



Industrial Special Indemnity Fund (ISIF)

Annual Report Calendar Year 2014

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INTRODUCTION TO ISIF

The Industrial Special Indemnity Fund (ISIF) was originally adopted in 1927 by the Idaho Legislature as part of the state's comprehensive workers compensation system. It was initially intended to encourage employers to hire disabled veterans returning from World War I. The ISIF is more commonly referred to as the "second injury fund." Its general purpose is to relieve employers from paying the total financial obligation for lifetime benefits to workers who become totally and permanently disabled following a second or subsequent injury at work.

The purpose and management of the ISIF was created in Sections 72-323, 324, 331, 332 and 334, Idaho Code.

Funding for the ISIF is provided by an annual assessment. The assessment is calculated by ISIF to be an amount which is two times (2x) all its expenses during the immediately preceding fiscal year less (-) the cash balance at the end of that fiscal year. That figure is then pro-rated among the State Insurance Fund, self-insured employers, and other sureties based on each entity's proportionate share of total indemnity (income) benefits paid on open workers' compensation claims during the reporting period. The pro-rated amount is calculated by the Idaho Industrial Commission, which prepares semi-annual billings of the assessment for each responsible entity. ISIF has contracted with the Industrial Commission to invoice the assessment for each entity and collect the funds on behalf of the ISIF.

ISIF is responsible for lifetime total and permanent disability benefits only. All other benefits within the workers compensation program are the obligation of the employer/surety; i.e. retraining, medical, vocational, functional loss, lost wages, partial disability, etc. Allocation of liability for total and permanent disability between the employer/surety and the ISIF is apportioned under what is called the "Carey formula," which is cited in the case of *Carey v. Clearwater*.

Claims for benefits from ISIF are started by filing a Notice of Intent to File a Complaint Against the ISIF (NOI). Such notices are filed by workers, self-insured employers and insurance companies in the workers compensation system seeking ISIF contribution for total disability benefits. The notices are filed under what is commonly called the "60 day rule." Section 72-334, Idaho Code. During the 60 days, the ISIF will undertake an in-house review of the claim to evaluate its potential liability and will either resolve or deny the claim. Following conclusion of review and the claim unresolved, the party filing the NOI can either elect to file a formal Complaint against the ISIF, or discontinue pursuit of the claim. Upon receipt of a Complaint, the ISIF will refer the claim to outside legal counsel for its representation and commence formal litigation of the issues.

Resolution of claims can be accomplished in one of several ways, which may be by lump sum settlement, periodic monthly payments, deferred lump sum or periodic payments, or any combination of these options with the approval of the Industrial Commission.

Benefit rates for total and permanent disability, and hence ISIF liability, are part of a statutory system too complicated to explain in this Introduction. In general, the benefits are based on the average weekly wage of the injured worker and fall into categories of 45%, 60% or 67% of that wage structure. Benefits are paid at these levels and may change from year-to-year as the average weekly state wage may change.

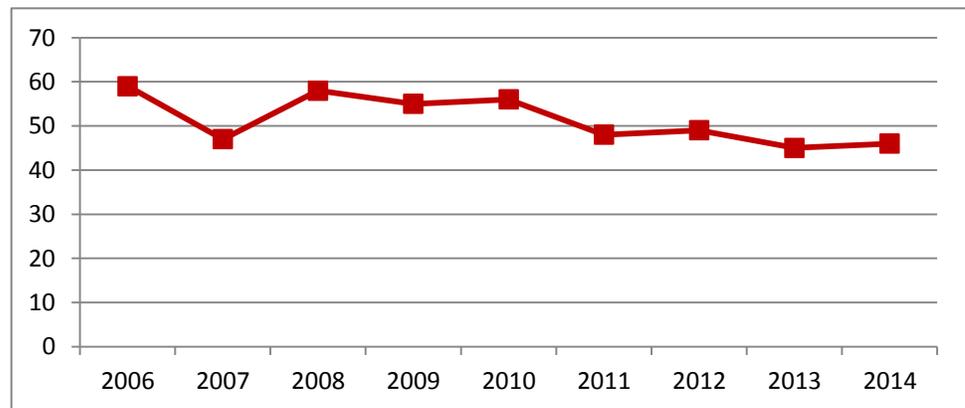
OPERATIONS

Adjudication

Managing claims is a major function of this agency. Management of individual claims starts with the initial in-house evaluation of the NOIs and responding within the statutory time period of 60 days. If the claim is denied and a formal Complaint filed with the Industrial Commission, ISIF then takes a more formal approach to resolving the claim with the assistance of outside legal counsel. In either situation, ISIF staff personnel are actively involved in all phases of the claim from start to finish. The information in this report is based on calendar year (CY) statistics.

