

**REVISED PROPOSED REGULATION OF THE DIVISION OF
INDUSTRIAL RELATIONS OF THE DEPARTMENT OF
BUSINESS AND INDUSTRY**

LCB File No. R096-99

September 1, 1999

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§ 1-13, NRS 232.680.

Section 1. Chapter 616B of NAC is hereby amended by adding thereto a new section to read as follows:

The division may adjust an annual assessment made against an insurer.

Sec. 2. NAC 616B.680 is hereby amended to read as follows:

616B.680 As used in NAC 616B.680 to 616B.740, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 616B.683 to 616B.698, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NAC 616B.686 is hereby amended to read as follows:

616B.686 “Annual expenditures for claims” means ~~[the]~~ :

1. For assessments for fiscal years before fiscal year 1999-2000, the total amount of money actually paid for compensation in a fiscal year *, including those costs of claims covered under a policy of reinsurance*, by or on behalf of an insurer pursuant to chapters 616A to 617, inclusive, of NRS *,* reduced by any amount received from subrogation and reimbursement from the subsequent injury fund of the insurer.

2. For assessments for fiscal year 1999-2000 and for each subsequent fiscal year, the total amount of money actually paid for compensation in a fiscal year for injuries occurring on or after July 1, 1999, including those costs of claims covered under a policy of reinsurance, by an insurer or its third-party administrator pursuant to chapters 616A to 617, inclusive, of NRS, reduced by any amount received from subrogation and reimbursement from the subsequent injury fund of the insurer.

Sec. 4. NAC 616B.692 is hereby amended to read as follows:

616B.692 “Expected annual expenditures for claims” means an estimate of the total amount of money to be paid for compensation in a fiscal year *for injuries occurring on or after July 1, 1999, including those costs of claims covered under a policy of reinsurance*, by ~~for on behalf of~~ an insurer *or its third-party administrator* pursuant to chapters 616A to 617, inclusive, of NRS.

Sec. 5. NAC 616B.695 is hereby amended to read as follows:

616B.695 “Insurer” includes ~~any~~:

- 1. The state industrial insurance system;*
- 2. A self-insured employer;*
- 3. An association of self-insured public employers;*
- 4. An association of self-insured private employers;*
- 5. A private carrier; and*
- 6. An employer who provides accident benefits for injured employees pursuant to NRS*

616C.265.

Sec. 6. NAC 616B.695 is hereby amended to read as follows:

616B.695 “Insurer” includes:

1. ~~{The state industrial insurance system;~~
- ~~—2.—~~ A self-insured employer;
- ~~{3.}~~ 2. An association of self-insured public employers;
- ~~{4.}~~ 3. An association of self-insured private employers;
- ~~{5.}~~ 4. A private carrier; and
- ~~{6.}~~ 5. An employer who provides accident benefits for injured employees pursuant to NRS 616C.265.

Sec. 7. NAC 616B.713 is hereby amended to read as follows:

616B.713 1. ~~{The system}~~ *An insurer* shall provide to the division a statement showing ~~{by month the amount of annual expenditures for claims for each self-insured employer or member of an association incurred before becoming certified for a program of self-insurance.~~

~~—2.—~~ ~~The system shall provide to the division a statement of the amounts of expenditures for claims incurred after certification for each self-insured employer or association.~~

~~—3.—~~ ~~Each insurer shall submit to the division a statement showing by month his annual expenditures for claims.~~ *the amount of expenditures for claims described in NAC 616B.707 for a period designated by the division.*

2. The statement must be verified and signed by a responsible person employed by the insurer or his authorized agent.

~~{4.}~~ 3. Amounts reported to the division pursuant to ~~{subsections 1, 2 and 3}~~ *subsection 1* will be used as ~~{sources}~~ *the source* for determining annual expenditures for claims.

Sec. 8. NAC 616B.719 is hereby amended to read as follows:

616B.719 *1.* The amount of the expected annual expenditures for claims of an insurer is the *annualized* average of his expenditures for claims made during the 3 previous calendar years, unless estimated by the division pursuant to NAC 616B.716.

