

**REPORT OF THE
JOINT SUBCOMMITTEE STUDYING**

The Workers' Compensation Second Injury Fund

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOUMENT NO. 14

**COMMONWEALTH OF VIRGINIA
RICHMOND
1992**

Members of the HJR-312 Subcommittee

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Senator Richard J. Holland, Vice-chairman
Delegate Robert S. Bloxom
Delegate Edward R. Harris
Senator William E. Fears

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Subcommittee Report Summary

- **Study participants.** The Second Injury Fund Subcommittee, chaired by **Delegate Joan H. Munford**, Chairman of the House Labor and Commerce Committee, met between the 1990 and 1991 sessions to discuss this fund's current performance and determine whether changes in its scope and structure are desired. The following were appointed to serve with Delegate Munford on the HJR-312 subcommittee:

Delegate Robert S. Bloxom, Member, House Labor and Commerce Committee;

Delegate Edward R. Harris, Member, House Labor and Commerce Committee;

Senator William E. Fears, Chairman Senate Committee on Commerce and Labor;

Senator Richard J. Holland, Member, Senate Committee on Commerce and Labor;

Commissioner William E. O'Neill, Chairman, Workers' Compensation Commission of Virginia;

James C. Roberts, Esq., Mays & Valentine, Esqs., representing workers' compensation insurance carriers;

James A. Metcalf, Esq., representing labor under the Workers' Compensation Act; and

J. Thomas Fowlkes, Esq., representing employers under the Workers' Compensation Act.

Arlen K. Bolstad, Esq. and Mark C. Pratt, research associate, from the Division of Legislative Services served as the subcommittee's legal and research staff. Anne R. Howard from House Committee Operations provided

administrative assistance to the subcommittee.

- **Study catalyst.** A 1990 report of the Joint Legislative Audit Review Commission (JLARC) on Virginia's workers' compensation system stimulated this legislative study authorized by House Joint Resolution 312 of the 1991 session. The JLARC report concluded that the second injury fund is "underutilized" and thus not achieving its purpose of encouraging employment of previously disabled workers.

The JLARC report noted that less than a quarter-million dollars have been disbursed from the fund to disabled employees with work-related injuries in their current employment since it was established in 1975. It said that 13 states with second injury fund eligibility criteria more restrictive than Virginia's had a comparatively higher utilization rate. The report concluded that further study of the fund's eligibility criteria and utilization level was warranted.

A special commission studying the needs of disabled workers and related issues, headed by Lt. Governor Beyer ("the Beyer Commission"), was successful in obtaining further study of the Second Injury Fund through House Joint Resolution 312. The Beyer Commission viewed the fund as a potentially valuable resource for promoting employment of persons with disabilities.

- **Purpose of the second injury fund.** Second injury funds are intended to

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- **Purpose of the second injury fund.** Second injury funds are intended to

encourage employers to hire disabled persons by alleviating employer fears about the potentially high costs of workers' compensation claims made by disabled employees injured on the job. In addition, the funds are designed to provide full compensation for total disability whether the employee stays with the employer in whose employment he was first injured, or leaves such employment and goes to a different employer, or comes to an employer with a partial disability caused by a noncompensable injury.

- **How the fund works.**

Virginia's second injury fund was established by the 1975 session of the General Assembly. Its coverage, then and now, is extended to those individuals with extremity-related disabilities sustaining like injuries (i.e., the "second injury") on the job. Employers must pay ordinary compensation benefits for any disability related solely to the second injury. However, if a pre-existing disability and a second injury combine to create a cumulative disability level greater than that caused by the second injury alone, the second injury fund generally pays for the excess disability.

For example, a job-related leg amputation, alone, results in a permanent, partial disability under Virginia's workers' compensation laws. However, if a worker sustaining a job-related amputation was previously disabled by complete paralysis in the nonamputated leg, the worker's cumulative disability is permanent and total. Under Virginia law, a worker receives 175 weeks of compensation for the loss of a leg; the loss of two legs, however, entitles him

to 500 weeks. In this case, the second injury fund will pay the difference between the two levels of compensation: the employer pays the first 175 weeks; the second injury fund pays the excess up to the 500-week maximum.

As a matter of procedure, the employer provides the Workers' Compensation Commission notice of the second injury, pays compensation benefits for the cumulative disability, and then seeks reimbursement for excess disability payments from the fund.

- **Fund financing.** The fund is underwritten by insurance carriers issuing compensation policies along with employers who self-insure their workers' compensation obligations. A one-quarter of one percent tax is levied on compensation carriers' premiums and self-insured employers' payrolls to generate the fund. When the fund is above \$250,000 no further taxes may be assessed until the fund drops below \$125,000. According to the JLARC report, a fund tax was levied in 1976 to create the initial funding; no levy has been made since. The key variables determining the frequency of fund taxes are injury categories covered by the fund, and the level of utilization.

No claims were made against the fund until 1982 when its balance stood at nearly one-half million dollars. The fund's balance dropped a quarter-million dollars in 1985 when that amount was appropriated to the general fund. Subcommittee members recalled that the State Corporation Commission's administrative fund was similarly tapped that same year. The fund's balance has dropped below \$125,000, currently standing at

approximately \$90,000. According to the Workers' Compensation Commission, a fund tax will be assessed at the end of calendar year 1991. If the one-quarter of one percent statutory formula is followed, nearly \$1 million will be generated.

- **Fund utilization levels.** The subcommittee reviewed the fund's utilization record as well. Commissioner O'Neill reported that fifty claims have been made against the fund since its inception. To date, the Workers' Compensation Commission has approved six claims (three are presently in active payment status); twenty claims are pending, some dating back to 1987. Twelve claims have been denied. The pending category, he added, includes claims filed but not followed through to payment.

Some subcommittee members suggested that the Workers' Compensation Commission's utilization statistics may not necessarily represent the total number of claims eligible for coverage by the fund. Some insurers may abandon second injury fund claims or simply decline to file them when it appears ultimately less expensive to pay the full claim and close the file rather than initiate a reimbursement claim with the Workers' Compensation Commission.

- **Impact of new federal law on hiring of persons with disabilities.** The federal "Americans With Disabilities Act" ("ADA"), 42 U.S.C. 12101, et seq., was signed into law on July 26, 1990. The Act's key labor provisions that prohibit employment discrimination against persons with disabilities, and

require employers to reasonably accommodate disabled workers in their hiring practices will become effective in July 1992. At that time, regulations promulgated by the federal Equal Employment Opportunity Commission (EEOC) will require non-discriminatory job application procedures, qualifications standards, and selection criteria by employers in businesses "affecting commerce" with 25 or more employees. Many subcommittee members viewed this Act as comparatively more effective in generating employment opportunities for disabled workers than expanding the second injury fund's coverage.

- **Subcommittee postpones action.** At the study's conclusion, members of the Subcommittee decided to postpone consideration of changes to the second injury fund at this time because the ADA's employment regulations may achieve, in a very direct way, the employment opportunities for disabled persons sought by the Beyer Commission. They further concluded that the marketplace impact of the EEOC's ADA regulations should be monitored for one year following their July 1992 effective date. A motion recommending that the General Assembly postpone consideration of amendments to the second injury fund until after July 1993 was passed unanimously by the Subcommittee.

I. Introduction

House Joint Resolution 312 of the 1991 General Assembly established a nine-member joint subcommittee to examine the second injury fund component of the Virginia Workers' Compensation Act. The second injury fund was first established by House Bill 1330 in the 1975 session of the General Assembly and codified in Va. Code § 65.1-138, et seq.¹

Second injury funds are intended to remove a significant barrier to employment of disabled workers: employer liability under workers' compensation for disabilities preceding employment. Thus, an employer who hires a disabled person is responsible under workers' compensation only for disabilities attributable to injuries occurring during the current employment. A second injury fund pays the difference, if any, between what the employer must pay in workers' compensation benefits for the new disability and the total compensation an employee is entitled to receive for his combined disability resulting from past and present injuries.

Virginia's second injury fund was criticized in a 1990 report of the Joint Legislative Audit and Review Commission ("JLARC"). This report (House Document 68 of 1990) summarized a performance audit of the Department of Workers' Compensation. In JLARC's estimation, the fund is underutilized and is not achieving its purpose. It recommended further legislative study of the fund to determine whether its utilization could be improved through changes to the eligibility criteria.

Between the 1990 and 1991 sessions, a special Commission examining services for the disabled², known as the "Beyer Commission," urged the General Assembly to follow up on the JLARC suggestion. The Beyer Commission's report to the 1991 General Assembly recommended adoption of the resolution that

¹The Workers' Compensation Act was recodified in the 1991 session pursuant to HB-1369. The second injury fund is now found in Chapter 11 (§ 65.2-1100, et seq.) of new Title 65.2.

²The Commission on the Coordination of the Delivery of Services to Facilitate the Self-Sufficiency and Support of Persons with Physical and Sensory Disabilities was established pursuant to House Joint Resolution 45 of the 1990 Session of the General Assembly. It was chaired by Lt. Governor Donald Beyer and informally known as the "Beyer Commission."

authorized this study³.

The joint subcommittee was directed to submit findings and recommendations to the Governor and the 1992 session of the General Assembly at the study's conclusion.

II. Second Injury Funds; an overview

The problem of successive injuries. Workers' compensation is largely devoted to medical treatment and wage-replacement benefits for injured workers. Another goal, however, is putting injured workers back to work. This is sometimes difficult for individuals with permanent disabilities. Second injury funds are intended to encourage employers to hire disabled persons by alleviating employer fears about the potentially high costs of workers' compensation claims made by previously-disabled employees who incur further disabilities resulting from job-related injuries.

This fear is grounded in the synergistic problem successive injuries present. As stated in one workers' compensation treatise, "...the combined effect of two physical disabilities is often greater than would be reflected by merely adding together the schedule allowances for each injury existing separately."⁴ Suppose, for example, an employer hires an individual partially disabled from a leg amputation. This individual then loses his other leg due to a job-related injury at the new job and becomes totally and permanently disabled. The employee desires workers' compensation benefits commensurate with total and permanent incapacity. The employer, however sympathetic to his employee's condition, may nevertheless believe it unfair to be assessed compensation liability for that portion of the individual's disability not attributable to the current employment.

