

1 **EMPLOYERS' REINSURANCE FUND AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: James A. Dunnigan**

5 Senate Sponsor: Karen Mayne

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to the Employers' Reinsurance Fund.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ provides that after the state pays all liabilities to be paid from the Employers'
13 Reinsurance Fund, the Division of Finance shall transfer any remaining assets to the
14 Uninsured Employers' Fund; and

15 ▶ makes technical and conforming changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **34A-2-206**, as last amended by Laws of Utah 2018, Chapter 156

23 **34A-2-701**, as last amended by Laws of Utah 2009, Chapter 85

24 **34A-2-702**, as last amended by Laws of Utah 2018, Chapter 207

25 **34A-2-704**, as last amended by Laws of Utah 2018, Chapter 207

27 *Be it enacted by the Legislature of the state of Utah:*

28 Section 1. Section **34A-2-206** is amended to read:

29 **34A-2-206. Furnishing information to division -- Employers' annual report --**

30 **Rights of division -- Examination of employers under oath -- Penalties.**

31 (1) (a) Every employer shall furnish the division, upon request, all information required
32 by it to carry out the purposes of this chapter and Chapter 3, Utah Occupational Disease Act.

33 (b) In the month of July of each year every employer shall prepare and mail to the
34 division a statement containing the following information:

35 (i) the number of persons employed during the preceding year from July 1, to June 30,
36 inclusive;

37 (ii) the number of the persons employed at each kind of employment;

38 (iii) the scale of wages paid in each class of employment, showing the minimum and
39 maximum wages paid; and

40 (iv) the aggregate amount of wages paid to all employees.

41 (2) (a) The information required under Subsection (1) shall be furnished in the form
42 prescribed by the division.

43 (b) Every employer shall:

44 (i) answer fully and correctly all questions and give all the information sought by the
45 division under Subsection (1); or

46 (ii) if unable to comply with Subsection (2)(b)(i), give to the division, in writing, good
47 and sufficient reasons for the failure.

48 (3) (a) The division may require the information required to be furnished by this
49 chapter or Chapter 3, Utah Occupational Disease Act, to be made under oath and returned to
50 the division within the period fixed by it or by law.

51 (b) The division, or any person employed by the division for that purpose, shall have
52 the right to examine, under oath, any employer, or the employer's agents or employees, for the
53 purpose of ascertaining any information that the employer is required by this chapter or Chapter
54 3, Utah Occupational Disease Act, to furnish to the division.

55 (4) (a) The division may seek a penalty of not to exceed \$500 for each offense to be
56 recovered in a civil action brought by the commission or the division on behalf of the
57 commission against an employer who:

58 (i) within a reasonable time to be fixed by the division and after the receipt of written
59 notice signed by the director or the director's designee specifying the information demanded
60 and served by certified mail or personal service, refuses to furnish to the division:

61 (A) the annual statement required by this section; or

62 (B) other information as may be required by the division under this section; or

63 (ii) willfully furnishes a false or untrue statement.

64 (b) All penalties collected under Subsection (4)(a) shall be paid into:

65 (i) the Employers' Reinsurance Fund created in Section [34A-2-702](#)[-]; or

66 (ii) if the commissioner has made the notification described in Subsection

67 [34A-2-702\(7\)](#), the Uninsured Employers' Fund created in Section [34A-2-704](#).

68 Section 2. Section **34A-2-701** is amended to read:

69 **34A-2-701. Premium assessment restricted account for safety.**

70 (1) There is created in the General Fund a restricted account known as the "Workplace
71 Safety Account."

72 (2) (a) An amount equal to 0.25% of the premium income remitted to the state
73 treasurer pursuant to Subsection [59-9-101\(2\)\(c\)\(ii\)](#) shall be deposited in the Workplace Safety
74 Account in the General Fund for use as provided in this section.

75 (b) Beginning with fiscal year 2008-09, if the balance in the Workplace Safety Account
76 exceeds \$500,000 at the close of a fiscal year, the excess shall be transferred to:

77 (i) the Employers' Reinsurance Fund, created under Subsection [34A-2-702\(1\)](#)[-]; or

78 (ii) if the commissioner has made the notification described in Subsection

79 [34A-2-702\(7\)](#), the Uninsured Employers' Fund created in Section [34A-2-704](#).

