

C94I00
Subsequent Injury Fund

Operating Budget Data

(\$ in Thousands)

	<u>FY 09</u> <u>Actual</u>	<u>FY 10</u> <u>Working</u>	<u>FY 11</u> <u>Allowance</u>	<u>FY 10-11</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
Special Fund	\$1,849	\$1,914	\$1,969	\$55	2.9%
Contingent & Back of Bill Reductions	0	0	-45	-45	
Adjusted Special Fund	\$1,849	\$1,914	\$1,924	\$10	0.5%
Reimbursable Fund	60	60	60	0	
Adjusted Reimbursable Fund	\$60	\$60	\$60	\$0	0.0%
Adjusted Grand Total	\$1,909	\$1,974	\$1,984	\$10	0.5%

Note: For purposes of illustration, the Department of Legislative Services has estimated the distribution of selected across-the-board reductions. The actual allocations are to be developed by the Administration.

- The fiscal 2011 allowance grows by \$10,000 over the fiscal 2010 working appropriation due to the expansion of a partial position and increased retirement contributions, which are offset by decreased spending on medical and legal support services.

Personnel Data

	<u>FY 09</u> <u>Actual</u>	<u>FY 10</u> <u>Working</u>	<u>FY 11</u> <u>Allowance</u>	<u>FY 10-11</u> <u>Change</u>
Regular Positions	17.60	17.60	18.00	0.40
Contractual FTEs	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Total Personnel	17.60	17.60	18.00	0.40

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	0.81	4.48%
Positions and Percentage Vacant as of 12/31/09	0.60	3.41%

- A fiscal services/information technology position, which represents the agency's lone vacancy, is enhanced from 0.6 full-time equivalent (FTE) to a full 1.0 FTE in the allowance.

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

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Analysis in Brief

Major Trends

Case Volumes Increase: New and reopened case totals increased in fiscal 2009 lowering the agency's net resolution of case measure.

Issues

Fund Balance Status: The agency estimates the fund will contain \$69.7 million at the end of fiscal 2011. It is also contemplating an actuarial valuation of its liabilities, but no funds to pay for such a review are contained in the fiscal 2010 or 2011 budgets. **The agency should comment on the funding of the actuarial review.**

Audit Findings and Shared Responsibilities with Uninsured Employers' Fund: A draft memorandum of understanding between the agency and the Uninsured Employers' Fund (UEF) proposes changes to the relationship between the two entities to address audit concerns about the current interrelation. **The agency should comment on the interagency agreement and the plan for facilitating a transfer of resources to the UEF.**

Recommended Actions

1. Concur with Governor's allowance.

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Subsequent Injury Fund

Operating Budget Analysis

Program Description

The Subsequent Injury Fund (SIF) compensates injured workers whose preexisting injuries, diseases, or congenital conditions are substantially worsened by a current injury. The SIF receives special funds from a legislatively mandated 6.5% assessment on (1) awards against employers or insurers for permanent disability or death; and (2) amounts payable by employers or insurers under settlement agreements. The purpose of the SIF is to encourage the employment of disabled individuals by limiting an employer's liability should a subsequent occupational injury render an individual permanently disabled or result in death. Employers or their insurers are liable only for damage caused by current injuries. The SIF incurs the additional liability for damage resulting from the combined effects of all injuries and conditions. The SIF mission addresses the need to:

- efficiently defend the SIF's resources against inappropriate use;
- provide monetary benefits to qualified disabled workers injured on the job in accordance with awards passed by the Workers' Compensation Commission (WCC); and
- maintain the adequacy and integrity of the SIF's fund balance.

Performance Analysis: Managing for Results

The goals of the SIF focus on the efficient and responsible use of fund resources. These goals are measured against objectives related to the review and preparation of cases and the processing of payments once assessments are awarded by WCC. The average processing time for the authorization of award payments remains at three days. This measure strictly tracks the authorization time, as the Comptroller controls the release of funds.

