

DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

This information is supplied as an informational service only and should not be relied upon as an official record.

Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or library@lcb.state.nv.us.

Professional Firefighters of Nevada
Rusty McAllister
(702) 493 - 2796

Testimony for AB 438

Mr. Chairman and members of the Assembly Commerce and Labor Committee;

The Professional Firefighters of Nevada stand in support of AB 438. We would like to thank Assemblyman Christensen for bringing forth this much-needed piece of legislation. This idea is not a new one and has been brought before the legislature in prior sessions. There have been increases in the past made to the compensation for injured workers that are covered under permanent total disability. I have provided the sections of NRS 616C that have addressed increases in benefits for these disabled workers. As you can see it is different in each case and there is no consistency as to the amounts or timeframes in which increases are made.

AB 438 seeks to change that by providing a consistent increase in the amount of disability payments made to those with a permanent total disability, both in amount and in time frame. This bill in its current form did not come out of drafting exactly as proposed but could be easily amended to provide for the intent of our proposal. As you can see under current language in the bill there are only occasional one time increases in benefits. Our intent was to provide a yearly increase. The percentages that you see in the bill were drawn from the legislation regarding cost of living increases for retirees from the Public Employees Retirement System. Amounts that already are recognized in statute.

During the 2001 legislative session a similar bill was proposed and drew opposition from various insurance companies because the retrospective nature of the benefits. They claimed that they had not funded for those increases and that they would be hard pressed to pay for them out of existing funds. It is the intent of AB 438 to be prospective. The bill would not pay any benefit to anyone prior to implementation and would only go from this point forward. I have talked to representatives from the insurance industry and the response that I got was that as long as it was prospective in nature and if they were given sufficient time prior to implementation to fund for the increases that they would be able to work with the changes.

Currently when a worker is injured and must leave the job with a permanent total disability, the disability benefit is set at 66 2/3 % of the average state workers salary. This amount doesn't increase unless the legislature grants some form of an increase. The employee is restricted from working. All the time that the benefit is in place and doesn't increase the cost of living continues to go up annually. Without some form of offset for a cost of living increase, the lifestyle and living conditions of a disabled worker continue worsen, all because you were unlucky enough to get hurt on the job. I have to wonder if

ASSEMBLY COMMERCE & LABOR 185
DATE: 3/28/03 ROOM: 4100 EXHIBIT C
SUBMITTED BY: Rusty McAllister

the intent of the legislature, when the industrial insurance system was established, was to see disabled workers continually seeing their ability to survive erode over time. Even the Federal Government sees fit to provide for cost of living increases on an annual basis to disabled veterans. Just recently the federal government gave a 2.6% increase to the nation's disabled vets. If it's necessary for veterans then why shouldn't it be necessary for the disabled workers of the State of Nevada? They are no different than anyone else, they just didn't serve in the military.

I have provided for you some examples of what happens to an injured worker when compared with a worker that is not injured. I also outlined what some proposed increases would do for that same injured worker with regard to keeping him solvent financially. As you can see without any increases the difference in yearly wages grows significantly. As you can also see with a modest cost of living increase it would help to provide them with a much better change to make a living. These are just numbers that show some of the wage comparisons. Here are some of the things we don't often think about. When you are disabled you haven't prepared to retire. It is thrust upon you. The worker who serves out a career plans to retire and is prepared to survive on a certain benefit. The injured worker usually loses any type of employer sponsored or paid health insurance plan. That's now paid for out of pocket. The injured worker can no longer contribute to deferred compensation plans that they were once in. Not only is it disallowed but also they usually can't afford to do it. These are but only a few of the major life changes they must cope with.

A modest cost of living increase is much needed by these workers. It's not only needed but it's the right thing to do. I have provided possible amendment language that would match the intent of what we were trying to propose in the bill. We would also like to be sure that the bill covers any disabilities covered under NRS 617 also, not just 616A through 616D.

The insurance industry representatives that I talked to also expressed that they would like to see a stipulation put in that clarifies that these increases are only for those receiving benefits on a monthly or periodic basis, not anyone that elected to take a lump sum payment as their benefit. This is consistent with our intent in proposing the legislation and we would have no problem with that language.

I would also like to inform the committee that there is another bill going through the Senate side, SB 388, proposed by Senator Amodei. This is also meant to give some form of increase to those on permanent total disability. The amount of increase is based on the annual increase in the state workers salary. That bill has already had a hearing in the Senate Commerce and Labor Committee. The insurance industry had some concerns with being able to fund these increases because they wouldn't have a fixed amount. It would fluctuate form year to year and would therefore be hard to anticipate costs. AB 438, by providing fixed amounts of increase may be a better alternative to solve this problem.

I would be happy to answer any questions you may have. Thank you.

NRS 616C.450 Compensation to injured employee or dependents of injured employee for permanent total disability or death benefit if injury or occupational disease occurred before July 1, 1980.

1. An injured employee or the dependents of an injured employee who are entitled to receive compensation for a permanent total disability pursuant to NRS 616C.440 or a death benefit pursuant to NRS 616C.505 for an industrial injury or occupational disease which occurred before July 1, 1980, are entitled to receive compensation of not less than \$600 each month. If the compensation is to be received by the dependents of an injured employee, it must be divided amongst them as provided in chapters 616A to 616D, inclusive, of NRS.

2. A self-insured employer or an association of self-insured public or private employers shall provide for the increase in monthly compensation required by subsection 1 for each person who would be entitled to receive the increase if the provisions of this section were applicable to the employer or association.

3. A person who is entitled to receive an increase in his monthly compensation pursuant to subsection 1 is not required to accept that increase.