80 (3) The Legislature shall appropriate from the restricted account money to one or both
81 of the following:

82 (a) money to the commission for use by the commission to:

83 (i) improve safety consultation services available to Utah employers; or

84 (ii) provide for electronic or print media advertising campaigns designed to promote
85 workplace safety; and

86 (b) subject to Subsection (7), money known as the "Eddie P. Mayne Workplace Safety
87 and Occupational Health Funding Program":

88 (i) to an institution within the state system of higher education, as defined in Section
89 [53B-1-102](#); and

90 (ii) to be expended by an education and research center that is:

91 (A) affiliated with the institution described in Subsection (3)(b)(i); and

92 (B) designated as an education and research center by the National Institute for
93 Occupational Safety and Health.

94 (4) From money appropriated by the Legislature from the restricted account to the
95 commission for use by the commission, the commission may fund other safety programs or
96 initiatives recommended to it by its state workers' compensation advisory council created under
97 Section [34A-2-107](#).

98 (5) (a) The commission shall annually report to the governor, the Legislature, and its
99 state council regarding:

100 (i) the use of the money appropriated to the commission under Subsection (3) or (4);
101 and

102 (ii) the impact of the use of the money on the safety of Utah's workplaces.

103 (b) By no later than August 15 following a fiscal year in which an education and
104 research center receives money from an appropriation under Subsection (3)(b), the education
105 and research center shall report:

106 (i) to:

107 (A) the governor;

108 (B) the Legislature;

109 (C) the commission; and

110 (D) the state workers' compensation advisory council created under Section
111 [34A-2-107](#); and

112 (ii) regarding:

113 (A) the use of the money appropriated under Subsection (3)(b); and

114 (B) the impact of the use of the money on the safety of Utah's workplaces.

115 (6) The money deposited in the restricted account:

116 (a) shall be:

117 (i) used only for the activities described in Subsection (3) or (4); and

118 (ii) expended according to processes that can be verified by audit; and

119 (b) may not be used by the commission for:

120 (i) administrative costs unrelated to the restricted account; or

121 (ii) any activity of the commission other than the activities of the commission

122 described in Subsection (3) or (4).

123 (7) The total of appropriations under Subsection (3)(b) may not exceed for a fiscal year
124 an amount equal to 20% of the premium income remitted to the state treasurer pursuant to
125 Subsection 59-9-101(2)(c) and deposited in the Workplace Safety Account during the previous
126 fiscal year.

127 Section 3. Section 34A-2-702 is amended to read:

128 **34A-2-702. Employers' Reinsurance Fund -- Injury causing death -- Burial**
129 **expenses -- Payments to dependents.**

130 (1) (a) There is created an Employers' Reinsurance Fund for the purpose of making a
131 payment for an industrial accident or occupational disease occurring on or before June 30,
132 1994. A payment made under this section shall be made in accordance with this chapter or
133 Chapter 3, Utah Occupational Disease Act. The Employers' Reinsurance Fund has no liability
134 for an industrial accident or occupational disease occurring on or after July 1, 1994.

135 (b) The Employers' Reinsurance Fund succeeds to all money previously held in the
136 "Special Fund," the "Combined Injury Fund," or the "Second Injury Fund."

137 (c) The commissioner shall appoint an administrator of the Employers' Reinsurance
138 Fund.

139 (d) The state treasurer shall be the custodian of the Employers' Reinsurance Fund.

140 (e) The administrator shall make provisions for and direct a distribution from the
141 Employers' Reinsurance Fund.

142 (f) Reasonable costs of administering the Employers' Reinsurance Fund or other fees
143 may be paid from the Employers' Reinsurance Fund.

144 (2) The state treasurer shall:

145 (a) receive workers' compensation premium assessments from the State Tax
146 Commission; and

147 (b) invest the Employers' Reinsurance Fund to ensure maximum investment return for
148 both long and short term investments in accordance with Section [34A-2-706](#).

