



## SUMMARY



# A Review of the South Carolina Second Injury Fund

### INTRODUCTION

Members of the General Assembly requested an audit of the South Carolina Second Injury Fund (SIF). The requesters wanted to know if the fund is meeting its goals and whether it should be continued. They also wanted to know whether the SIF has handled claims efficiently and in compliance with the law.

### BACKGROUND

The Second Injury Fund is a component of the workers' compensation system. The fund seeks to protect employers from potential higher costs of insurance they could incur by employing someone with a prior disability. State law requires the SIF to reimburse employers or their insurance carriers for workers' compensation benefits paid for an employee who has an injury that is substantially greater because of the employee's prior disability. The SIF's goals are to advance the hiring and retention of disabled employees and protect employers from increased workers' compensation costs. The SIF is administered under the Budget and Control Board and has 23 employees. It is funded by assessments on insurers and self-insured employers.

The Second Injury Fund (SIF) is not needed and should be phased out. We found no evidence that the SIF has an effect on promoting the hiring and retention of the disabled. Also, the SIF does not protect employers from increased workers' compensation costs.

### SIF NOT RELATED TO HIRING DECISIONS

- Most claims to the SIF have been based on "unknown conditions," in which the injured employee did not know that he had a previous disability. Unknown conditions cannot have an effect on employers' hiring decisions.
- Since 1990, the Americans with Disabilities Act (ADA) has protected potential employees and prohibits employers from questioning potential employees about their disabilities or previous injuries. At least 75% of employees in South Carolina are covered by the ADA.
- Arthritis is the most common disability for which the SIF provides reimbursement, cited in 80% of claims over the past three years. Arthritis is also widespread in the population, reported by 21% of adults. It seems likely that the SIF is paying for claims for arthritis that were not related to hiring decisions.
- We found no evidence that the majority of employers are aware of the SIF and its potential benefits.

### THE SIF AND WORKERS' COMPENSATION COSTS

The SIF primarily redistributes or shifts costs within the workers' compensation system and does not lower the overall costs of workers' compensation. Because of the SIF, the overall costs of workers' compensation are somewhat higher than if there were no SIF. Individual employers may have their costs reduced or increased because of the SIF.

- For larger employers who purchase insurance and have experience ratings, reimbursements from the SIF should lower their costs directly. However, some claims are accepted for reimbursement long after the injury occurred, and employers' rates are not adjusted because the adjustment period has expired. Also, there are inadequate controls to ensure that insurers adjust their estimates of claim costs and report these adjustments correctly to allow employers to obtain premium reductions.
- Smaller employers and those who belong to self-insurance pools, which account for the majority of claims, do not receive direct benefits from SIF reimbursements. SIF reimbursements lower their overall losses, which in turn lower overall insurance rates. However, increases in SIF reimbursements increase the assessments that employers pay to fund the SIF; lower rates are offset by increased assessments.

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AUDITS BY THE LEGISLATIVE  
AUDIT COUNCIL CONFORM TO  
GENERALLY ACCEPTED  
GOVERNMENT AUDITING  
STANDARDS AS SET FORTH BY  
THE COMPTROLLER GENERAL  
OF THE UNITED STATES.

FOR MORE  
INFORMATION

Our full report, including  
comments from SIF,  
and this document are published  
on the Internet at

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be obtained by calling

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## COST EFFECTS OF SIF PHASE OUT

If the SIF were phased out, there would be a short-term increase in workers' compensation costs and long-term savings.

- As there are fewer SIF claims, employers' overall losses increase, leading to increased rates. Increased rates are not immediately offset by decreased assessments because employers would have to continue to pay assessments for claims already in the system until they were paid in full.
- The phasing out of the SIF would provide savings through the gradual elimination of administrative costs. These costs include the SIF's operating costs, which average \$1.6 million annually, and costs to handle SIF claims. Recovery agencies charge fees ranging from 7% to 15% of reimbursements to assist in identifying and submitting claims to the SIF. We estimated that S.C. insurance carriers and self-insurers spent from \$7 – \$11 million in FY 05-06 for fees to recovery agencies.
- Officials agreed that claims would cost less if there were no SIF to reimburse claim payments. Insurers and employers do not have as much incentive to minimize the amount paid on a claim if most of the payments are being made by the SIF.

## OTHER STATES' SECOND INJURY FUNDS

Our review of other states' second injury funds did not identify any reason that the SIF should be continued. We identified 24 active second injury funds in other states, and found that other states have been phasing out their second injury funds (see Table). South Carolina's SIF is larger than funds in other states. If the SIF is continued, we recommend changes to decrease its size and scope.

SECOND INJURY FUNDS CLOSED SINCE 1990	
STATE	YEAR CLOSED
Alabama	1992
Colorado	1993
Connecticut	1995
District of Columbia	1999
Florida	1998
Georgia	2006
Kansas	1993
Kentucky	1996
Maine	1992
Minnesota	1992
Nebraska	1997
New Mexico	1996
Rhode Island	1998
South Dakota	2001
Utah	1994
West Virginia	2003

See full report for table notes.

## CLAIMS HANDLING

Our review of the SIF's claims management did not identify problems. We reviewed a random sample of 100 accepted and 25 denied claims and concluded that the SIF has adequate internal controls for processing claims. Also, we found no material problems with how the claims in our sample were handled. Evidence indicates the SIF is efficient in claims handling. Compared to states with similar funds, the SIF processes claims more quickly and at a lower average cost.