

Iowa Attorney General's Office Second Injury Fund

The Attorney General's Office respectfully requests that the Justice Systems Appropriation Bill include a provision increasing the reimbursement for Second Injury Fund defense work from \$150,000 to \$215,000. No general fund dollars are involved and the increase would not trigger additional assessments on insurers.

History and Purpose of the Second Injury Fund. In 1945, the Iowa Legislature responded to the return of disabled World War II veterans to the work force by establishing the Second Injury Fund (Fund) to encourage hiring and retaining disabled workers by relieving the employer's obligation to pay potentially increased workers' compensation benefits to previously disabled employees who suffer an on-the-job injury.

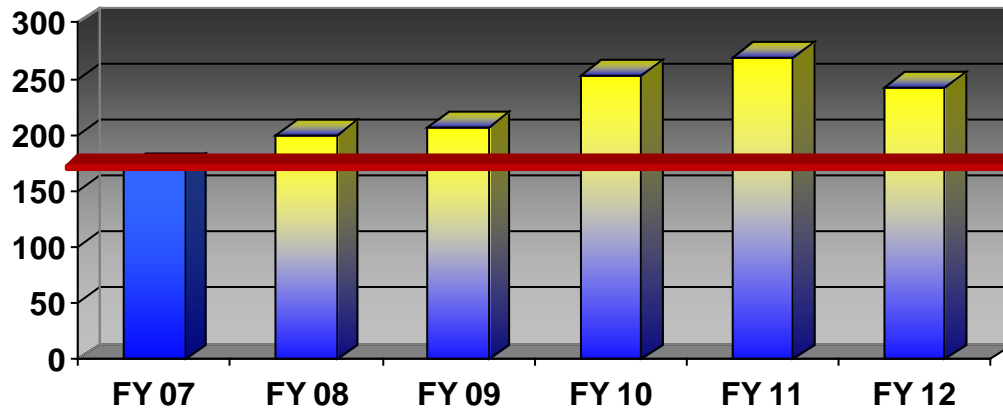
How the Fund Works. If a claimant has a qualifying first and second injury, the industrial disability, if any, is determined by considering the impact of the physical injuries on the ability to earn income, using factors such as education, work history, and transferable skills. Then the compensable value of the second injury standing alone (paid by the employer) is deducted and the compensable value of the first injury standing alone (which does not have to be a work comp injury) is also deducted. These values are determined from the list of scheduled injuries on the basis of functional disability alone. The balance is the amount of weekly benefits to be paid from the Fund.

Payments to the Fund. Payments to the Fund are made by employers/insurance carriers in cases where a compensable injury results in the death of an employee. The commissioner of insurance is also authorized to impose surcharges on employers/insurance carriers if the commissioner determines that monies in the Fund will be insufficient to pay outstanding liabilities of the Fund. **The proposed increased reimbursement would not trigger a surcharge.**

Attorney General's Representation. The Attorney General's Office (Office) is required to provide representation to the state treasurer in all matters arising in connection with the Fund. Beginning in FY 1998, the Legislature included \$150,000 in the Office's base budget for the costs of this representation. Beginning in FY 2004, the Legislature approved a \$50,000 annual reimbursement to the Office. Beginning in FY08, the Legislature approved an additional \$100,000 reimbursement for a total reimbursement of up to \$150,000.

Since FY07, the Fund caseload has increased significantly as indicated in this graph:

Second Injury Fund Cases



The Office would like to hire an entry level attorney to assist in handling these cases. Salary and benefits would be approximately \$65,000.

Justice Systems Appropriation Bill. The Office requests a provision in the Justice Systems Appropriation Bill that would increase the annual reimbursement to the Office from \$150,000 to \$215,000 to allow the hiring of an entry level attorney. It is appropriate that monies in the Fund are used to pay for quality defense of claims made against the Fund. **No general fund dollars are involved and the increase would not trigger additional assessments on insurers. As of February 4, 2013, the balance in the Fund was approximately \$4 million.**

Proposed Language. Amend section 85.67 to read as follows: “The attorney general shall be reimbursed up two hundred and fifteen thousand dollars annually from the fund for services provided related to the fund.”