2. For the purposes of this section, the annualized average will be calculated by dividing the total expenditures for claims for the 3 previous calendar years by the number of years, or portion thereof, for which claims are reported.

Sec. 9. NAC 616B.722 is hereby amended to read as follows:

616B.722 *1.* The amount of the estimated annual assessment made against each insurer to be used to defray:

(a) The administrative costs of the *office of the administrator, office of legal counsel,* administrative services unit and ~~[the]~~ industrial insurance regulation section will be calculated ~~[as follows:~~

~~——(1) For assessments made for a fiscal year beginning on July 1 of an even-numbered year, the amount of the estimated assessment will be calculated]~~ by multiplying the insurer's percentage of expenditures by the ~~[sum of the]~~ amount approved in the state budget for those administrative costs. ~~[and for increases in salary for the employees of those offices.~~

~~——(2) For assessments made for a fiscal year beginning on July 1 of an odd-numbered year, the amount of the estimated assessment will be calculated by multiplying the insurer's percentage of expenditures by the sum of the amount proposed in the state budget for those administrative costs and for increases in salary for the employees of those offices.]~~

(b) The administrative costs of the offices of the hearings division of the department of administration and the Nevada attorney for injured workers for the time spent concerning claims for workers' compensation will be calculated ~~[as follows:~~

~~——(1) For assessments made for a fiscal year beginning on July 1 of an even-numbered year, the amount of the estimated assessment will be calculated~~] by multiplying the insurer's percentage of expenditures by the ~~[sum of the]~~ amount approved in the state budget for these administrative costs . ~~[and for increases in salary for the employees of those offices.~~

~~——(2) For assessments made for a fiscal year beginning on July 1 of an odd-numbered year, the amount of the estimated assessment will be calculated by multiplying the insurer's percentage of expenditures by the sum of the amount proposed in the state budget for those administrative costs and for increases in salary for the employees of those offices.]~~

(c) The administrative costs of the occupational safety and health enforcement section and the safety consultation and training section will be calculated ~~[as follows:~~

~~——(1) For assessments made for a fiscal year beginning on July 1 of an even-numbered year, the amount of the estimated assessment will be calculated~~] by multiplying the insurer's percentage of expenditures by the ~~[sum of the]~~ amount approved in the state budget for those offices . ~~[and for increases in salary for the employees of those offices.~~

~~——(2) For assessments made for a fiscal year beginning on July 1 of an odd-numbered year, the amount of the estimated assessment will be calculated by multiplying the insurer's percentage of expenditures by the sum of the amount proposed in the state budget for those offices and for increases in salary for the employees of those offices.]~~

(d) The administrative costs of the mine safety and training section will be calculated ~~[as follows:~~

~~——(1) For assessments made for a fiscal year beginning on July 1 of an even-numbered year, the amount of the estimated assessment will be calculated~~] by multiplying the insurer's percentage of expenditures by the ~~[sum of the]~~ amount approved in the state budget for the mine

safety and training section . ~~[and for increases in salary for the employees of the mine safety and training section.~~

~~—— (2) For assessments made for a fiscal year beginning on July 1 of an odd-numbered year, the amount of the estimated assessment will be calculated by multiplying the insurer's percentage of expenditures by the sum of the amount proposed in the state budget for the mine safety and training section and for increases in salary for the employees of the mine safety and training section.]~~

(e) The costs of the commissioner for administering the program of self-insurance will be calculated ~~[as follows:~~

~~—— (1) For assessments made for a fiscal year beginning on July 1 of an even-numbered year, the amount of the estimated assessment will be calculated]~~ by multiplying ~~[each self-insured employer's]~~ *the* percentage of expenditures *of each self-insured employer and the percentage of expenditures of each association of self-insured public or private employers* by the ~~[sum of the]~~ amount approved in the state budget for those costs . ~~[and for increases in salary for employees engaged in administering the program.~~

~~—— (2) For assessments made for a fiscal year beginning on July 1 of an odd-numbered year, the amount of the estimated assessment will be calculated by multiplying each self-insured employer's percentage of expenditures by the sum of the amount proposed in the state budget for those costs and for increases in salary for employees engaged in administering the program.]~~

