public inquiries regarding wage and other employment law questions;
- Collected unpaid wages and fees totaling $622,658;
- Reduced the average length of time a wage claim is open by 15%, from 393 days to 336 days.
- Conducted 143 administrative hearings and 258 settlement conferences;
- Closed 1,444 cases; and
- Provided free training on wage laws to more than 56 small business owners.

An example of service provided by the Division

The Labor Commission made a finding of discrimination against a county for enacting various zoning ordinances that were designed to exclude certain individuals with disabilities from finding housing. This year, the Third District Court agreed with the findings, and awarded damages and attorney fees totaling over $3 million. The court mandated that procedures be established to ensure that people with disabilities will not be barred from finding housing within the county in the future.

The Fair Housing Unit has worked with the Salt Lake City Mayor's office to provide training and outreach to members of various refugee communities in Salt Lake City. These refugees come to the United States oftentimes without an adequate knowledge of their rights to a discrimination-free home and workplace. In order to aid these residents of the state of Utah to better understand their rights and freedoms, the Fair Housing Unit participated in outreach to over 200 of these individuals. Additionally, the Fair Housing Unit, on behalf of the Division and Commission, co-authored a handbook that, in basic language, instructed these recent immigrants on basic fair housing, employment discrimination, and wage law.

UALD Operational Excellence in Days



Industrial Accidents Division

Overview

The Division is responsible for administering the Workers' Compensation Act. Since 1917, Utah's Workers' Compensation system has provided medical care and disability payments for injured workers and immunity from personal injury lawsuits for employers. With a few exceptions, all employers must provide workers' compensation coverage for their employees.

2012 Highlights

Claims and Mediation Section

This section administers the day-to-day operation of the workers' compensation system and also assists injured workers, employers and insurance carriers in resolving workers' compensation disagreements. During the last year, the Claims and Mediation Section recorded 48,984 reported injuries, assisted 14,419 injured workers and held 567 dispute-resolution conferences.

Compliance Section

The Compliance Section enforces statutory requirements that employers maintain workers' compensation coverage for employees. During FY 2012, the compliance section assessed non-compliance penalties against 1,177 employers and collected $2,382,826 in outstanding penalties and reimbursements for the Uninsured Employers Fund. The Compliance Section has also assumed responsibility for issuing workers' compensation coverage waivers.

Outreach

The Division conducted 14 educational sessions to stakeholders, with an emphasis on new small businesses.

Employers' Reinsurance Fund (ERF)

The ERF pays benefits to workers with a permanent and total disability as a result of work accidents that occurred prior to July 1994. During FY 2012, the ERF paid $16,383,060 in disability benefits to 1,212 injured workers.

Mission

To assist in resolving disputes involving workplace injuries fairly and efficiently and to monitor and enforce state-required workers' compensation coverage.

Ronald L. Dressler, *Director*
(801) 530-6841
rdressler@utah.gov

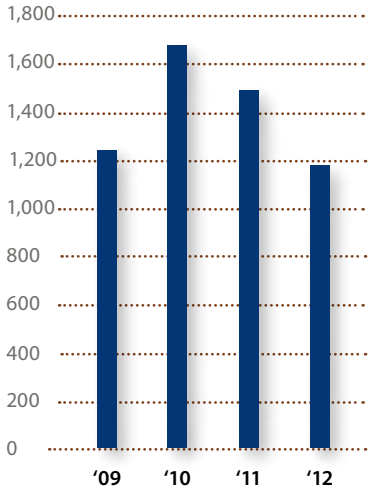
Uninsured Employers Fund (UEF)

The UEF pays benefits to the injured employees of uninsured and insolvent employers. During FY 2012, the UEF paid $2,195,648 in benefits, which was more than offset by $2,382,826 in penalties and reimbursements collected from employers who had failed to maintain workers' compensation coverage. The ERF and UEF are funded in whole or in part by assessments paid by workers' compensation insurance carriers and self-insured employers. These assessments, which are subject to statutory limits, are set each Fall by the Commission in consultation with the Workers' Compensation Advisory Council. The assessment rate is based on independent actuarial evaluations of the revenue necessary to fund the ERF and UEF's future liabilities.

