Workers' Compensation Agency

Funds Administration Overview

April 2007

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State of Michigan

Keith W. Cooley, Director
Department of Labor & Economic Growth

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Second Injury Fund
Silicosis, Dust Disease &
Logging Industry Compensation Fund
Self-Insurers' Security Fund

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Executive Summary

The Funds Administration consists of the Second Injury Fund, the Silicosis, Dust Disease and Logging Industry Compensation Fund, and the Self-Insurers' Security Fund. The Funds Administration is managed by a board of three trustees. Two of the trustees are appointed by the governor with the advice and consent of the senate. One represents employers authorized to act as self-insurers in Michigan and the other represents the insurance industry. The third trustee is the director of the Workers' Compensation Agency.

Legal advice, as well as individual case representation, is secured from the Workers' Compensation Unit within the Labor Division of the Department of the Attorney General. In addition to the Assistant Attorney General in Charge of the Labor Division and the Workers' Compensation Unit Section Head, there are six Assistant Attorneys General and 25 Special Assistant Attorneys General who handle the trial and appellate work for the Funds Administration.

The Funds Administration is funded 100% by insurers who write workers' compensation policies in the State of Michigan, and employers who self-insure their workers' compensation liability. These assessments cover all benefits paid by the Funds Administration, and all administrative and litigation costs. Each of the three funds makes a separate assessment. The Second Injury Fund and Silicosis, Dust Disease and Logging Industry Compensation Fund assessments are paid by insurance companies and self-insured employers. The Self-Insurers' Security Fund assessments are made only against private self-insured employers.

The Medical Benefit Reimbursement Provision [MCL 418.862(2)] is also administered by the Funds Administration. Funds for this provision, however, come through the State of Michigan General Fund.

I hope you find this overview informative, and if you have any questions please call the Funds Administration office directly at (517) 241-8999.

Dennis S. Morrill

Funds Administration Staff

Dennis S. Morrill	**Funds Administrator**	**(517) 241-8929**
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Allison Kelly	Program Analyst	(517) 241-8928
Valerie Hart	Assessment Coordinator	(517) 241-8926

Sharon D. Baisden	**Assistant Funds Administrator**	**(517) 241-8950**
Ellen Feldpausch	Program Specialist	(517) 241-8945
Ray Dwyer	Program Specialist	(517) 241-8947

Handles:

- Total and Permanent Disability Provision of the Second Injury Fund - Sections 351, 361 (3), 521
- Two Years of Continuous Disability Provision of the Second Injury Fund - Section 356(1)
- 70% Reimbursement Provision of the Second Injury Fund - Section 862(1)
- Vocationally Handicapped Provision of the Second Injury Fund - Chapter 9
- Medical Benefit Reimbursement - Section 862(2)

Janice Remer	**Assistant Funds Administrator**	**(517) 241-8940**
Brian Banfield	Program Specialist	(517) 241-8942
Robert Mills	Program Specialist	(517) 241-8944
Cheryl Moyer	Senior Claims Examiner	(517) 241-8935

Handles:

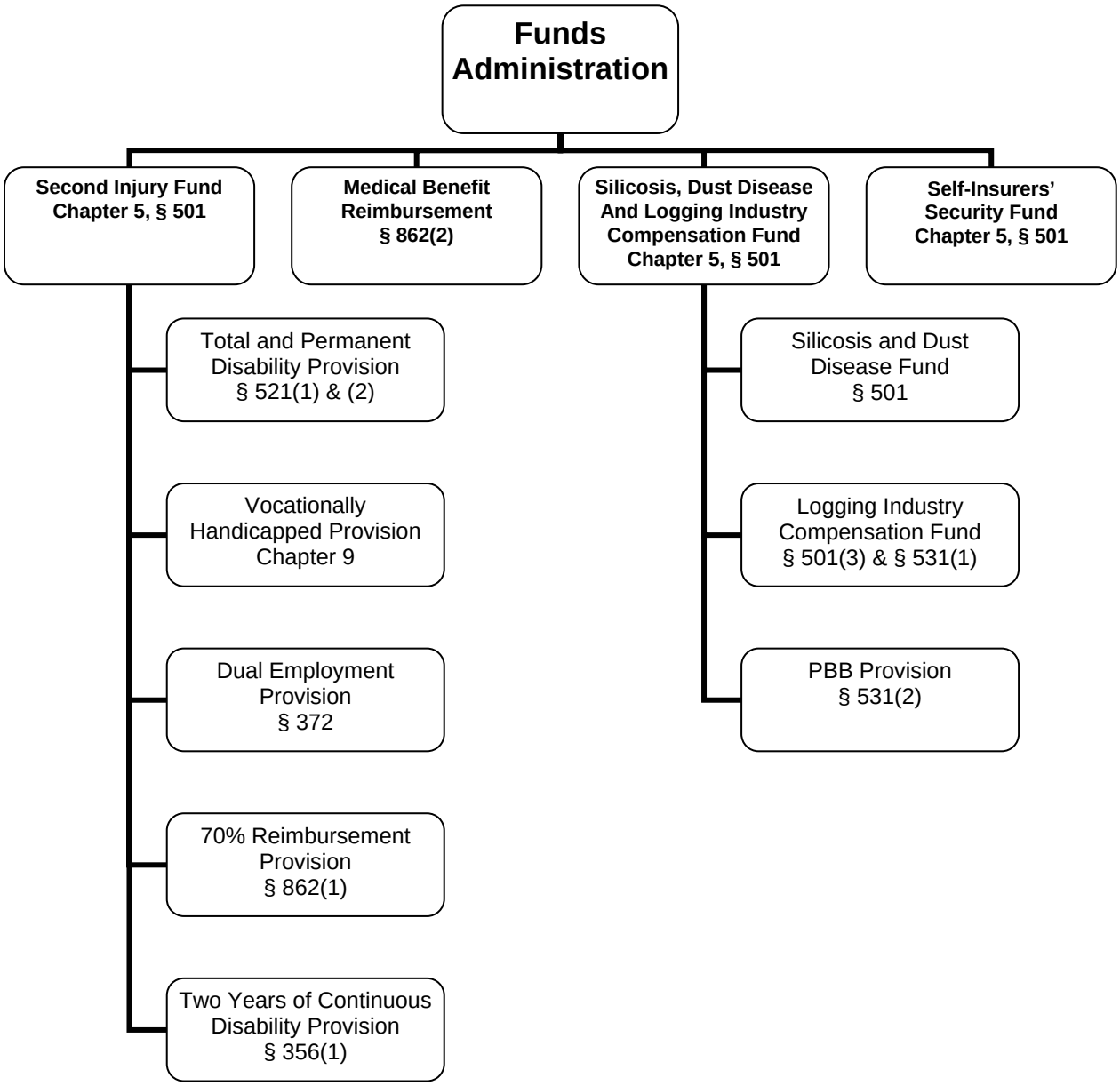
- Dual Employment Provision of the Second Injury Fund - Section 372
- Silicosis, Dust Disease and Logging Industry Compensation Fund - Chapter 5

