

SENATE BILL NO. 377—SENATOR D. HARRIS

MARCH 20, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to workers' compensation. (BDR 53-1025)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to industrial insurance; authorizing the use of money in the Fund for Workers' Compensation and Safety in the State Treasury to make certain payments; eliminating the authority of the Administrator of the Division of Industrial Relations of the Department of Business and Industry to make certain payments from the Uninsured Employers' Claim Account in the Fund for Workers' Compensation and Safety; revising provisions providing for an annual increase in benefits for permanent total disability; authorizing assessments against certain employers to defray the costs of certain compensation for permanent total disability; repealing provisions authorizing annual payments to certain persons who are entitled to compensation for permanent total disability; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides for an annual increase in compensation in the amount of
2 2.3 percent to claimants or dependents thereof who are entitled to compensation for
3 permanent total disability under industrial insurance for an industrial injury or
4 disablement from an occupational disease that occurs on or after January 1, 2004.
5 (NRS 616C.473) Existing law provides for a single annual payment to claimants
6 and their dependents who are entitled to receive compensation for permanent total
7 disability but are not entitled to the 2.3 percent annual increase in that
8 compensation because the industrial injury or disablement occurred before
9 January 1, 2004. (NRS 616C.453) Existing law provides that such annual payments
10 are paid from the Uninsured Employers' Claim Account in the Fund for Workers'
11 Compensation and Safety in the State Treasury, an account which is funded by



12 assessments against insurers and certain employers who provide accident benefits
13 for injured employees. (NRS 616A.430)

14 Existing law sets forth the uses of money and securities in the Fund for
15 Workers' Compensation and Safety. (NRS 616A.425) **Section 1** of this bill
16 provides that money in the Fund may also be used to pay the salary and other
17 expenses of administering the payment of increased compensation to claimants and
18 dependents of claimants who are entitled to compensation for permanent total
19 disability caused by industrial injuries and disablements from occupational diseases
20 that occurred before January 1, 2004.

21 **Section 3** of this bill provides for a 2.3 percent annual increase in compensation
22 for permanent total disability to claimants and dependents of claimants who are
23 entitled to such compensation due to an industrial injury or disablement which
24 occurred before January 1, 2004, with compensation to be increased on January 1,
25 2020, and on January 1 each year thereafter.

26 **Section 4** of this bill provides that assessments against employers who provide
27 accident benefits for injured employees may be used to defray the costs of
28 compensation payable to claimants and dependents of claimants who are entitled to
29 such compensation due to an industrial injury or disablement which occurred before
30 January 1, 2004.

31 **Section 5** of this bill repeals provisions which authorize a single annual
32 payment to claimants and their dependents who are entitled to receive
33 compensation for permanent total disability but are not entitled to the 2.3 percent
34 annual increase in that compensation. **Section 2** of this bill eliminates the authority
35 of the Administrator of the Division of Industrial Relations of the Department of
36 Business and Industry to make the annual payments from the Uninsured
37 Employers' Claim Account in the Fund for Workers' Compensation and Safety.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 616A.425 is hereby amended to read as
2 follows:

3 616A.425 1. There is hereby established in the State Treasury
4 the Fund for Workers' Compensation and Safety as an enterprise
5 fund. All money received from assessments levied on insurers and
6 employers by the Administrator pursuant to NRS 232.680 must be
7 deposited in this Fund.

8 2. All assessments, penalties, bonds, securities and all other
9 properties received, collected or acquired by the Division for
10 functions supported in whole or in part from the Fund must be
11 delivered to the custody of the State Treasurer for deposit to the
12 credit of the Fund.

13 3. All money and securities in the Fund must be used to defray
14 all costs and expenses of administering the program of workers'
15 compensation, including the payment of:

16 (a) All salaries and other expenses in administering the Division
17 of Industrial Relations, including the costs of the office and staff of
18 the Administrator.



1 (b) All salaries and other expenses of administering NRS
2 616A.435 to 616A.460, inclusive, the offices of the Hearings
3 Division of the Department of Administration and the programs of
4 self-insurance and review of premium rates by the Commissioner.

5 (c) The salary and other expenses of a full-time employee of the
6 Legislative Counsel Bureau whose principal duties are limited to
7 conducting research and reviewing and evaluating data related to
8 industrial insurance.