New Workers' Compensation Waiver Program

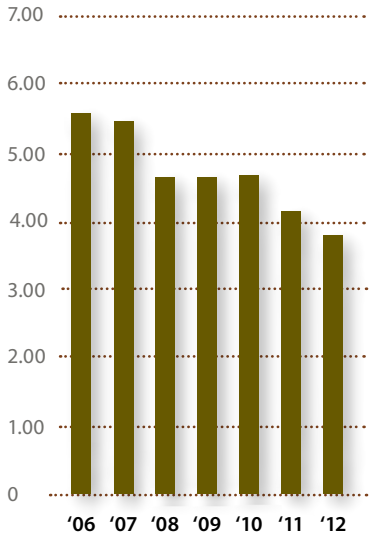
The Workers' Compensation Act and the Insurance Code allow the issuance of a "Workers' Compensation Coverage Waiver" to qualified partners of a partnership, officers of a corporation, or owner of a sole proprietorship, that do not have employees. The waiver acts as a declaration of non-coverage and is typically used by independent contractors who hire out their services to employers. During the 2012 legislative session Senator Mayne's S.B. 191 transferred the responsibility of processing and issuing these waivers from private insurance carriers to the Labor Commission, effective July 1st, 2011. During FY 2012 the newly formed Waiver Program issued 3,942 waiver certificates.

Number of Penalties Issued



The Industrial Accidents Division monitored workers' compensation coverage for over 80,000 Utah employers in fiscal year 2012 and issued penalties for those found not compliant.

WC Injuries per 100 Workers in Utah



Utah Occupational Safety & Health Division (Utah OSHA)

Utah OSHA Compliance Program

Overview

The Utah Legislature enacted the Occupational Safety and Health Act of 1973 to provide for the safety and health of Utah's workers and to establish a state plan with occupational safety and health standards equivalent to federal OSHA standards. On July 16, 1985, federal OSHA recognized that Utah's occupational safety and health program as being "as effective as" the federal program and relinquished authority over occupational safety and health in Utah to Utah OSHA. Through the three work units described below, Utah OSHA now exercises jurisdiction over 1,162,000 employees and over 82,000 employers in Utah.

2012 Highlights

Compliance

The Utah OSHA Compliance Unit conducts safety and health inspections at work sites throughout the state. Inspections are triggered by workplace accidents, complaints of unsafe or unhealthy working conditions, as part of an inspection plan or emphasis program directed at high-hazard industries.

Utah OSHA staff attended multiple training courses in areas such as primary metals, crane safety, electrical safe work practice, wind turbine safety, laser safety, excavation training and trench shoring systems, elevated work platforms, wood chipper training, and oil and gas.

During FY 2012, Utah OSHA Compliance:

- Conducted 834 inspections/interventions;
- Issued 611 citations; and
- Evaluated safety and health conditions at work sites employing over 165,000 employees.

Mission

Achieving compliance and providing assistance with safety and health for Utah workplaces.

Louis M. Silva, *Director*
(801) 530-6901
lsilva@utah.gov

Consultation

Utah OSHA Consultation Program provides on-site safety and health services, at no cost, to small/high-hazard businesses. The Utah OSHA Public Sector Consultation Program provides on-site safety and health services, also at no cost, to public sector agencies. The Utah OSHA Consultation Program(s) can help employers to recognize hazards in the workplace and suggest options for correcting the hazards.

During FY 2012, Utah OSHA Consultation:

- Conducted 1,123 safety and health interventions;
- Identified 2,064 hazards;
- Assisted employers in improving workplace safety and health for over 95,000 employees; and
- Trained approximately 725 workers from 135 entities in industry and construction courses.

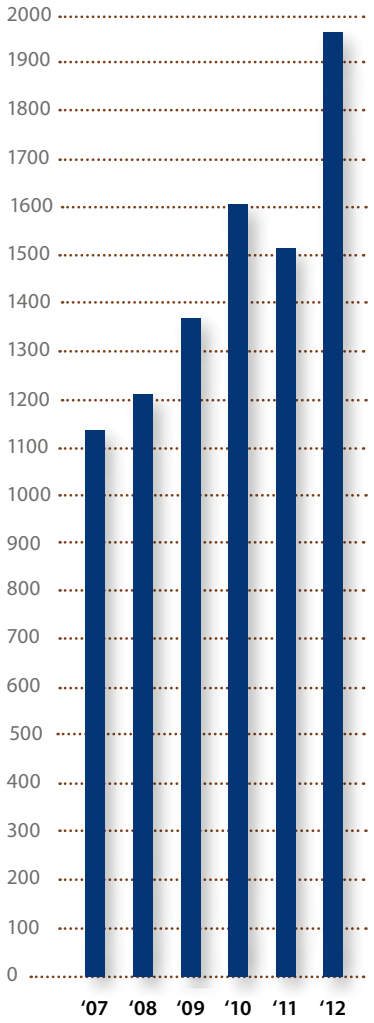
Labor Statistics

The Labor Statistics Unit collects data on work-related fatalities, injuries and illnesses in order to: 1) provide statistical analysis; 2) identify industries with high rates of occupational injury or disease; and 3) measure the impact of Utah OSHA efforts to reduce workplace injuries and illnesses. During FY 2012 the Labor Statistics Unit conducted over 2,700 surveys; and achieved a 99% response rate.