149 (3) (a) The administrator may employ, retain, or appoint counsel to represent the
150 Employers' Reinsurance Fund in a proceeding brought to enforce a claim against or on behalf
151 of the Employers' Reinsurance Fund.

152 (b) If requested by the commission, the attorney general shall aid in representation of
153 the Employers' Reinsurance Fund.

154 (4) The liability of the state, its departments, agencies, instrumentalities, elected or
155 appointed officials, or other duly authorized agents, with respect to payment of compensation
156 benefits, expenses, fees, medical expenses, or disbursement properly chargeable against the
157 Employers' Reinsurance Fund, is limited to the cash or assets in the Employers' Reinsurance
158 Fund, and they are not otherwise, in any way, liable for the operation, debts, or obligations of
159 the Employers' Reinsurance Fund.

160 (5) (a) If injury causes death within a period of 312 weeks from the date of the
161 accident, the employer or insurance carrier shall pay:

162 (i) the burial expenses of the deceased as provided in Section [34A-2-418](#); and

163 (ii) benefits in the amount and to a person provided for in this Subsection (5).

164 (b) (i) If there is a wholly dependent person at the time of the death, the payment by the
165 employer or the employer's insurance carrier shall be:

166 (A) subject to Subsections (5)(b)(i)(B) and (C), 66-2/3% of the decedent's average
167 weekly wage at the time of the injury;

168 (B) not more than a maximum of 85% of the state average weekly wage at the time of
169 the injury per week; and

170 (C) (I) not less than a minimum of \$45 per week, plus:
171 (Aa) \$20 for a dependent spouse; and
172 (Bb) \$20 for each dependent minor child under the age of 18 years, up to a maximum
173 of four such dependent minor children; and

174 (II) not exceeding:
175 (Aa) the average weekly wage of the employee at the time of the injury; and
176 (Bb) 85% of the state average weekly wage at the time of the injury per week.

177 (ii) Compensation shall continue during dependency for the remainder of the period
178 between the date of the death and the expiration of 312 weeks after the date of the injury.

179 (iii) (A) The payment by the employer or the employer's insurance carrier to a wholly
180 dependent person during dependency following the expiration of the first 312-week period
181 described in Subsection (5)(b)(ii) shall be an amount equal to the weekly benefits paid to the
182 wholly dependent person during the initial 312-week period, reduced by 50% of the federal
183 social security death benefits the wholly dependent person:

184 (I) is eligible to receive for a week as of the first day the employee is eligible to receive
185 a Social Security death benefit; and

186 (II) receives.

187 (B) An employer or the employer's insurance carrier may not reduce compensation
188 payable under this Subsection (5)(b)(iii) on or after May 5, 2008, to a wholly dependent person
189 by an amount related to a cost-of-living increase to the social security death benefits that the
190 wholly dependent person is first eligible to receive for a week, notwithstanding whether the
191 employee is injured on or before May 4, 2008.

192 (C) For purposes of a wholly dependent person whose compensation payable is
193 reduced under this Subsection (5)(b)(iii) on or before May 4, 2008, the reduction is limited to
194 the amount of the reduction as of May 4, 2008.

195 (iv) The issue of dependency is subject to review at the end of the initial 312-week
196 period and annually after the initial 312-week period. If in a review it is determined that, under
197 the facts and circumstances existing at that time, the applicant is no longer a wholly dependent

198 person, the applicant:

199 (A) may be considered a partly dependent or nondependent person; and

200 (B) shall be paid the benefits as may be determined under Subsection (5)(d)(iii).

201 (c) (i) For purposes of a dependency determination, a surviving spouse of a deceased
202 employee is conclusively presumed to be wholly dependent for a 312-week period from the
203 date of death of the employee. This presumption does not apply after the initial 312-week
204 period.

205 (ii) (A) In determining the annual income of the surviving spouse after the initial
206 312-week period, there shall be excluded 50% of a federal social security death benefit that the
207 surviving spouse:

208 (I) is eligible to receive for a week as of the first day the surviving spouse is eligible to
209 receive a Social Security death benefit; and

210 (II) receives.