Full responsibility versus apportionment. Before the advent of second injury funds, states generally took one of the two following approaches to the problem described above: full responsibility or apportionment. Under the "full responsibility" rule, an employer was required to provide compensation benefits for the full disability. Under the second method, known as "apportionment," an employer's compensation liability was limited to the actual disability attributable to the injury sustained while in the employer's hire. As one commentator notes,

³Interim Report of the Commission on the Coordination of the Delivery of Services to Facilitate the Self-Sufficiency and Support of Persons with Physical and Sensory Disabilities in the Commonwealth. House Document 27 (1991).

⁴ 2 A. Larson, The Law of Workmen's Compensation, § 59.10, at 10-345 (1989)

neither approach was ideal since "[U]nder apportionment, [disabled employees] received less than their actual condition required to prevent destitution; under [full responsibility], they lost their jobs."⁵

Second Injury Funds. Second injury funds, now adopted in all U.S. states and territories, provide a middle ground between these two rules because employers pay no more than they would under apportionment, but the disabled employee is nevertheless compensated for his total disability. A second injury fund makes this possible by paying the difference between the total disability award and the employer's apportioned share. Second injury funds are financed by a variety of means including percentage assessments against workers' compensation carriers -- the method used in Virginia -- or special legislative appropriations. Some states, in addition to assessments or appropriations, levy charges against carriers for deaths of employees who have no dependents.⁶

In its 1972 report to the Nixon Administration and Congress, the National Commission on State Workmen's Compensation Laws urged all states to establish second injury funds. The Commission urged broad coverage of pre-existing disabilities. In 1972, all but four states had some form of second injury fund; Virginia was one of the four.

III. Virginia's Second Injury Fund

Historical perspective. Virginia made a second injury fund part of its Workers' Compensation Act when House Bill 1330 of the 1975 General Assembly was enacted. Codified at Va. Code § 65.1-138, et seq., the law was praised for removing "an important disincentive to the hiring of handicapped persons."⁷ The General Assembly had previously considered establishing such a fund as early as 1958 when the Virginia Legislative Advisory Council was directed to study the issue and report its findings to the General Assembly and to the Governor in 1959. The Council examined the matter but declined to make recommendations

⁵ 2 A. Larson, The Law of Workmen's Compensation § 59.31 at 10-402 (1989).

⁶Arkansas, Colorado, Iowa, Kansas, Minnesota, Mississippi, and several other states finance their second injury fund in whole or in part by this method.

⁷Survey of Virginia Law on Workers' Compensation, etc. for 1974-1975, 61 Va. L. Rev. 1862 (1975), pg. 1868.

supporting or opposing the establishment of such a fund.⁸

General provisions. As established in 1975, the fund provided "second injury" compensation to individuals with previously-compensated disabilities of twenty percent or more who suffered a second disability of equal percentage. A 1980 amendment (House Bill 1013) removed the requirement that the previous disability be related to a compensable injury. However, the twenty-percent disability requirement was not changed and remains part of the eligibility criteria.

The Fund is financed by a tax levied on workers' compensation carriers and members of licensed group self-insurance associations. Carriers are taxed on their premium income; self-insureds are taxed on a percentage of their payroll. The Fund tax was set at .25 percent in 1975; it remains the same today.

The fund's financing provisions further provide that whenever the fund reaches \$250,000+ in one fiscal year, the tax must be suspended until the fund balance goes below \$125,000. According to JLARC's 1990 report, no fund taxes have been assessed since the start-up assessment in 1976; the fund balance had consistently remained above \$125,000.⁹

Qualifying for an award under the fund. Awards are made from the fund when the Workers' Compensation Commission finds that:

- The employee has previously sustained (i) the loss, or (ii) at least twenty-percent loss of use of, any of the following: arm, hand, leg, foot, eye, finger, toe, or any combination of two or more in an industrial accident;
- The employee has sustained an additional loss (or twenty-percent loss of use) of any of the same members detailed above in an industrial accident;
- The combination of both injuries has caused the employee to be totally or partially incapacitated;
- The carrier or employer has paid, as appropriate, compensation due for total incapacity, partial incapacity, permanent partial disability, or medical expenses;

⁸Workmen's Compensation Second Injury Law: A report of the Virginia Advisory Legislative Council to the Governor and the General Assembly of Virginia. House Document 17 (1960)

⁹Review of the Virginia Department of Workers' Compensation, House Document 68 (1990), pg. 91.

- The employee is entitled to compensation over and above that directly attributable to the most recent injury which has been paid by the carrier or the employer (if self-insured); and

- Notice of claim against the second injury fund was given prior to the payment of benefits by the employer or carrier.

Procedures on awards. If the eligibility criteria detailed above is satisfied, the Workers' Compensation Commission enters an award to be paid from the Second Injury Fund in favor of the carrier or employer for:

- wage-replacement compensation -- no set \$ limitations.
- medical expenses¹⁰ -- capped at \$7500.
- vocational rehabilitation training -- also capped at \$7500.

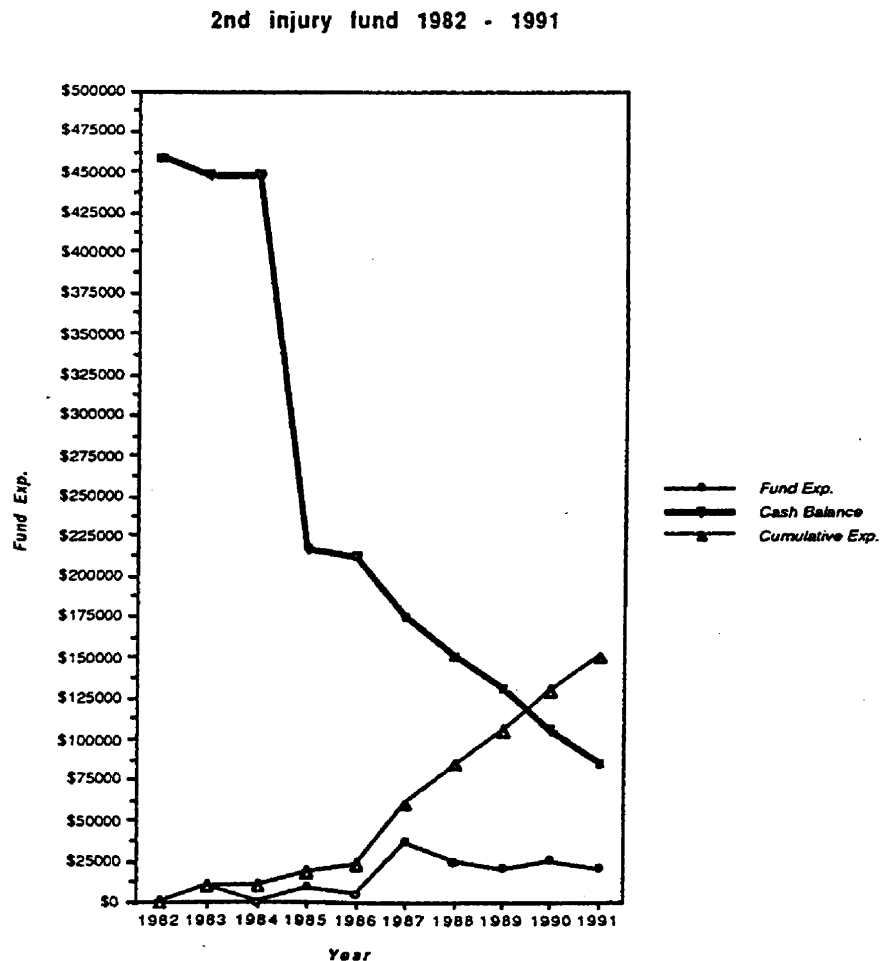
The Virginia Fund's Performance. According to the JLARC report, second injury fund assessments have been levied only once since the fund was established in 1976. At the time of the report's publication in 1990, JLARC reported that the fund had never dropped below the \$125,000 level required to trigger a new round of fund taxes.¹¹ The Workers' Compensation Commission, however, reports a current balance of approximately \$90,000.¹² Thus, the first assessment since 1976 will, according to the Workers' Compensation Commission, occur in December 1991.

¹⁰ Medical expenses paid by the employer are reimbursed only if they relate to further injury of the previously injured member, i.e., same hand, same arm, etc., as per Va. Code § 65.1-142.1.

¹¹ House Document 68 (1990) pg. 92, table 14.

¹² Current fund balance obtained from the Workers' Compensation Commission.

The chart below shows the fund's financial picture since 1982: steady payouts and a corresponding decline in the fund's balance -- a decline accelerated by the 1985 transfer of a quarter-million dollars from the fund to the General Fund.



JLARC Recommendations. JLARC concluded that the second injury fund is underutilized relative to similar funds in other states. It noted, for example, that "[O]f 33 states for which second injury fund data were available, Virginia had the lowest rate of payment for FY 1987 [\$36,312], paying only .008¢ per civilian

employee."¹³ Noteworthy is JLARC's finding that in the same period, Virginia's neighbors, Kentucky and West Virginia, had higher payments than all other states -- due principally, JLARC reports, to the high incidence of coal workers' black lung disease in their coal-producing regions.¹⁴

JLARC recommended further legislative study of the Virginia's Second Injury Fund to determine:

- The fund's legislative purpose and intent;
- whether changes to the fund are needed, consistent with the fund's purpose; and
- the funding impact of any such changes.¹⁵

IV. Subcommittee Findings and Recommendations

Focusing on the issues. The purpose of a second injury fund was probably articulated best in the Virginia Advisory Legislative Council's 1960 report:

"Second Injury funds are designed to provide *full compensation for total disability* whether the employee stays with the first employer in whose employment he was first injured, or leaves such employment and goes to a different employer, or comes to an employer with a partial disability caused by a noncompensable injury."¹⁶ (emphasis added)

The 1975 General Assembly created a second injury fund that provided such full compensation for successive injuries, but limited its availability to those individuals whose prior and successive injuries were to obvious body members

¹³ JLARC report. HD 68 (1990), pg. 92

¹⁴ Ibid.

¹⁵ Ibid., pg. 94

¹⁶Workmen's Compensation Second Injury Law: A report of the Virginia Advisory Legislative Council. House Document 17 (1960).

