

**ASSESSMENT OFFSET FOR DONATIONS  
PROMOTING OCCUPATIONAL HEALTH AND  
SAFETY**

2005 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ed Mayne**

House Sponsor: Roger E. Barrus

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**LONG TITLE**

**General Description:**

This bill provides an offset for an assessment charged a workers' compensation insurer or self-insured employers.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides for an offset against an assessment charged a self-insured employer for qualified donations to an occupational health and safety center;
- ▶ provides for an offset against a premium assessment charged a workers' compensation insurer for qualified donations to an occupational health and safety center;
- ▶ provides for allocation of the offset;
- ▶ imposes requirements on an occupational health and safety center;
- ▶ imposes a sunset date; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill has retrospective operation to January 1, 2005.

**Utah Code Sections Affected:**

AMENDS:

**34A-2-202**, as last amended by Chapter 71, Laws of Utah 2002

**59-9-102**, as renumbered and amended by Chapter 2, Laws of Utah 1987

**63-55-234**, as last amended by Chapter 172, Laws of Utah 1999

**63-55-259**, as last amended by Chapter 1, Laws of Utah 2004, Third Special Session

ENACTS:

**34A-2-202.5**, Utah Code Annotated 1953

**59-9-102.5**, Utah Code Annotated 1953

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

Section 1. Section **34A-2-202** is amended to read:

**34A-2-202. Assessment on self-insured employers including counties, cities, towns, or school districts paying compensation direct.**

(1) (a) (i) A self-insured employer, including a county, city, town, or school district, who by authority of the division under Sections 34A-2-201 and 34A-2-201.5 is authorized to pay compensation direct shall pay annually, on or before March 31, an assessment in accordance with this section and rules made by the commission under this section.

(ii) For purposes of this section, "self-insured employer" is as defined in Section 34A-2-201.5.

(b) The assessment required by Subsection (1)(a) is:

(i) to be collected by the State Tax Commission [~~and~~];

(ii) paid by the State Tax Commission into the state treasury as provided in Subsection 59-9-101(2)[~~]; and~~

(iii) subject to the offset provided in Section 34A-2-202.5.

(c) The assessment under Subsection (1)(a) shall be based on a total calculated premium multiplied by the premium assessment rate established pursuant to Subsection 59-9-101(2).

(d) The total calculated premium, for purposes of calculating the assessment under Subsection (1)(a), shall be calculated by:

(i) multiplying the total of the standard premium for each class code calculated in Subsection (1)(e) by the self-insured employer's experience modification factor; and

(ii) multiplying the total under Subsection (1)(d)(i) by a safety factor determined under Subsection (1)(g).

(e) A standard premium shall be calculated by:

(i) multiplying the prospective loss cost for the year being considered, as filed with the insurance department pursuant to Section 31A-19a-406, for each applicable class code by 1.10 to determine the manual rate for each class code; and

(ii) multiplying the manual rate for each class code under Subsection (1)(e)(i) by each \$100 of the self-insured employer's covered payroll for each class code.

(f) (i) Each self-insured employer paying compensation direct shall annually obtain the experience modification factor required in Subsection (1)(d)(i) by using:

(A) the rate service organization designated by the insurance commissioner in Section 31A-19a-404; or

(B) for a self-insured employer that is a public agency insurance mutual, an actuary approved by the commission.

(ii) If a self-insured employer's experience modification factor under Subsection (1)(f)(i) is less than 0.50, the self-insured employer shall use an experience modification factor of 0.50 in determining the total calculated premium.

(g) To provide incentive for improved safety, the safety factor required in Subsection (1)(d)(ii) shall be determined based on the self-insured employer's experience modification factor as follows:

EXPERIENCE MODIFICATION FACTOR	SAFETY FACTOR
Less than or equal to 0.90	0.56
Greater than 0.90 but less than or equal to 1.00	0.78
Greater than 1.00 but less than or equal to 1.10	1.00
Greater than 1.10 but less than or equal to 1.20	1.22

Greater than 1.20

1.44

(h) (i) A premium or premium assessment modification other than a premium or premium assessment modification under this section may not be allowed.

