

1 **Text of Proposed Rule – Chapter DWD 80**

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3 **SECTION 1.** DWD 80.40 (intro.) is amended to read:

4 DWD 80.40 (intro.) If an employer currently or formerly exempted from the duty to
5 insure by written order of the department under s. 102.28 ~~(7)~~ (2) (b), Stats., is unable to pay any
6 award and if ~~such judgement~~ judgment is rendered in accordance with s. 102.20, Stats., against
7 ~~such that employer and~~ is returned unsatisfied in whole or in part, the department shall determine
8 payment into the fund established by s. 102.28 (8), Stats., as follows:

9 **SECTION 2.** DWD 80.40 (1) is amended to read:

10 DWD 80.40 **(1)** The department shall prepare an estimate of the payments that should be
11 made by the insolvent exempt employer due for -a- the period up to the date of the order from the
12 department and for ~~of~~ one year following the date of the order. If the department elects to retain
13 an insurance carrier or insurance service organization under s. 102.28 (7) (c), Stats., the
14 department will prepare an estimate of the charges that will be made by such carrier or
15 organization to process, investigate and pay such claims for the same ~~one year~~ period. The sum
16 of these 2 amounts shall be ~~divided by the total number of employers exempted under s. 102.28~~
17 ~~(2) (b), Stats~~ prorated on the basis of the gross payroll for this state of each exempt employer as
18 reported to the department for the previous calendar year for unemployment insurance purposes
19 under ch. 108, Stats., or, if an exempt employer is not covered under ch. 108, on the basis of the
20 comparable gross payroll for the exempt employer as determined by the department.

21 **SECTION 3.** DWD 80.40 (4) is amended to read:

22 DWD 80.40 **(4)** ~~At least annually~~ For any further assessment following the ~~original~~ initial
23 order the department shall estimate the amount due and payable during the following year and
24 the charges expected from any insurance carrier or ~~claims~~ insurance service organization for

1 such year and assess and order payment by each such exempt employer ~~its pro-rata share~~
2 ~~determined~~ as provided by s. 102.28 (7) (b), Stats.

3 **SECTION 4.** DWD 80.40 (6) is amended as to read:

4 DWD 80.40 **(6)** All money due and payable to injured employees which remain unpaid
5 shall be considered money payable ~~during the following year~~ for in making future estimates.

6 **SECTION 5.** DWD 80.40 (8) is created to read:

7 DWD 80.40 **(8)** The department may not require the state or any local governmental unit
8 that has independent taxing authority that elected to be self-insured under s. 102.28 (2) (bm),
9 Stats., to make any payments into the fund established under s. 102.28 (8), Stats., or for that fund
10 to make any payments for the liability of the state or any local governmental unit that has
11 independent taxing authority under ch. 102, Stats.

12 **SECTION 6.** DWD 80.60 (1) (g) is amended to read:

13 DWD 80.60 **(1)** (g) "Self-insurance" means exemption from the duty to insure, as
14 provided in s. 102.28 (2) (b) and (bm), Stats.

15 **SECTION 7.** DWD 80.60 (3) (title) is amended to read:

16 DWD 80.60 **(3)** (title) ~~REQUIREMENTS FOR THE STATE AND ITS POLITICAL SUBDIVISIONS~~
17 LOCAL GOVERNMENTAL UNITS THAT HAVE INDEPENDENT TAXING AUTHORITY.

18 **SECTION 8.** DWD 80.60 (3) (a) is amended to read:

19 DWD 80.60 **(3)** (a) The state ~~and its political subdivisions~~ or a local governmental unit
20 that has independent taxing authority may self-insure ~~without further order of the department in~~
21 accordance with s. 102.28 (2) (bm), Stats., if they are it is not partially-insured or fully-insured
22 for the payment of compensation under this chapter, or to the extent ~~they are it is~~ not partially-
23 insured by written order under s. 102.31 (1), Stats., under one or more policies, and if ~~they agree~~

1 it agrees to report faithfully all compensable injuries and ~~agree~~ agrees to comply with ch. 102,
2 Stats., and ~~the~~ all rules of the department. However, any such employer desiring partial-
3 insurance or divided-insurance must submit an application to the department and be given
4 special consent as described in s. DWD 80.61.

5 **SECTION 9.** DWD 80.60 (3) (b) 1. is amended to read:

6 DWD 80.60 (3) (b) 1. ~~Any political subdivision or~~ A local governmental unit that has
7 independent taxing authority ~~of the state~~ electing to self-insure shall notify the department in
8 writing of the election before undertaking self-insurance, every 3 years after the initial notice,
9 and 30 days before withdrawing from the self-insurance program.

10 **SECTION 10.** DWD 80.60 (3) (b) 2. is amended to read:

11 DWD 80.60 (3) (b) 2. The notice of election to self-insure shall be accompanied by a
12 resolution, adopted by the governing body and signed by the elected or appointed chief executive
13 of the ~~applying political subdivision or taxing authority~~ local governmental unit that has
14 independent taxing authority, stating its intent and agreement by the governing body to self-
15 insure its worker's compensation liability under ch. 102, Stats., and an agreement to faithfully
16 report all compensable injuries and to comply with ch. 102, Stats., and ~~the~~ all rules of the
17 department in accordance with s. 102.28 (2) ~~(b)~~ (bm) ~~and (e)~~, Stats.