4. The administrator shall adopt regulations to carry out the provisions of this section.

(Added to NRS by 1991, 1946; A 1993, 754, 2444, 2454; 1995, 2160)—(Substituted in revision for NRS 616.6283)

NRS 616C.455 Increase in benefits for permanent total disability incurred before April 9, 1971.

1. Any claimant or dependent of a claimant who resides in this state and receives compensation for a permanent total disability caused by an industrial injury or a disablement from an occupational disease which occurred before April 9, 1971, is entitled to a 65 percent increase in that compensation, without regard to any limitation on wages imposed by chapters 616A to 616D, inclusive, of NRS on the amount of that compensation.

2. The increase must be paid from the account for pensions for silicosis, diseases related to asbestos and other disabilities.

(Added to NRS by 1973, 538; A 1975, 823; 1979, 1520; 1981, 1226; 1985, 723; 1987, 589; 1991, 1802)—(Substituted in revision for NRS 616.626)

NRS 616C.460 Additional increase in benefits for permanent total disability incurred before July 1, 1973. Any claimant or dependent of a claimant who resides in this state and who receives compensation pursuant to chapters 616A to 616D, inclusive, of NRS for a permanent total disability for an injury or a disablement from an occupational disease which occurred before July 1, 1973, is entitled to a 20 percent increase in that compensation without regard to any limitation on wages imposed by those chapters on the amount of that compensation.

(Added to NRS by 1985, 1460)—(Substituted in revision for NRS 616.6261)

NRS 616C.465 Increase in benefits for permanent total disability incurred on or after April 9, 1971, or for claimant or dependent not entitled to benefits for disability from federal social security system.

1. Any claimant or dependent of a claimant who is receiving compensation pursuant to chapters 616A to 616D, inclusive, of NRS for a permanent total disability but is not entitled:

(a) To an increase in that compensation pursuant to NRS 616C.455; or

(b) To any disability income benefits from the federal social security system,

is entitled to an increase in that compensation by the same percentage as the increase in the state average monthly wage from the date of the claimant's disabling accident or disease or from July 1, 1973, whichever is later, to July 1, 1980.

2. The increase provided by this section must not be paid for any period before July 1, 1981.

(Added to NRS by 1981, 1224)—(Substituted in revision for NRS 616.6262)

EXAMPLES	Yr. 1	Yr. 2	Yr. 3	Yr. 4	Yr. 5	Yr. 6	Yr. 7	Yr. 8	Yr. 9	Yr. 10	Yr. 11	Yr. 12	Yr. 13	Yr. 14	Yr. 15
EXAMPLE #1 - Disabled worker / 15 yr. employee. Beginning Wage \$35,000 with no increases	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000
EXAMPLE #2 - Worker / 15 yr. employee. Beginning Wage \$35,000 with a projected 2.5 percent increase in wages yearly	2.50% \$35,875	2.50% \$36,772	2.50% \$37,691	2.50% \$38,633	2.50% \$39,599	2.50% \$40,589	2.50% \$41,604	2.50% \$42,644	2.50% \$43,710	2.50% \$44,803	2.50% \$45,923	2.50% \$47,071	2.50% \$48,249	2.50% \$49,759	2.50% \$50,691
EXAMPLE #3 - Disabled worker / 15 yr. employee with Cost of Living increases to match PERS language	0% \$35,000	0% \$35,000	2% \$35,700	2% \$36,414	2% \$37,139	3% \$37,250	3% \$38,367	3% \$39,518	3.50% \$40,901	3.50% \$42,333	3.50% \$43,814	4.00% \$45,567	4% \$47,390	5% \$49,759	5% \$50,247
EXAMPLE #4 - Disabled worker / 15 yr. employee with a reduced level of yearly Cost of Living increases	0% \$35,000	0% \$35,000	2% \$35,700	2% \$36,414	2% \$37,139	3% \$37,250	3% \$38,367	3% \$39,518	3.50% \$40,901	3.50% \$42,333	3.50% \$43,814	3.50% \$45,347	3.50% \$46,934	3.50% \$48,576	3.50% \$50,276
EXAMPLE #5 - Disabled worker / 15 yr. employee in example # 4 minus \$500 a month health insurance premiums.	\$29,000	\$29,000	\$29,700	\$30,414	\$31,139	\$31,250	\$32,367	\$33,518	\$34,901	\$36,333	\$37,814	\$39,347	\$40,934	\$42,576	\$44,276

C 4055

**PROPOSED AMENDMENT
PROFESSIONAL FIREFIGHTERS OF NEVADA**

Replace Section 1, subsection 1. (a) through (e) with the following

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

- 1.) Any monetary benefit issued by an insurer pursuant to the provisions of Chapter 616 A to 616 D inclusive, or Chapter 617 of NRS for permanent total disability benefits must be adjusted for yearly cost of living increases on the following scale: two percent following the 3^d anniversary of the determination of permanent total disability, 3 percent following the 6th anniversary of the determination of permanent total disability, 3.5 percent following the 9th anniversary of the determination of permanent total disability, 4 percent following the 12th anniversary of the determination of permanent total disability, and 5 percent following the 14th anniversary of the determination of permanent total disability.***

- 2.) Increases will start on effective date and will be consistent with stated amounts listed in Section 1 from effective date forward. Any person currently receiving a benefit for permanent total disability will only receive increases based on how many years they have already been permanently totally disabled, starting at the date the act becomes effective.***

Add a new Section 2 to read:

- 1.) Any annual increases will be for periodic permanent total disability payments only. These increases will not apply to any lump sum permanent total disability payments.***

Replace current Section 2 with new Section 3.

- 1.) This act becomes effective on July 1, 2004.***