Notice of Intent Filings CY

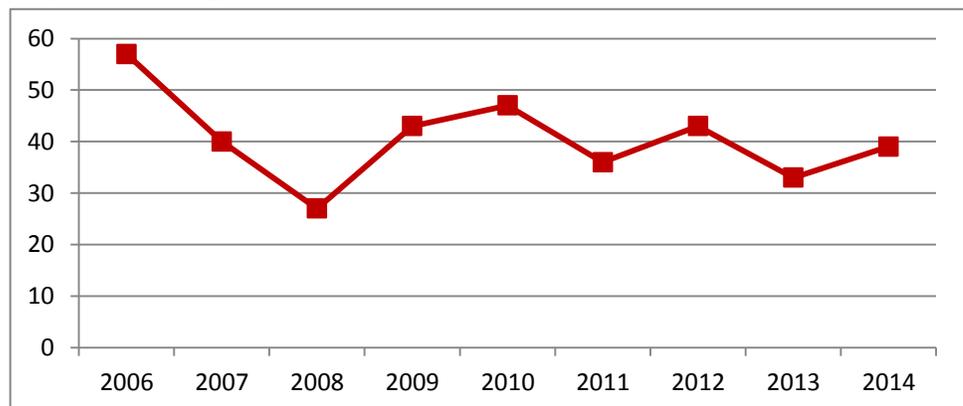
2006	59
2007	47
2008	58
2009	55
2010	56
2011	48
2012	49
2013	45
2014	46



Although the number of NOIs submitted have slightly declined over the past few years, the number of formal Complaints filed with the Industrial Commission has been more erratic as shown in the chart below. One of the reasons for the inconsistent numbers may be that a complaint may be filed long after the NOI is denied and still be acceptable. Nevertheless, a downward trend has generally occurred, even with an uptick this past year of almost 20%.

Complaint Filings CY

2006	57
2007	40
2008	27
2009	43
2010	47
2011	36
2012	43
2013	33
2014	39



Even though the numbers actually show a slightly downward trend in both the number of claims and cases filed, the ISIF has been facing an ever increasing challenge in the last few years in limiting the overall cost of litigation. Due to economic changes in the workplace, a drop in available jobs has caused a decrease in available opportunities for injured workers to reenter the job market and enjoy active employment again. Additional changes at the federal level have created an attractive environment for injured workers to receive long-term disability benefits that were not previously available with such ease. Thus, many injured workers have left the workforce to forego regular employment and instead receive federal disability benefits. As these benefits run out, there is a tendency to continue this routine by applying to ISIF for lifetime disability benefits. The ages of former workers seeking benefits from ISIF has expanded greatly over the past few years and now range from the mid-30's to mid-70. This spread is growing further apart each year.

ISIF has been proactive in bringing claims to final adjudication. By actively managing its claims and working closely with outside legal counsel, litigation costs, liability exposure, and operational costs are held to acceptable levels. Needless to say, however, that with a more complex litigation process, costs have increased in any event.