Richard W. Smith	**Assistant Funds Administrator**	**(517) 241-8920**
George Chipman	Program Specialist	(517) 241-8931
James Messenger	Senior Claims Examiner	(517) 241-8948

Handles:

- Self-Insurers' Security Fund - Chapter 5
- Fiscal Management
- Information Technology

State Funds Handled by the Funds Administration



Second Injury Fund

The Second Injury Fund has five distinct responsibilities under the Workers' Disability Compensation Act:

- Total and Permanent Disability Provision
- Vocationally Handicapped Provision
- Dual Employment Provision
- Seventy Percent Reimbursement Provision
- Two Years of Continuous Disability Provision

Total and Permanent Disability Provision

Total and permanent disability benefits are provided to individuals who meet the definition of total and permanent disability under the terms of the Workers' Disability Compensation Act. Under section 361(3), total and permanent disability, compensation for which is provided in section 351 means:

a) Total and permanent loss of sight of both eyes.
b) Loss of both legs or both feet at or above the ankle.
c) Loss of both arms or both hands at or above the wrist.
d) Loss of any two of the members or faculties in the subdivisions (a), (b), or (c).
e) Permanent and complete paralysis of both legs or both arms or of one leg and one arm.
f) Incurable insanity or imbecility.
g) Permanent and total loss of industrial use of both legs or both hands or both arms or one leg and one arm; for the purpose of this subdivision such permanency shall be determined not less than 30 days before the expiration of 500 weeks from the date of injury.

Sequential losses (also called 8A cases) - 521(1) - If there is a prior loss of a hand, arm, foot, leg or eye, followed by the compensable loss of one or more of the above, the fund assumes payment of the basic weekly benefit after the carrier has paid for the second specific loss.

Differential benefits - 521(2) - Benefits paid by the Second Injury Fund to a totally and permanently disabled employee. The differential benefit is the difference between the statutory weekly rate payable by the employer or insurance carrier for the date of injury and the weekly benefit rate now provided by the statute.

Statutory Benefit Levels:

- Eighty percent (80%) of employee's after-tax weekly wage - Section 351(1)
- Two-thirds (2/3) of the employee's average weekly wage - Section 351(3) (note: cannot exceed the 1981 maximum benefit level)
- Maximum - 90% of the state's average weekly wage - Section 355(1)
- Minimum - 25% of the state's average weekly wage - Section 356(3)
- Fifty percent (50%) of the state's average weekly wage - applicable in cases with dates of injury before 7/1/68 - Section 351(2)
- Two-thirds (2/3) of the state's average weekly wage, inclusive of the value of discontinued fringe benefits, applicable in cases with dates of injury after 12/31/81 - Section 371(2)

Factors used to determine the Second Injury Fund total and permanent disability benefit rate and accrued compensation:

- Date of injury
- Average weekly wage
- Value of discontinued fringe benefits
- Dependents
- Income tax filing status
- Date of birth of employee and dependents
- Carrier's weekly benefit rates for the period of fund payment
- Date of total and permanent disability
- Date of first notice (for application of the two-year back rule in cases with dates of injury after 6/30/68)
- Supplemental benefit rate, period and amount paid in cases with dates of injury from 9/1/65 through 12/31/79

Total and permanent differential benefits may be paid directly to the employee by the fund if the carrier is either unable to pay, has no separate obligation to pay, or has redeemed liability. This provision of the fund pays and/or reimburses weekly differential benefits only. Reimbursements are made to the carrier every six months. Redemption by an employer or insurance carrier before an admission or adjudication of liability for permanent and total disability extinguishes an employee's claim for benefits from the Second Injury Fund. When an employee and the employer or insurance carrier redeem the employer's liability after all parties concede permanent and total disability or there is an adjudication of permanent and total disability, the employee's claim for benefits from the Second Injury Fund can continue. Once it is agreed or determined by final decision that an employee is permanently and totally disabled, redemption by the employer or insurance carrier will not affect the responsibility of the Second Injury Fund to pay benefits to the claimant. The fund will pay weekly benefits to the employee for as long as the employee is permanently and totally disabled as defined in the workers' compensation statute. The Second Injury Fund will consider redemption after all parties have conceded or there has been an adjudication regarding permanent and total disability. The fund may redeem in conjunction with, or separate from, the employer or insurance carrier.

Vocationally Handicapped Provision

This program encourages Michigan employers to hire individuals with medically identifiable impairments of the back or heart, or who are subject to epilepsy or diabetes when these impairments cause a substantial obstacle to employment. The Department of Labor & Economic Growth, Michigan Rehabilitation Services and the Second Injury Fund jointly administer this program.

In the event of a work-related injury, the Second Injury Fund will either reimburse or pay direct workers' compensation benefit obligations beyond 52 weeks after the date of injury when all provisions of Chapter 9 have been met. The Second Injury Fund is also responsible for vocational rehabilitation costs from the date of injury.

An employer or carrier must complete the certification process in order to receive the protection of Chapter 9. Employer certification is invalid if the person was employed with the same employer within 52 weeks of issuance of the certificate. A certification is invalid if the employer certification is not filed with the Michigan Rehabilitation Services within 60 days after the first day of employment, or before an injury for which benefits are payable under the Act.

A carrier must place the Second Injury Fund on notice not less than 90 nor more than 150 days before the expiration of 52 weeks from the date of injury when it is likely that compensation may be payable beyond a period of 52 weeks after the date of injury.