An example of service provided by the Division

This letter was received by Utah OSHA: "When we moved into a new warehouse in September 2011, I called Utah OSHA to help me with the initial safety walk-through. I received a great deal of information and guidance, assuring the safest possible working environment for my employees. Working with Utah OSHA saved me hours of research and provided me with the opportunity to receive virtually immediate feedback on the many questions that I had. Utah OSHA provided a valuable review of the safety and health program that I had generated, often time identifying areas where I could save time and money in my compliance efforts."

UOSH Interventions



Boiler, Elevator & Coal Mine Safety Division

Overview

The Division is charged with the task of enforcing state laws as they pertain to boilers, pressure vessels, elevators, coal mine safety and coal miner certification.

The Division employs ten Boiler/Pressure Vessel and Elevator Inspectors, one Coal Miner Certification Official, one part time Coal Mine Safety Director, one part time Office Specialist, one Senior Business Analyst and a Division Director to inspect the State's boilers, pressure vessels, elevators and to administer the coal mine safety program.

The inspection fees generated by the Division are deposited into the State's general fund where they pay for the state's appropriations for the Division's operating expenses.

The Division maintains an office in Price, Utah, housing the State's program for Coal Miner Certification and the Office of Coal Mine Safety; these offices, assisted by their associated panel and council, work to maximize safety in Utah's coal mines.

2012 Highlights

- Inspected 611 new elevators, 832 new boilers and 1240 new pressure vessels;
- Performed 22,723 total inspections;
- Issued 16,072 operating permits;
- Administered 337 certification exams to coal miners;
- Received over 1,758 online payments since the implementation of the online pay system. This was a 60% increase over the prior year, and
- Began development of an online program for Miner Certification, requiring applicants to apply and pay for their application online; and allowing office staff to review all applications electronically, which virtually eliminates the need for paper files.

Mission

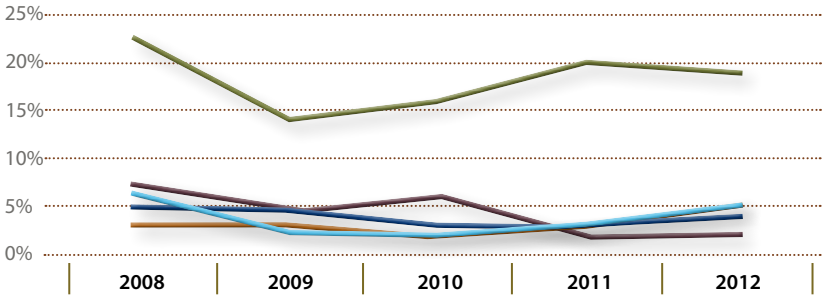
To maximize boiler, elevator and coal mine safety, and provide for effective coal mine accident response.

Pete Hackford, *Director*
(801) 530-7605
phackford@utah.gov

An example of service provided by the Division

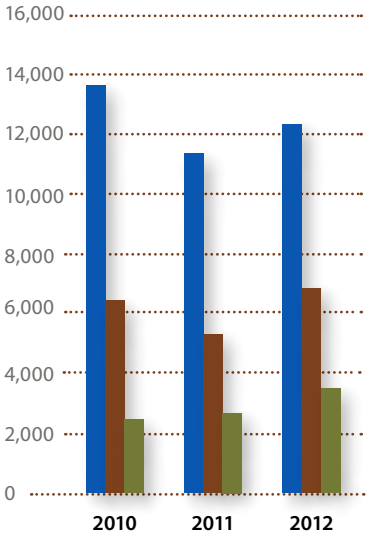
The Division has gone to a paperless system via its inspector web application and coal miner certification online application. This campaign was started in FY 2006 and has almost reached its maturity during FY 2012. The initial process was to implement a virtual office system for each of the Division's inspectors located within their cars. When that was complete the Division went to an all web inspection process that requires all elevator, boiler and pressure vessel inspections be submitted online. Next the Division began electronic archiving of inspection reports. The Division then set out to provide an online payment system that allowed its customers to pay for and receive their inspection/ operating permits via the internet. With this step complete the Division set its next goal, creating an online, web based coal miner application system. This system allows coal miners to apply, pay for and receive a test date via the internet without having to travel to the Miner Certification office in Price, Utah. This step was completed during FY 2012. All these steps have virtually made the Division of Boiler, Elevator and Coal Mine Safety a paperless operation. The rewards of going paperless are not only the sheer reduction of consumable materials but the increase in the efficiently of the Division.

