

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1017
102ND GENERAL ASSEMBLY

2218H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 287.715, RSMo, and to enact in lieu thereof one new section relating to the second injury fund.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 287.715, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 287.715, to read as follows:

287.715. 1. For the purpose of providing for revenue for the second injury fund, every authorized self-insurer, and every workers' compensation policyholder insured pursuant to the provisions of this chapter, shall be liable for payment of an annual surcharge in accordance with the provisions of this section. The annual surcharge imposed under this section shall apply to all workers' compensation insurance policies and self-insurance coverages which are written or renewed on or after April 26, 1988, including the state of Missouri, including any of its departments, divisions, agencies, commissions, and boards or any political subdivisions of the state who self-insure or hold themselves out to be any part self-insured. Notwithstanding any law to the contrary, the surcharge imposed pursuant to this section shall not apply to any reinsurance or retrocessional transaction.

2. Beginning October 31, 2005, and each year thereafter, the director of the division of workers' compensation shall estimate the amount of benefits payable from the second injury fund during the following calendar year and shall calculate the total amount of the annual surcharge to be imposed during the following calendar year upon all workers' compensation policyholders and authorized self-insurers. The amount of the annual surcharge percentage to be imposed upon each policyholder and self-insured for the following calendar year commencing with the calendar year beginning on January 1, 2006, shall be set at and calculated against a percentage, not to exceed three percent, of the policyholder's or

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 self-insured's workers' compensation net deposits, net premiums, or net assessments for the
20 previous policy year, rounded up to the nearest one-half of a percentage point, that shall
21 generate, as nearly as possible, one hundred ten percent of the moneys to be paid from the
22 second injury fund in the following calendar year, less any moneys contained in the fund at
23 the end of the previous calendar year. All policyholders and self-insurers shall be notified by
24 the division of workers' compensation within ten calendar days of the determination of the
25 surcharge percent to be imposed for, and paid in, the following calendar year. The net
26 premium equivalent for individual self-insured employers shall be based on average rate
27 classifications calculated by the department of commerce and insurance as taken from
28 premium rates filed by the twenty insurance companies providing the greatest volume of
29 workers' compensation insurance coverage in this state. For employers qualified to self-
30 insure their liability pursuant to this chapter, the rates filed by such group of employers in
31 accordance with subsection 4 of section 287.280 shall be the net premium equivalent. Any
32 group of political subdivisions of this state qualified to self-insure their liability pursuant to
33 this chapter as authorized by section 537.620 may choose either the average rate classification
34 method or the filed rate method, provided that the method used may only be changed once
35 without receiving the consent of the director of the division of workers' compensation. The
36 director may advance funds from the workers' compensation fund to the second injury fund if
37 surcharge collections prove to be insufficient. Any funds advanced from the workers'
38 compensation fund to the second injury fund must be reimbursed by the second injury fund no
39 later than December thirty-first of the year following the advance. The surcharge shall be
40 collected from policyholders by each insurer at the same time and in the same manner that the
41 premium is collected, but no insurer or its agent shall be entitled to any portion of the
42 surcharge as a fee or commission for its collection. The surcharge is not subject to any taxes,
43 licenses or fees.

44 3. All surcharge amounts imposed by this section shall be deposited to the credit of
45 the second injury fund.

46 4. Such surcharge amounts shall be paid quarterly by insurers and self-insurers, and
47 insurers shall pay the amounts not later than the thirtieth day of the month following the end
48 of the quarter in which the amount is received from policyholders. If the director of the
49 division of workers' compensation fails to calculate the surcharge by the thirty-first day of
50 October of any year for the following year, any increase in the surcharge ultimately set by the
51 director shall not be effective for any calendar quarter beginning less than sixty days from the
52 date the director makes such determination.

53 5. If a policyholder or self-insured fails to make payment of the surcharge or an
54 insurer fails to make timely transfer to the division of surcharges actually collected from
55 policyholders, as required by this section, a penalty of one-half of one percent of the

56 surcharge unpaid, or untransferred, shall be assessed against the liable policyholder, self-
57 insured or insurer. Penalties assessed under this subsection shall be collected in a civil action
58 by a summary proceeding brought by the director of the division of workers' compensation.

59 6. Notwithstanding subsection 2 of this section to the contrary, the director of the
60 division of workers' compensation shall collect a supplemental surcharge not to exceed
61 ~~[three]~~ **one** percent for calendar years 2014 to ~~[2022]~~ **2026** of the policyholder's or self-
62 insured's workers' compensation net deposits, net premiums, or net assessments for the
63 previous policy year, rounded up to the nearest ~~[one-half]~~ **one-quarter** of a percentage point.
64 ~~[For calendar year 2023, the director of the division of workers' compensation shall collect a~~
65 ~~supplemental surcharge not to exceed two and one-half percent of the policyholder's or self-~~
66 ~~insured's workers' compensation net deposits, net premiums, or net assessments for the~~
67 ~~previous policy year, rounded up to the nearest one-half of a percentage point.] All~~
68 policyholders and self-insurers shall be notified by the division of the supplemental surcharge
69 percentage to be imposed for such period of time as part of the notice provided in subsection
70 2 of this section. The provisions of this subsection shall expire on December 31, ~~[2023]~~ **2026**.

71 7. Funds collected under the provisions of this chapter shall be the sole funding
72 source of the second injury fund.

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