Dual Employment Provision

Section 371(2) provides that an injured employee engaged in more than one employment at the time of injury is entitled to weekly benefits based on all wages earned in **employments covered** by the Michigan Workers' Disability Compensation Act. Section 372 provides for proportionate reimbursement from the Second Injury Fund. This provision applies to dates of injury on or after January 1, 1982.

Examples of dual employment situations **not** covered:

- Federal employment (excluding military members of the Michigan National Guard).
- Sole proprietorships, self-employment, and independent contractors.
- Partnerships or corporations where the owner/employee or other family members have excluded themselves from workers' compensation coverage.
- Domestic workers.
- Real Estate salespeople/brokers.

The dual employment provision does not have reimbursement liability in the following situations:

- There is no wage loss from the non-injury employer.
- The injured worker is not disabled from performing the non-injury job.
- Both employers are agricultural.
- Earnings from the non-injury employer were not reported to the Internal Revenue Service.
- Both jobs caused the disability.
- The non-injury employment is not covered under the act.

In calculating the employee's benefit rate, the average weekly wage for each employer is calculated separately, in accordance with Section 371, and then combined. If the employment which caused the personal injury or death provides 80% or less of the employee's total average weekly wage, the fund will reimburse its apportionment share of the weekly rate based on the ratio of the employee's average weekly wage at the non-injury employer to the total average weekly wage. If the place of injury or death provided more than 80% of the total average wage, there will be no reimbursement from the fund. However, the employer is responsible for compensation based on the total average weekly wage.

This provision reimburses the carrier for weekly benefits. This provision does not reimburse uninsured employers and has no statutory authority to pay disabled employees directly. Reimbursement should be requested quarterly on the Form 112, Application for Reimbursement.

70% Reimbursement Provision

Defendants who appeal an open award by a workers' disability compensation magistrate must pay 70% of the awarded weekly compensation benefits while the case is on appeal. If the award of benefits is later rescinded or reduced by final determination, excess weekly benefit payments are reimbursable by the Second Injury Fund.

Seventy percent (70%) benefits are payable from the mailed date of the magistrate's decision. Weekly benefits should be paid in accordance with the act (i.e., apply age reductions, coordination, dependency changes, partial, etc.). When there is a final award, credit should be taken for 70% benefits paid against what is due by final order. If more money has been paid than owed, the excess is reimbursed by the fund. If less has been paid than owed, the balance is due with interest. Weekly benefits paid by one carrier must be taken as a credit if another carrier is responsible.

Two Years of Continuous Disability Provision

The statute provides that if a person is injured on or after January 1, 1982 and, at the time of personal injury, is entitled to a compensation rate less than 50% of the state average weekly wage, after two years of continuous disability, the employee may petition for an increase in the rate of compensation. The employee may present evidence, that by virtue of the employee's age, education, training, experience or other documented evidence, the employee's earnings would have been expected to increase. Factors which affect all employees in a similar manner, such as inflation, should not be considered when determining whether a disabled employee qualifies for a rate increase. A magistrate may order an adjustment of the compensation rate up to 50% of the state's average weekly wage for the year in which the employee's injury occurred. The amount of the adjustment to the compensation rate is reimbursable by the Second Injury Fund. Only one adjustment is made for an employee and the adjustment is made from the date the petition was filed. This provision does not apply to partially disabled workers.

Redemption by a carrier before an admission of or an adjudication regarding the employer's liability extinguishes both the employee's right to seek a rate increase under the two years of continuous disability provision and the employer's right to seek reimbursement from the fund. Once it is agreed or determined by final decision that an employee is entitled to a rate increase after two years of continuous disability, the carrier can redeem its liability independent of the second injury fund, however, the carrier must continue to pay the two years of continuous disability benefit to the employee and seek reimbursement from the fund.

Silicosis, Dust Disease and Logging Industry Compensation Fund

The Silicosis, Dust Disease and Logging Industry Compensation Fund has three separate types of responsibilities:

- Silicosis and Dust Disease Fund
- Logging Industry Compensation Fund
- PBB Provision

For claims with dates of injury from May 1, 1966 through June 30, 1985, reimbursement occurs after the employee has been paid more than $12,500 in weekly benefits. Claims with dates of injury on or after July 1, 1985, carriers will pay $25,000 or 104 weeks of benefits, whichever is greater, before reimbursement is due. The fund does not reimburse medical, burial expense, rehabilitation costs, penalty or interest payments. It is the employer that adds the Silicosis, Dust Disease and Logging Industry Compensation Fund to a litigated case. The employee cannot add the fund.

The fund has the right to reimbursement and credit from third party recoveries pursuant to MCLA 428.827. Carriers who obtain third party reimbursement, must repay those monies before reimbursement resumes from the fund. The carrier is expected to avail itself of its right to reimbursement and where it has failed to do so will be held accountable for monies it was entitled to recoup [Nelligan v Gibson Insulation 193 Mich App 274; 483 NW2d 460 (1992)].

Silicosis and Dust Disease Fund

The Dust Fund provides reimbursement to the carrier for the payment of weekly benefits to an employee disabled from silicosis, pneumoconiosis, phthisis and asbestosis. The Dust Fund also reimburses for silica related lung conditions from the foundry industry. If the disability or death is caused by cancer or “other dust disease” the employer must prove threat to the industry to qualify for reimbursement.

Logging Industry Compensation Fund

The Logging Fund reimburses carriers for the payment of weekly workers’ compensation benefits to individuals who sustained personal injury or death out of the course of employment in the logging industry, specifically employment described in the workers’ compensation and employer’s liability insurance manual entitled, “logging or lumbering and driver’s code no. 2702,” in effect in 1980. The classification 2702 includes all aspects of the logging operation with the exception of clerical employees and outside sales. Sawmill operations are separately rated.

PBB Provision

The PBB provision provides reimbursement to carriers for weekly benefits paid as a result of disability or death caused by, contributed to, or aggravated by exposure to polybrominated biphenyl (PBB) if exposure occurred before July 24, 1979, by an employer located in Michigan engaged in the manufacture of PBB. The fund has yet to reimburse a claim.

Self-Insurers' Security Fund

The Self-Insurers' Security Fund provides workers' compensation benefits to employees of bankrupt self-insured employers who become insolvent after November 15, 1971. If a private self-insured employer becomes insolvent, payments are made from the Self-Insurers' Security Fund when three conditions are met:

- The private self-insured employer is insolvent.
- Employee requests payment of benefits from the Funds Administrator or files a petition with the Workers' Compensation Agency.
- The insolvent private self-insured employer is unable to continue payments.