(e.g., loss of hand, arm, eye).¹⁷ JLARC characterized this criteria as "restrictive", resulting in relatively low fund utilization. It suggested that high barriers to second injury fund participation explain the equally high fund balance (at least until recently) and the absence of fund taxes since 1976.

In its examination of the utilization question, the subcommittee intended to address the following questions:

- Are JLARC's conclusions supported by fact?
- Should the second injury fund's eligibility criteria be broadened to include other prior injuries, e.g., diabetes, epilepsy, etc., and, if so, which ones?
- If coverage is broadened, what is the likely effect on the fund's future liabilities?
- What changes to the fund's financing mechanism may be required to address additional funding needs caused by broadened eligibility criteria?
- Are there any other aspects of the current statutory scheme that could be improved?

The first meeting and issues generated thereby. The Subcommittee held its first meeting at the Capitol on June 6. The meeting featured an overview of the Second Injury Fund, its enactment and administration provided by William E. O'Neill, then Chairman of the Virginia Workers' Compensation Commission. The subcommittee also heard a summary of the Joint Legislative Audit Review Commission report on the Second Injury Fund's operation. Finally a synopsis of the Beyer Commission's goals in promoting the study was supplied by Mike Scione, the Regional Director of Field Services, Department of Rehabilitative Services.

JLARC had reported that thirteen states had higher rates of second injury fund payments despite eligibility requirements more restrictive than Virginia. However, its representative was unable to provide the subcommittee members much in the way of detail beyond these conclusions. The subcommittee's staff subsequently learned that JLARC's working papers related to these conclusions could not be located. JLARC staff ventured that Alabama, California, Indiana, Michigan, Missouri, Tennessee, and Texas were seven of the thirteen states. To provide the subcommittee with some sense of the statutory differences between Virginia and three of these states, the subcommittee staff compared Virginia's 2nd injury fund with those in California, Tennessee, and Michigan. A chart

¹⁷ Disabled workers in Virginia who sustain job-related successive injuries but do not have prior injuries falling within the §65.1-140 criteria will, if under the worker's compensation system, receive a compensation award limited to the usual award paid for an injury of the last type received.

summarizing the four funds is in the appendix to this report. In addition, a summary of all fifty states' second injury funds prepared in 1991 by the U.S. Chamber of Commerce is also included in the appendix.

Generally speaking, all four funds operate in approximately the same way with moderate differences in fund financing and qualifying prior disabilities. Michigan, however, has a two-layered approach. In addition to its conventional fund, it has a special vocationally-handicapped fund for those with pre-employment, medically-certified impairments of back or heart, or with epilepsy or diabetes. Costs of a vocationally-handicapped person's job-related injuries accruing in the fifty-third week following the injury are paid by the fund. This special fund is financed by assessments against carriers and self-insured employers. The subcommittee staff learned that this fund's solvency is substantially protected by its immunity from costs accrued during the first year following injuries.

Several subcommittee members focused on this study's nucleus: the Beyer Commission's desire to improve the fund's role as a catalyst for the employment of persons with disabilities. Some noted that a fund designed to eliminate some portion of potential workers' compensation claims conceivably generated by workers with prior disabilities is, at best, a very indirect approach to achieving the Commission's laudable objectives. Some stated that the labor provisions of the federal Americans with Disabilities Act (ADA) would promote hiring of disabled persons in a comparatively more direct manner.

The second meeting and issues generated thereby. The second and final meeting was held at the Capitol on August 22. The meeting focused on current federal and state laws encouraging private-sector employment of persons with disabilities, with particular emphasis on the ADA. Jean Mahoney, representing the President's Committee on the Employment of Persons with Disabilities, appeared before the subcommittee to discuss the core labor provisions of the ADA scheduled to become effective July 1, 1992. Commissioner Susan Urofsky from Virginia's Department of Rehabilitative Services reviewed state and federal laws intended to encourage employment of disabled persons. Finally, James Rothrock, Director of the Department for the Rights of Disabled, commented on key employment components of the Virginians with Disabilities Act.

Commissioner Urofsky highlighted programs under current state and federal law that provide businesses with incentives to hire disabled persons. Targeted job tax credits, unpaid work experience, on-the-job training, tax deductions for the cost of workplace modifications in accommodating disabled workers, and benefits under the federal Job Partnership Training Act illustrate, she said, ongoing programs that the ADA will complement. Director Rothrock added that the Department for the Rights of the Disabled actively works with Virginia employers to ensure disabled Virginia workers receive the "reasonable accommodations" required under the Virginia Rights of Persons with Disabilities Act (Va. Code § 51.5-40, et seq.)

The ADA, signed into law on July 26, 1990, prohibits discrimination against persons with disabilities in the following areas: employment, transportation, public accommodation, activities of state and local government and telecommunications relay services. The ADA's labor provisions encourage disabled employment by requiring non-discriminatory job application procedures, qualifications standards, and selection criteria. Furthermore, it requires employers to make reasonable accommodation to the known limitations of qualified job applicants unless to do so would cause an undue hardship.

The law specifically prohibits discrimination on the basis of disability with respect to the employment of "qualified individuals with disabilities." The prohibition is applicable to job application procedures, hiring, advancement or discharge, compensation, job training and other terms, conditions and privileges of employment. Under the Act's implementing regulations, a "qualified individual with a disability" is

"[A]n individual with a disability who satisfies the requisite skill, education and experience and other job-related requirements of the employment position, which the individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of that position."

29 CFR § 1630.2 (m).

Ms. Mahoney from the President's Committee emphasized that while "reasonable accommodation" will vary depending on the job, it usually means a moderate effort by an employer to ease a workplace barrier for a disabled person who is otherwise able and qualified to do the job; the act is not, she said, a "quota law." Eighty percent of disabled employees require no accommodations whatsoever, she added. She pointed out that the law does not require accommodation at levels imposing undue hardship on the operation of a business.

The federal Equal Employment Opportunity Commission's (EEOC) final regulations implementing the ADA's employment provisions will become effective in July 1992. These EEOC regulations (29 CFR Part 1630) define key terms such as "disability", "reasonable accommodations", and "undue hardship." They describe how the ADA's provisions will be specifically implemented and enforced in the workplace. The regulations will govern employers in industries "affecting commerce" with 25 or more employees. After 1994, the ADA's reach will be extended to even smaller businesses: those with 15 or more employees.

Subcommittee recommendation: monitor impact of ADA. The Subcommittee declined to recommend any changes to Virginia's second injury fund at this time. Its members concluded that the ADA's employment provisions have tremendous potential for achieving the objectives that triggered this study:

improving employment opportunities in the Commonwealth's private sector for persons with disabilities. Accordingly, the following motion received unanimous approval by the subcommittee:

- The EEOC regulations' impact should be monitored for at least one year after their effective date in July 1992 to gauge the ADA's effectiveness in fostering employment opportunities for persons with disabilities.

- The General Assembly should postpone consideration of any amendments expanding the second injury fund's coverage until after July 1993.

Respectfully submitted,

Joan H. Munford
Richard J. Holland
Robert S. Bloxom
Edward R. Harris
William E. Fears
James C. Roberts
James A. Metcalf
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V. Appendices

- House Joint Resolution 312 (A-1)
- Va. Second Injury Fund statutes under Title 65.1. (A-2)
- Va. Second Injury Fund statutes under Title 65.2 (eff. 10/91). (A-4)
- Excerpts from JLARC report (HD-68 of '90) re: 2nd inj. fund (A-6)
- Comparison of Virginia, California, Michigan, and Tennessee second injury funds. (A-11)
- State-by-state analysis of second injury funds prepared by the U.S. Chamber of Commerce. (A-14)

GENERAL ASSEMBLY OF VIRGINIA--1991 SESSION

HOUSE JOINT RESOLUTION NO. 312

Establishing a joint subcommittee to Study the Workers' Compensation Second Injury Fund.

Agreed to by the House of Delegates, February 4, 1991

Agreed to by the Senate, February 21, 1991

WHEREAS, by Chapter 365 of the 1975 Acts of Assembly, the General Assembly created the Workers' Compensation Act's Second Injury Fund in Chapter 11 of Title 65.1 of the Code of Virginia; and

WHEREAS, the purpose of the Second Injury Fund is to promote the employment of persons with disabilities and to protect employers from higher insurance costs that could result when a previously injured employee suffers a second injury; and

WHEREAS, House Document 68 of 1990, the Joint Legislative Audit and Review Commission's (JLARC) report on the Virginia Department of Workers' Compensation, concluded that the Second Injury Fund is utilized less in the Commonwealth than comparable funds in other states, and suggested that additional study of the fund's low utilization rate appeared warranted; and

WHEREAS, the Commission on the Coordination of the Delivery of Services to Facilitate the Self-Sufficiency and Support of Persons with Physical and Sensory Disabilities established pursuant to House Joint Resolution 45 of the 1990 Session of the General Assembly is charged with reviewing current public and private programs providing services to the disabled community in order to assess their efficiency and quality and make recommendations for potential improvements; and

WHEREAS, the Commission has issued a report to the 1991 Session of the General Assembly recommending a study of the Second Injury Fund consistent with the JLARC report's recommendations; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to Study the Workers' Compensation Second Injury Fund by examining the issues raised by the Commission and the JLARC report and such other related issues as the joint subcommittee may deem appropriate.

The joint subcommittee shall consist of nine members to be appointed as follows: three members from the House of Delegates to be appointed by the Speaker of the House, and two members from the Senate to be appointed by the Senate Committee on Privileges and Elections. Additional members shall include one representative from each of the following: The Industrial Commission of Virginia; insurance carriers offering and issuing workers' compensation insurance in the Commonwealth; labor unions representing employees in the Commonwealth; and employers under the Virginia Workers' Compensation Act. The additional members shall be appointed by the Speaker of the House.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 1992 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

The indirect costs of this study are estimated to be \$8,255.00; the direct costs of this study shall not exceed \$4,860.00.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

CHAPTER 11.

SECOND INJURY FUND.