211 (B) An employer or the employer's insurance carrier may not reduce compensation
212 payable under this Subsection (5)(c)(ii) on or after May 5, 2008, to a surviving spouse by an
213 amount related to a cost-of-living increase to the social security death benefits that the
214 surviving spouse is first eligible to receive for a week, notwithstanding whether the employee
215 is injured on or before May 4, 2008.

216 (C) For purposes of a surviving spouse whose compensation payable is reduced under
217 this Subsection (5)(c)(ii) on or before May 4, 2008, the reduction is limited to the amount of
218 the reduction as of May 4, 2008.

219 (d) (i) If there is a partly dependent person at the time of the death, the payment shall
220 be:

221 (A) subject to Subsections (5)(d)(i)(B) and (C), 66-2/3% of the decedent's average
222 weekly wage at the time of the injury;

223 (B) not more than a maximum of 85% of the state average weekly wage at the time of
224 the injury per week; and

225 (C) not less than a minimum of \$45 per week.

226 (ii) Compensation shall continue during dependency for the remainder of the period
227 between the date of death and the expiration of 312 weeks after the date of injury.

228 Compensation may not amount to more than a maximum of \$30,000.

229 (iii) The benefits provided for in this Subsection (5)(d) shall be in keeping with the
230 circumstances and conditions of dependency existing at the date of injury, and any amount paid
231 under this Subsection (5)(d) shall be consistent with the general provisions of this chapter and
232 Chapter 3, Utah Occupational Disease Act.

233 (iv) Benefits to a person determined to be partly dependent under Subsection (5)(c):

234 (A) shall be determined in keeping with the circumstances and conditions of
235 dependency existing at the time of the dependency review; and

236 (B) may be paid in an amount not exceeding the maximum weekly rate that a partly
237 dependent person would receive if wholly dependent.

238 (v) A payment under this section shall be paid to a person during a person's
239 dependency by the employer or the employer's insurance carrier.

240 (e) (i) Subject to Subsection (5)(e)(ii), if there is a wholly dependent person and also a
241 partly dependent person at the time of death, the benefits may be apportioned in a manner
242 consistent with Section [34A-2-414](#).

243 (ii) The total benefits awarded to all parties concerned may not exceed the maximum
244 provided for by law.

245 (6) The Employers' Reinsurance Fund:

246 (a) shall be:

247 (i) used only in accordance with Subsection (1) for:

248 (A) the purpose of making a payment for an industrial accident or occupational disease
249 occurring on or before June 30, 1994, in accordance with this section and Section [34A-2-703](#);

250 and

251 (B) payment of:

252 (I) reasonable costs of administering the Employers' Reinsurance Fund; or

253 (II) fees required to be paid by the Employers' Reinsurance Fund;

254 (ii) expended according to processes that can be verified by audit; and
255 (b) may not be used for:
256 (i) administrative costs unrelated to the Employers' Reinsurance Fund; or
257 (ii) an activity of the commission other than an activity described in Subsection (6)(a).
258 (7) (a) After the commissioner determines that all liabilities to be paid from the
259 Employers' Reinsurance Fund have been paid, the commissioner shall notify the Division of
260 Finance.

261 (b) Upon notification from the commissioner in accordance with Subsection (7)(a), the
262 Division of Finance shall transfer any residual assets in the Employers' Reinsurance Fund into
263 the Uninsured Employers' Fund.

264 Section 4. Section **34A-2-704** is amended to read:

265 **34A-2-704. Uninsured Employers' Fund.**

266 (1) (a) There is created an Uninsured Employers' Fund. The Uninsured Employers'
267 Fund has the purpose of assisting in the payment of workers' compensation benefits to a person
268 entitled to the benefits, if:

269 (i) that person's employer:
270 (A) is individually, jointly, or severally liable to pay the benefits; and
271 (B) (I) becomes or is insolvent;
272 (II) appoints or has appointed a receiver; or
273 (III) otherwise does not have sufficient funds, insurance, sureties, or other security to
274 cover workers' compensation liabilities; and

275 (ii) the employment relationship between that person and the person's employer is
276 localized within the state as provided in Subsection (20).