The fund pays from the date all three conditions are met. No payments for benefits owed before that date are paid by the fund. The fund does not pay if the employer is uninsured. Public employers are not covered. In the event of a bankruptcy, the employee should also file a claim in bankruptcy court for any workers' compensation benefits the fund cannot pay.

The Self-Insurers' Security Fund, when triggered, may utilize financial guarantees posted with the agency to pay claims (Rule 408.43q). In addition, both specific and aggregate excess liability insurance policies continue to have responsibility for payments when retention levels have been met (Rule 408.43k).

Medical Benefit Reimbursement

Reimbursement of medical benefits is a program administered within the Funds Administration. The objective of this program is to administer and provide reimbursement to the carrier for medical benefits paid to the claimant between the date of the magistrate's award and the date of the final determination of the appeal. If the final determination of the appeal has reversed the medical benefit awarded in the magistrate's decision, then reimbursement for payments would be processed and administered by the agency and paid from the general fund of the state. Once the final appeal process has been completed, the agency is required to provide a thorough review of any application for reimbursement submitted by the carrier. The staff must examine copies of the original medical bills and all final decisions (magistrate or appellate orders) to determine that reimbursement for medical costs is appropriate. After ensuring specific criteria and provisions of Section 862(2) and Rule 408.32a are met, then the reimbursement application is processed by the program staff and the department's finance division.

Assessment Multipliers

Year	Date	Multipliers - Employers			Multipliers - Insurance	
		SIF	SDDF	SISF	SIF	SDDF
2007	05/04/07	.0214	.00155	.02774	.00798	.00058
2006	06/20/06	.01665	.00214	.02	.00625	.0008
2005	04/29/05	.01683	.00277	.03	.00612	.00101
2004	04/30/04	.00709	.0002	.03	.00252	.00007
2003	05/30/03	.02591	.00557	.02511	.00971	.00209
2002	05/09/02	.01045	.00217	.01198	.00399	.00083

Public Act 25, effective January 1, 2002*

Year	Date	Multipliers		
		SIF	SDDF	SISF
2001	03/09/01	.04250	.00286	.00393
2000	03/30/00	.01469	----------	.00454
1999	03/29/99	.01879	.00813	----------
1998	04/01/98	.02292	.00283	----------
1997	04/07/97	.02492	.00576	.0041
1996	04/22/96	.03468	.00847	.002

*With the changes brought about by Public Act 25 of 2002, insurers now pay their portion of the total assessment based on direct premiums written in the previous year as reported by the Compensation Advisory Organization of Michigan. Although the assessment process has changed, the amount of monies collected remains the same. Each of the three funds makes a separate assessment. The Second Injury Fund and Silicosis, Dust Disease and Logging Industry Compensation Fund assessments are paid by insurance companies and self-insured employers. The Self-Insurers' Security Fund assessments are made only against private self-insured employers.

Second Injury Fund.....SIF
Silicosis, Dust Disease and Logging Industry Compensation Fund .....SDDF
Self-Insurers' Security Fund.....SISF

2007 ASSESSMENTS:

SECOND INJURY FUND:

Beginning Fund Balance: 1-1- 2006		$13,404,264.34
Revenues:		
Assessments:	$15,425,897.01	
Third Party Recovery:	$0.00	
Interest Earnings:	$492,883.38	
Miscellaneous:	$56,248.16	
Total Revenues:		$15,975,028.55
Available Funds:		$29,379,292.89
Disbursements:	$17,677,010.76	
Multiplier:	x1.75	$30,934,768.83
Ending Fund Balance: 12-31-2006:	$11,702,282.13	
	-$200,000.00	-$11,502,282.13
2007 SIF ASSESSMENT:		**$19,432,486.70**

SILICOSIS & DUST DISEASE FUND:

Beginning Fund Balance: 1-1- 2006:		$2,638,099.04
Revenues:		
Assessments:	$2,001,022.91	
Third Party Recovery:	$20,469.55	
Interest Earnings:	$106,221.18	
Miscellaneous:	$6,519.29	
Total Revenues:		$2,134,232.93
Available Funds:		$4,772,331.97
Disbursements:	$2,174,068.25	
Multiplier:	x 1.75	$3,804,619.44
Ending Fund Balance: 12-31-2006:	$2,598,263.72	
	-$200,000.00	-$2,398,263.72
2007 SDDF ASSESSMENT:		**$1,406,355.72**

2007 SIF AND SDDF ASSESSMENT
UPDATED WORKSHEET

SELF-INSURED EMPLOYERS:	Public Losses:	Private Losses:	Total Losses:
Individual Reports:	$76,872,978.93	$284,996,693.67	$361,869,672.60
Estimated CY2006 Payments:	$11,668,332.99	$40,552,562.27	$52,220,895.26
Total:	$88,541,311.92	$325,549,255.94	$414,090,567.86

INSURANCE COMPANIES:	Ins. Comp. Losses:	Direct Premiums Written:
Individual Reports:	$466,674,368.67	$1,324,762,467
Estimated CY2006 Payments:	$27,481,570.94	
Total:	$494,155,939.61	

TOTAL PAYMENTS DURING CY2006:	Amount:	Percent:
Self-Insured Employers:	$414,090,567.86	0.45592
Insurance Companies:	$494,155,939.61	0.54408
Total:	$908,246,507.47	

2007 ASSESSMENT RATES FOR SELF-INSURED EMPLOYERS:

SILICOSIS AND DUST DISEASE FUND:

($1,406,355.72 * 0.45592) / $414,090,567.86 = $641,185.70 / $414,090,567.86 = .00155

Assessment Rate: **.00155**

SECOND INJURY FUND:

($19,432,486.70 * 0.45592) / $414,090,567.86 = $8,859,659.34 / $414,090,567.86 = .0214

Assessment Rate: **.0214**

2007 ASSESSMENT RATES FOR INSURANCE COMPANIES:

SILICOSIS AND DUST DISEASE FUND:

($1,406,355.72 * 0.54408) / $1,324,762,467 = $765,170.02 / $1,324,762,467 = .00058