Exhibit 1 shows the case load measures of the SIF. The overall case load had declined in fiscal 2007 and 2008, but this downward trend was reversed in fiscal 2009. The net cases resolved figure is a productivity measure that represents the difference between the number of new and reopened cases in a given year, and the number of cases resolved in that year. In fiscal 2009, a net of 7 cases were resolved. This result relates directly to the growing case load, seen in the increases in new and reopened cases. New cases in fiscal 2009 rose to 879 cases, the highest total since fiscal 2004, while 183 cases were reopened, which was the highest total of reopened cases for the decade. Total cases resolved are projected to increase to 1,100 in fiscal 2010, but no detail on the SIF's estimates for the breakdown on new and reopened cases was provided to the Department of Legislative Services (DLS).

Exhibit 1
Subsequent Injury Fund Cases Resolved: Net and Total
Fiscal 2004-2009

	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
New Cases Opened	1,110	794	840	785	785	879
Cases Reopened	125	127	131	151	156	183
Cases Resolved	1,286	1,303	1,125	1,041	1,037	1,069
Net Resolved Cases	51	382	154	105	96	7

Source: Subsequent Injury Fund

A complementary gauge of administrative productivity is operating costs per claim. While different cases merit different costs in terms of medical exams, depositions, and other legal fees, **Exhibit 2** demonstrates that the cost per claim has decreased over the past two fiscal years, from \$1,800 in fiscal 2007 to \$1,786 in fiscal 2009. The SIF estimates that the figure will begin to rise again in fiscal 2010 due to inflationary cost increases.

Exhibit 2
Subsequent Injury Fund Program Measurement Data
Fiscal 2007-2011

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>Est.</u> <u>2010</u>	<u>Est.</u> <u>2011</u>
Ratio of Fund Expenditures to Total Collections	0.822:1	0.865:1	0.961:1	0.935:1	0.957:1
Operating Budget Cost Per Resolved Claim	\$1,800	\$1,764	\$1,786	\$1,794	\$1,804

Source: Subsequent Injury Fund

Fiscal 2010 Actions

Impact of Cost Containment

The cost containment action of August 2009 reduced the SIF appropriation by \$39,198 to represent savings from employee furloughs.

Proposed Budget

As shown in **Exhibit 3**, personnel expenditures represent the majority of budgetary increases in the allowance. Employee salaries increase by \$28,150, due to the expansion of a 0.6 full-time equivalent (FTE) fiscal services position to 1.0 FTE. Retirement contributions also add \$23,700 to the agency's planned outlays while the turnover is increased by \$23,500 to prepare for the impending retirement of three employees and accommodate the hiring process of the expanded fiscal services position.

Operating expenditures fall by \$34,800 overall, stemming primarily from declines in budgeted spending for medical examinations utilized to defend SIF cases in court of \$17,400 and consulting/legal services of \$9,300.

Impact of Cost Containment

The fiscal 2011 budget reflects several across-the-board actions to be allocated by the Administration. This includes a combination of employee furloughs and government shut-down days similar to the plan adopted in fiscal 2010; a reduction in overtime based on accident leave management; streamlining of State operations; hiring freeze and attrition savings; a change in the injured workers' settlement policy and administrative costs; and a savings in health insurance to reflect a balance in that account. For purposes of illustration, DLS has estimated the distribution of selected actions relating to employee furloughs and health insurance.

