

LABOR CODE

TITLE 5. WORKERS' COMPENSATION

SUBTITLE A. TEXAS WORKERS' COMPENSATION ACT

CHAPTER 403. DIVISION FINANCING

Sec. 403.001. FUNDS. (a) Except as provided by Sections 403.006, 403.007, and 403.008, or as otherwise provided by law, money collected under this subtitle, including advance deposits for purchase of services, shall be deposited in the general revenue fund of the state treasury to the credit of the Texas Department of Insurance operating account.

(b) The money may be spent as authorized by legislative appropriation on warrants issued by the comptroller under requisitions made by the commissioner of insurance.

(c) Money deposited in the general revenue fund under this section may be used to satisfy the requirements of Section 201.052, Insurance Code.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 9.44(a), eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.010, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1162 (H.B. 2605), Sec. 9, eff. September 1, 2011.

Sec. 403.002. MAINTENANCE TAXES. (a) Each insurance carrier, other than a governmental entity, shall pay an annual maintenance tax to pay the costs of administering this subtitle and to support the prosecution of workers' compensation insurance fraud in this state.

(b) The assessment may not exceed an amount equal to two percent of the correctly reported gross workers' compensation insurance premiums, including the modified annual premium of a policyholder that purchases an optional deductible plan under Article 5.55C, Insurance Code. The rate of assessment shall be applied to the modified annual premium before application of a deductible premium credit.

(c) A workers' compensation insurance company is taxed at the rate established under Section 403.003. The tax shall be collected in the manner provided for collection of other taxes on gross premiums from a workers' compensation insurance company as provided in Chapter 255, Insurance Code.

(d) Each certified self-insurer shall pay a fee and maintenance taxes as provided by Subchapter F, Chapter 407.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1443, Sec. 3, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1274, Sec. 21, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.134, eff. September 1, 2005.

Sec. 403.003. RATE OF ASSESSMENT. (a) The commissioner of insurance shall set and certify to the comptroller the rate of maintenance tax assessment taking into account:

(1) any expenditure projected as necessary for the division and the office of injured employee counsel to:

(A) administer this subtitle during the fiscal year for which the rate of assessment is set; and

(B) reimburse the general revenue fund as provided by Section 201.052, Insurance Code;

(2) projected employee benefits paid from general revenues;

(3) a surplus or deficit produced by the tax in the preceding year;

(4) revenue recovered from other sources, including reappropriated receipts, grants, payments, fees, gifts, and penalties recovered under this subtitle; and

(5) expenditures projected as necessary to support the prosecution of workers' compensation insurance fraud.

(b) In setting the rate of assessment, the commissioner of insurance may not consider revenue or expenditures related to:

(1) the State Office of Risk Management;

(2) the workers' compensation research functions of the department under Chapter 405; or

(3) any other revenue or expenditure excluded from consideration by law.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 9.45(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1098, Sec. 8, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1443, Sec. 4, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.011, eff. September 1, 2005.

Sec. 403.004. COLLECTION OF TAX AFTER WITHDRAWAL FROM BUSINESS. The commissioner or the commissioner of insurance immediately shall proceed to collect taxes due under this chapter from an insurance carrier that withdraws from business in this state, using legal process as necessary.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.012, eff. September 1, 2005.

Sec. 403.005. TAX RATE. The commissioner of insurance shall annually adjust the rate of assessment of the maintenance tax imposed under Section 403.003 so that the tax imposed that year, together with any unexpended funds produced by the tax, produces the amount the commissioner of insurance determines is necessary to pay the expenses of administering this subtitle.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.013, eff. September 1, 2005.

Sec. 403.006. SUBSEQUENT INJURY FUND. (a) The subsequent injury fund is a dedicated account in the general revenue fund. Money in the account may be appropriated only for the purposes of this section or as provided by other law. Section 403.095, Government Code, does not apply to the subsequent injury fund.

(b) The subsequent injury fund is liable for:

(1) the payment of compensation as provided by Section [408.162](#);

(2) reimbursement of insurance carrier claims of overpayment of benefits made under an interlocutory order or decision of the commissioner as provided by this subtitle, consistent with the priorities established by rule by the commissioner;

(3) reimbursement of insurance carrier claims as provided by Sections [408.042](#) and [413.0141](#), consistent with the priorities established by rule by the commissioner; and

(4) the reimbursement of an insurance carrier as provided by Section [408.0041\(f-1\)](#).

(c) The commissioner shall appoint an administrator for the subsequent injury fund.

(d) Based on an actuarial assessment of the funding available under Section [403.007\(e\)](#), the commissioner may make partial payment of insurance carrier claims under Subsection (b)(3).

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1456, Sec. 10.01, eff. June 17, 2001; Acts 2003, 78th Leg., ch. 211, Sec. 2.01, eff. June 16, 2003; Acts 2003, 78th Leg., ch. 1296, Sec. 5(a), eff. June 20, 2003.

Reenacted and amended by Acts 2005, 79th Leg., Ch. 265 (H.B. [7](#)), Sec. 3.014, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1150 (S.B. [1169](#)), Sec. 3, eff. September 1, 2007.

Sec. 403.007. FUNDING OF SUBSEQUENT INJURY FUND. (a) If a compensable death occurs and no legal beneficiary survives or a claim for death benefits is not timely made, the insurance carrier shall pay to the division for deposit to the credit of the subsequent injury fund an amount equal to 364 weeks of the death benefits otherwise payable.

(b) The insurance carrier may elect or the commissioner may order that death benefits payable to the fund be commuted on written

approval of the commissioner. The commutation may be discounted for present payment at the rate established in Section 401.023, compounded annually.

(c) If a claim for death benefits is not filed with the division by a legal beneficiary on or before the first anniversary of the date of the death of the employee, it is presumed, for purposes of this section only, that no legal beneficiary survived the deceased employee. The presumption does not apply against a minor beneficiary or an incompetent beneficiary for whom a guardian has not been appointed.

(d) If the insurance carrier makes payment to the subsequent injury fund and it is later determined by a final award of the commissioner or the final judgment of a court of competent jurisdiction that a legal beneficiary is entitled to the death benefits, the commissioner shall order the fund to reimburse the insurance carrier for the amount overpaid to the fund.

(e) If the commissioner determines that the funding under Subsection (a) is not adequate to meet the expected obligations of the subsequent injury fund established under Section 403.006, the fund shall be supplemented by the collection of a maintenance tax paid by insurance carriers, other than a governmental entity, as provided by Sections 403.002 and 403.003. The rate of assessment must be adequate to provide 120 percent of the projected unfunded liabilities of the fund for the next biennium as certified by an independent actuary or financial advisor.

(f) The commissioner's actuary or financial advisor shall report biannually to the department on the financial condition and projected assets and liabilities of the subsequent injury fund. The commissioner shall make the reports available to members of the legislature and the public. The division may purchase annuities to provide for payments due to claimants under this subtitle if the commissioner determines that the purchase of annuities is financially prudent for the administration of the fund.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1456, Sec. 10.02, eff. June 17, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.015, eff.  
September 1, 2005.

Sec. 403.008. DEPOSIT OF ADMINISTRATIVE  
PENALTIES. Administrative penalties collected under this subtitle  
shall be deposited in the general revenue fund.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1162 (H.B. 2605), Sec. 10,  
eff. September 1, 2011.