277 (b) The Uninsured Employers' Fund succeeds to money previously held in the Default
278 Indemnity Fund.

279 (c) If it becomes necessary to pay benefits, the Uninsured Employers' Fund is liable for
280 the obligations of the employer set forth in this chapter and Chapter 3, Utah Occupational
281 Disease Act, with the exception of a penalty on those obligations.

282 (2) (a) Money for the Uninsured Employers' Fund shall be deposited into the Uninsured
283 Employers' Fund in accordance with this chapter[;] and Subsection 59-9-101(2)[, ~~and~~
284 Subsection 34A-2-213(3)].

285 (b) The commissioner shall appoint an administrator of the Uninsured Employers'
286 Fund.

287 (c) (i) The state treasurer is the custodian of the Uninsured Employers' Fund.

288 (ii) The administrator shall make provisions for and direct distribution from the
289 Uninsured Employers' Fund.

290 (3) Reasonable costs of administering the Uninsured Employers' Fund or other fees
291 required to be paid by the Uninsured Employers' Fund may be paid from the Uninsured
292 Employers' Fund.

293 (4) The state treasurer shall:

294 (a) receive workers' compensation premium assessments from the State Tax
295 Commission; and

296 (b) invest the Uninsured Employers' Fund to ensure maximum investment return for
297 both long and short term investments in accordance with Section 34A-2-706.

298 (5) (a) The administrator may employ, retain, or appoint counsel to represent the
299 Uninsured Employers' Fund in a proceeding brought to enforce a claim against or on behalf of
300 the Uninsured Employers' Fund.

301 (b) If requested by the commission, the following shall aid in the representation of the
302 Uninsured Employers' Fund:

303 (i) the attorney general; or

304 (ii) the city attorney, or county attorney of the locality in which:

305 (A) an investigation, hearing, or trial under this chapter or Chapter 3, Utah
306 Occupational Disease Act, is pending;

307 (B) the employee resides; or

308 (C) an employer:

309 (I) resides; or

310 (II) is doing business.

311 (c) (i) Notwithstanding Title 63A, Chapter 3, Part 5, Office of State Debt Collection,
312 the administrator shall provide for the collection of money required to be deposited in the
313 Uninsured Employers' Fund under this chapter and Chapter 3, Utah Occupational Disease Act.

314 (ii) To comply with Subsection (5)(c)(i), the administrator may:

315 (A) take appropriate action, including docketing an award in a manner consistent with
316 Section 34A-2-212; and

317 (B) employ counsel and other personnel necessary to collect the money described in
318 Subsection (5)(c)(i).

319 (6) To the extent of the compensation and other benefits paid or payable to or on behalf
320 of an employee or the employee's dependents from the Uninsured Employers' Fund, the
321 Uninsured Employers' Fund, by subrogation, has the rights, powers, and benefits of the
322 employee or the employee's dependents against the employer failing to make the compensation
323 payments.

324 (7) (a) The receiver, trustee, liquidator, or statutory successor of an employer meeting a
325 condition listed in Subsection (1)(a)(i)(B) is bound by a settlement of a covered claim by the
326 Uninsured Employers' Fund.

327 (b) A court with jurisdiction shall grant a payment made under this section a priority
328 equal to that to which the claimant would have been entitled in the absence of this section
329 against the assets of the employer meeting a condition listed in Subsection (1)(a)(i)(B).

330 (c) The expenses of the Uninsured Employers' Fund in handling a claim shall be
331 accorded the same priority as the liquidator's expenses.

332 (8) (a) The administrator shall periodically file the information described in Subsection
333 (8)(b) with the receiver, trustee, or liquidator of:

334 (i) an employer that meets a condition listed in Subsection (1)(a)(i)(B);

335 (ii) a public agency insurance mutual, as defined in Section 31A-1-103, that meets a
336 condition listed in Subsection (1)(a)(i)(B); or

337 (iii) an insolvent insurance carrier.

