

SENATE BILL NO. 295—SENATOR CANNIZZARO

MARCH 22, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to industrial insurance. (BDR 53-996)

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

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

AN ACT relating to industrial insurance; prohibiting the termination or limitation of compensation paid to certain injured employees for a permanent total disability on the basis that the injured employee earns income; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that an injured employee is entitled to receive
2 compensation for a permanent total disability only so long as the permanent total
3 disability continues to exist. (NRS 616C.440) Existing law authorizes certain
4 injured employees who are or were firefighters, arson investigators, police officers
5 or emergency medical attendants and who are partially disabled from certain
6 occupational diseases to elect to receive such compensation for a permanent total
7 disability. (NRS 617.455, 617.457, 617.485, 617.487) **Section 2** of this bill
8 prohibits an insurer from halting or limiting the payment of compensation to such
9 an injured employee for a permanent total disability on the basis that the injured
10 employee earns income. **Section 1** of this bill makes a conforming change to a
11 reference to reflect a change in numbering made by **section 2**.

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

1 **Section 1.** NRS 616C.405 is hereby amended to read as
2 follows:

3 616C.405 Except as otherwise provided in subsection ~~4~~ 5 of
4 NRS 616C.440, an employee who is receiving compensation for:

5 1. A permanent total disability is not entitled to compensation
6 for permanent partial disability during the period when the



1 employee is receiving compensation for the permanent total
2 disability.

3 2. A temporary total disability is not entitled to compensation
4 for a permanent partial disability during the period of temporary
5 total disability.

6 3. A temporary partial disability is not entitled to compensation
7 for a permanent partial disability during the period of temporary
8 partial disability.

9 **Sec. 2.** NRS 616C.440 is hereby amended to read as follows:

10 616C.440 1. Except as otherwise provided in this section and
11 NRS 616C.175, every employee in the employ of an employer,
12 within the provisions of chapters 616A to 616D, inclusive, of NRS,
13 who is injured by accident arising out of and in the course of
14 employment, or his or her dependents as defined in chapters 616A
15 to 616D, inclusive, of NRS, is entitled to receive the following
16 compensation for permanent total disability:

17 (a) In cases of total disability adjudged to be permanent,
18 compensation per month of $66 \frac{2}{3}$ percent of the average monthly
19 wage.

20 (b) If there is a previous disability, as the loss of one eye, one
21 hand, one foot or any other previous permanent disability, the
22 percentage of disability for a subsequent injury must be determined
23 by computing the percentage of the entire disability and deducting
24 therefrom the percentage of the previous disability as it existed at
25 the time of the subsequent injury, but such a deduction for a
26 previous award for permanent partial disability must be made in a
27 reasonable manner and must not be more than the total amount
28 which was paid for the previous award for permanent partial
29 disability. The total amount of the allowable deduction includes,
30 without limitation, compensation for a permanent partial disability
31 that was deducted from:

32 (1) Any compensation the employee received for a
33 temporary total disability; or

34 (2) Any other compensation received by the employee.

35 (c) If the character of the injury is such as to render the
36 employee so physically helpless as to require the service of a
37 constant attendant, an additional allowance may be made so long as
38 such requirements continue, but the allowance may not be made
39 while the employee is receiving benefits for care in a hospital or
40 facility for intermediate care pursuant to the provisions of
41 NRS 616C.265.

42 2. Except as otherwise provided in NRS 616B.028 and
43 616B.029, an injured employee or his or her dependents are not
44 entitled to accrue or be paid any benefits for a permanent total
45 disability during the time the injured employee is incarcerated. The



1 injured employee or his or her dependents are entitled to receive
2 those benefits when the injured employee is released from
3 incarceration if the injured employee is certified as permanently
4 totally disabled by a physician or chiropractor.

5 3. An employee is entitled to receive compensation for a
6 permanent total disability only so long as the permanent total
7 disability continues to exist. The insurer has the burden of proving
8 that the permanent total disability no longer exists.

9 4. *If an injured employee has filed a claim with an insurer
10 pursuant to NRS 617.455, 617.457, 617.485 or 617.487, the
11 insurer may not terminate, suspend, withhold, offset, reduce or
12 otherwise halt, restrict or limit the payment of compensation for a
13 permanent total disability to the injured employee or his or her
14 dependents on the basis that the injured employee earns income.*

15 5. If an employee who has received compensation in a lump
16 sum for a permanent partial disability pursuant to NRS 616C.495 is
17 subsequently determined to be permanently and totally disabled, the
18 insurer of the employee's employer shall recover pursuant to this
19 subsection the actual amount of the lump sum paid to the employee
20 for the permanent partial disability. The insurer shall not recover
21 from the employee, whether by deductions or single payment, or a
22 combination of both, more than the actual amount of the lump sum
23 paid to the employee. To recover the actual amount of the lump
24 sum, the insurer shall:

25 (a) Unless the employee submits a request described in
26 paragraph (b), deduct from the compensation for the permanent total
27 disability an amount that is not more than 10 percent of the rate of
28 compensation for a permanent total disability until the actual
29 amount of the lump sum paid to the employee for the permanent
30 partial disability is recovered; or

31 (b) Upon the request of the employee, accept in a single
32 payment from the employee an amount that is equal to the actual
33 amount of the lump sum paid to the employee for the permanent
34 partial disability, less the actual amount of all deductions made to
35 date by the insurer from the employee for repayment of the lump
36 sum.