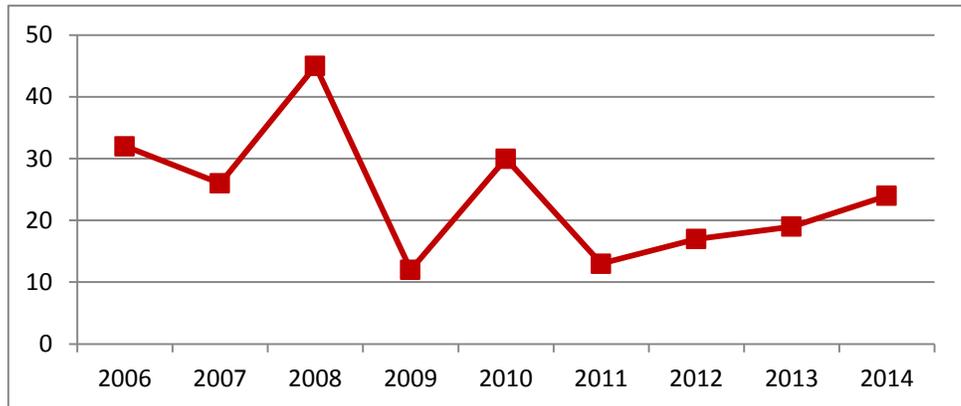
Benefits Administration

One way to bring cases to final resolution is through the settlement process. As mentioned previously, claim resolution can be accomplished in one of several ways through a one-time lump sum payment, periodic monthly payments, deferred lump sum or periodic payments, or any combination of these options with the approval of the Industrial Commission.

Over the past few years, Idaho case law has made the settlement process more complicated. These cases set fundamental requirements for ISIF in bringing settlement proposals to the attention of the Industrial Commission. In essence, the ISIF must now concede all issues of liability before a proposed settlement can be delivered to the Commission for review and ultimate approval. This process has necessarily resulted in more complex pre-hearing procedures. As a result, ISIF by necessity must be more deliberate and take more time-consuming steps to explore and fully review all aspects of liability before a potential settlement can even be negotiated and then presented for final approval. Even with more hurdles to the resolution process, ISIF has been innovative in its approach to settlement. As the numbers shown below indicate, ISIF has been able to increase the cases resolved by stipulated agreement since the new requirements were established in 2009. The chart reflects both one-time lump sum settlements, as well as, settlements using both one-time payments with modified statutory benefits for the life of the claimant.

Cases Closed By Stipulated Agreement CY

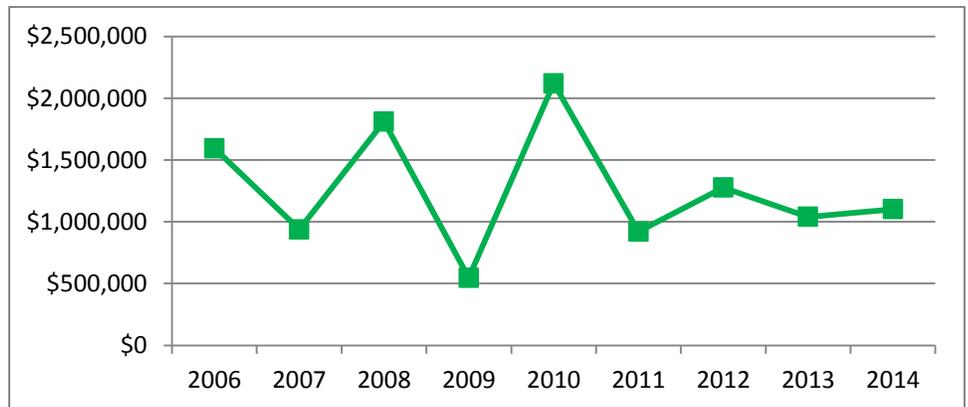
2006	32
2007	26
2008	45
2009	12
2010	30
2011	13
2012	17
2013	19
2014	24



Set out below are the annual amounts of one-time payments of lump sum settlements during the past nine years. As the graph shows, the wide yearly variance of these costs has subsided. Once again, close management of the process has helped control such costs.

Lump Sum Costs CY

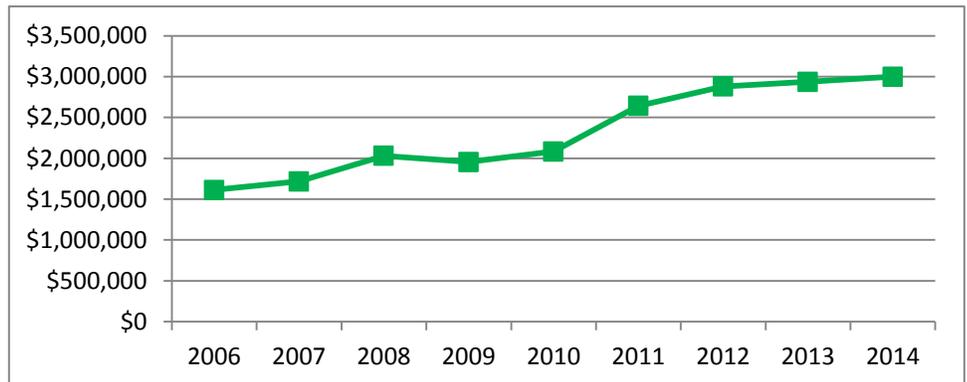
2006	\$1,595,089
2007	\$937,982
2008	\$1,810,925
2009	\$546,578
2010	\$2,119,131
2011	\$920,298
2012	\$1,277,076
2013	\$1,039,817
2014	\$1,101,413