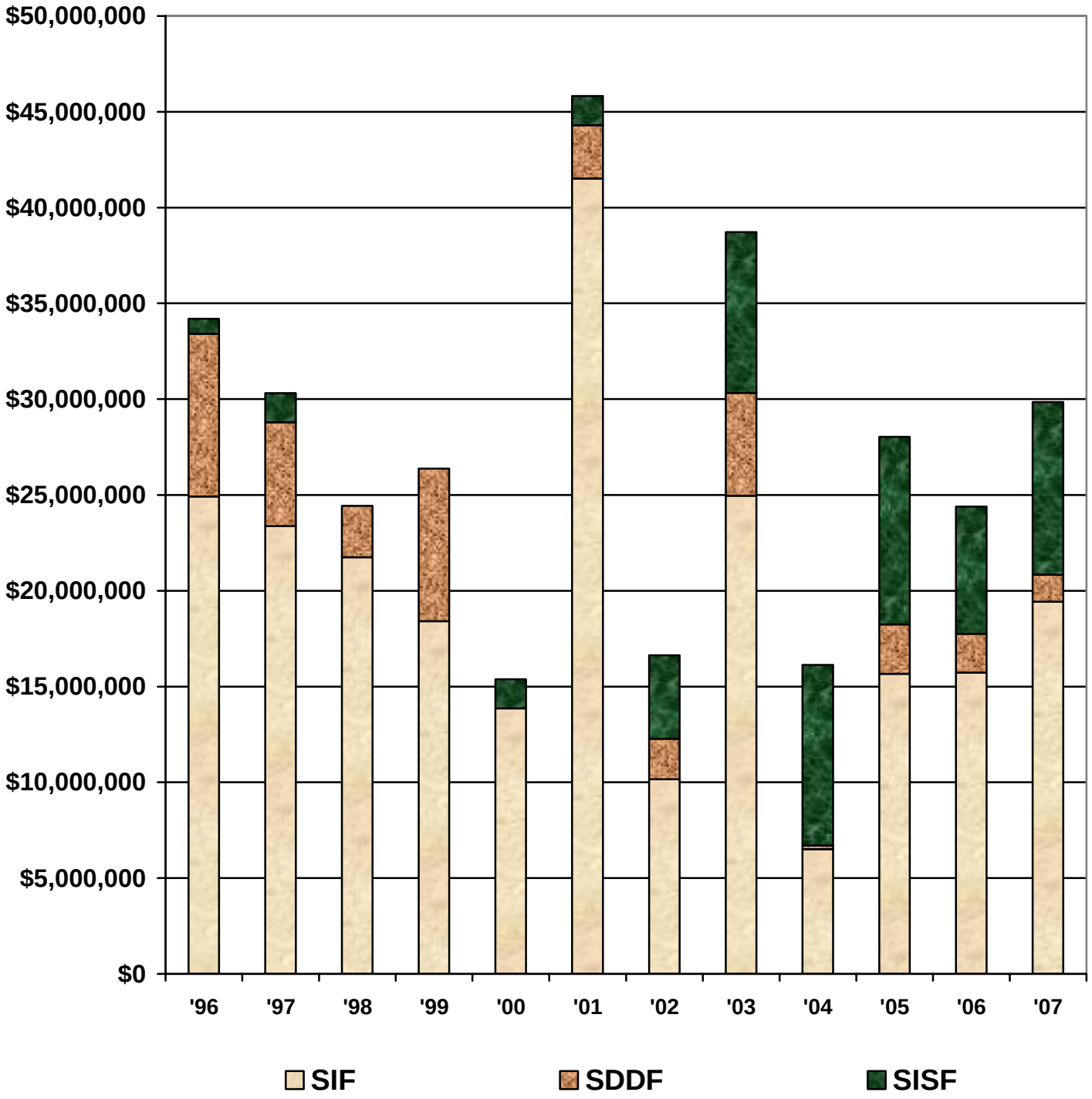
Assessment Rate: **.00058**

SECOND INJURY FUND:

($19,432,486.70 * 0.54408) / $1,324,762,467 = $10,572,827.36 / $1,324,762,467 = .00798