9 (d) All salaries and other expenses of the Fraud Control Unit for
10 Industrial Insurance established pursuant to NRS 228.420.

11 (e) Claims against uninsured employers arising from compliance
12 with NRS 616C.220 and 617.401.

13 (f) That portion of the salaries and other expenses of the Office
14 for Consumer Health Assistance of the Department of Health and
15 Human Services established pursuant to NRS 232.458 that is related
16 to providing assistance to consumers and injured employees
17 concerning workers' compensation.

18 *(g) The salary and other expenses of administering the*
19 *payment of compensation to claimants and dependents pursuant to*
20 *subsection 2 of NRS 616C.473.*

21 4. The State Treasurer may disburse money from the Fund only
22 upon written order of the Controller.

23 5. The State Treasurer shall invest money of the Fund in the
24 same manner and in the same securities in which the State Treasurer
25 is authorized to invest state general funds which are in his or her
26 custody. Income realized from the investment of the assets of the
27 Fund must be credited to the Fund ~~{~~ *to defray the compensation*
28 *payable to claimants and dependents pursuant to subsection 2 of*
29 *NRS 616C.473.*

30 6. The Commissioner shall assign an actuary to review the
31 establishment of assessment rates. The rates must be filed with the
32 Commissioner 30 days before their effective date. Any insurer or
33 employer who wishes to appeal the rate so filed must do so pursuant
34 to NRS 679B.310.

35 7. If the Division refunds any part of an assessment, the
36 Division shall include in that refund any interest earned by the
37 Division from the refunded part of the assessment.

38 **Sec. 2.** NRS 616A.430 is hereby amended to read as follows:

39 616A.430 1. There is hereby established in the State Treasury
40 the Uninsured Employers' Claim Account in the Fund for Workers'
41 Compensation and Safety, which may be used only for the purpose
42 of making payments in accordance with the provisions of NRS
43 616C.220 ~~{, 616C.453}~~ and 617.401. The Administrator shall
44 administer the Account and shall credit any excess money toward
45 the assessments of the insurers for the succeeding years.



1 2. All assessments, penalties, bonds, securities and all other
2 properties received, collected or acquired by the Administrator for
3 the Uninsured Employers' Claim Account must be delivered to the
4 custody of the State Treasurer.

5 3. All money and securities in the Account must be held by the
6 State Treasurer as custodian thereof to be used solely for workers'
7 compensation.

8 4. The State Treasurer may disburse money from the Account
9 only upon written order of the State Controller.

10 5. The State Treasurer shall invest money of the Account in the
11 same manner and in the same securities in which the State Treasurer
12 is authorized to invest money of the State General Fund. Income
13 realized from the investment of the assets of the Account must be
14 credited to the Account.

15 6. The Administrator shall assess each insurer, including each
16 employer who provides accident benefits for injured employees
17 pursuant to NRS 616C.265, an amount to be deposited in the
18 Uninsured Employers' Claim Account. To establish the amount of
19 the assessment, the Administrator shall determine the amount of
20 money necessary to maintain an appropriate balance in the Account
21 for each fiscal year and shall allocate a portion of that amount to be
22 payable by private carriers, a portion to be payable by self-insured
23 employers, a portion to be payable by associations of self-insured
24 public or private employers and a portion to be payable by the
25 employers who provide accident benefits pursuant to NRS
26 616C.265, based upon the expected annual expenditures for claims
27 of each group of insurers. After allocating the amounts payable, the
28 Administrator shall apply an assessment rate to the:

29 (a) Private carriers that reflects the relative hazard of the
30 employments covered by the private carriers, results in an equitable
31 distribution of costs among the private carriers and is based upon
32 expected annual premiums to be received;

33 (b) Self-insured employers that results in an equitable
34 distribution of costs among the self-insured employers and is based
35 upon expected annual expenditures for claims;

36 (c) Associations of self-insured public or private employers that
37 results in an equitable distribution of costs among the associations
38 of self-insured public or private employers and is based upon
39 expected annual expenditures for claims; and

40 (d) Employers who provide accident benefits pursuant to NRS
41 616C.265 that reflects the relative hazard of the employments
42 covered by those employers, results in an equitable distribution of
43 costs among the employers and is based upon expected annual
44 expenditures for claims.