Another avenue in resolving cases is through the judicial hearing process, in which the parties actively litigate the liability of the ISIF before the Industrial Commission. Should the ISIF be liable, then monthly statutory benefits are paid during the lifetime of the disabled worker. Since 2006, 53 beneficiaries have been added to the rolls. During that same time, 33 have passed away. However, since the new beneficiaries are coming in at a higher wage rate than their earlier counterparts, the additional costs of these benefits on an annual basis have steadily increased. Further, regular inflationary increases add to the overall cost of this benefit. As a result, the annual payouts have increased a total of 86% over this same time frame, which is an annualized average of 10.8% per year. This trend is clearly of great concern to the ISIF. Should this trend continue, the total payments for monthly annuitants would double every 6 2/3 years.

Monthly Payout CY

2006	\$1,611,701
2007	\$1,717,818
2008	\$2,031,642
2009	\$1,955,706
2010	\$2,083,140
2011	\$2,641,662
2012	\$2,879,967
2013	\$2,936,617
2014	\$2,998,583



Litigation

Litigation expense and time delays are seemingly a natural occurrence in the legal system and have been a long standing concern to the ISIF. Since judicial review of an injured worker's potential disability is not evaluated until the hearing, any unnecessary delay will work to the disadvantage of ISIF. Put another way, any unnecessary delay in the judicial process will more-than-likely result in an even greater decline in the disabled worker's already poor health condition. As a result, the likelihood of liability is greatly increased. Such factors precipitated the ISIF in proposing and passing legislation in 1997 commonly known as the "60 day rule" regarding filing of NOIs. The statute allows ISIF 60 days to review, evaluate and possibly settle claims without involving extensive use of outside legal counsel and the time consuming judicial process.

Even without resolution of the claim during the 60-day period, the legislation has enhanced the ability of ISIF to better manage overall litigation expenses after an initial in-house evaluation of the claim. In addition, the legislation sought to bring faster relief and lower legal costs for injured workers, employers, sureties and self-insured employers, as well as, the ISIF. In some claims, the new rule has met its expectations. However, in far too many claims, the material submitted to ISIF for initial review as part of the NOI is not entirely relevant and contains many extraneous documents having no bearing on ISIF liability. This creates a frustrating process leading to denial of a claim, which then leads to formal litigation necessitating more time with a more expensive process for all parties.

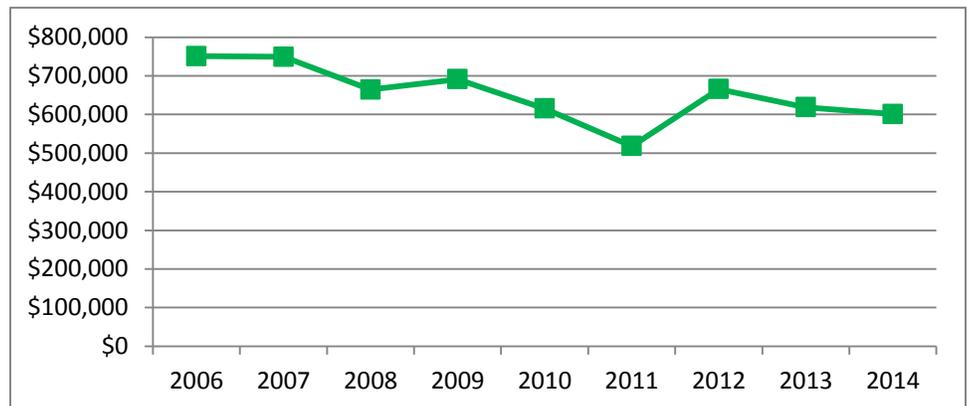
Over the last nine years, litigation costs have been more contained even though the caseloads for each attorney have increased. As described earlier in this Report, ISIF is faced with more legal requirements to wade through before cases can be resolved. With fewer opportunities for negotiated settlements, more innovative ways to resolve cases have been implemented as noted in this Report. Fortunately, these varied resolutions have gained approval from the Industrial Commission. Such resolutions have increased the overall number of cases that are fully resolved through the efforts of the parties. See: Chart for Cases Closed by Stipulated Agreement on page 5. This process effectively helps reduce the overall litigation costs and delays.

