

Clearinghouse Rule 25-005

**ORDER OF THE WISCONSIN
DEPARTMENT OF WORKFORCE DEVELOPMENT**

The Wisconsin Department of Workforce Development (Department) adopts the following rule ***to renumber and amend*** DWD 80.60 (3) (c); ***to amend*** DWD 80.40 (intro.), (1), (4) and (6), DWD 80.60 (1) (g), (3) (title), (a) and (b) 1. and 2. and (4) (a) and (b) 4., DWD 80.61 (title), (2) (a) 2. and 4. a., (3) (a) 5. and (g) and DWD 80.72 (2) (i); ***and to create*** DWD 80.40 (8) and 80.60 (3) (c) 2. and (4) (b) 4m., relating to the worker's compensation program.

The statement of scope for this proposed rule, SS 113-23, was approved by the Governor on December 7, 2023, published in the Wisconsin Administrative Register No. 816A3 on December 18, 2023, and approved by the Secretary of the Department of Workforce Development on January 18, 2024.

Analysis Prepared by the Department of Workforce Development

Statutes interpreted

Chapter 102, Stats.

Statutory authority

Sections 102.15 (1) (a), 102.16 (2) (h), 102.28 (2) (e) and (7) (d), and 103.005 (1), Stats.

Explanation of statutory authority

Section 102.15 (1) (a), Stats., grants the Department specific authority to promulgate rules as necessary to carry out its duties and functions under ch. 102, Stats.

The Department has statutory authority under s. 102.16 (2) (h), Stats., to promulgate rules establishing procedure and requirements for the fee dispute resolution process including rules specifying the standards that health service fee databases must meet for certification.

Section 102.28 (2) (e), Stats., provides the Department with statutory authority to promulgate rules to implement s. 102.28 (2), Stats., related to the requirement for employers subject to ch. 102, Stats., to be insured or self-insured for worker's compensation liability.

Section 102.28 (7) (d), Stats., provides the Department with statutory authority to promulgate rules to implement s. 102.28 (7), Stats., related to insolvent self-insured employers and payments into and from the Self-Insured Employers Liability Fund.

Section 103.005 (1), Stats., grants the Department the general authority to adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings.

Related statutes or rules

There are no other related statutes or rules.

Plain language analysis

The proposed rule makes the following minor and technical changes to the Department's worker's compensation rules in ch. DWD 80.

Assessment by Fund for Unpaid Claims of Insolvent Self-Insured Employers. Currently, s. DWD 80.40 covers the assessment process for unpaid worker's compensation claims resulting from insolvent self-insured employers. 2015 Wisconsin Act 180 amended s. 102.28 (7) (b) 1. and 2., Stats., to change the manner for determining the amount of assessments to self-insured employers for payments into the Self-Insured Employers Liability Fund, which is a fund that is used to pay the worker's compensation liability of self-insured employers who cannot pay that liability. Prior to amendment, s. 102.28 (7) (b), Stats., provided the initial assessment for a claim was to be divided equally against all self-insured employers and any further assessment for that claim was to be made against each self-insured employer based on its pro rata share. As amended, the initial assessment and any further assessment are prorated based on a self-insured employer's gross payroll for this state as reported to the Department for the previous calendar year for unemployment insurance purposes under ch. 108, Stats. However, if a self-insured employer is not covered under ch. 108, Stats., the initial assessment and any further assessment is based on the comparable payroll for that self-insured employer as determined by the Department. The proposed rule amends s. DWD 80.40 to conform to the 2015 Wisconsin Act 180 amendments.

2015 Wisconsin Act 180 also created s. 102.28 (7) (bm), Stats., which provides that state and local governmental units that have independent taxing authority who are self-insured are not liable for payment of assessments to provide revenue to the Self-Insured Employers Liability Fund and that employees of these self-insured entities are not eligible to receive payments from this fund. The proposed rule creates similar provisions in s. DWD 80.40 (8).

Approval of self-insurance for the state and local governmental units that have independent taxing authority. Currently, s. DWD 80.60 (3) covers the process and requirements for the state and its political subdivisions to become self-insured for purposes of worker's compensation. 2015 Wisconsin Act 180 created s. 102.28 (2) (bm), Stats., which codified the process in s. DWD 80.60 (3) for the state and local governmental units that have independent taxing authority to

become self-insured for worker's compensation liability. The proposed rule correctly cross references statutory and rule citations to conform with s. 102.28 (2) (bm), Stats.