Sec.	Sec.
65.1-138. Fund created.	treatment and vocational rehabilitation.
65.1-139. Funding.	65.1-143. [Repealed.]
65.1-140. Disability defined.	65.1-144. Payments by fraud, mistake or improper processing of claim; recovery.
65.1-141. [Repealed.]	65.1-145. Claims and hearings.
65.1-141.1. When awards entered.	
65.1-142. [Repealed.]	
65.1-142.1. Award for compensation, medical	

§ 65.1-138. Fund created. — There is hereby created a fund to be known as the "Second Injury Fund" to be administered, maintained and disbursed by the Industrial Commission as hereinafter provided. (1975, c. 365.)

Law Review. — For survey of Virginia law on workers' compensation and welfare for the year 1974-1975, see 61 Va. L. Rev. 1862 (1975).

§ 65.1-139. Funding. — For the purpose of providing funds for compensation for disability as hereinafter defined, medical treatment and vocational rehabilitative services, a tax of one quarter of one per centum shall be assessed, collected and paid into the state treasury by the same persons and in the same manner as set forth in Chapter 10 (§ 65.1-129 et seq.) of Title 65.1 of this Code.

This tax shall be in addition to the tax for the Industrial Commission administrative fund and shall be held by the Comptroller of the Commonwealth solely for the payment of awards against such fund.

In any fiscal year in which the Second Injury Fund has to its credit a sum in excess of \$250,000, the tax shall be suspended for the ensuing fiscal years and its collection not resumed until the balance in the fund is reduced below \$125,000. (1975, c. 365; 1980, c. 599.)

Law Review. — For survey of Virginia law on workers' compensation and welfare for the year 1974-1975, see 61 Va. L. Rev. 1862 (1975).

§ 65.1-140. Disability defined. — For the purpose of this chapter, disability shall mean: (a) the partial or total loss or loss of use of an arm, hand, leg, foot, eye, finger, toe, or any combination of two or more thereof in an industrial accident, and (b) actual incapacity for work at the claimant's average weekly wage. (1975, c. 365; 1980, c. 599.)

§ 65.1-141: Repealed by Acts 1980, c. 599.

Cross reference. — For present section covering the subject matter of the repealed section, see § 65.1-141.1.

§ 65.1-141.1. When awards entered. — The Industrial Commission shall enter awards against the Second Injury Fund in favor of an employer or carrier only upon a finding that: (a) The employee has prior loss or loss of use, supported by medical evidence, of not less than twenty per centum of one or more of the members set out in § 65.1-140; (b) the employee has suffered in an

industrial accident an additional loss or loss of use of any one of the members set out in § 65.1-140 of not less than twenty per centum; (c) the combination of both impairments has rendered the employee totally or partially disabled as defined in § 65.1-140; (d) the carrier or employer has paid the compensation due under §§ 65.1-54 and 65.1-55, and the permanent partial disability due under § 65.1-56 and the medical treatment under § 65.1-88; and (e) the employee is entitled to further compensation for disability which has been paid by the employer or carrier. (1980, c. 599.)

§ 65.1-142: Repealed by Acts 1980, c. 599.

Cross reference. — For present section covering the subject matter of the repealed section, see § 65.1-142.1.

§ 65.1-142.1. Award for compensation, medical treatment and vocational rehabilitation. — Upon a determination by the Commission that an employer or carrier has paid compensation, medical expenses or vocational rehabilitation services on behalf of an employee under circumstances as set forth under § 65.1-141.1 and if notice of a claim against the Second Injury Fund was given prior to payment of the benefits, the Commission shall enter an award from the Second Injury Fund in favor of such employer or carrier for: (a) reimbursement on a pro rata basis of the compensation paid for further disability as set forth in § 65.1-141.1 (e), such prorating to be computed according to the number of weeks each impairment is allowed under the schedule in § 65.1-56; (b) reimbursement of reasonable medical expenses on the same basis as set forth in (a) of this section, provided the second injury is to the same previously impaired member but such reimbursement shall not exceed \$7,500; and (c) reimbursement of reasonable vocational rehabilitation training service on the same basis as set forth in (a) of this section but said reimbursement not to exceed \$7,500. (1980, c. 599.)

§ 65.1-143: Repealed by Acts 1980, c. 599.

§ 65.1-144. Payments by fraud, mistake or improper processing of claim: recovery. — Any payment to the employer or carrier pursuant to this chapter which is later determined by the Industrial Commission to have been procured through fraud, mistake or the improper processing of the claim by the carrier, shall be recovered from the employer or carrier and credited to the Second Injury Fund. Any subrogation recoveries or other recoveries from a third party or other source shall be shared by the employer or carrier and the Second Injury Fund on a pro rata basis after deducting all reasonable expenses in obtaining the recovery. (1975, c. 365; 1980, c. 599.)

§ 65.1-145. Claims and hearings. — Claims against the Second Injury Fund and any hearings on the merits of such claims shall be within the time limits and in the manner otherwise provided for workers' compensation claims. All claims against the Second Injury Fund shall be defended by the Attorney General. (1975, c. 365.)

Law Review. — For survey of Virginia law on workers' compensation for the year 1971-1972, see 58 Va. L. Rev. 1376 (1972).

CHAPTER 11.

SECOND INJURY FUND.

Sec.	Sec.
65.2-1100. Fund created.	65.2-1105. Payments by fraud, mistake or improper processing of claim; recovery.
65.2-1101. Funding.	
65.2-1102. Disability defined.	65.2-1106. Claims and hearings.
65.2-1103. When awards entered.	
65.2-1104. Award for compensation, medical treatment and vocational rehabilitation.	

§ 65.2-1100. Fund created. — There is hereby created a fund to be known as the "Second Injury Fund" to be administered, maintained and disbursed by the Commission as hereinafter provided. (1975, c. 365, § 65.1-138; 1991, c. 355.)

Law Review. — For survey of Virginia law on workers' compensation and welfare for the year 1974-1975, see 61 Va. L. Rev. 1862 (1975).

§ 65.2-1101. Funding. — A. For the purpose of providing funds for compensation for disability as hereinafter defined, medical treatment and vocational rehabilitative services, a tax of one quarter of one percent shall be assessed, collected and paid into the state treasury by the same persons and in the same manner as set forth in Chapter 10 of this title.

B. This tax shall be in addition to the tax for the Commission administrative fund and shall be held by the Comptroller of the Commonwealth solely for the payment of awards against such fund.

C. In any fiscal year in which the Second Injury Fund has to its credit a sum in excess of \$250,000, the tax shall be suspended for the ensuing fiscal years and its collection not resumed until the balance in the fund is reduced below \$125,000. (1975, c. 365, § 65.1-139; 1980, c. 599; 1991, c. 355.)

Law Review. — For survey of Virginia law on workers' compensation and welfare for the year 1974-1975, see 61 Va. L. Rev. 1862 (1975).

§ 65.2-1102. Disability defined. — For the purpose of this chapter, disability shall mean: (i) the partial or total loss or loss of use of an arm, hand, leg, foot, eye, finger, toe, or any combination of two or more thereof in an industrial accident and (ii) actual incapacity for work at the claimant's average weekly wage. (1975, c. 365, § 65.1-140; 1980, c. 599; 1991, c. 355.)

§ 65.2-1103. When awards entered. — The Commission shall enter awards against the Second Injury Fund in favor of an employer or carrier only upon a finding that: (i) the employee has prior loss or loss of use, supported by medical evidence, of not less than twenty percent of one or more of the members set out in § 65.2-1102; (ii) the employee has suffered in an industrial accident an additional loss or loss of use of any one of the members set out in

§ 65.2-1102 of not less than twenty percent; (iii) the combination of both impairments has rendered the employee totally or partially disabled as defined in § 65.2-1102; (iv) the carrier or employer has paid the compensation due under §§ 65.2-500 and 65.2-502, and the permanent partial disability due under § 65.2-503 and the medical treatment under § 65.2-603; and (v) the employee is entitled to further compensation for disability which has been paid by the employer or carrier. (1980, c. 599, § 65.1-141.1; 1991, c. 355.)

§ 65.2-1104. **Award for compensation, medical treatment and vocational rehabilitation.** — Upon a determination by the Commission that an employer or carrier has paid compensation, medical expenses or vocational rehabilitation services on behalf of an employee under circumstances as set forth under § 65.2-1103 and if notice of a claim against the Second Injury Fund was given prior to payment of the benefits, the Commission shall enter an award from the Second Injury Fund in favor of such employer or carrier for: (i) reimbursement on a pro rata basis of the compensation paid for further disability as set forth in § 65.2-1103 (v), such prorating to be computed according to the number of weeks each impairment is allowed under the schedule in § 65.2-503; (ii) reimbursement of reasonable medical expenses on the same basis as set forth in subdivision (i) of this section, provided the second injury is to the same previously impaired member but such reimbursement shall not exceed \$7,500; and (iii) reimbursement of reasonable vocational rehabilitation training service on the same basis as set forth in subdivision (i) of this section but said reimbursement not to exceed \$7,500. (1980, c. 599, § 65.1-142.1; 1991, c. 355.)

§ 65.2-1105. **Payments by fraud, mistake or improper processing of claim; recovery.** — Any payment to the employer or carrier pursuant to this chapter which is later determined by the Commission to have been procured through fraud, mistake or the improper processing of the claim by the carrier shall be recovered from the employer or carrier and credited to the Second Injury Fund. Any subrogation recoveries or other recoveries from a third party or other source shall be shared by the employer or carrier and the Second Injury Fund on a pro rata basis after deducting all reasonable expenses in obtaining the recovery. (1975, c. 365, § 65.1-144; 1980, c. 599; 1991, c. 355.)

§ 65.2-1106. **Claims and hearings.** — Claims against the Second Injury Fund and any hearings on the merits of such claims shall be within the time limits and in the manner otherwise provided for workers' compensation claims. All claims against the Second Injury Fund shall be defended by the Attorney General. (1975, c. 365, § 65.1-145; 1991, c. 355.)

CHAPTER 12.

UNINSURED EMPLOYER'S FUND.

Sec.	Sec.
65.2-1200. Fund created.	65.2-1205. Notification of change in earnings; change in award.
65.2-1201. Financing; tax.	65.2-1206. Payments procured by fraud, mistake or unreported change in condition; recovery.
65.2-1202. Defense of claims against fund by Attorney General.	
65.2-1203. Awards.	
65.2-1204. Subrogation and recoupment.	