Overdue Units



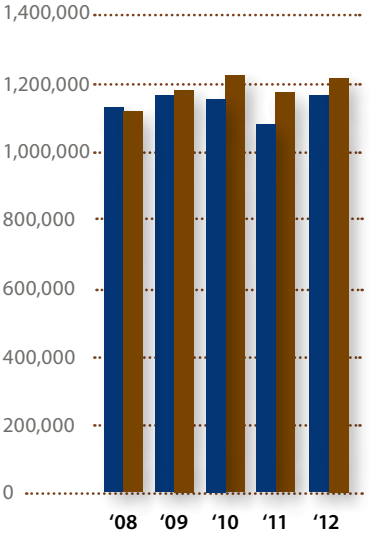
- Boilers (Labor Commission)
- Pressure Vessels (Labor Commission)
- Boilers (Insurance Companies)
- Pressure Vessels (Insurance Companies)
- Elevators

Number of Inspections Performed



12 Labor Commission Inspectors
41 Deputy Insurance Inspectors
29 Deputy Owner/User Inspectors

Fees Generated vs. Expenses



- Fees Collected for the State General Fund
- Division Expenditures**

** **note:** This includes $50,000 of coal mine safety expenditures that are not fee based.

Adjudication Division

Overview

The Adjudication Division is responsible for adjudicating disputed workers' compensation claims. It does so in a fair and impartial manner to ensure the quick, efficient and predictable delivery of medical and salary benefits to injured workers at a reasonable cost to employers and insurance carriers. The Division also hears appeals of: employment and housing discrimination investigations; Utah Occupational Safety and Health (UOSH) citations; and workers' compensation insurance compliance penalties. The Division employs 6.5 FTE administrative law judges and 4 FTE clerks. In addition to its Salt Lake City office, the Division operates an office in Parowan to serve central and southern Utah; employees with wage claims in southern Utah may file for a hearing in the Parowan office.

2012 Highlights

The Adjudication Division completed its development of, and fully implemented, an electronic filing and mailing system. The Division receives and sends thousands of documents each year. This new system has revolutionized how the public interacts with the Division by:

- Increasing response times from days to hours;
- Giving the public more time to respond to Division notices and orders by eliminating mail delays;
- Putting rural Utahns on an even footing by eliminating longer mail delays than Wasatch Front Utahns;
- Giving all members of the public 24/7 access to file documents;
- Increasing Division staff efficiency by:
  - reducing time spent photocopying and preparing documents for mailing
  - reducing time spent opening and sorting mail
- Reducing Division overhead costs; and
- Increasing efficiency and reduced costs for the public, including costs for postage, paper and staff time for businesses.

Mission

To conduct all formal Utah Labor Commission hearings in a fair, efficient, courteous and predictable manner.

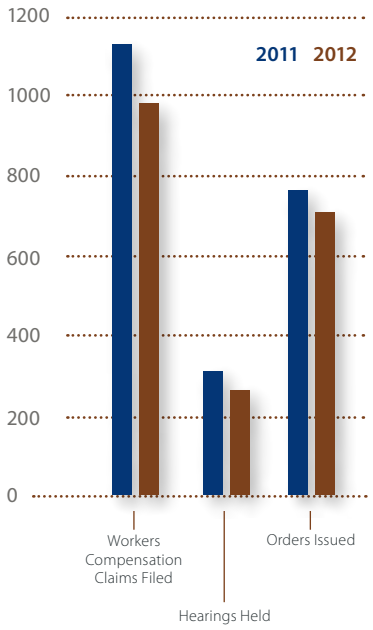
Heather E. Gunnarson, *Director & Presiding Administrative Law Judge*
(801) 536-7928
hgunnarson@utah.gov

With the assistance of Rep. Michael T. Morley as chief sponsor, and Sen. Karen Mayne as Senate sponsor, H.B. 188 was passed and became effective on May 10, 2011 allowing the Division to issue documents electronically. The Division started accepting electronic filings in August 2011 and implemented electronic mailing in October 2011.

Currently, 76% of the participants in Division hearings electronically file and receive documents. The use of this process is not limited to attorneys. Because Utah is one of the most "wired" states in the nation, many individuals who are not represented take advantage of the electronic filing process. There is no cost to the public to use the system. The feedback from the public has been overwhelmingly positive. As a result of this E-Filing Project, the Division won a Governor's Award for Excellence in 2012.

A dramatic cost savings resulted from the reduction in postage and copy paper (let alone personnel costs) as a result of new E-Filing Project: from an average of $1,932/month (postage) and $146 (paper) to only $608 and $103 respectively. The Division projects annual savings to taxpayers of more than $16,400.

Adjudication Statistics



Legal Unit

Overview

Review of decisions issued by administrative law judges; Appellate proceedings before Utah's Court of Appeals and Supreme Court; Legislation; Rule-making; and Public information

Major activities

Motions for Review

The Legal Unit assists the Commissioner and Appeals Board in reviewing decisions of administrative law judges in workers' compensation, anti-discrimination, and workplace safety cases.

Beginning in 2001, requests for review of judges' decisions increased by 200%. This led to a backlog—by March 2008 there were 238 cases waiting for review. Since then, the Commission has reassigned staff, obtained authorization to add staff, and implemented case-screening procedures. As a result, the backlog has been reduced by 80%--to 46 cases. The Commission expects to completely eliminate the backlog by the end of 2012.