Registration with agency regulating financial institutions. As one of the minimum requirements for an employer to become self-insured, s. DWD 80.60 (4) (b) 4., currently requires corporations, limited partnerships, and limited liability companies to be registered in the office of the Department of Financial Institutions (DFI). However, insurance companies are required to be registered with the Office of the Commissioner of Insurance. There is no requirement for an insurance company to be registered with the DFI. An insurance company that was not required to register with DFI recently applied to the Department to become self-insured for worker's compensation liability. The proposed rule amends s. DWD 80.60 (4) (b) 4. to require entities that are not required to be registered with the DFI to be registered instead with the appropriate agency of state government.

Reasonableness of fee disputes. For resolution of disputes involving reasonableness of fees for health care service procedures for injured employees, data with amounts charged for procedures contained in databases certified by the Department are used. Prior to 2011 Wisconsin Act 183, s. 102.16 (2) (d), Stats., required the Department to determine that a disputed fee for a health service procedure is reasonable if that fee was at or below the mean fee as shown by a database for which the health service procedure was charged plus 1.4 standard deviations from that mean as shown by a database certified by the Department. The current rule defines "formula amount" in s. DWD 80.72 (2) (i) as the mean fee for a procedure plus 1.4 standard deviations from that mean as shown by data from a certified database. 2011 Wisconsin Act 183 amended s. 102.16 (2) (d), Stats., to lower the standard deviations from 1.4 to 1.2 standard deviations from the mean. The proposed rule amends s. DWD 80.72 (2) (i) to change the standard deviations from 1.4 to 1.2 from the mean. With the amendment, the rule will conform with the correct standard deviations provided in s. 102.16 (2) (d), Stats., as amended by 2011 Wisconsin Act 183.

Cross reference corrections. The proposed rule corrects cross references in ch. DWD 80 to Wisconsin statutes and other rules.

Summary of, and comparison with, existing or proposed federal statutes or regulations

There are no proposed or existing federal statutes or rules related to the proposed rule.

Summary of comments on the statement of scope and description of how the comments were taken into account in drafting the rule

A preliminary hearing on the Statement of Scope for the proposed rule, SS 113-23, and on Statements of Scope for other worker's compensation rules, SS 114-23 and SS 115-23, was held on January 16, 2024. Ms. Rachel Ver Velde, Director of Workforce, Education & Employment Policy for Wisconsin Manufacturers and Commerce, appeared at the hearing. Ms. Ver Velde currently serves as a member of the Worker's Compensation Advisory Council representing employers. At the hearing she expressed a concern that the Department should have discussed the Statements of Scope with the Worker's Compensation Advisory Council for input before they are finalized.

There were no comments received in writing prior to or following the preliminary hearing.

Agency response: The rules proposed in SS 113-23, SS 114-23 and SS 115-23 pertaining to the Wisconsin worker's compensation system were periodically discussed at the Worker's Compensation Advisory Council meetings. At meetings of the Worker's Compensation Advisory Council on June 8, 2021, and February 23, 2023, Department staff provided an update about the status of proposed rules including this rule. The Department will present proposed rules to the Worker's Compensation Advisory Council for review, input, and approval before they are finalized.

Comparison with rules in adjacent states

Illinois. Assessment for unpaid claims of insolvent self-insured employers. The Illinois Self-Insurers Security Fund is responsible to pay the full amount due for worker's compensation obligations owed by insolvent private self-insured employers. Illinois statutory law requires self-insured employers to pay assessments to the Self-Insurers Security Fund up to a maximum of 1.2 percent annually based on the amount of compensation payments not including medical expenses. 820 ILCS 305/4a-7. Public entities that are self-insured are not required to pay the assessment. The Illinois rule that applies to the administration of claims against the Self-Insurers Security Fund, 50 Ill. Admin. Code s. 9100.80, is similar to s. DWD 80.40 and covers the process to be followed for finding that a self-insured employer is unable to pay benefits and for the initial and further assessments for the fund. This rule does not apply to self-insured public entities.