1 ↪ The Administrator shall adopt regulations for the establishment
2 and administration of the assessment rates, payments and any
3 penalties that the Administrator determines are necessary to carry
4 out the provisions of this subsection. As used in this subsection, the
5 term "group of insurers" includes the group of employers who
6 provide accident benefits for injured employees pursuant to
7 NRS 616C.265.

8 7. The Commissioner shall assign an actuary to review the
9 establishment of assessment rates. The rates must be filed with the
10 Commissioner 30 days before their effective date. Any insurer who
11 wishes to appeal the rate so filed must do so pursuant to
12 NRS 679B.310.

13 **Sec. 3.** NRS 616C.473 is hereby amended to read as follows:

14 616C.473 1. If a claimant or a dependent of a claimant is
15 entitled to receive compensation pursuant to chapters 616A to 617,
16 inclusive, of NRS for a permanent total disability caused by an
17 industrial injury or a disablement from an occupational disease that
18 occurs on or after January 1, 2004, the claimant or dependent is
19 entitled to an annual increase in that compensation in the amount of
20 2.3 percent. The compensation must be increased pursuant to this
21 ~~[section:]~~ *subsection:*

22 (a) On January 1 of the year immediately after the year in which
23 the claimant or dependent becomes entitled to receive that
24 compensation; and

25 (b) On January 1 of each successive year after the year specified
26 in paragraph (a) in which the claimant or dependent is entitled to
27 receive that compensation.

28 2. *If a claimant or a dependent of a claimant is entitled to*
29 *receive compensation pursuant to chapters 616A to 617, inclusive,*
30 *of NRS for a permanent total disability caused by an industrial*
31 *injury or a disablement from an occupational disease that*
32 *occurred on or before January 1, 2004, the claimant or dependent*
33 *is entitled to an annual increase in that compensation in the*
34 *amount of 2.3 percent. The compensation must be increased*
35 *pursuant to this subsection:*

36 (a) *On January 1, 2020; and*

37 (b) *On January 1 of each year thereafter.*

38 3. Any increase in compensation provided pursuant to this
39 section is in addition to any increase in compensation to which a
40 claimant or a dependent of a claimant is otherwise entitled by law.

41 **Sec. 4.** NRS 232.680 is hereby amended to read as follows:

42 232.680 1. The cost of carrying out the provisions of NRS
43 232.550 to 232.700, inclusive, and of supporting the Division,
44 a full-time employee of the Legislative Counsel Bureau and the
45 Fraud Control Unit for Industrial Insurance established pursuant to



1 NRS 228.420, and that portion of the cost of the Office for
2 Consumer Health Assistance established pursuant to NRS 232.458
3 that is related to providing assistance to consumers and injured
4 employees concerning workers' compensation, must be paid from
5 assessments payable by each insurer, including each employer who
6 provides accident benefits for injured employees pursuant to
7 NRS 616C.265.

8 2. The Administrator shall assess each insurer, including each
9 employer who provides accident benefits for injured employees
10 pursuant to NRS 616C.265. To establish the amount of the
11 assessment, the Administrator shall determine the amount of money
12 necessary for each of the expenses set forth in subsections 1 and 4 of
13 this section and subsection 3 of NRS 616A.425 and determine the
14 amount that is payable by the private carriers, the self-insured
15 employers, the associations of self-insured public or private
16 employers and the employers who provide accident benefits
17 pursuant to NRS 616C.265 for each of the programs. For the
18 expenses from which more than one group of insurers receives
19 benefit, the Administrator shall allocate a portion of the amount
20 necessary for that expense to be payable by each of the relevant
21 group of insurers, based upon the expected annual expenditures for
22 claims of each group of insurers. After allocating the amounts
23 payable among each group of insurers for all the expenses from
24 which each group receives benefit, the Administrator shall apply an
25 assessment rate to the:

26 (a) Private carriers that reflects the relative hazard of the
27 employments covered by the private carriers, results in an equitable
28 distribution of costs among the private carriers and is based upon
29 expected annual premiums to be received;

30 (b) Self-insured employers that results in an equitable
31 distribution of costs among the self-insured employers and is based
32 upon expected annual expenditures for claims;

33 (c) Associations of self-insured public or private employers that
34 results in an equitable distribution of costs among the associations
35 of self-insured public or private employers and is based upon
36 expected annual expenditures for claims; and

37 (d) Employers who provide accident benefits pursuant to NRS
38 616C.265 that reflect the relative hazard of the employments
39 covered by those employers, results in an equitable distribution of
40 costs among the employers and is based upon expected annual
41 expenditures for claims.