Appellate Litigation

Decisions of the Commissioner and Appeals Board are subject to review by the Utah Court of Appeals and Utah Supreme Court. The Legal Unit represents the Labor Commission in proceedings before these courts.

Legislative Issues

The Legal Unit works with Commission staff, stakeholders, the legislative counsel, and individual legislators to evaluate legislative proposals.

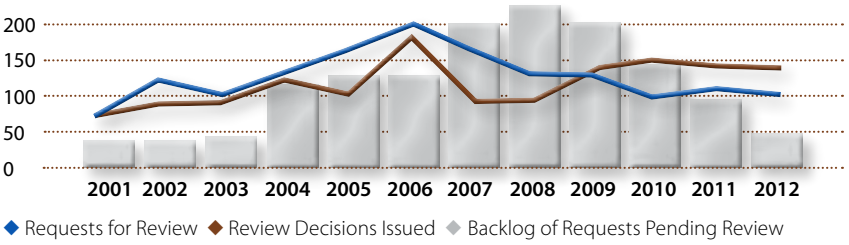
Rule-Making

The Legal Unit assists the Commission in developing, drafting and enacting administrative rules.

Public Information

The Legal Unit participates in seminars and other forums to provide information about the Commission. The Legal Unit responds to public inquiries about Commission activities.

Decisions Reviewed by Commissioner or Appeals Board



Mission

In cooperation with the Utah Attorney General, to provide representation and counsel to the Utah Labor Commission.

Alan Hennebold, *Deputy Commissioner/General Counsel*
(801) 530-6937
ahennebold@utah.gov

AFL/CIO

- RICHTER-7

Utah Hispanic Chamber of Commerce

- **Quixote Award for Safety** - Okland Construction.

Associated Builders and Contractors *(ABC)*

- Altaview Concrete
- Big D Construction
- Cameron Construction
- Hunt Electric
- IMS Masonry
- Intermountain Plantings
- J & S Steel Solutions
- Mountain States Fence
- Paulsen Construction
- R & O Construction
- Utah Commercial Contractors
- Wadman Corporation

Associated General Contractors of Utah *(AGC)*

Platinum:

- Cop Construction, LLC
- Big-D Construction
- Bodell Construction Company
- Brahma Group, Inc.
- Cache Valley Electric Co.
- CCI Mechanical, Inc.
- Copper Hills Constructors
- Daniels Painting, Inc.
- Flatiron
- Garff Construction LLC
- Geneva Rock Products, Inc.
- Granite Construction Company
- Hales Sand & Gravel
- Hunt Electric, Inc.
- Intermountain Slurry Seal, Inc
- Jack B. Parson Companies
- Komatsu Equipment Company
- Lyndon Jones Construction, Inc
- Mountain Crane Service
- Mountain States Fence
- R&O Construction Company
- Rydalch Electric, Inc.
- Salt Lake City Commuter Rail Constructors; *Stacy and Witbeck Inc.*
- Herzog a Joint Venture
- Stacy and Witbeck/Kiewit Western
- Staker Parson Companies
- Wadman Corporation
- Wadsworth Brothers Construction
- Wasatch Electric, a Div. of Dynalectric Co.
- Wheeler Machinery Company

Silver:

- Dry Creek Structures, LLC
- Whitaker Construction Co., Inc

Bronze:

- Burdick Materials
- Geary Construction, Inc.
- Okland Construction
- Sunroc Building Materials
- W.W. Clyde & Co.

Utah Farm Bureau Federation

- South Shore Farms

Utah Manufacturers Association

- Campbell Scientific
- Cottonwood Mill

Utah Mining Association Safety Awards

- Graymont Western - *Cricket Mountain Plant*
- Canyon Fuel Company
  - *SUFCO Mine*
  - *Skyline Mine*
  - *Dugout Canyon Mine*
- Rio Tinto | Kennecott Utah Copper
  - *Refinery*
  - *Bingham Canyon*
  - *Copperton Concentrator*
  - *Tailing and Water Services*
  - *Power Plant Operations*
- Materion Natural Resources
- Simplot Phosphates
- Denison Mines | White Mesa Mill
- Northwest Corporation
- The Brahma Group
- Joy Mining Machinery
- Terra Engineering & Construction
- Ames Construction

Utah Restaurant Association

Diamond - Temple Square Hospitality
Platinum - Chuck A Rama
Gold - Gastronomy
Silver - Cafe Rio
Bronze - Hires Big H

Awards, Honors, and Affiliations

This year, the Labor Commission won in TWO categories for the Governor's Award for Excellence.