**REPORT OF THE
JOINT LEGISLATIVE
AUDIT AND REVIEW COMMISSION ON**

**Review of the
Virginia Department of
Workers' Compensation**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 68

**COMMONWEALTH OF VIRGINIA
RICHMOND
1990**

rate, based on the year-end balance, for the following fiscal year's operating revenues. A written policy and accompanying procedures should be established in writing and approved by the DWC.

Recommendation (26). The DWC should ensure that the agency's comptroller establishes written procedures for determining the tax assessment rate for the administrative fund. These procedures should describe the specific monitoring and projection activities to be conducted, as well as the specific time of the year when the balances in the administrative fund are to be reviewed.

The Second Injury Fund

The second injury fund (*Code of Virginia* §65.1-138 through §65.1-145) was created in 1975. Although it is not specifically stated in the *Code*, the purpose of the second injury fund appears to be twofold: (1) to encourage employers to hire previously disabled workers, and (2) to protect employers from high insurance costs that could result when a previously injured or disabled employee suffers a second injury. As such, workers' compensation insurers may request a partial reimbursement of compensation paid to a previously disabled employee, if the employee should receive an additional disability from a subsequent work-related injury.

Revenues for the second injury fund are derived from a tax of one-quarter of one percent on worker's compensation premiums. When the fund has a balance in excess of \$250,000 in any fiscal year, no tax can be assessed until the balance is below \$125,000.

The Second Injury Fund Is Underutilized. Throughout its existence, the fund's low utilization rate has resulted in a relatively high fund balance. Therefore, only one tax assessment has been made for the fund, in 1976. Since that time, the fund balance has remained above \$125,000, thereby eliminating the need for further assessments. In addition, \$223,092 was transferred from the second injury fund to the General Fund in FY 1985 (Table 14).

The low utilization rate of Virginia's second injury fund is difficult to explain. Highly restrictive eligibility criteria for the program have been eliminated since 1980. However, the utilization rate of the program has not increased significantly. It appears that an in-depth study of the fund may be necessary to determine why utilization remains low.

The Second Injury Fund Is Not Achieving Its Purpose. Infrequent activity appears to be preventing the second injury fund from achieving its purpose. From 1983 through 1988, the DWC received only 22 requests for reimbursement from the second injury fund. Only four of these requests were eligible for funding.

Table 14

**Second Injury Fund Payments and
Fiscal Year-End Cash Balance
FY 1982 through FY 1988**

<u>Fiscal Year</u>	<u>Second Injury Fund Expenses</u>	<u>Cash Balance at Fiscal Year-End</u>
1982	\$ 0	\$458,093
1983	10,000	448,093
1984	0	448,093
1985	8,478	216,523 *
1986	5,002	211,521
1987	36,312	175,209
1988	23,958	151,251

* Cash balance reflects \$223,092 transferred to the General Fund.

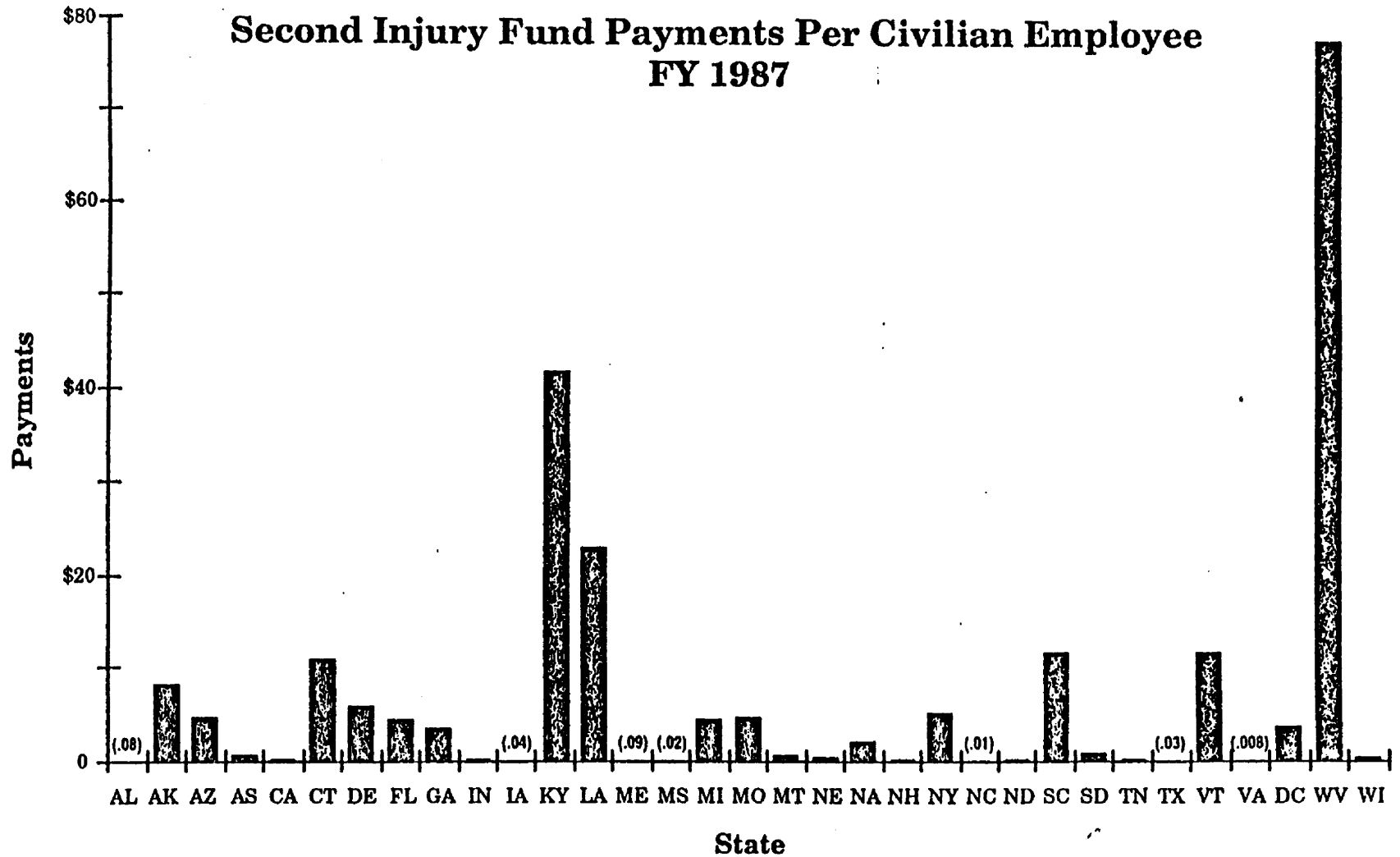
Source: JLARC analysis of DWC Fund Status Reports, 1989.

Also, utilization of Virginia's second injury fund is minimal compared with other states. Of 33 states for which second injury fund data were available, Virginia had the lowest rate of payment for FY 1987, paying only .008¢ per civilian employee (Figure 13). Two of Virginia's neighboring states, Kentucky and West Virginia, had higher payments than all other states. This was due to the high incidence of coal miners' pneumoconiosis (black lung) in these states. At least 13 of the states with higher rates of second injury fund payments have more restrictive eligibility requirements than Virginia.

The restrictive nature of Virginia's second injury provisions has been acknowledged for nearly ten years. Several of the eligibility requirements for the second injury fund were revised during the 1980s, after a study by the Workmens' Compensation Subcommittee of the House Committee on Labor and Commerce. The subcommittee recommended changes in the eligibility requirements due to the lack of utilization of the fund. However, implementation of these recommendations has not resulted in a significant increase in utilization.

Figure 13

Second Injury Fund Payments Per Civilian Employee FY 1987



Sources: U.S. Bureau of the Census, *County and City Data Book, 1988*; and U. S. Department of Labor, *State Workers' Compensation: Administrative Profiles*.

Additional study of the reasons for the fund's low utilization rate appears warranted. The General Assembly may wish to further study the second injury fund. This assessment should specifically address: (1) the intent of the statutory provisions; (2) whether or not modification of statutes appears warranted; (3) what, if any, changes should be made to the eligibility requirements for reimbursement; and (4) projected payments from the fund resulting from changes in eligibility criteria.

APPROVAL AND MONITORING OF SELF-INSURED EMPLOYERS

Section 65.1-104.1 of the *Code of Virginia* allows approved employers to be individually self-insured for workers' compensation. To qualify for self-insurance, an employer must apply to the DWC and prove its financial ability to pay injured workers directly as claims arise. As of August 1989, 130 Virginia employers were self-insured.

The DWC has established a fairly informal process for reviewing and approving individual self-insurance applications. The general activities undertaken by the comptroller in the review process appear to be appropriate. However, four changes are necessary to strengthen the self-insurance process. These changes concern the need for consideration of composite financial data in the analysis of applications, weak or nonexistent documentation, nonexistent follow-up monitoring, and a lack of written policies and procedures.

Approval and Oversight Process

Employers who wish to become self-insured must submit a completed application to the DWC. Along with the application, the employers must also submit audited financial statements reflecting their financial status for the most recent two years.

Upon receipt of this information, the DWC comptroller assesses the employer's financial condition. The comptroller performs certain ratio analyses, and generally assesses the employer's financial history to render an opinion as to whether the employer appears able to pay workers' compensation benefits from its own resources. The commissioners make the final decision as to whether the employer will be granted self-insured status.

Pursuant to statute, the DWC requires each self-insured employer to post a bond securing payment of compensation liabilities. The minimum bond amount currently required by the DWC is \$750,000.

Once an employer has complied with the self-insurance requirements and has provided a satisfactory bond, a self-insurance certificate is issued. This

State	Qualif. prior disability	Qualif. current disability	Cumulative disability	2nd inj. fund pays	2nd inj. fund source
VA	extremities & eyes; 20% loss of use.	same as prior	total or partial disability	excess over disability caused by 2nd injury alone	self-insured employers and workers' comp. insurance carriers.
CA	extremities & eyes	opposite & corresponding extremity or eye disabled to at least 5 percent of total. OR permanent disability from subsequent injury is equal to 35 percent of total.	70% or more of total	excess over disability caused by 2nd injury alone	appropriations & \$50,000 in nondependency death cases.