Self-insurance for the state and local governmental units that have independent taxing authority. The Illinois Workers' Compensation Commission is the agency that administers the approval of employers to be self-insured for worker's compensation liability. The Illinois rule that covers the requirements for private entities to become self-insured for worker's compensation liability, 50 Ill. Admin. Code 9100.40, provides for a similar application process to that used in Wisconsin, but the Illinois rule establishes a more regulated and complex process, especially for submitting financial statements and criteria for evaluating an employer's financial strength for determining the amount of security to be provided in the form of excess insurance and surety bonds. The Illinois rule does not apply to the State of Illinois, political subdivisions, units of local government, school districts, public authorities, or quasi-governmental bodies. Illinois statutory law authorizes local public entities to self-insure for worker's compensation liability provided they comply with other statutory requirements and file a report with the Illinois Workers' Compensation Commission indicating an election to self-insure. 745 ILCS 10/9-103. Approval from the Illinois Workers' Compensation Commission is not required for local public entities to become self-insured. There are no administrative rules in Illinois covering self-insurance by the state, political subdivisions, school districts, public authorities, or quasi-governmental bodies.

Registration with agency regulating financial institutions. No similar rules.

Reasonableness of fee disputes. Reasonableness of fee disputes for treatment provided to injured employees are determined by a worker's compensation medical fee schedule. In Illinois, there is no reasonableness of fee dispute resolution process comparable to s. 102.16 (2), Stats., and s. DWD 80.72. There are no similar rules.

Iowa. Assessment for unpaid claims of insolvent self-insured employers. There is no fund that pays the worker's compensation obligations of insolvent private self-insured employers in Iowa. There are no similar rules.

Self-insurance for the state and local governmental units that have independent taxing authority. The Iowa Insurance Division is the agency with regulatory authority over the approval of self-insurance by employers for worker's compensation liability. The administrative rules that cover the self-insurance authorization process for individual private employers are set forth at 191 IAC ch. 57. One of those rules, s. 191 IAC 57.1 (4), provides that the State of Iowa is not required to obtain authorization for self-insurance, but other political subdivisions in the state are required to comply with the rules, except for the requirement to obtain an annual surety bond. The rules provide for a more regulated process compared to Wisconsin for political subdivisions to become and remain self-insured for worker's compensation liability. Examples of the additional regulation for political subdivisions include the requirements to file an initial application and annual renewal applications, to obtain excess insurance, and to submit a financial statement on an annual basis on a prescribed form from the Commissioner of the Iowa Insurance Division.

Registration with agency regulating financial institutions. No similar rules.

Reasonableness of fee disputes. In Iowa there is no reasonableness of fee dispute resolution process comparable to s. 102.16 (2), Stats., and s. DWD 80.72. There are no similar rules.

Michigan. Assessment for unpaid claims of insolvent self-insured employers. The Michigan Self-Insurer's Security Fund provides worker's compensation benefits to employees of self-insured employers who become insolvent. Assessments for the fund are paid by private self-insured employers. Assessments are statutorily capped at three percent per calendar year. Mich. Comp. Laws s. 418.551 (4). Public employers who are self-insured for worker's compensation in Michigan are not covered by this fund. There are no administrative rules in Michigan for the creation of the Self-Insurer's Security Fund, but there are rules that apply to administration. Mich. Admin. Code R. 408.43q provides that financial guarantees posted with the agency may be used to pay claims when the fund is triggered. This rule is similar to Wisconsin's rules. Mich. Admin. Code R. 408.43k provides that both specific and aggregate excess liability insurance policies continue to be responsible for payment when retention levels have been met. This rule differs from Wisconsin's rules because excess liability insurance policies in Wisconsin have no further responsibility for payment when retention levels have been met.

Self-insurance for the state and local governmental units that have independent taxing authority. In Michigan, the self-insurance program is administered by the Workers' Disability Compensation Agency. Mich. Admin. Code R. 408.43 to 408.43t are the administrative rules that cover the self-insurance approval process for private employers and political subdivisions. The Michigan rules provide for a more regulated process for political subdivisions to be approved for self-insurance compared to Wisconsin's rules. Examples include the requirements under the Michigan rules that political subdivisions obtain excess insurance and file renewal applications with the agency to continue to be self-insured for worker's compensation liability.