(ii) If a self-insured employer paying compensation direct fails to obtain an experience modification factor as required in Subsection (1)(f)(i) within the reasonable time period established by rule by the State Tax Commission, the State Tax Commission shall use an experience modification factor of 2.00 and a safety factor of 2.00 to calculate the total calculated premium for purposes of determining the assessment.

(iii) Prior to calculating the total calculated premium under Subsection (1)(h)(ii), the State Tax Commission shall provide the self-insured employer with written notice that failure to obtain an experience modification factor within a reasonable time period, as established by rule by the State Tax Commission:

(A) shall result in the State Tax Commission using an experience modification factor of 2.00 and a safety factor of 2.00 in calculating the total calculated premium for purposes of determining the assessment; and

(B) may result in the division revoking the self-insured employer's right to pay compensation direct.

(i) The division may immediately revoke a self-insured employer's certificate issued under Sections 34A-2-201 and 34A-2-201.5 that permits the self-insured employer to pay compensation direct if the State Tax Commission assigns an experience modification factor and a safety factor under Subsection (1)(h) because the self-insured employer failed to obtain an experience modification factor.

(2) Notwithstanding the annual payment requirement in Subsection (1)(a), a self-insured employer whose total assessment obligation under Subsection (1)(a) for the preceding year was \$10,000 or more shall pay the assessment in quarterly installments in the same manner provided in Section 59-9-104 and subject to the same penalty provided in Section 59-9-104 for not paying or underpaying an installment.

(3) (a) The State Tax Commission shall have access to all the records of the division for

the purpose of auditing and collecting any amounts described in this section.

(b) Time periods for the State Tax Commission to allow a refund or make an assessment shall be determined in accordance with Section 59-9-106.

(4) (a) A review of appropriate use of job class assignment and calculation methodology may be conducted as directed by the division at any reasonable time as a condition of the self-insured employer's certification of paying compensation direct.

(b) The State Tax Commission shall make any records necessary for the review available to the commission.

(c) The commission shall make the results of any review available to the State Tax Commission.

Section 2. Section **34A-2-202.5** is enacted to read:

**34A-2-202.5. Offset for occupational health and safety related donations.**

(1) As used in this section:

(a) "Occupational health and safety center" means an entity:

(i) affiliated with an institution within the state system of higher education as defined in Section 53B-1-102; and

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

(b) "Qualified donation" means a donation that is:

(i) cash;

(ii) given directly to an occupational health and safety center; and

(iii) given exclusively for the purpose of:

(A) supporting graduate level education and training in fields of:

(I) safety and ergonomics;

(II) industrial hygiene;

(III) occupational health nursing; and

(IV) occupational medicine;

(B) providing continuing education programs for employers designed to promote

workplace safety; and

(C) paying reasonable administrative, personnel, equipment, and overhead costs of the occupational health and safety center.

(c) "Self-insured employer" is a self-insured employer as defined in Section 34A-2-201.5 that is required to pay the assessment imposed under Section 34A-2-202.

(2) (a) A self-insured employer may offset against the assessment imposed under Section 34A-2-202 an amount equal to the lesser of:

(i) the total of qualified donations made by the self-insured employer in the calendar year for which the assessment is calculated; and

(ii) .10% of the self-insured employer's total calculated premium calculated under Subsection 34A-2-202(1)(d) for the calendar year for which the assessment is calculated.

(b) The offset provided under this Subsection (2) shall be allocated to the restricted account and funds described in Subsection 59-9-101(2)(c) in proportion to the rates provided in Subsection 59-9-101(2)(c).

(3) An occupational health and safety center shall:

(a) provide a self-insured employer a receipt for any qualified donation made by the self-insured employer to the occupational health and safety center;

(b) expend monies received by a qualified donation:

(i) for the purposes described in Subsection (1)(b)(iii); and

(ii) in a manner that can be audited to ensure that the monies are expended for the purposes described in Subsection (1)(b)(iii); and

(c) in conjunction with the report required by Section 59-9-102.5, report to the Legislature through the Office of the Legislative Fiscal Analyst by no later than July 1 of each year:

(i) the qualified donations received by the occupational health and safety center in the previous calendar year; and

(ii) the expenditures during the previous calendar year of qualified donations received by the occupational health and safety center.