Innovation and Efficiency: The Adjudication Division & DTS Team

Pictured from Left to Right: *Rosalee Oakeson, Deidre Marlowe, Dawn Cornell, Cheryl Luke, Governor Gary Herbert, Lorrie Lima, Karla Rush, Aurora Holley, Richard LaJeunesse, Debbie Hann*

Not pictured: *Colleen Trayner and Alicia Zavala-Lopez of the Adjudication Division; and Todd Duvall and Arlene McCullough of the Dept of Technology Services*

The Adjudication Division developed and implemented an electronic filing and mailing system. This allows the Division to receive and send thousands of documents each year. This new system has revolutionized how the public interacts with the Division by: **1**) increasing response times from days to hours; **2**) giving the public more time to respond to Division notices and orders since mail delays are eliminated; **3**) putting rural Utahns on an even footing by eliminating longer mail delays; **4**) giving all members of the public **24/7** Division access to file documents; **5**) increased Division staff efficiency by reducing time spent photocopying, reducing time spent opening and sorting mail, **6**) reducing mailing costs by 2/3; and **7**) increasing efficiency and reducing costs for the public including mailing costs.

Outstanding Utah Public Service Award: Alan Hennebold

Alan Hennebold

Alan has served as Deputy Commissioner and General Counsel for the Labor Commission since 1994. Since that time, he has been the legal voice for the Commission.

Anyone who has worked with Alan knows that he has the innate ability to synthesize and distill any issue to very concrete concepts. This ability enables Alan to exhibit the highest standards of excellence as Commission management and legal counsel in many ways: administrative rules, legislation, legal decisions issued by the Commission and appellate work before the Court of Appeals and the Utah Supreme Court.

The Commission has a 93% success rate on appellate work. These cases shape the landscape of workers' compensation in the State of Utah. Although many factors contribute to the health of Utah's workers' compensation system, Alan plays a vital role in providing sound advice and guidance in making our system one of the best in the country. Recently recognized by the Work Loss Data Institute, Utah ranked the highest of all states, receiving an A+ rating.

Alan is also being recognized for his role in the 2011 legislative session focusing on the issue of misclassification of workers as independent contractors.

Labor Commission Employee of the Quarter Award

Thuy Nguyen | Employee of the 1st Quarter, 2012
Administration Division

Juan Gutierrez | Employee of the 2nd Quarter 2012
Industrial Accidents Division

Mark LeBlanc | Employee of the 3rd Quarter, 2011
Utah OSHA Division

Brian Stewart | Employee of the 4th Quarter, 2011
Antidiscrimination and Labor Division

Antidiscrimination & Labor Division

Kerry Chlarson | *Member International Association of Official Human Rights Agencies*

Antidiscrimination & Labor Division

Brent Asay | *Vice President Elect, Interstate Labor Standards Association*

Boiler, Elevator, & Coal Mine Safety Division

Pete Hackford | *Honorary Member of the National Board of Boiler & Pressure Vessel Inspectors (NBBI)*

Mike Pedersen | *Member of National Association of Elevator Safety Authorities (NAESA)*

Rick "Shorty" Sturm | *Member of the National Board of Boiler & Pressure Vessel Inspectors (NBBI), appointed to Examination Committee for Inspectors*

Industrial Accidents Division

Ronald Dressler | *Vice President of Western Association Workers' Compensation Boards (WAWCB) and Member of National Council of Compensation Insurance (NCCI), and the International Association of Industrial Accident Boards & Commissions (IAIABC)*

Tonya Gallegos | *Member of the International Risk Management Institute, holds Utah Insurance License, certified Construction Risk and Insurance Specialist*

Juan Gutierrez | *accepted to law school*

UOSH Division

Louis M Silva | *State-representing member of the Federal Emergency Response Steering Committee for the Occupational Safety and Health State Plan National Association (OSHSPA), Board Member of the Utah Fire Prevention Board.*

Administration Division

David Lamb | *Member of American Institute of CPAs (AICPA) and the Utah Association of CPAs (UACPA)*

VPP Awards Program

The Voluntary Protection Program (VPP) is a Compliance Program that recognizes comprehensive workplace safety and health management systems through cooperative relationships among management, labor, and OSHA. Admission to VPP status constitutes Utah OSHAs official recognition of company management and employees who have achieved exemplary occupational safety and health success.

Recipients:
ConocoPhillips Pipe Line Company
Firestone Building Products
Frito-Lay, Inc.
GE Healthcare Surgery
Morton Salt
Pacific States Cast Iron Pipe Company
Simmons Manufacturing Company, LLC.

SHARP Awards Program

OSHA's Safety and Health Achievement Recognition Program (SHARP) recognizes small employers that incorporate safety and health into every phase of their business and have an exemplary safety and health management system.

Recipients:
Harris Rebar Salt Lake, Inc.
Western Metals Recycling, Inc.
Lehi City Fire Stations 81 and 82

Utah Arches Awards

The Arches Award was awarded to Okland Construction at the Utah Safety Council annual meeting for demonstrating excellence in employee safety and health.