Registration with agency regulating financial institutions. No similar rules.

Reasonableness of fee disputes. Reasonableness of fee disputes for treatment provided to injured employees are determined by a worker's compensation medical fee schedule. In Michigan there is no reasonableness of fee dispute resolution process comparable to s. 102.16 (2), Stats., and s. DWD 80.72. There are no similar rules.

Minnesota. Assessment for unpaid claims of insolvent self-insured employers. The Minnesota Self-Insurers' Security Fund is a non-profit corporation that is authorized by Minnesota Statutes, ch. 79A. The purpose of the Self-Insurers' Security Fund is to guarantee that when a private self-insured employer becomes insolvent or bankrupt, injured employees will continue to have their worker's compensation benefits paid. All private employers who are self-insured for worker's compensation liability in Minnesota are members of this fund. Minnesota Statutes, section 79A.12, subd. 2, provides the Self-Insurers' Security Fund may assess each of the members a pro rata share of the funding necessary to carry out its obligations, and that the total annual assessments in any calendar year shall not exceed ten percent of paid indemnity losses made by the self-insured employer during the preceding calendar year. The State of Minnesota and its political subdivisions are not included in this fund. There are no administrative rules that apply to the operation of this fund.

Self-insurance for the state and local governmental units that have independent taxing authority. The Minnesota Department of Commerce administers the worker's compensation self-insurance program. Minnesota Statutes, s. 79A.01, subd. 6, provides the State of Minnesota and its political subdivisions are not included in the definition of a private employer. Minnesota Rules, parts 2780.1100 to 2780.1800, cover the approval process for private employers to become self-insured for worker's compensation liability. The Minnesota rules provide for a similar application process including requirements for filing of financial reports, agreeing to pay benefits, providing additional security from cash or bonds, and maintaining excess insurance. The Minnesota rules differ from the Wisconsin rules to require private self-insured employers to have and maintain a specific net worth amount. The Minnesota rules do not apply to the state and its political subdivisions.

Registration with agency regulating financial institutions. No similar rules.

Reasonableness of fee disputes. Reasonableness of fee disputes for treatment provided to injured employees are determined by a worker's compensation medical fee schedule. In Minnesota, there is no reasonableness of fee dispute resolution process comparable to s. 102.16 (2), Stats., and s. DWD 80.72. There are no similar rules.

Summary of factual data and analytical methodologies

Proposed rule changes were developed after consultation with the Self-Insurers Council and the Worker's Compensation Advisory Council. Development of this proposed rule did not involve the gathering, analysis, or use of data. Therefore, s. 227.14 (2m), Stats., does not apply to this rulemaking.

Analysis and supporting documents used to determine effect on small business or in preparation of the economic impact analysis

The proposed rule does not have an economic impact on small business as defined in s. 227.114 (1), Stats., and no analysis is needed. The purpose of the proposed rule changes is to update the rules to conform to previously enacted statutory changes.

Effect on small business

The proposed rule does not have an effect on small business.

Agency contact person

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Place where comments are to be submitted and deadline for submission

Comments may be submitted to the contact person shown above. Information as to the place, date, and time of the public hearing, as well as the deadline for submitting comments, will be published in the Wisconsin Administrative Register.

Text of Proposed Rule

- 1 **SECTION 1.** DWD 80.40 (intro.) is amended to read:
- 2 DWD 80.40 (intro.) If an employer currently or formerly exempted from the duty to
- 3 insure by written order of the department under s. 102.28 ~~(7)~~ (2) (b), Stats., is unable to pay any
- 4 award and if judgement is rendered in accordance with s. 102.20, Stats., against ~~such~~ that
- 5 employer and ~~is~~-returned unsatisfied in whole or in part, the department shall determine payment
- 6 into the fund established by s. 102.28 (8), Stats., as follows:
- 7 **SECTION 2.** DWD 80.40 (1) is amended to read:

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

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

13 DWD 80.40 (4) ~~At least annually~~ For any further assessment following the ~~original~~ initial
14 order the department shall estimate the amount due and payable during the following year and
15 the charges expected from any insurance carrier or ~~claims~~ insurance service organization for
16 such year and assess and order payment by each such exempt employer ~~its pro-rata share~~
17 ~~determined~~ as provided by s. 102.28 (7) (b), Stats.