Exhibit 3
Proposed Budget
Subsequent Injury Fund
(\$ in Thousands)

How Much It Grows:	<u>Special</u> <u>Fund</u>	<u>Reimb.</u> <u>Fund</u>	<u>Total</u>
2010 Working Appropriation	\$1,914	\$60	\$1,974
2011 Allowance	<u>1,969</u>	<u>60</u>	<u>2,029</u>
Amount Change	\$55	\$0	\$55
Percent Change	2.9%		2.8%
 Contingent Reductions	 -\$45	 \$0	 -\$45
Adjusted Change	\$10	\$0	\$10
Adjusted Percent Change	0.5%	0.0%	0.5%

Where It Goes:

Personnel Expenses

Information Technology/Fiscal Services position enhancement and other salary changes	\$28
Retirement contributions	24
Employee and retiree health insurance	11
Turnover adjustments	-24
Other fringe benefit adjustments	5

Other Changes

Medical service support	-17
Legal service support	-6
Consulting services	-4
Data processing	-4
Other	-5

Total **\$10**

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

Issues

1. Fund Balance Status

The SIF receives special funds from a 6.5% assessment on awards against employers or insurers for permanent disability or death and amounts payable by employers or insurers under settlement agreements. In addition to providing for the agency's operating expenses, the assessment is designed to build reserves for the payment of benefits to qualified disabled workers injured on the job in accordance with awards approved by WCC. **Exhibit 4** shows the balance in the fund since the end of fiscal 2004.

Exhibit 4 Subsequent Injury Fund History Fiscal 2004-2010

<u>Fiscal Year</u>	<u>Balance</u>	<u>Percent Change</u>
2004	\$44,784,403	8.2%
2005	50,211,216	12.1%
2006	54,427,380	8.4%
2007	58,851,161	8.1%
2008	62,465,183	6.1%
2009	67,619,903	8.3%
2010 (Est.)	69,650,000	3.0%

Source: Subsequent Injury Fund

The fund has grown at an annual average rate of 8.74% over the last decade, leaving the estimated fiscal 2010 balance at \$69.7 million. Fund growth results from any positive differential between SIF's total outlays from benefit payments and agency expenses, and the total revenues collected from the assessment and interest returns on the balance. In each of the last five fiscal years, interest income alone has exceeded total operating expenditures. The intake from assessments has likewise exceeded benefit payouts each year over the same period. The estimated fiscal 2010 fund balance assumes a lower growth rate due to lower relative interest assessment receipts.

Actuarial Study of Liability

The SIF periodically conducts an actuarial study to calculate the outstanding liabilities that the fund's contents must pay for in the future. The agency's last liability valuation was conducted by Deloitte & Touche, LLP (Deloitte) in fiscal 2004. At the time, Deloitte calculated a total liability of \$201.0 million under an assumed 5% discount rate. The funded status, or the ratio of total assets held

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divided by the actuarial liability, of SIF's portfolio was consequently 20.5%, as the Fund held \$41.3 million in assets against its liabilities.

The SIF aims to complete the latest review by the end of the fiscal 2010 year. The agency is currently working with the Department of Budget and Management (DBM) to receive approval of its actuarial procurement, which was not a part of its fiscal 2010 appropriation. Previous studies have taken approximately three months to complete, so the SIF believes that if work begins before April, the required review can be completed by June 30, 2010. However, neither the current appropriation, nor the fiscal 2011 allowance provide funds for the review. A deficiency appropriation could, therefore, be required for the current fiscal year, but none has appeared to date. **The agency should comment on the funding of the actuarial review.**

2. Audit Findings and Shared Responsibilities with the Uninsured Employers' Fund

The recent Office of Legislative Audits (OLA) review of both the SIF and the Uninsured Employers' Fund (UEF) disclosed problems over accounts receivables and financial transaction record keeping arising from the shared duties of staff utilized by both agencies. The findings have prompted the development of an interagency memorandum of understanding (MOU) to address these concerns.

Major Audit Findings

The SIF maintains the accounts receivable records for itself and for the UEF. The accounts receivable balances fluctuate throughout the year but totaled \$27.3 million for both funds at the time of the auditor's report in January 2009. For this support, SIF receives \$60,000 in reimbursable funds each year from the UEF. OLA's primary concern was that the controls over accounts receivable and cash receipts were deficient because the same employee was responsible for duties related to both accounts receivable and cash receipts. To avoid fraud, the employee who maintains the accounts receivable records should not have access to the related cash receipts, and an independent review of accounts receivable functions is required for non-cash transactions.