338 (b) The information required to be filed under Subsection (8)(a) is:
339 (i) a statement of the covered claims paid by the Uninsured Employers' Fund; and
340 (ii) an estimate of anticipated claims against the Uninsured Employers' Fund.
341 (c) A filing under this Subsection (8) preserves the rights of the Uninsured Employers'
342 Fund for claims against the assets of the employer that meets a condition listed in Subsection
343 (1)(a)(i)(B).

344 (9) When an injury or death for which compensation is payable from the Uninsured
345 Employers' Fund has been caused by the wrongful act or neglect of another person not in the
346 same employment, the Uninsured Employers' Fund has the same rights as allowed under
347 Section 34A-2-106.

348 (10) The Uninsured Employers' Fund, subject to approval of the administrator, shall
349 discharge its obligations by:

- 350 (a) adjusting its own claims; or
- 351 (b) contracting with an adjusting company, risk management company, insurance
352 company, or other company that has expertise and capabilities in adjusting and paying workers'
353 compensation claims.

354 (11) (a) For the purpose of maintaining the Uninsured Employers' Fund, an
355 administrative law judge, upon rendering a decision with respect to a claim for workers'
356 compensation benefits in which an employer that meets a condition listed in Subsection
357 (1)(a)(i)(B) is duly joined as a party, shall:

358 (i) order the employer that meets a condition listed in Subsection (1)(a)(i)(B) to
359 reimburse the Uninsured Employers' Fund for the benefits paid to or on behalf of an injured
360 employee by the Uninsured Employers' Fund along with interest, costs, and attorney fees; and

361 (ii) impose a penalty against the employer that meets a condition listed in Subsection
362 (1)(a)(i)(B):

- 363 (A) of 15% of the value of the total award in connection with the claim; and
- 364 (B) that shall be deposited into the Uninsured Employers' Fund.

365 (b) An award under this Subsection (11) shall be collected by the administrator in

366 accordance with Subsection (5)(c).

367 (12) The state, the commission, and the state treasurer, with respect to payment of
368 compensation benefits, expenses, fees, or disbursement properly chargeable against the
369 Uninsured Employers' Fund:

370 (a) are liable only to the assets in the Uninsured Employers' Fund; and

371 (b) are not otherwise in any way liable for the making of a payment.

372 (13) The commission may make reasonable rules for the processing and payment of a
373 claim for compensation from the Uninsured Employers' Fund.

374 (14) (a) (i) If it becomes necessary for the Uninsured Employers' Fund to pay benefits
375 under this section to an employee described in Subsection (14)(a)(ii), the Uninsured Employers'
376 Fund may assess all other self-insured employers amounts necessary to pay:

377 (A) the obligations of the Uninsured Employers' Fund subsequent to a condition listed
378 in Subsection (1)(a)(i)(B) occurring;

379 (B) the expenses of handling covered a claim subsequent to a condition listed in
380 Subsection (1)(a)(i)(B) occurring;

381 (C) the cost of an examination under Subsection (15); and

382 (D) other expenses authorized by this section.

383 (ii) This Subsection (14) applies to benefits paid to an employee of:

384 (A) a self-insured employer, as defined in Section [34A-2-201.5](#), that meets a condition
385 listed in Subsection (1)(a)(i)(B); or

386 (B) if the self-insured employer that meets a condition described in Subsection
387 (1)(a)(i)(B) is a public agency insurance mutual, a member of the public agency insurance
388 mutual.

389 (b) The assessments of a self-insured employer shall be in the proportion that the
390 manual premium of the self-insured employer for the preceding calendar year bears to the
391 manual premium of all self-insured employers for the preceding calendar year.

392 (c) A self-insured employer shall be notified of the self-insured employer's assessment
393 not later than 30 days before the day on which the assessment is due.

394 (d) (i) A self-insured employer may not be assessed in any year an amount greater than
395 2% of that self-insured employer's manual premium for the preceding calendar year.