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

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

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

22 DWD 80.40 (8) The department may not require the state or any local governmental unit
23 that has independent taxing authority that elected to be self-insured under s. 102.28 (2) (bm),

Stats., to make any payments into the fund established under s. 102.28 (8), Stats., or for that fund to make any payments for the liability of the state or any local governmental unit that has independent taxing authority under ch. 102, Stats.

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

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

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

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

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

DWD 80.60 (3) (a) The state ~~and its political subdivisions~~ or a local governmental unit that has independent taxing authority may self-insure ~~without further order of the department in~~ accordance with s. 102.28 (2) (bm), Stats., if ~~they are~~ it is not partially-insured or fully-insured for the payment of compensation under this chapter, or to the extent ~~they are~~ it is not partially-insured by written order under s. 102.31 (1), Stats., under one or more policies, and if ~~they agree~~ it agrees to report faithfully all compensable injuries and ~~agree~~ agrees to comply with ch. 102, Stats., and ~~the~~ all rules of the department. However, any such employer desiring partial-insurance or divided-insurance must submit an application to the department and be given special consent as described in s. DWD 80.61.

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

DWD 80.60 (3) (b) 1. ~~Any political subdivision or~~ A local governmental unit that has independent taxing authority of the state electing to self-insure shall notify the department in

1 writing of the election before undertaking self-insurance, every 3 years after the initial notice,
2 and 30 days before withdrawing from the self-insurance program.

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

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

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

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

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

17 DWD 80.60 (3) (c) 2. After self-insurance of the state or a local governmental unit that
18 has independent taxing authority is revoked, the state or local governmental unit may not elect to
19 self-insure its liability for the payment of compensation under ch. 102, Stats., unless at least 3
20 calendar years have elapsed since the revocation, the department finds that the state or local
21 governmental unit's financial condition is adequate to pay its employees' claims for
22 compensation, the state or local government unit has not received an excessive number of claims

1 for compensation, and the state or local government unit has faithfully discharged its obligations
2 under ch. 102, Stats., and all rules of the department.

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

4 DWD 80.60 (4) (a) Employers other than those specified in sub. (3), ~~but including those~~
5 ~~specified in sub. 3 (c)~~, desiring self-insurance shall submit an application on a form available
6 from the department. A non-refundable fee, determined by the department as described in par.
7 (ag), per employer, shall accompany the initial application. If the application is approved, the
8 department shall permit self-insurance by written order. Every 3 years, a self-insured employer
9 shall submit an application to renew self-insurance at least 60 days before the expiration date
10 specified in the department's order. Each quarter, or more often if requested by the department, a
11 self-insured employer shall submit the most current financial statements to the department. Each
12 year, a self-insured employer shall report work-injury claims payments to the department and
13 other information related to worker's compensation liability requested by the department. A self-
14 insured employer shall immediately report to the department in writing any change in
15 organizational structure that differs from the information provided in the annual report submitted
16 to the department, including mergers, acquisitions, company name changes, consolidation, sale,
17 or divestiture of divisions or subsidiaries. After a change in organizational structure, the
18 department may revoke or modify the exemption from the duty to insure by providing reasonable
19 written notice to the self-insured employer. If these changes result in the creation of a new parent
20 or subsidiary, the department may waive or modify the requirement in par. (b) 1. to submit 5
21 years of audited financial statements. A fee of \$200, per employer, and the assessment surcharge
22 described in in par. (am) may be billed by the department at the same time as the annual
23 assessment under s. 102.75 (1), Stats. Self-insurance shall expire on the day specified by the

1 department in its order. Unless the context indicates otherwise, all information submitted to the
2 department to comply with this section shall be submitted on the latest version of a department
3 approved form.

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

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

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

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

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

14 DWD 80.61 (title) **Divided-insurance and partial-insurance requirements under s.**
15 **102.31 (1) and ~~(6)~~ (7) Stats., for all employers, including contractors working on a wrap-up**
16 **project.**

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

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

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

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

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

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

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

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

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

DWD 80.72 (2) (i) "Formula amount" means the mean fee for a procedure plus ~~4.4~~ 1.2
standard deviations from that mean as shown by data from a certified data base.

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