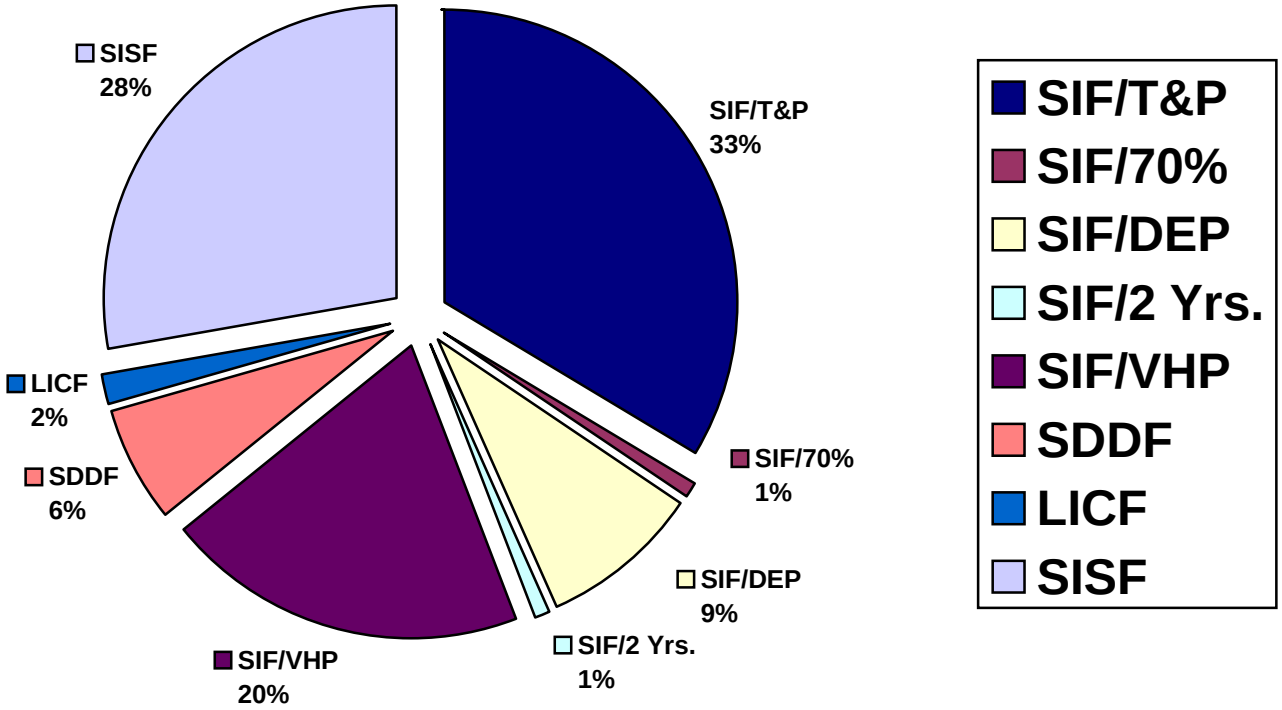
Assessment Rate: **.00798**

Assessment Collections



2006 Calendar Year Total Expenditures (Total expenditures include costs of litigation & administration)		
Second Injury Fund		**$17,677,010.76**
❖ Total & Permanent Disability Provision	$9,263,637.06	
❖ Vocationally Handicapped Provision	$5,493,237.99	
❖ Dual Employment Provision	$2,496,225.55	
❖ 70% Reimbursement Provision	$193,296.17	
❖ Two Years of Continuous Disability Provision	$230,613.99	
Silicosis, Dust Disease and Logging Industry Compensation Fund		**$2,174,068.25**
❖ Silicosis and Dust Disease Fund	$1,735,618.43	
❖ Logging Industry Compensation Fund	$438,449.82	
❖ PBB	$0	
Self-Insurers' Security Fund		**$7,671,424.94**
Total of All Fund Payments		**$27,522,503.95**

2006 Fund Provision Percentage of Expenditures

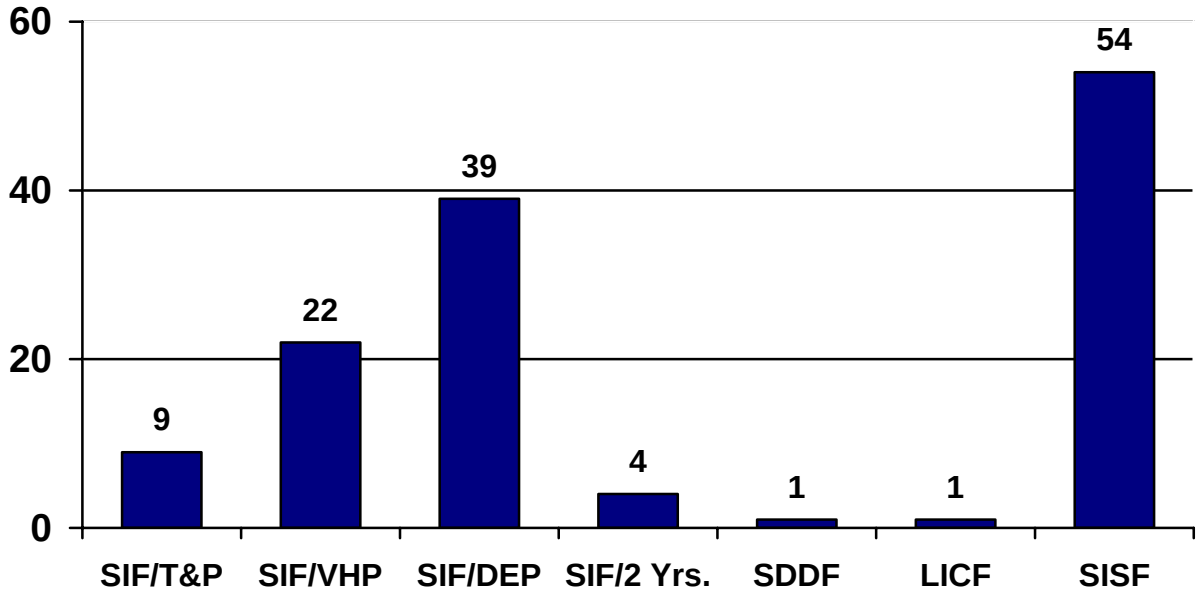


2006 Redemption Payments

(These payments are included in the calendar year payment summary)

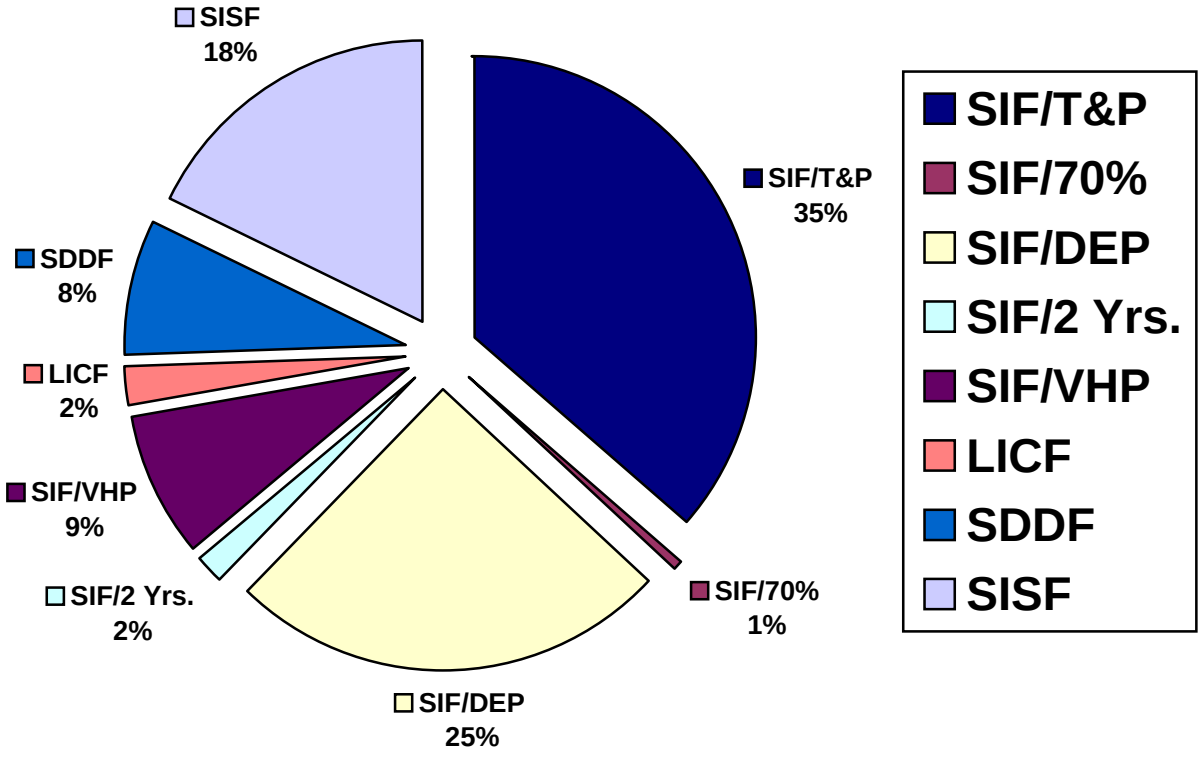
Fund	Claims Redeemed	Total Payments
Second Injury Fund:		
❖ Total & Permanent Disability Provision	9	$183,350.00
❖ Vocationally Handicapped Provision	22	$1,478,412.82
❖ Dual Employment Provision	39	$648,064.73
❖ 70% Reimbursement Provision	0	$0
❖ Two Years Continuous Disability Provision	4	$109,433.33
Second Injury Fund Total:	**74**	**$2,419,260.88**
Silicosis, Dust Disease and Logging Industry Compensation Fund:		
❖ Silicosis and Dust Disease Fund	1	$2,500.00
❖ Logging Industry Compensation Fund	1	$1,000.00
SDDF/LICF Total:	**2**	**$3,500.00**
Self-Insurers' Security Fund Total:	**54**	**$2,327,162.38**
All Fund Totals:	**130**	**$4,749,923.26**

