

**RULES
OF THE
TENNESSEE DEPARTMENT OF LABOR**

**CHAPTER 0800-2-2
GOVERNMENTAL LIABILITY ARISING UNDER THE WORKERS' COMPENSATION ACT**

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0800-2-2-.01 PURPOSE.

The purpose of this rule is to require all governmental entities, creating and maintaining pooling agreements to insure against workers' compensation liability pursuant to TCA §29-20-401, to pay an annual fee to enable them to participate in the Second Injury Fund.

Authority: T.C.A. §§50-6-101, 50-6-103, 50-6-233, 29-20-401, 29-20-403, 29-20-403, 29-20-404 and 4-5-202. *Administrative History:* Original rule filed March 27, 1992; effective June 29, 1992.

0800-2-2-.02 DEFINITIONS.

As used in this rule, unless the context otherwise requires:

- (1) "Financial Contributions" means those funds paid by governmental entities and earned by governmental pools, for the purpose of making payment of workers' compensation claims pursuant to TCA §29-20-401 during any one calendar year.
- (2) "Legal or Administrative Entity" means the entity established by two or more governmental entities who have pooled funds for the purpose of insuring against workers' compensation liability, to effectuate the pooling agreements.
- (3) "Commissioner" means the Commissioner of Finance and Administration.
- (4) "Director" shall mean the Director of the Workers' Compensation Division of the Tennessee Department of Labor.
- (5) "Annual Fee" shall be a percentage of all financial contributions which percentage shall be equivalent to the percent of insurance premium taxes paid out to claimants in permanent disability benefits by the Second Injury Fund for the immediately preceding calendar year.

Authority: T.C.A. §§50-6-101, 50-6-103, 50-6-233, 29-20-401, 29-20-403, 29-20-404 and 4-5-202. *Administrative History:* Original rule filed March 27, 1992; effective June 29, 1992.

0800-2-2-.03 SCOPE.

The provisions of this Chapter shall apply to workers' compensation self insurance pools formulated by any two or more governmental entities pursuant to T.C.A. §29-20-401.

Authority: T.C.A. §§50-6-101, 50-6-103, 50-6-233, 29-20-401, 29-20-403, 29-20-404 and 4-5-202. *Administrative History:* Original rule filed March 27, 1992; effective June 29, 1992.

0800-2-2-.04 ACCEPTANCE OF WORKERS' COMPENSATION ACT.

Any governmental entity choosing to enter into an agreement with a governmental pool for the purpose of insuring against liabilities arising under the Workers' Compensation Laws authorized in T.C.A. §29-20-402 shall be deemed to have accepted the Workers' Compensation Law pursuant to T.C.A. §50-6-106(5)

Authority: T.C.A. §§50-6-101, 50-6-103, 50-6-106, 50-6-233, 29-20-401, 29-20-403, 29-20-404 and 4-5-202. *Administrative History:* Original rule filed March 27, 1992; effective June 29, 1992.

0800-2-2-.05 PARTICIPATION IN THE SECOND INJURY FUND.

By paying the annual fee as calculated pursuant to the provisions of Rule 0800-2-2-.07, the legal or administrative entity, created by an agreement between governmental entities to pool their resources to provide workers' compensation coverage shall be entitled to participate in the Second Injury Fund. The annual fee shall not be considered a premium tax.

Authority: T.C.A. §§50-6-101, 50-6-103, 50-6-233, 29-20-401, 29-20-403, 29-20-404 and 4-5-202. *Administrative History:* Original rule filed March 27, 1992; effective June 29, 1992.

0800-2-2-.06 FINANCIAL CONTRIBUTIONS REPORT.

The governmental pool shall file by March 1 of each year a financial contribution report, under oath, to the Director showing the amount of all financial contributions for the immediately preceding calendar year.

Authority: T.C.A. §§50-6-101, 50-6-103, 50-6-233, 29-20-401, 29-20-403, 29-20-404 and 4-5-202. *Administrative History:* Original rule filed March 27, 1992; effective June 29, 1992.

0800-2-2-.07 ANNUAL FEE.

The Director shall calculate the amount of money the Second Injury Fund paid out to claimants in permanent disability benefits during each calendar year and supply this amount to the Commissioner by March 1 of each year for the previous calendar year. The Director shall deduct from the amount of money paid out to claimants of all the legal or administrative entities before supplying the calculation to the Commissioner.

The annual fee shall be a percentage of the total financial contributions for workers' compensation coverage received from participating governmental entities and earned during a calendar year, which percentage shall equal the percentage of insurance company premiums, as measured by the premium tax, allocated and paid out by the Second Injury Fund pursuant to T.C.A. §§50-6-208(c) and 50-6-208(d), during the same year, subject to a maximum of 2 percent.

Using the amounts thus calculated by the Director, the Commissioner shall determine the percentage of the insurance company premiums as measured by the premium tax that the Second Injury Fund paid out to claimants for the immediately preceding year and furnish the same to the Director by the first day of May. The Director shall then notify by May 15, all legal or administrative entities who filed a financial contribution report of the percentage of insurance company premiums as measured by the premium tax that was paid out to claimants by the Second Injury Fund as determined by the Commissioner.

The legal or administrative entity shall then pay the same percentage, not to exceed two percent (2%), of its financial contributions for the immediately preceding calendar year to the Department of Labor, Division of Workers' Compensation, which shall be credited to the Second Injury Fund.

Authority: T.C.A. §§50-6-101, 50-6-103, 50-6-233, 29-20-401, 29-20-403, 29-20-404 and 4-5-202. *Administrative History:* Original rule filed March 27, 1992; effective June 29, 1992.

0800-2-2-.08 DUE DATE OF PAYMENTS.

The annual fee shall be paid by each legal or administrative entity to the Department of Labor, Division of Workers' Compensation, by the first day of August. No annual fee shall be paid should the legal or administrative entity elect to cease participation in the Second Injury Fund.

Authority: T.C.A. §§50-6-101, 50-6-103, 50-6-233, 29-20-401, 29-20-403, 29-20-404 and 4-5-202.

Administrative History: Original rule filed March 27, 1992; effective June 29, 1992.

0800-2-2-.09 WITHDRAWAL FROM PARTICIPATION.

Any legal or administrative entity desiring to withdraw from participation in the Second Injury Fund shall notify the Director by certified mail of its intent to withdraw.

Authority: T.C.A. §§50-6-101, 50-6-103, 50-6-233, 29-20-401, 29-20-403, 29-20-404 and 4-5-202.

Administrative History: Original rule filed March 27, 1992; effective June 29, 1992.