

Chapter 108 – FEES
Repeal 28 Texas Administrative Code (TAC) §108.1

1. INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (division) proposes the repeal of 28 TAC §108.1, concerning charges for copies of public information.

Title 28 TAC §108.1 pertains to charges for copies of public information. The division proposes the repeal of §108.1, which was amended in November 5, 2004 (29 TexReg 10216). The section is outdated and no longer necessary since other statutes and rules currently govern costs for public information.

Section §108.1(a) states that the charge for public information is governed by Government Code Chapter 552, the Texas Building and Procurement Commission, 1 TAC §111.61 et seq., and the Texas Labor Code. Through the enactment of Senate Bill 452 and Senate Bill 727, 79th Legislature, 2005, the duties of the Texas Building and Procurement Commission pertaining to the public information law was transferred to the Office of Attorney General. Additionally, the Texas Building and Procurement Commission's rules regulating charges for copies of public information located in 1 TAC §111.61 et seq. were transferred and reorganized under 1 TAC §70.1 to §70.11. This transfer was effective September 1, 2005. The Labor Code states in §402.081(d) that the fee for access to information under Government Code Chapter 552 must be in accord with the rules of the attorney general.

Section 108.1(b) makes an exception to the fee requirements in subsection (a) and states that costs for copies of commission confidential information or publications compiled by the commission are established by the commission's fee schedule and Publications Price List. In reference to "the commission," the 79th Texas Legislature passed House Bill 7 in 2005, which abolished the Texas

Workers' Compensation Commission and transferred its powers and duties to the Texas Department of Insurance, Division of Workers' Compensation. The commission's Publications Price List was last used in 2005, and costs for copies of confidential claim file information is now governed by the rules of the Office of the Attorney General.

Section 108.1(c) states that all request for public information not covered by the Government Code, Texas Labor Code, and the Texas Building and Procurement Commission will be charged at actual cost, including costs of materials, labor and overhead, to the commission to provide the item. However, the charges listed in Government Code Chapter 552, Texas Labor Code, and 1 TAC §70.1 to §70.11 cover all charges necessary for public information.

The division proposes the repeal of 28 TAC §108.1 because this rule is no longer necessary.

2. FISCAL NOTE. Mr. Nicholas Canaday, General Counsel, has determined that for each year of the first five years the proposed repeal is in effect, there will be no fiscal impact to state or local governments because of the proposal. There will be no measurable effect on local employment or the local economy because of the proposal.

3. PUBLIC BENEFIT/COST NOTE. Mr. Canaday has also determined that for each year of the first five years the proposed repeal is in effect, the anticipated public benefit is the elimination of obsolete administrative regulations. There will be no economic cost to persons required to comply with the proposed repeal.

Government Code §2001.0045 requires a state agency to offset any costs associated with a proposed rule by: (1) repealing a rule imposing a total cost that is equal to or greater than that of the proposed rule; or (2) amending a rule to a decrease the total costs imposed by an amount that is

equal to or greater than the cost of the proposed rule. As described above, the division has determined that the proposed repeal will not impose a cost on system participants.

4. GOVERNMENT GROWTH IMPACT STATEMENT. Government Code §2001.0221 requires that a state agency prepare a government growth impact statement that reasonably describes what effects a proposed rule may have during the first five years it is in effect. The division has determined that the proposed repeal will not create or eliminate a government program, and will not require an increase or decrease in fees paid to the division. Implementation of the proposal will not require the creation or elimination of employee positions, and will not require an increase or decrease in further legislative appropriations to the division. The proposal does not create a new regulation, expand an existing regulation, limit an existing regulation, or repeal an existing regulation. The number of individuals subject to the rule's applicability is neither increased nor decreased by the proposal, and the proposal has no impact on the state's economy.

5. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. Government Code §2006.002(c) provides that if a proposed rule may have an economic effect on small businesses, micro-businesses, or rural communities, state agencies must prepare as part of the rulemaking process an economic impact statement that assesses the potential impact of the proposed rule and a regulatory flexibility analysis that considers alternative methods of achieving the purpose of the rule. Government Code §2006.001(2) defines "small business" as a legal entity, including a corporation, partnership, or sole proprietorship, that is formed for the purpose of making a profit, is independently owned or operated, and has fewer than 100 employees or less than \$6 million in annual gross receipts. Government Code §2006.001(1) defines "micro businesses"

similarly to “small business” but specifies that such a business may not have more than 20 employees. Government Code §2006.001(1-a) defines a “rural community” as municipality with a population of less than 25,000.

In accordance with Government Code §2006.002(c), the division has determined that the proposed repeal will not have an adverse economic effect on small businesses, micro businesses, or rural communities.

6. TAKINGS IMPACT ASSESSMENT. The division has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

7. REQUEST FOR PUBLIC COMMENT. If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on June 4, 2018. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to rulecomments@tdi.texas.gov or by mail to Maria Jimenez, Texas Department of Insurance, Division of Workers' Compensation, Office of General Counsel, MS-4D, 7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645. If a hearing is held, the division will consider written comments and public testimony presented at the hearing.

8. STATUTORY AUTHORITY. The repeal is proposed under Labor Code §§402.00111, 402.00116, 402.061, 402.064, and 402.081.

Labor Code §402.00111 requires the commissioner of workers' compensation to exercise all executive authority, including rulemaking authority, under Title 5 of the Labor Code. Labor Code §402.00116 provides the Commissioner the authority to administer and enforce workers' compensation laws and other laws granting jurisdiction to or applicable to the division or the commissioner. Labor Code §402.061 requires the commissioner of workers' compensation to adopt rules as necessary for the implementation and enforcement of the Texas Workers' Compensation Act. Labor Code §402.064 provides the commissioner authority to set reasonable fees for services provided to persons requesting, including what is listed under Labor Code §402.081. Labor Code §402.081 refers to the fee for access to public information.

No other codes, statutes, or articles are affected by this proposal.

9. TEXT

§108.1. Charges for Copies of Public Information.

10. CERTIFICATION. The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Issued at Austin, Texas, on April 20, 2018.

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Texas Department of Insurance, Division of
Workers' Compensation