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### 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. As you can see under current language in the bill there are annual cost of living increases in the amount of 2.3% for any person permanently totally disabled on or after January 1, 2004. Our intent was to provide a yearly increase, not only for those injured in the future but also for those persons already out on permanent total disability. To do this we would need to look at possible funding sources to cover these individuals. The percentages that you see in the bill were drawn from taking 1/2 of the average 40 year cost of living index. Over the last 40 years that has averaged 4.6% per year.

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 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 chance 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. In talking with insurance industry representatives, several funding options to provide for COLA's for those already disabled were discussed. If it were the position of this committee to process this bill we would like the opportunity to work with those representatives to explore possible funding mechanisms. The cost to employers would not be great as many of those disabled have been so for long periods of time and their benefit was not large to begin with. In the instance of public employers, they would only have to pay the COLA's on those benefits paid for disability. The disability benefit is already reduced because of PERS disability distributions. This would be a diminishing number of persons because as they die, they will no longer have to be funded.

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 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
<b>EXAMPLE #1 -</b> 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
<b>EXAMPLE # 2 -</b> Worker / 15 yr. employee. Beginning Wage 66 2/3 % of \$35,000 ( \$23,331 ) yearly plus 2.3% annual COLA	2.30% \$23,867	2.30% \$24,416	2.30% \$24,977	2.30% \$25,551	2.30% \$26,138	2.30% \$26,739	2.30% \$27,354	2.30% \$27,983	2.30% \$28,626	2.30% \$29,284	2.30% \$29,957	2.30% \$30,646	2.30% \$31,360	2.30% \$32,081	2.30% \$32,818
<b>Yearly Increase</b> <b>EXAMPLE # 3</b>	\$536	\$549	\$561	\$574	\$587	\$601	\$615	\$629	\$643	\$658	\$673	\$689	\$714	\$721	\$737
Income after 2.3% increase minus \$500 a month insurance premiums. \$6000 a year	\$17,867	\$18,416	\$18,977	\$19,551	\$20,138	\$20,739	\$21,354	\$21,983	\$22,626	\$23,284	\$23,957	\$24,646	\$25,360	\$26,081	\$26,818
<b>EXAMPLE # 4</b> Worker not disabled subject to 2.5% annual salary increases. Base pay at 15 years is \$35,000	\$35,875	\$36,772	\$37,691	\$38,633	\$39,599	\$40,589	\$41,604	\$42,644	\$43,710	\$44,802	\$45,922	\$47,070	\$48,247	\$49,453	\$50,689