

**LCB File No. R216-97**  
**STATE OF NEVADA**  
**BOARD FOR THE ADMINISTRATION**  
**OF THE SUBSEQUENT INJURY FUND FOR**  
**ASSOCIATIONS OF SELF-INSURED PUBLIC OR PRIVATE EMPLOYERS**

IN THE MATTER OF THE ADOPTION	)	
OF REGULATIONS CONCERNING THE	)	SIF/ASE 98-2
ASSESSMENTS, RATES AND PENALTIES OF	)	
THE BOARD FOR THE ADMINISTRATION	)	LCB File No. R216-97
OF THE SUBSEQUENT INJURY FUND FOR	)	
ASSOCIATIONS OF SELF-INSURED	)	
PUBLIC OR PRIVATE EMPLOYERS	)	

**PROPOSED PERMANENT REGULATIONS**

AUTHORITY: NRS 616B.572; 616B.575

**Section 1.** Chapter 616B of NAC is hereby amended by adding thereto the provisions set forth as sections 3 through 27, inclusive of this regulation.

**Sec. 2.** As used in sections 15 through 27, inclusive, unless the context otherwise requires, the words and terms defined in sections 3 through 14, inclusive, have the meanings ascribed to them in those sections.

**Sec. 3.** “Administrator” means the administrator of the division of industrial relations of the department of business and industry.

**Sec. 4.** “Annual disbursements” means the sum of all payments for compensation made in a fiscal year from the subsequent injury fund for associations of self-insured public or private employers.

**Sec. 5.** “Annual expenditures for claims” means the total amount of money actually paid for compensation in a fiscal year by or on behalf of an association of self-insured public or private employers pursuant to chapters 616A to 617, inclusive, of NRS reduced by any amount received from subrogation and reimbursement from the subsequent injury fund. For purposes of this section, “by or on behalf of” means money actually paid for compensation by an association of self-insured public or private employers and money actually paid for compensation by the State Industrial Insurance System as the result of a worker’s compensation claim that was incurred prior to the time that the public or private employer became a member of an association of self-insured public or private employers.

**Sec. 6.** “Association of self-insured private employers” means a nonprofit, unincorporated association composed of five or more private employers that have been issued a certificate by the commissioner of insurance and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive.

**Sec. 7.** “Association of self-insured public employers” means a nonprofit, unincorporated association composed of five or more public employers that has been issued a certificate by the commissioner of insurance and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive.

**Sec. 8.** “Association” means an association of self-insured private employers or an association of self-insured public employers, individually.

**Sec. 9.** “Associations” means the associations of self-insured private employers and the associations of self-insured public employers, collectively.

**Sec. 10.** “Board” means the board for the administration of the subsequent injury fund for associations of self-insured public or private employers.

**Sec. 11.** “Division” means the division of industrial relations of the department of business and industry.

**Sec. 12.** “Expected annual disbursements” means an estimate of the sum of all payments to be made for compensation in a fiscal year from the subsequent injury fund.

**Sec. 13.** “Expected annual expenditures for claims” means an estimate of the total amount of money to be paid for compensation in a fiscal year by or on behalf of an association pursuant to chapters 616A to 617, inclusive, of NRS.

**Sec. 14.** “Fund” means the subsequent injury fund for associations of self-insured public or private employers.

**Sec. 15.** “System” means the State Industrial Insurance System.

**Sec. 16.** The division, if authorized by the board, shall administer, impose and collect assessments and penalties from associations. The division shall administer, impose and collect assessments and penalties from associations pursuant to sections 17 through 27, inclusive, of this regulation.

**Sec. 17.** The division shall determine the estimated annual assessment to be made against each association in order to defray the amount of the expected annual disbursements to be made from the fund.

1. Each association shall maintain records in this state of annual expenditures for claims, including:

(a) Copies of checks issued;

(b) Registers of checks issued relating to claims for workers’ compensation, including voided checks;

(c) Registers of any other payment of claims other than by check; and

(d) Working papers used to report annual expenditures for claims.

2. The division may require an association to provide a copy of any canceled check described in subsection 1. Within 15 days after it receives a written request from the division, the association shall provide a copy of both sides of each canceled check requested. The division may require the association to provide a certified copy of each canceled check requested.

3. Each association shall provide the division, at such times and in the form and manner prescribed by the division, with reports of expected annual expenditures for claims, annual expenditures for claims and such other information as the division deems necessary to calculate an estimated or final annual assessment.