2006 Redemptions by Fund Provision

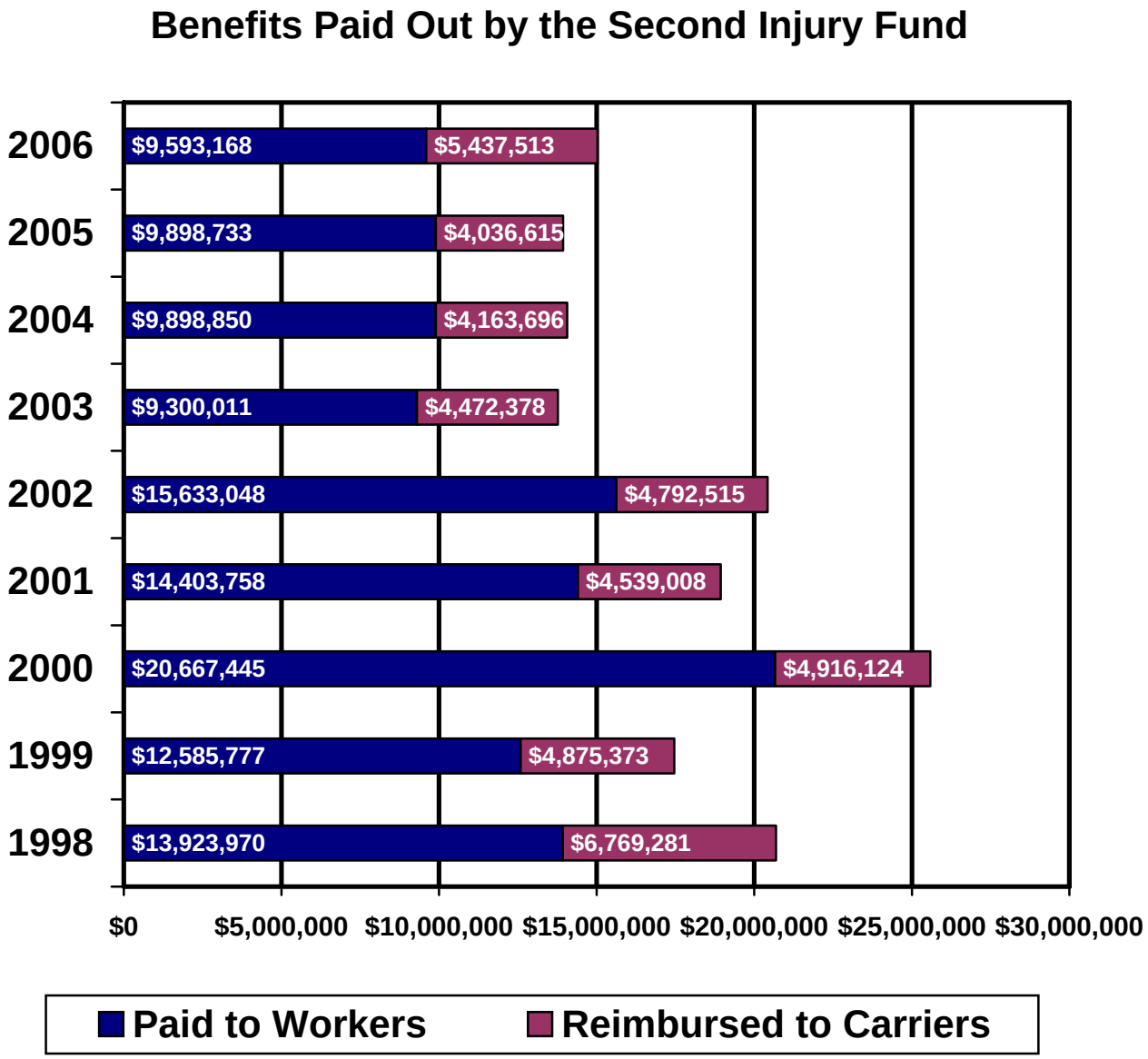


2006 Case Activity Total				
Fund/Provision	**Payment/ Reimbursement**	**Non-Litigation**	**Litigation**	**Total**
Second Injury Fund	**1,487**	**308**	**783**	**2,578**
❖ Total & Permanent Disability Provision	1,073	54	167	1,294
❖ Dual Employment Provision	193	211	495	899
❖ Two Years of Continuous Disability Provision	30	0	31	61
❖ Vocationally Handicapped Provision	182	34	87	303
❖ 70% Reimbursement Provision	9	9	3	21
Silicosis & Dust Disease Fund	**194**	**15**	**72**	**281**
Logging Industry Compensation Fund	**28**	**10**	**37**	**75**
Self-Insurers' Security Fund	**342**	**152**	**135**	**629**
Totals:	**2,051**	**485**	**1,027**	**3,563**