Moreover, the arrangement by which the SIF rendered financial and accounting services to the UEF was judged to compromise effective internal control over financial transactions. This was the case because there was no process in place to ensure the propriety, accuracy, and completeness of transactions recorded in those records for the UEF accounts. Similarly, adequate documentation was not used to prepare the time reports submitted by the UEF to the State's Central Payroll Bureau. Time reports were not prepared using time records for the UEF employees that had been approved by supervisors. Instead, the employee who prepared the time reports relied on being notified (for example, by phone or e-mail) if payroll adjustments needed to be processed.

The bulk of these audit concerns reference potential security and fraud problems arising from the current interagency document interchange processes that involve multiple mailings and return fax

communications. The processes increase the possibility of errors in transmission and nonreceipt of data. They also require additional supervisory approvals that would not be an issue if the UEF performed all payables, receivables, and human resource operations in house.

Memorandum of Understanding

Consequently, an MOU was drafted in February 2010 but has not yet been ratified that proposes changes to the relationship between the two entities to address the audit's concerns. The MOU proposes a transfer of resources currently in the SIF appropriation to the UEF so that the UEF may carry out its own financial processing responsibilities. One financial position would be transferred to the UEF, and the \$60,000 annual reimbursable fund payment from the UEF to the SIF would be stopped. Under such an arrangement, the UEF would have the resources to complete the tasks it currently must rely upon the SIF to complete through a cumbersome, error-prone process, while the SIF would no longer be responsible for financial procedures that do not directly relate to its core business functions. The SIF and the UEF both highlight that such a change would eliminate the potential conflict of interest scenario the current process creates whereby the SIF and the UEF could be opposing litigants in worker's compensation cases.

DLS supports this transfer of responsibility and resources as an appropriate response to the OLA report. Functionally, such a switch would be assisted by programming that WCC, which processes the awards that yield both agencies' revenues, has developed that would enable unique connectivity to its system for both the SIF and the UEF. This upgrade will provide the UEF with direct WCC access, which it currently does not have, that would facilitate the UEF's assumption of these financial processing duties. **The agency should comment on the interagency agreement and the plan for facilitating a transfer of resources to UEF.**

Recommended Actions

1. Concur with Governor's allowance.

Current and Prior Year Budgets

Current and Prior Year Budgets
Subsequent Injury Fund
(\$ in Thousands)

	<u>General</u> <u>Fund</u>	<u>Special</u> <u>Fund</u>	<u>Federal</u> <u>Fund</u>	<u>Reimb.</u> <u>Fund</u>	<u>Total</u>
Fiscal 2009					
Legislative Appropriation	\$0	\$1,885	\$0	\$60	\$1,945
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	0	24	0	0	24
Cost Containment	0	-27	0	0	-27
Reversions and Cancellations	0	-32	0	0	-32
Actual Expenditures	\$0	\$1,849	\$0	\$60	\$1,909
Fiscal 2010					
Legislative Appropriation	\$0	\$1,953	\$0	\$60	\$2,013
Cost Containment	0	-39	0	0	-39
Budget Amendments	0	0	0	0	0
Working Appropriation	\$0	\$1,914	\$0	\$60	\$1,974

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

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Fiscal 2009

- A special fund amendment transferred \$24,064 to the SIF for the 2% cost-of-living adjustment that was centrally budgeted in DBM.
- Cost containment actions in June 2008 and March 2009 reduced the SIF appropriation by \$27,396, representing across-the-board reductions for telecommunications expenditures and employee furloughs.
- A cancelation of \$32,235 was returned to the fund at closeout for unexpended funds allocated for medical examinations utilized to defend the SIF in court cases.

Fiscal 2010

- The cost containment action of August 2009 reduced the SIF appropriation by \$39,198 to represent savings from employee furloughs.