(f) *That portion of the cost of the office for consumer health assistance that is related to providing assistance to consumers and injured employees concerning workers' compensation will be calculated by multiplying the insurer's percentage of expenditures by the amount approved in the state budget for that cost.*

(g) The administrative costs of the administration of claims against uninsured employers arising from compliance with NRS 616C.220 will be calculated by multiplying the insurer's percentage of expenditures by the amount derived by multiplying:

(1) The expected annual disbursements to be made from the uninsured employers' claim fund; and

(2) The ~~rate charged by the system.~~

~~(g)~~ *charge for the administration of claims.*

(h) The administrative costs of having premium rates ~~of the system~~ reviewed by the commissioner ~~is the annual amount charged by the commissioner, and the system shall pay those costs.~~

~~(h)~~ *will be calculated by multiplying the insurer's percentage of expenditures by the amount approved in the state budget for those administrative costs.*

(i) The amount of disbursements from the uninsured employers' claim fund will be calculated by multiplying the insurer's percentage of expenditures by the sum of expected annual disbursements to be made from the fund.

~~(i)~~ (j) The amount of disbursements from ~~a~~ *the* subsequent injury ~~fund~~ *funds for self-insured employers, associations and private carriers* will be calculated by multiplying the insurer's percentage of expenditures by the sum of expected annual disbursements to be made from the ~~fund~~ *funds*.

2. For the purposes of this section, "percentage of expenditures" means the proportion of an insurer's expected annual expenditures for claims relative to the amount of the expected annual expenditures for claims of all insurers responsible for the cost shown in a particular category of the state budget.

Sec. 10. NAC 616B.725 is hereby amended to read as follows:

616B.725 **1.** The estimated annual assessment to be made against ~~[a self-insured employer or association that does not participate in a program of self-insurance during]~~ *an insurer for* a portion of a fiscal year may be calculated by the division . ~~[in the proportion that the number of months in the fiscal year the insurer will be self-insured bears to the total number of months in that fiscal year.]~~

2. A statement of such an assessment may be issued to the insurer by the division.

Sec. 11. NAC 616B.734 is hereby amended to read as follows:

616B.734 **1.** The division will determine, on the basis of reports issued by the state controller for the previous fiscal year relating to closing budgets and final trial balances, the amount of money disbursed from and deposited in:

- (a) The fund for workers' compensation and safety;
- (b) The uninsured employers' claim fund; and
- (c) The subsequent injury funds for self-insured employers, associations and private carriers.

2. The division will calculate, in the same manner as for estimated annual assessments, the final annual assessment for each insurer for the previous fiscal year and will use:

(a) The insurer's statements relating to annual expenditures for claims for the previous fiscal year submitted pursuant to NAC 616B.713; *and*

(b) ~~[Amounts reported for the previous fiscal year by the system pursuant to NAC 616B.713 for expenditures for claims incurred by a self-insured employer before the employer was certified for a program of self-insurance;~~

~~—(c) Amounts reported for the previous fiscal year by the system pursuant to NAC 616B.713 for expenditures for claims incurred by an association before the association was certified for a program of self insurance; and~~

~~—(d)]~~ The determinations made pursuant to subsection 1.

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The division will issue to the insurer a statement of the final assessment.

Sec. 12. NAC 616B.740 is hereby amended to read as follows:

616B.740 The *division may assess a* penalty for the late payment , *without good cause*, of an assessment for ~~[a]~~ *the fund for workers' compensation and safety, the* subsequent injury ~~[fund]~~ *funds for self-insured employers, associations or private carriers* or the uninsured employers' claim fund ~~[, without good cause, is not less than \$50 nor more than \$500.]~~ *in accordance with the provisions of NRS 616D.120.*

Sec. 13. 1. This section and sections 1 to 5, inclusive, and 7 to 12, inclusive, of this regulation become effective upon filing with the secretary of state.

2. Section 6 of this regulation becomes effective on January 1, 2000, only if, on that date, the manager of the state industrial insurance system transfers the assets of the state industrial insurance system to a domestic mutual insurance company pursuant to section 129 of chapter 388, Statutes of Nevada 1999.