Okland Construction is an innovative general contracting firm. Their safety culture includes the development of an informed workforce. Their program focuses on training in hazard recognition, methods of hazard avoidance, and implementation of corrective action. Their efforts over the past three years have resulted in a 56% reduction in incidence rates, which are well below their industry rates.

Workplace Safety Grant Program

The workplace safety program is designed to support the development of safety initiatives in the workplace aimed at reducing accidents, by facilitating strong collaborative relationships among workplace safety grant recipients, and maximize the utilization of programs and resources being developed with workplace safety funds.

This program is funded by assessments on workers' compensation premiums paid by Utah employers. Money is appropriated from this fund by the Legislature to award grants for projects or initiatives designed to assist Utah employers and their employees through programs such as OSHA training, implementation of safety initiatives, developing resources for safety programs, and safety training.

For the fiscal year ending June 30, 2012, 35 grants were given totalling $681,476 to support the development of safety projects including:

- A bi-lingual DVD titled "Our Hope" ("Nuestra Esperanza") to assist farm workers and owners with safety practices. Topics include working safely with tractors, power-take off devices, hydraulic systems, handling other heavy equipment, ladder safety, working with pesticides and chemicals; and the importance of communication and cultural perceptions to safety.
- The joint Annual Utah Mining Association and the Utah Manufacturing Association's Safety Conference, which included presentations covering a broad range of safety regulations related to Occupational Safety and Health (OSHA), and Mine Safety & Health Administration (MSHA).
- Safety training for various associations including Utah Restaurant Association, the Utah Manufacturers Association, the Associated General Contractors, and the Associated Builders and Contractors of Utah.
- Grants to the Utah Safety Council to support scholarships for safety courses for small and medium size employers, and to augment title selections on safety related topics for their Audio Visual Library program.
- Safety awareness and education for minority owned businesses, through the Utah Hispanic Chamber's Annual Convention, Latin-American Chamber; and safety workshops provided by several community-based organizations.

Elena Bensor, *Public Information/ Community Relations Officer*
(801) 530-6918
elenabensor@utah.gov

Workplace Safety Poster Contest

2012

Each year, as part of the Labor Commission's community relations program and by utilizing money from the Workplace Safety Fund, the Commission sponsors a "Take Safety Seriously" poster contest specifically aimed at promoting safety awareness for Utah's future workforce.

The poster contest, in its 15th year now, is currently open to all middle and junior high schools across Utah, including Charter Schools and private schools. Cash awards are given to the winners and matching awards to the school's art program for participating. This year, the level of interest and participation was unprecedented with over 1,400 entries submitted by 54 different middle and junior high schools throughout Utah. The top 13 entries are then included in the Labor Commission's annual safety calendar. We print about 15,000 copies and those are distributed without cost to schools, businesses, and community based organizations, for purposes of increasing workplace safety awareness throughout the state of Utah.

Safety Poster Contest Winners

Grand Prize Winner

Jorgen Paulsen
Clayton Middle School
Awarded $500.00

1st Runner Up

Esther Bjerga
Canyon View Middle School
Awarded $300.00

2nd Runner Up

Danika Borunda
Northwest Middle School
Awarded $300.00

3rd Runner Up (tie)

Megan Thompson
Kaysville Jr. High School
Awarded $300.00

3rd Runner Up (tie)

Rick Scmidt
Hillside Intermediate School
Awarded $300.00

Safety Poster Contest Additional Winners

Lizzie Card
Timberline Middle School
Honorable Mention

Natalie Clawson
Central Davis Jr. High
Honorable Mention

Diana Fletcher
Lakeridge Jr. High School
Honorable Mention

Staci Arthur
Timberline Middle School
Honorable Mention

Alexa Vernon
Ephraim Middle School
Honorable Mention

Emma Wardle
North Cache Freshman Ctr.
Honorable Mention

Marggie Glenn
Lakeridge Jr. High School
Honorable Mention

Zak Knowlton
Lakeridge Jr. High School
Honorable Mention

Members of Advisory Boards and Councils

Appeals Board

- Colleen Colton, Ph.D., Chair
- Patricia Drawe, J.D.
- Joseph Hatch, J.D.