A necessary component of the litigation process is the retention and use of attorneys to represent ISIF. Over the past four and one-half years, the ISIF added two attorneys and lost two to its team of outside legal counsel making the total number of attorneys now seven. These attorneys are located throughout the state and retained as cases are filed in each locale. The ISIF has been fortunate to have attorneys, not only well-experienced in the workers compensation field, but equally experienced with the second injury fund. This experience has proven invaluable in processing claims and cases. An added benefit has been the enhanced reputation of ISIF with other attorneys throughout Idaho, the Industrial Commission, and the Idaho Supreme Court. This past year was a sad one for the team due to the sudden and unexpected passing of one of its most experienced attorneys. The team also lost through retirement its veteran in-house claims technician. The team is readjusting and will be just as efficient in 2015.

The costs of legal representation include depositions, travel, discovery of medical, employment and vocational information, strategy summaries, analysis of all issues, as well as, formal hearings and preparation of legal briefing to the Industrial Commission, and in some cases representation in the Idaho Supreme Court. Although the aggregate costs are certainly not insignificant, the cost-benefit ratio on a per-case basis is extremely satisfying to ISIF.

Attorney Expenses CY

2006	\$750,977
2007	\$749,123
2008	\$664,109
2009	\$690,909
2010	\$615,470
2011	\$517,962
2012	\$665,401
2013	\$618,433
2014	\$600,769

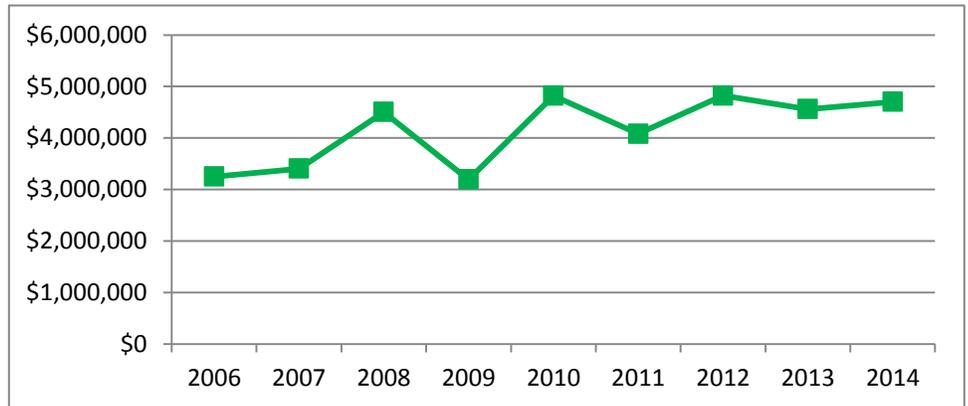


Even with this level of experience, costs have been trending downward. Such a trend is largely due to the active participation by ISIF staff in each case. Such an active involvement with the claims has led to more efficient use of outside counsel by directing resources to meaningful defense strategies and more successful outcomes in litigation and/or settlements.

Thus, total litigation costs are composed of attorney fees and costs, monthly annuitant payments, and approved settlement agreements. These costs have generally been trending upward in recent years but at a manageable rate. An illustration of these costs is set out below.

Litigation Expenses CY

2006	\$3,250,279
2007	\$3,403,304
2008	\$4,505,086
2009	\$3,193,192
2010	\$4,817,491
2011	\$4,079,922
2012	\$4,822,444
2013	\$4,557,941
2014	\$4,700,766