State	Qualif. prior disability	Qualif. current disability	Cumulative disability	2nd inj. fund pays	2nd inj. fund source
MI Special Voc. handicapped fund	Medically certified impairment of back or heart, epilepsy, or diabetes; is certified as vocationally handicapped person.	Any job-related injury.	NOT APPLICABLE	all compensation, cost of medical care & burial, if applicable, accruing after the 52nd week following the injury. Fund pays for all voc. rehab. benefits following at time of injury.	assessments against carriers and self-insured employers.
MI Conventional 2nd inj. fund	Permanent disability in the form of a loss of hand arm, foot, etc.	same as qualifying prior disability	total and permanent disability	Comp. for total. and permanent less comp. received for each loss separately	assessments against carriers and self-insured employers

State	Qualif. prior disability	Qualif. current disability.	umulative disability	2nd inj. fund pays	2nd inj. fu. source
TN	any permanent physical disability from any cause	any injury which combined with prior injury causes total and permanent disability	Total and permanent	benefits in excess of 100% bodily disability	premium tax

1991
Analysis of
**WORKERS
COMPENSATION
LAWS**

Prepared and Published by the U.S. Chamber of Commerce



JURISDICTION	INJURIES COVERED	PAYABLE BY EMPLOYER	PAYABLE BY FUND	SOURCE OF FUND	SPECIAL PROVISIONS
VAMA	Second injury which combined with prior permanent partial disability results in permanent total disability.	Disability caused by second injury.	Difference between compensation payable for second injury and permanent total disability.	\$100 in death cases	Employer must have knowledge of prior disabling injury affecting employability.
ALASKA	Second injury which added to pre-existing permanent physical impairment results in substantially greater disability than from second injury alone.	Disability caused by second injury up to 104 weeks.	Compensation in excess of 104 weeks.	Up to 6% of compensation payable to fund; percentage varies from 0% to 6% depending on fund balance. \$10,000 in no-dependency death cases; civil penalties.	"Physical impairment" as listed or would support an award of 200 weeks or more.
AMERICAN SAMOA	Second injury which combined with prior permanent impairment results in death or compensable disability greater than from second injury alone.	Benefits for first 104 weeks.	Benefits beyond first 104 weeks.	\$1,000 in no-dependency death cases, plus fines and penalties.	Employer must have prior knowledge of disability.
ARIZONA	Second injury which added to a pre-existing work-related disability or a pre-existing physical impairment not industrially related (25 types of handicaps as listed by statute) results in disability for work.	Disability caused by second injury.	Employer and special fund are equally liable for remaining difference between compensation payable for second injury and compensation for combined disability.	1.5% of all premiums and costs of self insurance. Commission may allocate up to .5% of yearly premiums to special fund to keep fund actuarially sound.	Employer must have knowledge of non-industrial physical impairment. Payments are also made from the fund for vocational rehabilitation, claims against non-insured employers, insolvent carriers, supportive medical care.
ARKANSAS	Second injury which added to previous permanent partial disability or impairment results in additional disability or impairment greater than from second injury alone.	Disability caused by second injury.	Difference between compensation payable for second injury and permanent disability.	\$500 in no dependency death cases to be paid to the Permanent Total Disability and Death Fund. A portion of premium tax allocated to the Second Injury Fund and Death and Permanent Total Disability Trust Fund.	Employer liable for combined disability of both injuries in same employment.
CALIFORNIA	Second permanent partial injury which added to pre-existing permanent partial disability results in 70 percent or more permanent disability. Second injury must account for 35 percent.*	Disability caused by second injury.	Difference between compensation payable for second injury and permanent disability.	Legislative appropriations and \$50,000 in each no-dependency death case or unpaid balance.	Payments are made by State Compensation Insurance Fund.
COLORADO	Second injury which added to pre-existing permanent partial disability results in permanent total disability.	Disability caused by second injury.	Difference between compensation payable for second injury and permanent total disability.	\$15,000 in no-dependency or partial-dependency cases, and tax of 4/10 of 1% of premiums received by insurance carriers and equivalent charge on self-insurers.	If employee obtains employment while receiving compensation from second-injury fund, fund compensates at rate of 1/2 of employee's average weekly wage loss during employment.
CONNECTICUT	Second injury or disease which added to pre-existing injury, disease, or congenital causes results in permanent disability greater than from second injury alone.	Benefits for first 104 weeks, less compensation payable for prior disability.	Benefits beyond first 104 weeks, less compensation payable for prior disability.*	Tax equal to 5% of compensation paid by carriers and self-insurers during preceding calendar year plus fines.	Tax imposed each time fund balance is reduced to \$1,000,000.
DELAWARE	Second injury or disease which added to existing permanent injury from any cause results in permanent total disability.	Disability caused by second injury.	Difference between compensation payable for second injury and permanent disability.	Tax of 2% of premiums received by insurance carriers and equivalent charge on self-insurers.	Payments suspended when fund reaches \$750,000 and resumed when below \$250,000.
DC OF MDIA	Second injury or disease which added to pre-existing injury, disease, or congenital causes results in permanent disability greater than from second injury alone.	Disability caused by second injury for first 104 weeks and first \$1,000 medical expenses.	Difference between compensation payable for second injury and permanent disability.	\$5,000 in no-dependency death cases or unpaid awards. Pro-rata assessments upon carriers and self-insurers based on paid losses. Fines and penalties.	
FLORIDA	Second injury or disease which merges with previous permanent physical impairment and results in substantially greater disability than from the second injury alone.		Fund reimburses employer for 60% of impairment benefits, 60% of wage-loss benefits during first 5 years after maximum medical improvements and 75% thereafter. PT benefits after 175 weeks, 75% of death benefits and funeral expenses, and 50% of first \$10,000 in temporary disability and medical benefits and 100% beyond \$10,000.	Pro-rata annual assessment upon net premiums of insurers and self-insurers.	Assessment must equal sum of immediate past 3 years' disbursements. If injured employee has been unemployed due to injury for 2 consecutive years and is subsequently hired, the new employer will be reimbursed from the fund for 50% of the employee's wages for up to 6 months.
GEORGIA	Second injury or disease which merges with prior permanent physical impairment and results in greater disability than from second injury alone.	Disability caused by second injury for first 104 weeks.	Employer reimbursed for 50% of medical and rehabilitation expenses in excess of \$5,000 up to \$10,000, and 100% of medical and rehabilitation expenses in excess of \$10,000, plus income benefits beyond 104 weeks.	Assessments on carriers and self-insurers proportionate to 175% of disbursements from fund to annual compensation benefits paid, less net assets in fund. In no-dependency death cases, 1/2 of benefits payable or \$10,000, whichever is less.	Employer must have prior knowledge of impairment. Assessments may be reduced or suspended when no funds are needed.
GUAM	Second injury which combined with a previous disability causes permanent disability.	Disability caused by second injury.	Difference between compensation payable for second injury and compensable disability.	State fund (a.propriation).	
HAWAII	Second injury which added to pre-existing disabilities results in greater permanent disability, permanent total disability, or death.	Disability benefits for first 104 weeks.	Benefits beyond first 104 weeks.	\$8,775 in no-dependency death cases; and unpaid balance of compensation due in permanent total and permanent partial disability cases. If no dependents, special assessment on insurers and self-insurers.	Premium tax suspended when balance exceeds \$200,000, resumed when below \$100,000.
IDAHO	Second injury which combined with prior permanent physical impairment results in permanent total disability.	Disability caused by second injury.	Difference between compensation payable for second injury and permanent disability.	Amount equal to 5% of all benefits except temporary disability income benefits and accrued medical benefits and \$10,000 in no-dependency death cases.	When fund exceeds \$2,000,000, excise may be reduced to 4% and suspended when fund exceeds \$2,500,000.
ILLINOIS	Second injury involving loss or loss of use of major members or eye which added to pre-existing loss of member results in permanent total disability.	Disability caused by second injury.*	Difference between compensation payable for second injury and permanent total disability.	Semi-yearly employer payment of .125% of compensation payments.	When fund reaches \$500,000 amount payable into fund reduced by 1/2. When fund reaches \$600,000, payments cease. When fund reduced to \$400,000, payment of 1/2 amount required. When fund is reduced to \$300,000, payment of full amount shall be resumed.
INDIANA	Second injury involving loss or loss of use of hand, arm, foot, leg, or eye which added to pre-existing loss or loss of use of member results in permanent total disability.	Disability caused by second injury.	Difference between compensation payable for second injury and permanent total disability.	1% of compensation paid by insurers and self-insurers during preceding calendar year.	Payment suspended when fund reaches \$400,000.

*Second injury must account for 35% unless prior disability involved a major member and second injury was to opposite and corresponding member and accounts for at least 5%. No benefits payable for subsequent unrelated noncompensable injury.

Conn. *Fund also pays accident and health insurance coverage for injured employees when employer moves out of state or goes out of business.

Ill. *Employer is liable in full if second injury is permanent and total without relation to prior injury.

