

JOE LOMBARDO
Governor

TERRY REYNOLDS
Director

STATE OF NEVADA



VICTORIA CARREÓN
Administrator

PERRY FAIGIN
Deputy Administrator

**DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS**

**NOTICE OF INTENT TO ACT
ON PROPOSED REGULATIONS
And
HEARING AGENDA**

**Notice of Hearing for the Adoption of Temporary Regulations
of the Division of Industrial Relations,
Department of Business and Industry
Regarding Permanent Partial Disability Lump Sum Payments
March 31, 2023 at 10:00 a.m.**

You are hereby given notice that the Division of Industrial Relations of the Department of Business and Industry, State of Nevada (Division) will conduct a public hearing on proposed temporary regulations amending Chapter 616C of the Nevada Administrative Code (NAC).

The public hearing on these proposed regulations will be conducted by Webex on March 31, 2023 at 10:00 a.m. This public hearing will be held via remote technology system only (WebEx) in accordance with NRS Chapter 241 (Nevada's Open Meeting Law). Members of the public may attend and participate in this meeting in the following ways:

Webex Access

Meeting Link:

[https://nvbusinessandindustry.webex.com/nvbusinessandindustry/j.php?
MTID=m6adde7fa7026ef210259367957d2994a](https://nvbusinessandindustry.webex.com/nvbusinessandindustry/j.php?MTID=m6adde7fa7026ef210259367957d2994a)

Meeting number (access code): 2460 196 8647
Meeting password: WCSRegs

Tap to join from a mobile device (attendees only):
+1-415-655-0001,,24601968647## US Toll

Join by phone:
+1-415-655-0001 US Toll

Need help? Go to <https://help.webex.com/>

CARSON CITY
400 West King Street
Suite 400
Carson City, NV 89703
(775) 684-7270

LAS VEGAS
3360 West Sahara Avenue
Suite 250
Las Vegas, NV 89102
(702) 486-9080

Pursuant to NRS 233B.0608 and 233B.0609, the Division is providing the following statements pertaining to the public hearing on proposed changes to Chapters 616A through 616D, inclusive, and Chapter 617 of NAC.

The need and purpose of the proposed revisions to regulations:

The Department of Business & Industry, Division of Industrial Relations (“Division”), has great importance, as its mission is to uphold the highest standards of health and safety services to all of Nevada’s employees and the general public.

One of the statutory duties of the Administrator of the Division of Industrial Relations is to “prescribe by regulation the methods by which an insurer may approve or reject claims, and may determine the amount and nature of benefits payable in connection therewith.” NRS 616A.400(3). To that end, the proposed temporary regulation seeks to protect the rights of injured workers so that they have an option to elect a lump sum payment where their permanent partial disability does not exceed 30 percent, to help alleviate any medical and living expenses incurred as a result of the industrial accident. This proposed temporary regulation will continue the Division’s mission to uphold the highest standards of health and safety to all Nevada’s employees and the general public.

Moreover, NRS 616C.495(1)(f) provides and allows, “Any claimant injured on or after July 1, 2017, who incurs a disability that exceeds 30 percent may elect to receive his or her compensation in a lump sum equal to the present value of an award for a disability of up to 30 percent. If the claimant elects to receive compensation pursuant to this paragraph, the insurer shall pay in installments to the claimant that portion of the claimant’s disability in excess of 30 percent.”

The estimated economic effect of the proposed regulations on (a) regulated businesses and (b) the public, including, stated separately: (i) adverse and beneficial effects; and (ii) immediate and long-term effects:

(a) Regulated businesses:

(i) Adverse and beneficial effects:

The Division anticipates no adverse effects, either direct or indirect, on regulated businesses as the result of this regulation. There will be no direct or indirect cost to regulated businesses.

The Division believes that there will be no beneficial effects, either direct or indirect, on regulated businesses as the result of this regulation.

(ii) Immediate and long-term effects:

The Division does not anticipate any immediate effects, either adverse or beneficial, on regulated as a result of this regulation. There will be no direct or indirect costs to regulated businesses.

The Division does not anticipate any long-term effects, either adverse or beneficial, on regulated businesses as a result of this regulation. There will be no direct or indirect costs to the regulated businesses.

(b) The public:

(i) Adverse and beneficial effects:

The Division anticipates no adverse effects, either direct or indirect, on the public as the result of these regulations. There will be no direct or indirect cost to the public.