396 (ii) If the maximum assessment does not provide in a year an amount sufficient to
397 make all necessary payments from the Uninsured Employers' Fund for one or more self-insured
398 employers that meet a condition listed in Subsection (1)(a)(i)(B), the unpaid portion shall be
399 paid as soon as money becomes available.

400 (e) A self-insured employer is liable under this section for a period not to exceed three
401 years after the day on which the Uninsured Employers' Fund first pays benefits to an employee
402 described in Subsection (14)(a)(ii) for the self-insured employer that meets a condition listed in
403 Subsection (1)(a)(i)(B).

404 (f) This Subsection (14) does not apply to a claim made against a self-insured employer
405 that meets a condition listed in Subsection (1)(a)(i)(B) if the condition listed in Subsection
406 (1)(a)(i)(B) occurred before July 1, 1986.

407 (15) (a) The following shall notify the division of any information indicating that any
408 of the following may be insolvent or in a financial condition hazardous to its employees or the
409 public:

410 (i) a self-insured employer; or

411 (ii) if the self-insured employer is a public agency insurance mutual, a member of the
412 public agency insurance mutual.

413 (b) Upon receipt of the notification described in Subsection (15)(a) and with good
414 cause appearing, the division may order an examination of:

415 (i) that self-insured employer; or

416 (ii) if the self-insured employer is a public agency insurance mutual, a member of the
417 public agency mutual.

418 (c) The cost of the examination ordered under Subsection (15)(b) shall be assessed
419 against all self-insured employers as provided in Subsection (14).

420 (d) The results of the examination ordered under Subsection (15)(b) shall be kept
421 confidential.

422 (16) (a) In a claim against an employer by the Uninsured Employers' Fund, or by or on
423 behalf of the employee to whom or to whose dependents compensation and other benefits are
424 paid or payable from the Uninsured Employers' Fund, the burden of proof is on the employer or
425 other party in interest objecting to the claim.

426 (b) A claim described in Subsection (16)(a) is presumed to be valid up to the full
427 amount of workers' compensation benefits claimed by the employee or the employee's
428 dependents.

429 (c) This Subsection (16) applies whether the claim is filed in court or in an adjudicative
430 proceeding under the authority of the commission.

431 (17) A partner in a partnership or an owner of a sole proprietorship may not recover
432 compensation or other benefits from the Uninsured Employers' Fund if:

433 (a) the person is not included as an employee under Subsection 34A-2-104(3); or

434 (b) the person is included as an employee under Subsection 34A-2-104(3), but:

435 (i) the person's employer fails to insure or otherwise provide adequate payment of
436 direct compensation; and

437 (ii) the failure described in Subsection (17)(b)(i) is attributable to an act or omission
438 over which the person had or shared control or responsibility.

439 (18) A director or officer of a corporation may not recover compensation or other
440 benefits from the Uninsured Employers' Fund if the director or officer is excluded from
441 coverage under Subsection 34A-2-104(4).

442 (19) The Uninsured Employers' Fund:

443 (a) shall be:

444 (i) used in accordance with this section only for:

445 (A) the purpose of assisting in the payment of workers' compensation benefits in
446 accordance with Subsection (1); and

447 (B) in accordance with Subsection (3), payment of:

448 (I) reasonable costs of administering the Uninsured Employers' Fund; or

449 (II) fees required to be paid by the Uninsured Employers' Fund; and

450 (ii) expended according to processes that can be verified by audit; and
451 (b) may not be used for:
452 (i) administrative costs unrelated to the Uninsured Employers' Fund; or
453 (ii) an activity of the commission other than an activity described in Subsection (19)(a).
454 (20) (a) For purposes of Subsection (1), an employment relationship is localized in the
455 state if:
456 (i) (A) the employer who is liable for the benefits has a business premise in the state;
457 and
458 (B) (I) the contract for hire is entered into in the state; or
459 (II) the employee regularly performs work duties in the state for the employer who is
460 liable for the benefits; or
461 (ii) the employee is:
462 (A) a resident of the state; and
463 (B) regularly performs work duties in the state for the employer who is liable for the
464 benefits.
465 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
466 commission shall by rule define what constitutes regularly performing work duties in the state.