Audit Findings

Audit Period for Last Audit:	April 25, 2005 – January 22, 2008
Issue Date:	April 2009
Number of Findings:	9
Number of Repeat Findings:	5
% of Repeat Findings:	56%
Rating: (if applicable)	

Finding 1: **The SIF had established virtually no controls over accounts receivable. The same employee was responsible for many incompatible duties related to accounts receivable and cash receipts.**

Finding 2: Automated accounts receivable records processed by the SIF for the UEF were not adequately maintained. There was no process in place to ensure the propriety, accuracy, and completeness of transactions recorded in those records for the UEF accounts

Finding 3: The SIF did not comply with the Central Collections Unit (CCU) requirements for the collection of unpaid assessments. The SIF did not refer its delinquent accounts receivable to CCU in a timely manner. In addition, all appropriate actions were not taken to collect the SIF’s outstanding accounts receivable

Finding 4: **Adequate internal control had not been established over cash receipts. The employee who processed collections for deposit also performed the daily deposit verifications and could modify the initial receipt record which accompanied the collections and which was used in these verifications.**

Finding 5: Certain users’ capabilities on the automated accounts receivable and payable system compromised effective internal control: one employee who had access to cash receipts also had the capability to add, modify, or delete accounts receivable records and to add or modify accounts payable records.

Finding 6: **The SIF did not adequately address physical security, environmental controls, and disaster recovery over its information technology operations. The keypad lock combination for the computer access keypad system had not been changed for several years and no information technology disaster recovery plan for recovering from disaster scenarios such as a fire were in place.**

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Finding 7: The SIF did not adequately restrict contractor access to critical systems and did not adequately monitor computer security events. The SIF granted its contractor complete security control of its computer system and it did not review the security report logs of critical security events.

Finding 8: Adequate documentation was not used to prepare the time reports submitted to the State's Central Payroll Bureau. Time reports were not prepared using time records for its employees and for the UEF employees that had been approved by supervisors. Instead, the employee who prepared the time reports relied on being notified (for example, by phone or e-mail) if payroll adjustments needed to be processed.

Finding 9: SIF did not adhere to State Procurement Regulations when procuring certain information technology services. During the period from April 2005 to January 2008, the SIF obtained information technology services totaling \$52,388 from one vendor without soliciting competitive bids, preparing a written contract or purchase orders, or preparing a written sole source justification for these purchases.

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

**Object/Fund Difference Report
Subsequent Injury Fund**

<u>Object/Fund</u>	<u>FY09 Actual</u>	<u>FY10 Working Appropriation</u>	<u>FY11 Allowance</u>	<u>FY10 - FY11 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	17.60	17.60	18.00	0.40	2.3%
Total Positions	17.60	17.60	18.00	0.40	2.3%
Objects					
01 Salaries and Wages	\$ 1,475,813	\$ 1,511,890	\$ 1,601,749	\$ 89,859	5.9%
02 Technical and Spec. Fees	213,857	252,355	229,158	-23,197	-9.2%
03 Communication	23,013	27,861	26,216	-1,645	-5.9%
04 Travel	21,999	22,000	21,009	-991	-4.5%
08 Contractual Services	43,359	36,023	28,914	-7,109	-19.7%
09 Supplies and Materials	22,934	19,300	17,500	-1,800	-9.3%
10 Equipment – Replacement	9,067	0	0	0	0.0%
12 Grants, Subsidies, and Contributions	33,930	33,930	33,930	0	0%
13 Fixed Charges	65,145	70,569	70,509	-60	-0.1%
Total Objects	\$ 1,909,117	\$ 1,973,928	\$ 2,028,985	\$ 55,057	2.8%
Funds					
03 Special Fund	\$ 1,849,117	\$ 1,913,928	\$ 1,968,985	\$ 55,057	2.9%
09 Reimbursable Fund	60,000	60,000	60,000	0	0%
Total Funds	\$ 1,909,117	\$ 1,973,928	\$ 2,028,985	\$ 55,057	2.8%

Note: The fiscal 2010 appropriation does not include deficiencies.