The Division believes that there will be a beneficial effect on the public as the result of this regulation. Specifically, the proposed temporary regulation seeks to protect the rights of injured workers so that they have an option to elect a lump sum payment where their permanent partial disability does not exceed 30 percent, to help alleviate any medical and living expenses incurred as a result of the industrial accident.

(ii) Immediate and long-term effects:

The Division anticipates a beneficial effect on the public as a result of this regulation. Specifically, the proposed temporary regulation seeks to protect the rights of injured workers so that they have an option to elect a lump sum payment where their permanent partial disability does not exceed 30 percent, to help alleviate any medical and living expenses incurred as a result of the industrial accident. There will be no direct or indirect costs to the public.

The estimated cost to the Division for enforcement of the proposed regulations: *The Division does not anticipate incurring any additional cost to implement these proposed permanent regulations.*

Whether the proposed regulation overlaps or is duplicate of any existing regulation. *The proposed regulation is not required by federal law and there is no equivalent federal law. The Division notes that prior to 2019, the Division had authority, under regulations in NAC Chapter 616C, to allow employees injured on or after July 1, 2017, who incur a permanent partial disability that does not exceed 30 percent, to elect compensation in a lump sum. The regulation allowing for such elections, however, was repealed and subrogated by NRS 616C.495. The oversight was recently caught during the Division's review of its regulatory scheme. After speaking with stakeholders, the Division sought approval for an emergency regulation on December 5, 2022, which was approved by then-Governor Sisolak and filed with the Nevada Secretary of State, LCB File No. E001-23. The emergency regulation dealt with the same subject as this currently proposed temporary regulation, namely, to allow employees injured on or after July 1, 2017, who incur a*

permanent partial disability that does not exceed 30 percent, to elect compensation in a lump sum. Under NRS Chapter 233B, the emergency regulation will expire on April 4, 2023.

The proposed regulation does not establish a new fee or increase an existing fee. The proposed regulation does not provide for a new fee or increase an existing fee payable to the Division.

The Division invites representatives of regulated businesses and the public to attend the public hearing and/or prepare written and/or oral comments concerning the proposed regulations. A copy of the proposed language for the proposed temporary regulation, may be downloaded from the Division's website: <http://dir.nv.gov/Meetings/Meetings/>. Before the Public Hearing, persons may submit written comments to Christopher A. Eccles, Esq., Senior Division Counsel, Division of Industrial Relations, 3360 W. Sahara Avenue, Ste. 250, Las Vegas, Nevada 89102 or by email to ceccles@dir.nv.gov. If no person who is directly affected by the proposed regulation appears to make oral comments, the Division may proceed immediately to act upon any written submissions.

Persons with disabilities who require special accommodations or assistance at the public hearing must notify Rosalind Jenkins, at the Division of Industrial Relations, 3360 W. Sahara Ave., Ste. 250, Las Vegas, Nevada 89102, or by calling (702) 486-9014 at least three (3) working days prior to the scheduled hearing date.

A copy of this notice and the proposed regulations are available at the Division's web page (<http://dir.nv.gov/Meetings/Meetings/>). This notice and the text of the proposed regulations are also in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Notice required by NRS 233B.064: Upon adoption of any regulation, the agency (the Division), if requested to do so by an interested person, either before adoption or thirty days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice has been posted on Nevada's notice website: <http://leg.state.nv.us/App/Notice/A/>; State of Nevada notice website: <https://notice.nv.gov>; and the Division's website: <http://dir.nv.gov/Meetings/Meetings>, as set forth in NRS 241.020(4)(b) and (4)(c). A copy of the Notice and the proposed permanent regulation to be adopted and/or amended is on file and has also been posted at the following locations: Division of Industrial Relations, 3360 West Sahara Avenue, Suite 250, Las Vegas, Nevada 89102; and 400 West King Street, Suite 400, Carson City, Nevada 89703.

**HEARING AGENDA
DIVISION OF INDUSTRIAL RELATIONS
DEPARTMENT OF BUSINESS AND INDUSTRY**

Notice: (1) Items on the Agenda may be taken out of order; (2) the Division may combine two or more Agenda items for consideration; and (3) the Division may remove an item on the Agenda at any time.