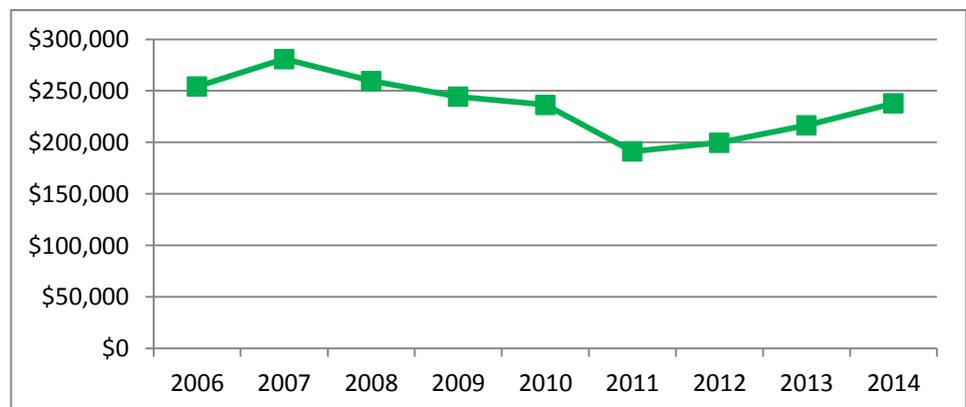


Costs of Office Administration

The final component to the expense-side of ISIF is the cost of operating an administrative office. This is rather a small amount compared to the other major expenses in managing the ISIF. The expenses include two full time employees and general expenses such as office rent, equipment, technical support services, supplies, travel and storage of records. These costs have been fairly stable over the past few years, even with modest salary and operational increases.

Office Admin Expenses CY

2006	\$254,209
2007	\$280,912
2008	\$259,661
2009	\$244,296
2010	\$236,411
2011	\$191,197
2012	\$199,724
2013	\$216,510
2014	\$237,827

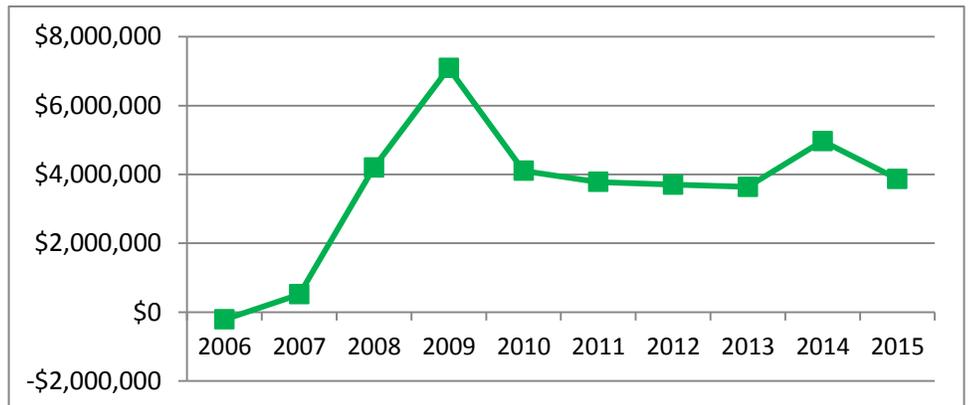


ASSESSMENT

The ISIF is funded through an annual assessment to insurance companies, self-insured employers, and the State Insurance Fund. It is calculated by a rather simple method of taking two times (2x) the total expenses of operating the ISIF during the most recent fiscal year minus (-) ending cash from that same fiscal year. This calculation is then pro-rated by the Industrial Commission among all sureties for the entity's share of total indemnity (income) benefits paid on workers' compensation claims during the reporting period. The pro-rated amount is billed and paid semi-annually. Below is an illustration of Assessments from 2006 forward.

Assessments CY

2006	-\$209,673
2007	\$519,633
2008	\$4,200,219
2009	\$7,088,187
2010	\$4,103,171
2011	\$3,782,089
2012	\$3,701,257
2013	\$3,636,709
2014	\$4,969,970
2015	\$3,868,132



The expenditure-side of the Assessment is broken into three main categories: Administrative, Benefits and Litigation. These costs have been detailed in previous portions of this Report. Generally, expenses have been more predictable in recent years due to overall stability and increased involvement in all claims by the administrative staff. The revenue-side is composed of the annual assessment, accrued interest, special death payments and insurance annuities. As cash reserves are used to a greater extent to pay claims, the Assessment will increase. This will occur because the remaining cash balance becomes a smaller percentage of the ratio compared to overall expenses. Such a situation was the basis for the significant increase in the Assessment for calendar year 2014, as shown above. However, with a smaller percentage of cash used in FY 2014, a decrease in Assessment was projected for the next calendar year. Such a decrease actually occurred, as noted in the above chart. As a result, a drop in Assessment of 22% will be implemented this year.