4. The division will provide to each association an annual report showing the figures and sources used in calculating the estimated annual expenditures for claims.

**Sec. 18.** 1. The division will consider expenditures for the following as expenditures for claims:

- (a) A surgeon, assisting surgeon, anesthesiologist or consulting physician.
- (b) Charges by a hospital.
- (c) Treatment by a physician or chiropractor.
- (d) X-ray films, computerized axial tomography (CAT) scans, myelograms, magnetic resonance imaging, and other diagnostic tests and procedures.
- (e) Physical therapy.
- (f) Prescribed drugs and medications, eyeglasses, dental work, prostheses, orthotic devices and corrective shoes by prescription.
- (g) Travel to obtain medical care or supplies.
- (h) Any other accident benefits.
- (i) Compensation for a permanent total, temporary total, permanent partial or temporary partial disability.
- (j) Costs of vocational rehabilitation services for an injured employee.
- (k) Death benefits.
- (l) Burial expenses.

2. The division will not consider the following expenditures to be expenditures for claims:

- (a) Amounts held in reserve for any anticipated expense in connection with a claim.
- (b) Money paid for a temporary total or temporary partial disability in excess of the average monthly wage.
- (c) Legal expenses, including court costs, attorney's fees, costs for depositions, investigations and hearings.
- (d) Payment of claims which are later determined to be noncompensable.
- (e) Payment of claims in connection with the uninsured employers' claim fund.
- (f) Administrative expenses, including expenses incurred for:
  - (1) Copying records;
  - (2) Reviewing the report of a physician contained in any file relating to a claim;

or

- (3) Services relating to the management of costs of medical care.

**Sec. 19.** In calculating its annual expenditures for claims, an association shall:

- 1. Reduce its expenditures for claims by an amount equal to the amount of money received from subrogation or reimbursement from the subsequent injury fund in the fiscal year in which it is received; and
- 2. Not reduce the total amount of money actually paid for compensation to an amount less than zero.

**Sec. 20.** 1. The division shall obtain from the system a statement showing by month the amount of annual expenditures for claims which each public or private employer incurred before becoming a member of an association.

2. The division shall obtain from the system a statement of the amounts of expenditures for claims which each public or private employer incurred after it became a member of an association.

3. Each association shall submit to the division a statement showing by month his annual expenditures for claims. The statement must be verified and signed by a responsible person employed by the association or his authorized agent.

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

**Sec. 21.** If the amount of annual expenditures for claims paid by any association is not provided to the division within the required time, the division will estimate that amount in order to calculate the assessment to be made against the association. The estimate will be based upon the association's previous history of expenditures for claims or other available data including, but not limited to the annual expenditure for claims of each private or public employer who is a member of the association.

**Sec. 22.** The amount of the expected annual expenditures for claims of an association is the average of its expenditures for claims made during the 3 previous calendar years, unless estimated by the division pursuant to section 21 of this regulation.

**Sec. 23.** 1. The amount of disbursements from the subsequent injury fund will be calculated by multiplying the association's expected annual expenditures for claims of all associations.

**Sec. 24.** The estimated annual assessment to be made against an association who does not participate in a program of self-insurance during a portion of a fiscal year shall be calculated by the division in the proportion that the number of months in the fiscal year the association does participate in a program of self-insurance, compared to the total number of months in that fiscal year. A statement of such an assessment may be issued to the association by the division.

**Sec. 25.** 1. The division will issue to each association a statement of its estimated annual assessment on or before July 30 of each year. The statement must include the date the entire amount is due. The division shall send the statement by mail not less than 30 days before the date on which payment is due.

2. An association shall pay the assessment in full to the division pursuant to the date established in subsection 1 and shall pay a penalty of \$1,000 per day for each day that the payment is late. The administrator may seek recovery of unpaid assessments or penalties pursuant to NRS 616B.410.

**Sec. 26.** 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 the fund.

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

(a) The association's statement relating to annual expenditures for claims for the previous fiscal year submitted pursuant to section 21 of this regulation;

(b) Amounts reported for the previous fiscal year by the system pursuant to section 21 of this regulation for expenditures for claims incurred by an employer before the private or public employer became a member of an association.

(c) The determinations made pursuant to subsection 1.

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

**Sec. 27.** 1. The administrator will return to an association any excess amount of the final assessment paid by the association.

2. If an association's final annual assessment for the fund is greater than the estimated annual assessment paid by the association during the previous fiscal year, the

association shall pay the deficit to the division within 30 days after the date of receipt of any statement of deficit. The payment must be deposited in the fund.