I. Call to Order.

II. Public Comment. The opportunity for public comment is reserved for any matter listed below on the Agenda as well as any matter within the jurisdiction of the Division. No action on such an item may be taken by the Division unless and until the matter has been noticed as an action item. Comment may not be restricted based on viewpoint.

III. Discussion of Adoption of Proposed Temporary Regulation regarding permanent partial disability lump sum payments, amendment of regulations that pertain to Chapter 616C of the Nevada Administrative Code.

IV. Public Comment. The opportunity for public comment is reserved for any matter within the jurisdiction of the Division. No action on such an item may be taken by the Division unless and until the matter has been noticed as an action item. Comment may not be restricted based on viewpoint.

V. Adjournment.

**PROPOSED TEMPORARY REGULATION OF THE DEPARTMENT OF BUSINESS &
INDUSTRY DIVISION OF INDUSTRIAL RELATIONS FOR THE
AMENDMENT OF NAC CHAPTER 616C**

January 11, 2023

EXPLANATION — Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: NRS 616C.400(3); NRS 233B.040

A REGULATION relating to industrial insurance; allowing employees injured on or after July 1, 2017 who incur a permanent partial disability that does not exceed 30 percent to elect receipt of compensation in a lump sum.

Explanation:

Existing law authorizes the Administrator of the Division of Industrial Relations to prescribe by regulation the methods by which an insurer may approve or reject claims, and may determine the amount and nature of benefits payable in connection therewith. NRS 616A.400(3). On December 5, 2022, an Emergency Regulation was filed with the Secretary of State to allow employees injured on or about July 1, 2017 who incur a permanent partial disability that does not exceed 30 percent to elect to receive compensation in a lump sum. The Emergency Regulation shall expire on April 4, 2023. This temporary regulation allows a temporary continuance for employees injured on or about July 1, 2017 who incur a permanent partial disability that does not exceed 30 percent to elect to receive compensation in a lump sum.

Sec. 1. Chapter 616C of NAC is hereby amended by adding thereto a new section to read as follows:

NAC 616C.XXX Eligibility to receive compensation in lump sum for injury incurred on or after July 1, 2017. (NRS 616A.400, 616C.495). An employee injured on or after July 1, 2017, who incurs a permanent partial disability that does not exceed 30 percent may elect to receive compensation in a lump sum.



DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS

SMALL BUSINESS IMPACT STATEMENT
AS REQUIRED BY NRS 233B.0608 AND 233B.0609
February 9, 2023

Note: Small Business is defined as “a business conducted for profit which employs fewer than 150 full-time or part-time employees.” (NRS 233B.0382).

1. Describe the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

ANSWER: To determine whether the proposed regulations are likely to have an impact on small businesses, the Division considered the purpose and scope of the proposed regulation. The proposed temporary regulation would allow employees injured on or after July 1, 2017 who incur a permanent partial disability that does not exceed 30 percent to elect receipt of compensation in a lump sum.

On January 12, 2023, the Division sent out a Small Business Impact Statement Questionnaire to interested parties on the Division's Listserv at WCSEEDUCATION@LISTSERV.STATE.NV.US, which includes 17,889 businesses. The Questionnaire inquired from small businesses whether they believed there would be any economic effects, adverse or beneficial, direct or indirect, on their respective businesses from the proposed regulation. The Division also placed a link on its website to the questionnaire for interested parties to complete, should they so choose. The deadline to return the questionnaire was January 17, 2023. As of this date, the Division received five (5) responses. The five responses may be summarized as follows:

1. Leilani Marie Toves on behalf of United Highway Service, LLC (“UHS”)

UHS indicated that the regulations would not have an adverse economic effect on its business “due to we don’t have any employees at this time.” UHS further indicated that the regulations would not have a beneficial effect on its business “due to we don’t have any employees at this time.” The same response was provided to questions regarding whether the regulation would have any indirect adverse or beneficial effects on its business.

2. Joann Zummo on behalf of Mitsui Sumito Marine Management (USA), Inc. (“Mitsui”)

Mitsui provided a response that indicated that it had 150 employees or more, and therefore, they were not considered a small business.

3. Janetta Wendelboe on behalf of Sable Systems International, Inc. ("Sable")

Sable stated in its responses that the regulation would not have an adverse economic effect on its business, explaining, "We have no employees that fall into that situation." Sable responded to whether the regulation would have a beneficial effect on its business by stating the regulation would have a beneficial effect. Sable indicated that it believed the regulation would have an indirect adverse effect on its business, stating, "If the new directive continues and we have an employee claim that end up falling into this category it could change our experience rating detrimentally" [sic]. Lastly, Sable indicated that it did not believe that the regulation would have an indirect beneficial effect on its business.