Antidiscrimination & Labor Advisory Council

Employee Representatives

- Robert Wilde, *Law Firm of Wilde & Associates*
- Tony Montano, *Salt Lake District Attorney's Office*
- Kevin Cote, *Utah Plasterers & Cement Masons*

Employer Representatives

- Monica Whalen, *Employer's Council*
- John Chindlund, *Law Firm of Prince, Yates & Geldzahler*
- Rick Thaler, *Law Firm of Ray, Quinney & Nebeker*

General Public Representatives

- Ralph Chamness, *Salt Lake County District Attorney's Office*
- Antonella Packard, *Latin American Chamber of Commerce*
- Bev Uipi, *Salt Lake County Community Relations Specialist*

Fair Housing/Landlord Representatives

- Keith Nielson, *Pentalon*
- Paul Smith, *Utah Apartment Association*

Tenant Representatives

- Sonya Martinez, *Salt Lake Community Action Program*
- Barbara Toomer, *Disability Rights Action Committee*

Non-Voting Member

- Sherrie Hayashi, *Commissioner, Utah Labor Commission*

Workers' Compensation Advisory Council

Employer Representatives

- Thomas Bingham, *Utah Manufacturers Association*
- Dave Davis, *Utah Food Industry Association*
- David R. Bird, *Law Firm of Parsons, Behle & Latimer*
- Richard J. Thorn, *Utah Chapter of Associated General Contractors*
- M. Jeff Rowley, *Salt Lake County Risk Management*

Employer Representatives

- Reo Castleton, *Salt Lake County Fire Department*
- K. Dawn Atkin, *Law Firm of Atkin & Associates*
- Brian Kelm, *Law Office of Brian D. Kelm*
- Ralph Astorga, *United Steelworkers of America, Local 392*
- William Brandt Goble, *Painters and Tapers Union Local 77*

Ex Officio

- Ray Pickup, *Workers Compensation Fund of Utah*
- Neal Gooch, *Utah State Insurance Commissioner*
- Dr. Edward B. Holmes, *Summit View Medical*
- Kathleen G. Bissell, *Liberty Mutual Insurance Group*

Legislative Liaisons

- Senator Karen Mayne
- Representative Michael T. Morley

Mine Safety Technical Advisory Council

Coal Miner Union

- Mike Dalpaiz, *United Mine Workers of America*

Coal Mining Experience

- Steven Childs, *Skyline Mine*
- Don Shelley, *United Mine Workers of America*

Coal Mine Operators

- John Byars, *Arch Coal*
- Jimmy Brock, *Consol Energy, Inc.*

Industry Trade Association

- Todd Bingham, *Utah Mining Association*

Law Enforcement

- Greg Funk, *Emery County Sheriff's Department*

Emergency Services

- Terri Watkins, *Castle View Hospital*

Seismology

- Dr. Kristine L Pankow, *University of Utah*

Mine Engineering

- Kim McCarter, *University of Utah*

Mine Safety and Training

- Ralph Sanich, *Interwest Mining Company*
- Randy Tatton, *Mining Health & Safety Solutions*
- Miles Nelson, *College of Eastern Utah*

Non-Voting Members

- Sherrie Hayashi, *Commissioner, Utah Labor Commission*
- Bruce Riches, *Utah State Department of Public Safety*
- John Baza, *Utah State Department of Natural Resources*
- J. D. McKenzie, *U.S. Department of the Interior, Bureau of Land Management*
- Allyn C. Davis, *U.S. Mine Safety and Health Administration*

Utah Miner Certification Panel

Members

- Arthur D. Bruno, *Bruno Engineering*
- Terry L. Jordan, *Deer Creek Mine (retired)*
- George W. Kenzy, *Skyline Mine*
- Wendell Christensen, *West Ridge Mine*
- Rudy Madrigal, *Deer Creek Mine*
- Fred C. Veater, *Sufo Mine*
- Phillip J. Pappas, *Wildcat Loadout*
- Clark Atwood, *Horizon Mine*
- Kirt Tatton, *Dugout Mine*
- Douglas C. Luke, *Deer Creek Mine*

Boiler and Pressure Vessel Advisory Board

Members

- Michael Guinn, *Inland Oil*
- Brent R. Halladay, *State Fire Marshal Office*
- Ron Wyman, *R & L Boiler*
- Michael Shaw, *Hartford Steam Boiler*
- Ron Shapiro, *PacifiCorp*
- Mark Nelson, *Tesoro Refining*
- Wyatt Peterson, *University of Utah*
- Paul Riley, *LDS Church*

Elevator and Escalator Advisory Board

Members

- Scott Robison, *Otis Elevator Company*
- Brent R. Halladay, *State Fire Marshal Office*
- Todd Kodele, *Carson Elevator Company*
- Steve Hermansen, *Davis County Schools*
- Barry Smith, *Hart Fisher Smith & Associates*
- Tony Hall, *Schindler Elevator Corporation*
- Randy Jewett, *ThyssenKrupp Elevator Company*

Utah Labor Commission

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Salt Lake City, Utah 84114-6600
(801) 530-6800 | Toll free in state: (800) 530-5090

www.laborcommission.utah.gov

For direct telephone numbers, fax numbers,
email addresses and contact persons at our various divisions,
see the "About Us" tab on our internet page at
www.laborcommission.utah.gov