

**§2394. Funding subsequent cash deficiencies**

If the insurers have made payments to the pool totalling \$65,000,000 valued as of January 1, 1996 pursuant to section 2393, subsection 1 and the employers have paid surcharges totalling \$110,000,000 calculated on a net present value basis using January 1, 1995 as a valuation date and a discount rate of 5%, pursuant to section 2393, subsection 2, on each July 1st following the full payment date, or more often if the board considers it necessary: [PL 1995, c. 289, §11 (NEW).]

**1. Determine cash requirements.** The board shall determine the amount of cash receipts that will be required over the ensuing 24 months, in addition to all other funds reasonably anticipated by the board to be available on a cash basis over that period, to produce an amount not less than the pool's projected cash requirements to meet its obligations over that period. In making this determination, the board shall employ and may rely upon professional and consulting services, including such services as may be available through its internal staff, as the board considers necessary. If cash requirements determinations under this subsection commence, any cash requirements determinations and initial surcharge percentage adjustments under section 2393, subsection 2, paragraph E cease. In projecting the pool's anticipated cash requirements, the board shall maintain a reserve equal to 25% of the cash expenditures of the pool over the immediately preceding 12 months; and [PL 1995, c. 289, §11 (NEW).]

**2. Establish supplemental surcharges and assessments.** The pool shall establish, bill and collect supplemental surcharges from employers and assessments from insurers in an aggregate amount determined by the board to be sufficient to satisfy the pool's cash requirements, determined under subsection 1, in accordance with the following provisions.

A. Liability for funding cash requirements determined under subsection 1 is allocated 70% to employers and 30% to insurers. [PL 1995, c. 289, §11 (NEW).]

B. The pool shall establish a surcharge on employers, reflected as a percentage of surchargeable premium, that the board reasonably expects will be sufficient to generate cash receipts over the ensuing 24-month period equal to 70% of the pool's cash requirements for such period as determined pursuant to subsection 1. The resulting employer surcharges are billed and collected in the same manner as provided in section 2393, subsection 2, paragraph D. [PL 1995, c. 289, §11 (NEW).]

C. The pool shall establish, bill and collect from insurers assessments equal to the remaining 30% of the pool's cash requirements. Major insurers are responsible for 90% and minor insurers are responsible for 10% of these assessments.

(1) Assessments under this paragraph must be determined and billed quarterly by the pool in an amount equal to 42.9% of the cash receipts actually received by the pool from employer supplemental surcharges during the immediately preceding calendar quarter and must be allocated among existing insurers in the same category in direct proportion to amounts paid by or otherwise collected from those insurers by or on behalf of the pool under section 2393, subsection 1. Assessments billed by the pool must be paid within 30 days of the billing date.

(2) The enforcement provisions established by section 2393, subsection 1, paragraph C apply to assessments on insurers under this paragraph. [PL 1995, c. 289, §11 (NEW).]

D. For purposes of establishing the surcharge upon employers, the pool's cash requirements may not include any amounts necessary to compensate the pool for any failure by insurers to pay the full amount of the assessments charged to insurers under this subsection. [PL 1995, c. 289, §11 (NEW).]

[PL 1995, c. 289, §11 (NEW).]

For the purposes of this section, "full payment date" means the date on which insurers have paid the entire amount required pursuant to section 2393, subsection 1 and on which employers have paid the entire amount required pursuant to section 2393, subsection 2. [PL 1995, c. 289, §11 (NEW).]

#### SECTION HISTORY

PL 1995, c. 289, §11 (NEW).

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