4. Greg Anderson on behalf of Kent Lake Capital, LLC ("Kent")

Kent indicated that the regulation would neither have an adverse nor beneficial economic effect on its business. Kent also indicated that the regulation would neither have an indirect adverse nor beneficial effect on its business.

5. Rachael Pick on behalf of Botanical House Cleaning LLC ("Botanical")

Botanical indicated that the regulation would neither have an adverse nor beneficial economic effect on its business. Botanical also indicated that the regulation would neither have an indirect adverse nor beneficial effect on its business.

Based on this review, the Division determined that this regulation will have no direct effect on small businesses, either adverse or beneficial, and will also have no indirect effect on small businesses, either adverse or beneficial.

2. The manner in which the analysis was conducted.

ANSWER: As noted in Answer 1, above, on January 12, 2023, the Division sent out a Small Business Impact Statement Questionnaire to interested parties on the Division's Listserv at WCSEEDUCATION@LISTSERV.STATE.NV.US, which includes 17,889 businesses. Based on the responses, as summarized above in Answer 1, there will be no direct or indirect financial effect on small businesses, either adverse or beneficial.

3. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

- (a) Both adverse and beneficial effects; and**
- (b) Both direct and indirect effects.**

ANSWER: The Division anticipates no adverse or beneficial effects, either direct or indirect, on small businesses as the result of the adoption of this regulation.

4. Describe the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

ANSWER: Because there will be no impact on small businesses in general, there are no methods available to reduce the impact the Division could have considered.

5. The estimated cost to the agency for enforcement of the proposed regulation.

ANSWER: There is no additional cost to the agency for enforcement of this regulation.

6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

ANSWER: The proposed regulation does not provide for a new fee or increase an existing fee payable to the Division.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

ANSWER: The proposed regulation does not include any provisions which duplicate or are more stringent than existing federal standards. Related to state and local standards, prior to 2019, the Division had authority, under regulations in NAC Chapter 616C, to allow employees injured on or after July 1, 2017, who incur a permanent partial disability that does not exceed 30 percent, to elect compensation in a lump sum. The regulation allowing for such elections, however, was repealed and subrogated by NRS 616C.495. The oversight was recently caught during the Division's review of its regulatory scheme. After speaking with stakeholders, the Division sought approval for an emergency regulation on December 5, 2022, which was approved by then-Governor Sisolak and filed with the Nevada Secretary of State, LCB File No. E001-23. The emergency regulation dealt with the same subject as this currently proposed temporary regulation, namely, to allow employees injured on or after July 1, 2017, who incur a permanent partial disability that does not exceed 30 percent, to elect compensation in a lump sum. Under NRS Chapter 233B, the emergency regulation will expire on April 4, 2023.

8. The reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.

ANSWER: The Division complied with NRS 233B.0608 by considering the purpose and scope of the proposed amendments. The proposed temporary regulation would allow employees injured on or after July 1, 2017 who incur a permanent partial disability that does not exceed 30 percent to elect receipt of compensation in a lump sum.

The Division made a concerted effort to determine whether the proposed regulations impose a direct or significant economic burden upon small businesses, or directly restricts the formation, operation, or expansion of a small business. Specifically, on January 12, 2023, the Division sent

out a Small Business Impact Statement Questionnaire to interested parties on the Division's Listserv at WCSEEDUCATION@LISTSERV.STATE.NV.US, which includes 17,889 businesses. The Questionnaire inquired from small businesses whether they believed there would be any economic effects, adverse or beneficial, direct or indirect, on their respective businesses from the proposed regulation. The Division also placed a link on its website to the questionnaire for interested parties to complete, should they so choose. The deadline to return the questionnaire was January 17, 2023. As of this date, the Division received five (5) responses to the Questionnaire, all of which indicated there would be no adverse or beneficial impact on their small businesses. The Division determined that these regulations will have no effect on small businesses and will not restrict the formation, operation or expansion of small businesses.

I, VICTORIA CARREÓN, Administrator of the Division of Industrial Relations, certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement was prepared properly and is accurate.

DATED this 9th day of February, 2023.


VICTORIA CARREÓN, Administrator