42 ↪ The Administrator shall adopt regulations that establish the
43 formula for the assessment and for the administration of payment,
44 and any penalties that the Administrator determines are necessary to
45 carry out the provisions of this subsection. The formula may use



1 actual expenditures for claims. As used in this subsection, the term
2 “group of insurers” includes the group of employers who provide
3 accident benefits for injured employees pursuant to NRS 616C.265.

4 3. Federal grants may partially defray the costs of the Division.

5 4. Assessments made against insurers by the Division after the
6 adoption of regulations must be used to defray all costs and
7 expenses of administering the program of workers’ compensation,
8 including the payment of:

9 (a) All salaries and other expenses in administering the Division,
10 including the costs of the office and staff of the Administrator.

11 (b) All salaries and other expenses of administering NRS
12 616A.435 to 616A.460, inclusive, the offices of the Hearings
13 Division of the Department of Administration and the programs of
14 self-insurance and review of premium rates by the Commissioner of
15 Insurance.

16 (c) The salary and other expenses of a full-time employee of the
17 Legislative Counsel Bureau whose principal duties are limited to
18 conducting research and reviewing and evaluating data related to
19 industrial insurance.

20 (d) All salaries and other expenses of the Fraud Control Unit for
21 Industrial Insurance established pursuant to NRS 228.420.

22 (e) Claims against uninsured employers arising from compliance
23 with NRS 616C.220 and 617.401.

24 (f) That portion of the salaries and other expenses of the Office
25 for Consumer Health Assistance established pursuant to NRS
26 232.458 that is related to providing assistance to consumers and
27 injured employees concerning workers’ compensation.

28 ~~{5. If the Division refunds any part of an assessment, the~~
29 ~~Division shall include in that refund any interest earned by the~~
30 ~~Division from the refunded part of the assessment.}~~

31 *(g) The compensation payable to claimants and dependents of*
32 *the claimants pursuant to subsection 2 of NRS 616C.473.*

33 **Sec. 5.** NRS 616C.453 is hereby repealed.

34 **Sec. 6.** This act becomes effective on July 1, 2019.

TEXT OF REPEALED SECTION

616C.453 Additional annual payment to certain claimants and dependents of claimants who are entitled to receive compensation for permanent total disability; adoption of regulations to determine amount of payment.



1. If a claimant or a dependent of a claimant is entitled to receive compensation pursuant to chapters 616A to 617, inclusive, of NRS for a permanent total disability and the claimant or dependent is not entitled to an annual increase in that compensation pursuant to NRS 616C.473, the claimant or dependent is entitled to an annual payment for that permanent total disability in an amount determined by the Administrator pursuant to subsection 3, but such annual payments may not exceed \$1,200 per claimant or dependent. Except as otherwise provided in subsection 5, the total payments made pursuant to this section may not exceed \$500,000 per year.

2. Each year, the Administrator shall withdraw from the Uninsured Employers' Claim Account established pursuant to NRS 616A.430 an amount of the income realized from the investment of the assets in the Account that is necessary to fund the payments calculated pursuant to subsection 3.

3. The Administrator shall adopt regulations establishing a method for the equitable distribution of the money withdrawn from the Account pursuant to subsection 2. The regulations must provide for payments that result in the largest proportional share of the money being paid to claimants and dependents who receive the lowest amount of compensation pursuant to chapters 616A to 617, inclusive, of NRS for the permanent total disability. The Administrator may adopt any other regulations that are necessary to carry out the provisions of this section.

4. Except as otherwise provided in subsection 5, the Administrator shall make the payment required by this section to each claimant and dependent of the claimant who is entitled to the payment not later than October 1 of each year. Any payment received by the claimant or dependent of the claimant pursuant to this section is in addition to any compensation to which the claimant or dependent of the claimant is otherwise entitled by law.

5. The Administrator may make a payment from the Account to a claimant or a dependent of a claimant that would have been payable in a prior year pursuant to subsection 3 if the Administrator determines that the claimant or dependent was entitled to the payment pursuant to subsection 1.