CHART XIII □ SECOND-INJURY FUNDS □ January 1, 1991 (continued)

JURISDICTION	INJURIES COVERED	PAYABLE BY EMPLOYER	PAYABLE BY FUND	SOURCE OF FUND	SPECIAL PROVISIONS
IOWA	Second injury involving loss or loss of use of member or eye which added to pre-existing loss of use of member results in permanent disability.	Disability caused by second injury.	Difference between compensation payable for second injury and permanent disability, less value of previous loss of member or organ.	\$4,000 in dependent death cases; \$15,000 in no-dependency death cases; any contributions by the United States; payments due but not paid to non-resident alien dependents; and sums recovered from third parties.	Payments to the fund are suspended when fund reaches \$1,000,000, resumed when it \$500,000.
KANSAS	Second injury related to 17 types of handicap as listed in statute—any physical or mental impairment.	Difference between fund payment and maximum award.	Compensation to the extent pre-existing handicap contributed to second injury.	\$18,500 from employer in no-dependency death cases, and pro-rata annual assessment upon carriers and self-insurers based on losses.	Legislature oversees adequacy of workers compensation fund, administered by Insurance Commissioner. Employer must prove knowledge of prior disability.
KENTUCKY	Second injury or disease which added to prior disability or condition results in permanent disability greater than from second injury alone.	Disability caused by second injury or dominant condition.	Difference between compensation payable for second injury and greater disability, less amount paid for prior injury.	16.9% on all policies and an additional tax of 47% on premiums for policies issued to coal companies.	
LOUISIANA	Second injury which combined with prior permanent partial disability results in disability greater than from second injury alone, or in death.	Total disability benefits for first 104 weeks; in death cases, first 175 weeks; 50% of medical benefits which exceed \$5,000 but are less than \$10,000, and 100% thereafter.	Employer reimbursed for balance of benefits.	2.0% premium tax on carriers and self-insurers, minimum \$10.	Assessments reduced at discretion of the Board with 30 days written notice before assessment is due.
MAINE	Second injury caused by accident, disease, or congenital condition, which added to pre-existing impairment results in permanent total disability.	Disability caused by second injury.	Fund reimburses employer for compensation payments not attributable to the second injury.	In no-dependency death cases, 100 x SAWW and civil penalties of up to \$10,000 assessed against employers who fail to insure.	Duplicate payments from Second Injury Fund and Employment Rehabilitation Fund prohibited.
MARYLAND	Second injury which combined with a pre-existing permanent impairment due to accident, disease, or congenital condition results in a greater combined disability constituting a hindrance to employment.	Disability caused by second injury.	If permanent disability exceeds 50% of the body as a whole, employee is entitled to additional compensation for the full disability from the "Subsequent Injury Fund." Prior injury and second injury must each be compensable for at least 125 weeks.	6% of compensation on all awards and settlement agreements until 6/30/91.	
MASSACHUSETTS	Second injury which added to pre-existing physical impairment results in substantially greater disability or death. Pre-existing disability must support 25% earnings loss or 90 weeks of benefits.	Benefits for first 104 weeks.	Employer reimbursed for 75% of benefits after first 104 weeks.	\$500 in no-dependency death cases, and additional \$500 in every death case; unpaid balance of scheduled awards.	Pro-rata assessment based on losses paid during preceding year by carriers and self-insureds.
MICHIGAN	Second injury involving loss of member or eye, which added to pre-existing loss of member results in permanent total disability.	Disability caused by second injury.	Difference between compensation payable for second injury and permanent total disability. Benefits for employee with more than one job but for whom injury occurred on job which represented less than 80% AWW. For workers certified "vocationally handicapped," fund pays benefits after 52 weeks.	Assessments on carriers and self-insurers proportionate to 175% of disbursements from fund to annual compensation benefits paid.	Fund is credited with any balance in excess of \$200,000.
MINNESOTA	Second injury that results in substantially greater disability than would have resulted from second injury alone.	Disability caused by second injury.	Employer reimbursed for disability after 52 weeks, medical after \$2,000. If second injury results in permanent partial disability, fund pays wage replacement benefits beyond deductible.	\$25,000 in no-dependency death cases, 31% of compensation for current indemnity payments, which finances all fund obligations; assessment based on various factors for injuries occurring after 1/1/84; certain penalties.	Commissioner determines assessment base and rate dependent on fund's financial position and increasing up to 12% annually.
MISSISSIPPI	Second injury involving loss or loss of use of member or eye, which added to pre-existing loss or loss of use of member or eye results in permanent total disability.	Disability caused by second injury.	Difference between compensation payable for second injury and permanent disability.	\$500 in no-dependency death cases; \$300 in dependency cases. Commission may transfer up to \$200,000 from Administrative Expense Fund.	Payments suspended when fund reaches \$350,000 and resumed when fund reduced to \$150,000.
MISSOURI	Second injury resulting in permanent partial disability which compounds either a greater permanent partial or a permanent total disability.	Disability caused by second injury.	Difference between compensation payable for second injury and compounded disability.	Surcharge on all workers' compensation premiums not to exceed 3% of premiums, paid by all insureds and self-insurers.	Surcharge suspended when fund reaches \$24,000,000 and resumed when fund is reduced to \$12,000,000.
MONTANA	Second injury which combined with prior permanent physical impairment results in death or disability.	Insurer liable for payment of benefits for first 104 weeks.	Employer reimbursed after first 104 weeks.	\$1000 paid by employers, insurers, or accident fund in every death case. Carriers and self-insurers assessed 5% of losses paid in preceding year.	Department must certify worker as vocationally handicapped.
NEBRASKA	Second injury which combined with pre-existing disability causes substantially greater disability. Pre-existing disability must support 25% earnings loss or 90 weeks of benefits.	Disability caused by second injury.	Difference between compensation payable for second injury and the total resulting disability.	1% premium tax on carriers or self-insurers (\$25 minimum) payable to Workers' Compensation Court.	Payments suspended when fund reaches \$400,000. Assessment (1%) when fund reduced to \$200,000.
NEVADA	Second injury which combined with any previous permanent physical disability causes substantially greater disability.		Compensation allocated between insurer and fund.	Subsequent Injury Fund in state treasury.	Compensable claim considered "excess loss" in calculation of employer's experience rating. Employer must prove knowledge of prior impairment.
NEW HAMPSHIRE	Second injury which combined with any pre-existing disability results in substantially greater disability.	Benefits for first 104 weeks.	Employer reimbursed after first 104 weeks, and for 50% of anything over \$10,000 during first 104 weeks.	Assessment against carriers and self-insurers proportional to total benefits paid by all carriers.	Employer who undertakes job modifications to retain injured worker is reimbursed 50% of the cost of modification from the fund, not to exceed \$5,000 per employee/year.
NEW JERSEY	Second injury resulting in permanent partial disability which added to pre-existing partial disability, compensable or not, results in permanent total disability.	Disability caused by compensable injury.	Difference between compensation payable for second injury and permanent total disability.	Annual surcharge on policyholders and self-insured employers of pro-rata percentage of 150% of payments estimated to be paid from fund during forthcoming year. Annual surcharge paid quarterly.	When fund balance exceeds \$1,250,000, up to \$50,000 per year may be applied toward administration costs of Division.

In death cases it must be established that either the injury or the death would not have occurred except for such pre-existing permanent physical impairment. "Permanent physical impairment" means any permanent condition due to previous accident, disease, or congenital condition which is likely to be a hindrance to employment.

Kan. "Employer may be description of prior impairment to create presumption of prior knowledge.

La. "Permanent partial disability" means any permanent condition due to injury, disease, or congenital causes which is likely to be a hindrance to employment. Certain scheduled conditions are presumed to be permanent partial disability if employer had prior knowledge.

Mich. "Compensation to certified vocationally handicapped persons payable from fund after 52 weeks.

Minn. "If injury, disability or death would not have occurred but for the preexisting impairment, the fund pays all benefits except for a carnal condition, impairment of at least 10% of the whole man, or as prescribed by rule.

Nev. "The existing disability must support a rating of 12% or more of the whole man based on A.M.A. guides, which is likely to be a hindrance to employment.

"Fund is composed of assessments, penalties, bonds, securities, and all other property collected by administrator, Division of Industrial Insurance Regulation.

CHART XIII □ SECOND-INJURY FUNDS □ January 1, 1991 (continued)