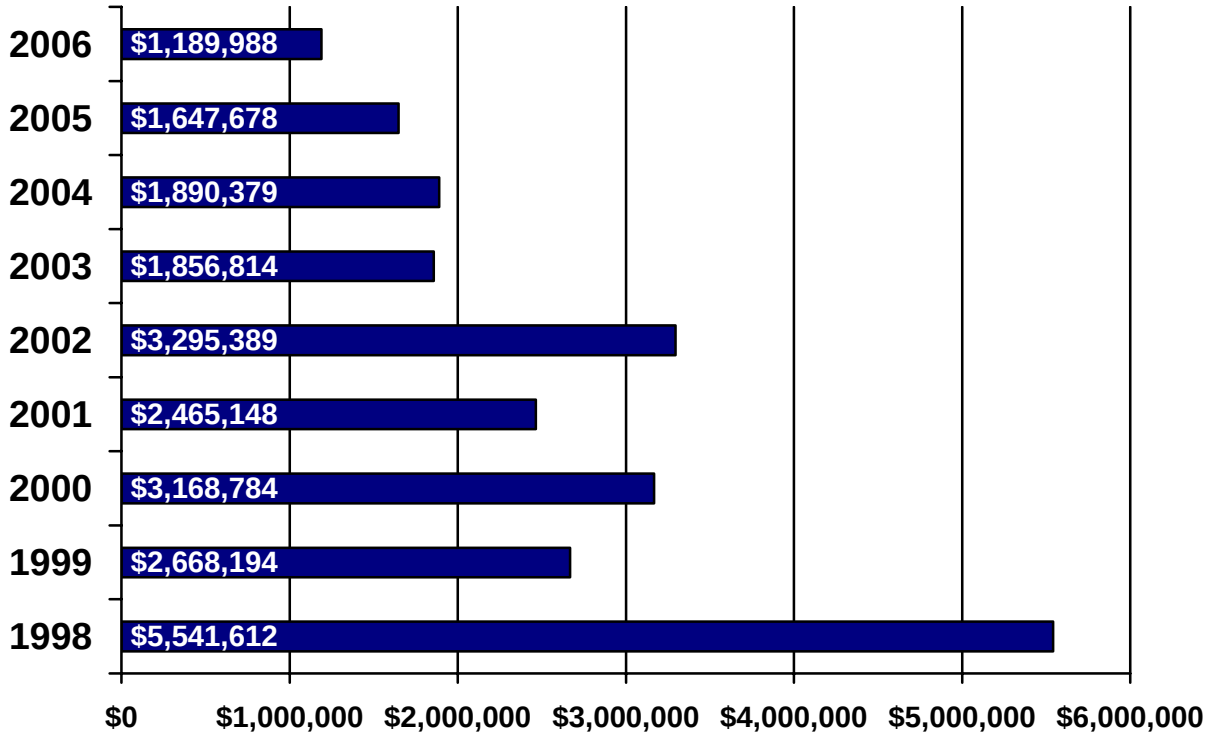
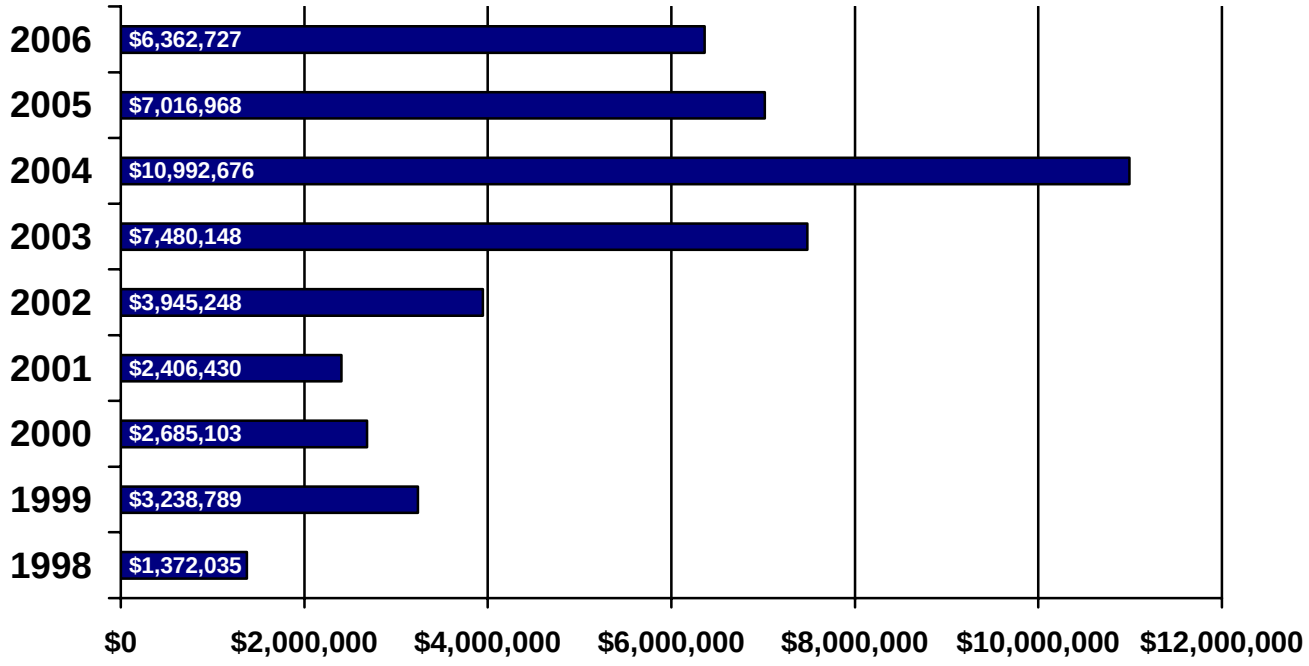
2006 Fund Provision Percentage of Total Cases



Vocationally Handicapped Provision of the Second Injury Fund 2006 Employer Certification	
Total Employer Certificates Issued Through 12/31/06	**87,324**
❖ Back	63,851
❖ Diabetes	7,347
❖ Epilepsy	8,908
❖ Heart	7,218



Benefits Reimbursed by the Silicosis, Dust Disease and Logging Industry Compensation Fund



Benefits Paid to Workers' by the Self-Insurers' Security Fund