Section 3. Section **59-9-102** is amended to read:

**59-9-102. Offsets.**

(1) If any authorized insurer doing business in this state during the tax year pays a property tax in this state, the insurer may deduct from the tax provided under this chapter that portion of the property tax paid for general state purposes.

(2) Any domestic insurance company paying a fee for examination under Section 31A-2-205 may deduct from the tax provided under this chapter the amount of the examination fee paid, subject to the limitations of Subsection 31A-2-203(2)(d).

(3) There is offset against the taxes imposed under Section 59-9-101 the amount of any assessments paid by an insurance company under the guaranty associations established under Title 31A, Chapter 28, in the manner provided by Sections 31A-28-113 and 31A-28-212.

(4) There is an offset provided in Section 59-9-102.5 against the premium assessment imposed under Subsection 59-9-101(2) against an admitted insurer writing workers' compensation insurance in this state.

~~[(4)]~~ (5) The state has no liability to insurers for any amount by which offsets allowed under this section exceed the insurer's premium tax liability.

Section 4. Section **59-9-102.5** is enacted to read:

**59-9-102.5. Offset for occupational health and safety related donations.**

(1) As used in this section:

(a) "Occupational health and safety center" means an entity:

(i) affiliated with an institution within the state system of higher education as defined in Section 53B-1-102; and

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

(b) "Qualified donation" means a donation that is:

(i) cash;

(ii) given directly to an occupational health and safety center; and

(iii) given exclusively for the purpose of:

(A) supporting graduate level education and training in fields of:

(I) safety and ergonomics;

(II) industrial hygiene;

(III) occupational health nursing; and

(IV) occupational medicine;

(B) providing continuing education programs for employers designed to promote workplace safety; and

(C) paying reasonable administrative, personnel, equipment, and overhead costs of the occupational health and safety center.

(c) "Workers' compensation insurer" means an admitted insurer writing workers' compensation insurance in this state that is required to pay the premium assessment imposed under Subsection 59-9-101(2).

(2) (a) A workers' compensation insurer may offset against the premium assessment imposed under Subsection 59-9-101(2) an amount equal to the lesser of:

(i) the total of qualified donations made by the workers' compensation insurer in the calendar year for which the premium assessment is calculated; and

(ii) .10% of the workers' compensation insurer's total workers' compensation premium income as defined in Subsection 59-9-101(2)(b) in the calendar year for which the premium assessment is calculated.

(b) The offset provided under this Subsection (2) shall be allocated to the restricted account and funds described in Subsection 59-9-101(2)(c) in proportion to the rates provided in Subsection 59-9-101(2)(c).

(3) An occupational health and safety center shall:

(a) provide a workers' compensation insurer a receipt for any qualified donation made by the workers' compensation insurer to the occupational health and safety center;

(b) expend monies received by a qualified donation:

(i) for the purposes described in Subsection (1)(b)(iii); and

(ii) in a manner that can be audited to ensure that the monies are expended for the



purposes described in Subsection (1)(b)(iii); and

(c) in conjunction with the report required by Section 34A-2-202.5, report to the Legislature through the Office of the Legislative Fiscal Analyst by no later than July 1 of each year:

(i) the qualified donations received by the occupational health and safety center in the previous calendar year; and

(ii) the expenditures during the previous calendar year of qualified donations received by the occupational health and safety center.

Section 5. Section **63-55-234** is amended to read:

**63-55-234. Repeal dates, Title 34A.**

(1) Section 34A-2-202.5 is repealed December 31, 2010.

(2) Title 34A, Chapter 8, Utah Injured Worker Reemployment Act, is repealed July 1, 2009.

Section 6. Section **63-55-259** is amended to read:

**63-55-259. Repeal dates, Title 59.**

(1) Title 59, Chapter 1, Part 12, Legislative Intent, is repealed July 1, 2005.

(2) Section 59-9-102.5 is repealed December 31, 2010.

~~[(2)]~~ (3) Section 59-10-530.5, Homeless Trust Account, is repealed July 1, 2007.

Section 7. **Retrospective operation.**

This bill has retrospective operation to January 1, 2005.