JURISDICTION	INJURIES COVERED	PAYABLE BY EMPLOYER	PAYABLE BY FUND	SOURCE OF FUND	SPECIAL PROVISIONS
NEW MEXICO	Second injury which added to pre-existing disability results in permanent disability greater than from second injury alone, or, second injury resulting in death.	Liability apportioned by Workers' Compensation Administration determination.	Liability apportioned by Workers' Compensation Administration determination.	\$1,000 in no-dependency death cases. Employer or insurer pays quarterly assessment up to 3% of compensation paid during quarter, exclusive of attorney's fees.	Employers and insurers have 2 year statute of limitations, from date of notice or knowledge of claim, for claims against the fund.
NEW YORK	Second injury where employee had a pre-existing physical impairment or where employee incurred a subsequent compensable injury or occupational disease at work.	Benefits for first 104 weeks.	Employer reimbursed after first 104 weeks. Fund also pays any additional benefits due to an employee who was working in concurrent employments when injured.	Assessment against carriers and self-insurers proportional to compensation payments made by all carriers.	Employer or insurer pays awards and medical expenses, but is reimbursed from special disability fund for benefits after first 104 weeks.
NORTH CAROLINA	Second injury involving loss of member or eye which added to pre-existing injury results in permanent total disability, provided the original and increased disability were each 20% of the entire member.*	Disability caused by second injury.	Difference between compensation payable for second injury and permanent total disability.	Assessments against employer or insurer for each permanent partial disability, up to \$50 for a minor member and \$200 for a major member (currently \$25 and \$100, respectively).	
NORTH DAKOTA	Second injury or aggravation of any previous injury or condition which results in further disability.	Disability caused by second injury.	Percent attributable to aggravation or second injury.	Benefit Fund.	Compensation in excess of amount chargeable to second injury is charged to general fund.
OHIO	Second injury which aggravates pre-existing disease or condition (25 types of handicaps as listed by statute), resulting in death, temporary or permanent total disability, and disability compensable under a special schedule.*	Disability attributable to injury or occupational disease sustained in employment.	Amount of disability or proportion of cost of death award determined by Industrial Commission to be attributable to employee's pre-existing disability.	Reserve set aside out of statutory surplus funds.	In the case of a self-insuring employer, excess payments are made from the surplus fund. By rule of Commission in the case of State Fund employer, compensation in excess of amount chargeable to second injury is charged to surplus fund.
OKLAHOMA	Second injury to "physically impaired person" which causes injury to the body as a whole, or to a major member combined with disability to body as a whole. Must exceed 17% to body as a whole.	Disability caused by latest injury.	Difference between compensation payable for prior injuries and compensation for combined injuries.	3% of permanent disability losses by carriers, state fund, and self-insurers, and 3% of awards for permanent disability by injured worker.	Permanent total awards are payable by the fund for five years or until age 65, whichever is longer.
OREGON	Any new compensable injury sustained by an injured worker within 3 years from hire date as a Preferred Worker through the reemployment Assistance Reserve.	None	Employers hiring a Preferred Worker are exempt from paying premiums & premium assessments on the worker for 3 years from hire date. Reserve reimburses all claim costs incurred by the worker for any new compensable injury within the 3-year period. Other return-to-work incentives include worksite modification up to \$25,000, wage subsidy of 50% up to 6 months, and necessary purchases for obtained employment.	Worker pays 4.25 cents per day and employer pays 2.25 cents per day into Reserve.	Reimbursement from Reserve subject to funds available. Decisions regarding eligibility and extent of assistance not reviewable. Settlement of claim requires Department approval if reimbursement involved.
PENNSYLVANIA	Second injury involving loss or loss of use which added to pre-existing loss or loss of use of member results in permanent total disability.*	Scheduled benefits as a result of second injury.	Remaining compensation due for total disability.	Assessment against carriers and self-insurers proportional to compensation payments.	Payments are made directly by the Department.
CO	Second injury which aggravates or augments any former disability.		Job injury not caused by work accident is compensated in addition to second injury. Compensation for prior job injury is deducted from compensation payable for total disability, except where combined injury results in permanent total disability, which is compensated as such.	Insurance premiums.	The difference between expenditures by the Industrial Commission and the Manager of the State Insurance Fund and their maximum budget allotment are placed in the Reserve Fund for catastrophes except for medical expense surpluses; maximum \$1 million.
RHODE ISLAND	Second injury which merges with pre-existing work-related disability resulting in greater disability or death.	Benefits for first 26 weeks.*	Employer reimbursed after first 26 weeks.*	2-3/4% tax on gross premiums collected from insurers and comparable tax on self-insurers, plus \$750 in no-dependency death cases; also certain penalties.	Employer must prove knowledge of prior injury unless employee failed to disclose. Tax may be reduced when fund reaches \$5 million. Any partially incapacitated employee who returns to work for at least 13 weeks at a rate less than his pre-injury AWW, is entitled to a lump sum after 13 weeks, and weekly benefits thereafter to a sum equal to the difference between current and pre-injury AWW.
SOUTH CAROLINA	Second injury which added to any previous permanent physical impairment results in substantially greater disability or death.	Disability caused by second injury for first 78 weeks; compensation and medical care.	Employer reimbursed for all benefits after 78 weeks, plus 50% of medical payments over \$3000 during first 78 weeks.	Pro-rata assessments on carriers and self-insurers based on losses paid. In no-dependency deaths, unpaid benefits to fund.	Employer must prove prior knowledge of impairment or that worker was unaware of impairment.* Any claim against the Fund must be filed with the Fund prior to payment of 78 weeks of benefits.
SOUTH DAKOTA	Second injury which combined with any pre-existing disability, results in additional permanent partial or total disability or death.	Disability caused by second injury.	Difference between compensation payable for second injury and compensation for combined injuries.	Carriers and self-insurers assessed 1% of losses paid during preceding year and \$500 in no-dependency death cases.	Payments suspended at \$200,000, and resumed at \$100,000. Any claim against the fund must be filed with the Division of Insurance within 2 years of the subsequent injury.
TENNESSEE	Second injury involving loss or loss of use of member or eye, which added to pre-existing loss or loss of use of member results in permanent total disability.*	Disability caused by second injury.	Benefits in excess of 100% total disability to body as a whole.	50% of revenues from the 4% premium tax on insurers and self-insurers.	
TEXAS	Subsequent compensable injury combined with the effects of a previous injury entitles employee to lifetime income benefits.	Benefits which would accrue if only the subsequent and not the previous injury had occurred.	Balance of lifetime income benefits due.	Maximum \$150,424* payable into fund in each no-dependency death case.	The Workers' Compensation Commission has right of subrogation to recover claims and attorney's fees paid from Second Injury Funds.
UTAH	Second injury which combined with a previous permanent incapacity due to accident, disease, or congenital condition results in permanent total disability.	Employer pays first 6 years of PT unless there is a 10% pre-existing condition, then employer pays first \$20,000 of medical benefits and first 3 years of PT.	50% of medical expenses in excess of \$20,000 and permanent total disability compensation after initial 3 year period.	Up to 7.15% premium tax on insurers and self-insurers. Fines from uninsured employers.	If employee is permanently and totally disabled, employer or insurance carrier credited for all prior payments of temporary total, temporary partial and permanent partial disability compensation.

N.C. *is considered a prior permanent disability.

Oh. *apply for compensation for temporary partial or percentage of permanent partial disability.

Okla. "physically impaired person" is one who, by accident, disease, birth, military action, or any other cause, has suffered the loss of sight of one eye, the loss by amputation of the whole or a part of, or loss of use of, a major member of his body.

Pa. *Benefits under the Subsequent Injury provision are only payable with respect to subsequent loss or loss of use of one hand, one arm, one foot, one leg or one eye.

R.I. *For claims filed after 9/1/90. Employer reimbursed after first 52 weeks for injuries between 5/18/85 and 8/31/90; and before 5/18/85, after 104 weeks.

S.C. "Permanent physical impairment" means any permanent condition due to injury, disease, or congenital causes which is likely to be a hindrance to employment. Certain scheduled conditions are presumed to be permanent physical impairment if employer had prior knowledge.

Tenn. *Also covers death or disablement resulting from injuries of an epileptic seizure occurring on or after 7/1/85.

Texas *360 times maximum weekly benefit.

CHART XIII □ SECOND-INJURY FUNDS □ January 1, 1991 (continued)

JURISDICTION	INJURIES COVERED	PAYABLE BY EMPLOYER	PAYABLE BY FUND	SOURCE OF FUND	SPECIAL PROVISIONS
VERMONT	Second injury involving loss of use of member or eye which added to previous disability results in permanent total disability.	Disability caused by second injury.	Difference between compensation payable for second injury and permanent total disability.	\$500 in no-dependency death cases.	Payments suspended until sufficient funds become available.
VIRGIN ISLANDS	Second injury which combined with prior impairment results in death or compensable disability greater than from second injury alone.	None. Employer's experience rating affected by disability payments after 104 weeks.	All benefits.	Premiums paid by employers by classification and experience, plus fines, penalties, and interest.	Employer must have prior knowledge of disability.
VIRGINIA	Second injury involving 20% loss or loss of use of member or eye which added to pre-existing disability of 20% or more results in total or partial disability.	Disability caused by second injury.	Employer reimbursed for compensation after all other compensation has expired plus up to \$7,500 each for medical and vocational rehabilitation expenses.	1/4% premium tax on carriers and self-insurers.	Payments suspended at \$250,000, and resumed at \$125,000.
WASHINGTON	Second injury or disease which added to pre-existing injury or disease results in permanent total disability or death.	Disability caused by second injury.	Difference between charge assessed against employer at time of second injury and total pension reserve.	Transfer of not more than cost from accident fund to second injury account. Self-insurers pay proportional to claims against self-insurers.	Preferred workers* have all benefits for claims arising within 3 years of new employment paid Second Injury Fund.
WEST VIRGINIA	Second injury which combined with a definitely ascertainable physical impairment caused by prior injury results in permanent total disability.	Disability caused by second injury.	Remainder of the compensation that would be due for permanent total disability.	Self-insureds in deep shaft mining pay 22% of the manual rate; all other self-insureds pay 17%.	Self-insured employer who has elected not to pay into the fund liable for full compensation of permanent total disability from combined effect of a previous injury and a second injury.
WISCONSIN	Second injury with permanent disability for 200 weeks or more with a pre-existing disability of an equal degree or greater.	Disability caused by second injury.	Disability caused by lesser of 2 injuries. If the combined disabilities result in permanent total disability, fund pays the difference between compensation payable for second injury and permanent total disability.	\$5,000 in death cases, \$7,000 for loss of a hand, arm, foot, leg, or eye. 100% of death benefit in no-dependency death cases.	
WYOMING	Second injury in extra-hazardous employment which added to pre-existing loss or loss of use of member or eye results in permanent total disability.	Disability caused by second injury.	Difference between compensation payable for second injury and permanent disability.	\$500 in no-dependency death cases.	Any payments for previous partial disability or payments which would have been made if the previous injury had occurred in an extra-hazardous employment are deducted from the award.
LONGSHORE ACT	Second injury resulting in permanent partial disability which added to pre-existing injury results in permanent total disability.	Disability caused by second injury for first 104 weeks.	Difference between compensation payable for second injury and permanent total disability.	\$5,000 in no-dependency death cases or unpaid awards. Pro-rata assessments based on losses paid. Fines and penalties.	50% of fund is for second injuries and 50% for rehabilitation. Supplementary benefits for total disability or death payable by fund.
ALBERTA	No specific statutory provision*				
BRITISH COLUMBIA	All enhanced disabilities by reason of a pre-existing disease, condition or disability.	No	Yes	Accident Fund	
MANITOBA	All enhanced disabilities because of similar or other disabilities	No	Yes	Accident Fund	Compensation must be at least half the benefit payable if the entire disability were caused by the pre-existing condition. Condition includes neurosis or psychoneurosis.
NEW BRUNSWICK	Second injury coupled with other prior injuries or disabilities.	No	Yes	Reserve Fund	
NEWFOUNDLAND	All enhanced disabilities because of similar or other disabilities.	No	Difference between compensation payable for second injury and final result of disablement.	Reserve Fund	
NOVA SCOTIA	Injury that aggravates, activates, or accelerates pre-existing disease or disability; or injury that results in injury or disease caused partly by employment and partly by other causes.	No	Disability attributable to second injury.	Accident Fund	Board has authority to establish second injury fund.
NORTHWEST TERRITORIES	All disabilities due to pre-existing disease, condition or disability.	No	Difference between second injury and total cost.	Accident fund	
ONTARIO	All enhanced disabilities due to pre-existing diseases, condition, or disability.	No	Difference between second injury and total cost.	Accident Fund	Not restricted to permanent disability cases.
PRINCE EDWARD ISLAND	No specific statutory provision				
QUEBEC	In the case of a worker already handicapped when his employment injury appears, the Commission may impute all or part of the cost of the benefits to the employers of all the units.			Commission has authority to establish second injury fund.	
SASKATCHEWAN	All enhanced disabilities due to pre-existing disease, condition, or disability.	No	Difference between second injury and total cost.	Injury Fund	
YUKON TERRITORY	All enhanced disabilities because of similar or other disabilities.	No	Yes	Compensation Reserve Fund for enhanced disabilities. Assessment on employers' annual payroll.	
CANADIAN MERCHANT SEAMEN'S ACT	No specific statutory provision				

Wash. *Defined as workers who must change jobs due to effect of an industrial injury or illness.

Alta. *Board has established reserve funds to cover enhanced disability or aggravation of previous condition.