18 **SECTION 11.** DWD 80.60 (3) (c) is renumbered DWD 80.60 (3) (c) 1. and amended to read:

19 DWD 80.60 (3) (c) 1. Self-insurance granted under par. (a) is subject to revocation under
20 s. 102.28 (2) ~~(e)~~ (bm), Stats. Once the privilege of self-insurance is revoked, further self-
21 insurance may be authorized only under the procedures set forth in ~~sub. (4).~~ s. 102.28 (2) (bm)
22 4., Stats., and subd. 2.

23 **SECTION 12.** DWD 80.60 (3) (c) 2. is created to read:

1 DWD 80.60 (3) (c) 2. After self-insurance of the state or a local governmental unit that
2 has independent taxing authority is revoked, the state or local governmental unit may not elect to
3 self-insure its liability for the payment of compensation under ch. 102, Stats., unless at least 3
4 calendar years have elapsed since the revocation, the department finds that the state or local
5 governmental unit's financial condition is adequate to pay its employees' claims for
6 compensation, the state or local government unit has not received an excessive number of claims
7 for compensation, and the state or local government unit has faithfully discharged its obligations
8 under ch. 102, Stats., and all rules of the department.

9 **SECTION 13.** DWD 80.60 (4) (a) is amended to read:

10 DWD 80.60 (4) (a) Employers other than those specified in sub. (3), ~~but including those~~
11 ~~specified in sub. 3 (e)~~, desiring self-insurance shall submit an application on a form available
12 from the department. A non-refundable fee, determined by the department as described in par.
13 (ag), per employer, shall accompany the initial application. If the application is approved, the
14 department shall permit self-insurance by written order. Every 3 years, a self-insured employer
15 shall submit an application to renew self-insurance at least 60 days before the expiration date
16 specified in the department's order. Each quarter, or more often if requested by the department, a
17 self-insured employer shall submit the most current financial statements to the department. Each
18 year, a self-insured employer shall report work-injury claims payments to the department and
19 other information related to worker's compensation liability requested by the department. A self-
20 insured employer shall immediately report to the department in writing any change in
21 organizational structure that differs from the information provided in the annual report submitted
22 to the department, including mergers, acquisitions, company name changes, consolidation, sale,
23 or divestiture of divisions or subsidiaries. After a change in organizational structure, the

1 department may revoke or modify the exemption from the duty to insure by providing reasonable
2 written notice to the self-insured employer. If these changes result in the creation of a new parent
3 or subsidiary, the department may waive or modify the requirement in par. (b) 1. to submit 5
4 years of audited financial statements. A fee of \$200, per employer, and the assessment surcharge
5 described in in par. (am) may be billed by the department at the same time as the annual
6 assessment under s. 102.75 (1), Stats. Self-insurance shall expire on the day specified by the
7 department in its order. Unless the context indicates otherwise, all information submitted to the
8 department to comply with this section shall be submitted on the latest version of a department
9 approved form.

10 **SECTION 14.** DWD 80.60 (4) (b) 4. is amended to read:

11 DWD 80.60 (4) (b) 4. Corporations, limited partnerships, and limited liability companies
12 shall be registered ~~in the office of~~ with the department of financial institutions if so required by
13 statutes administered or rules promulgated by the department of financial institutions.

14 **SECTION 15.** DWD 80.60 (4) (b) 4m. is created to read:

15 DWD 80.60 (4) (b) 4m. Corporations, limited partnerships, and limited liability
16 companies that are not required to be registered with the department of financial institutions shall
17 be registered with the appropriate state of Wisconsin government agency where required by
18 statute or administrative rule.

19 **SECTION 16.** DWD 80.61 (title) is amended to read:

20 DWD 80.61 (title) **Divided-insurance and partial-insurance requirements under s.**
21 **102.31 (1) and ~~(6)~~ (7) Stats., for all employers, including contractors working on a wrap-up**
22 **project.**

23 **SECTION 17.** DWD 80.61 (2) (a) 2. is amended to read:

1 DWD 80.61 (2) (a) 2. If the applicant is a ~~political subdivision of the state~~ local
2 governmental unit that has independent taxing authority, it shall submit a certified statement by
3 an officer or the attorney for the ~~political subdivision~~ local governmental unit which cites the
4 legal authority for executing the application and agreement when the initial application is
5 submitted.

6 **SECTION 18.** DWD 80.61 (2) (a) 4. a. is amended to read:

7 DWD 80.61 (2) (a) 4. a. The department shall permit divided-insurance to ~~municipalities~~
8 local governmental units that have independent taxing authority which have ownership of
9 nursing homes in order that the nursing homes may be separately insured and develop a separate
10 experience rate.

11 **SECTION 19.** DWD 80.61 (3) (a) 5. is amended to read:

12 DWD 80.61 (3) (a) 5. "Owner" means the person, firm, corporation or ~~municipality~~ local
13 governmental unit that has independent taxing authority having lawful possession of the
14 construction project.

15 **SECTION 20.** DWD 80.61 (3) (g) is amended to read:

16 DWD 80.61 (3) (g) *Inapplicability to other employers.* ~~Subsection (3)~~ This subsection
17 does not apply to any group of employers other than those specified in this section on any other
18 type of operations nor to any single contract or policy of insurance for any group or association
19 of employers.

20 **SECTION 21.** DWD 80.72 (2) (i) is amended to read:

21 DWD 80.72 (2) (i) "Formula amount" means the mean fee for a procedure plus ~~1.4~~ 1.2
22 standard deviations from that mean as shown by data from a certified data base.

1 **SECTION 22. EFFECTIVE DATE.** This rule shall take effect on the first day of the month following
2 publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

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