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ASSEMBLY BILL NO. 206—ASSEMBLYMEN PIERCE, MANENDO,  
GIUNCHIGLIANI, CHOWNING, LESLIE, ARBERRY,  
ATKINSON, BUCKLEY, CLABORN, CONKLIN, GOLDWATER,  
HARDY, HORNE, KOIVISTO, MABEY, MCCLAIN,  
MCCLEARY, OCEGUERA, OHRENSCHALL, PARKS, SHERER  
AND WEBER

FEBRUARY 27, 2003

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Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to repayment of  
compensation received in lump sum for permanent  
partial disability. (BDR 53-1103)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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

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AN ACT relating to industrial insurance; authorizing the repayment  
of compensation received in a lump sum for a permanent  
partial disability in a single payment under certain  
circumstances; and providing other matters properly  
relating thereto.

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

1     **Section 1.** NRS 616C.440 is hereby amended to read as  
2 follows:  
3     616C.440 1. Except as otherwise provided in this section and  
4 NRS 616C.175, every employee in the employ of an employer,  
5 within the provisions of chapters 616A to 616D, inclusive, of NRS,  
6 who is injured by accident arising out of and in the course of  
7 employment, or his dependents as defined in chapters 616A to  
8 616D, inclusive, of NRS, is entitled to receive the following  
9 compensation for permanent total disability:



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

4 (b) If there is a previous disability, as the loss of one eye, one  
5 hand, one foot or any other previous permanent disability, the  
6 percentage of disability for a subsequent injury must be determined  
7 by computing the percentage of the entire disability and deducting  
8 therefrom the percentage of the previous disability as it existed at  
9 the time of the subsequent injury, but such a deduction for a  
10 previous award for permanent partial disability must be made in a  
11 reasonable manner and must not be more than the total amount  
12 which was paid for the previous award for permanent partial  
13 disability.

14 (c) If the character of the injury is such as to render the  
15 employee so physically helpless as to require the service of a  
16 constant attendant, an additional allowance may be made so long as  
17 such requirements continue, but the allowance may not be made  
18 while the employee is receiving benefits for care in a hospital or  
19 facility for intermediate care pursuant to the provisions of  
20 NRS 616C.265.

21 2. Except as otherwise provided in NRS 616B.028 and  
22 616B.029, an injured employee or his dependents are not entitled to  
23 accrue or be paid any benefits for a permanent total disability during  
24 the time the injured employee is incarcerated. The injured employee  
25 or his dependents are entitled to receive ~~[such]~~ *those* benefits when  
26 the injured employee is released from incarceration if he is certified  
27 as permanently totally disabled by a physician or chiropractor.

28 3. An employee is entitled to receive compensation for a  
29 permanent total disability only so long as the permanent total  
30 disability continues to exist. The insurer has the burden of proving  
31 that the permanent total disability no longer exists.

32 4. If an employee who has received compensation in a lump  
33 sum for a permanent partial disability pursuant to NRS 616C.495 is  
34 subsequently determined to be permanently and totally disabled, the  
35 *amount of the lump sum must be recovered from the employee in a*  
36 *single payment or by a reduction of the* compensation for the  
37 permanent total disability ~~[must be reduced]~~ as follows:

38 (a) If the employee has not received a minimum lump sum,  
39 the insurer of the employee's employer shall deduct from the  
40 compensation for the permanent total disability an amount equal to  
41 the monthly installment rate for awards for permanent partial  
42 disability until the insurer has deducted an amount that equals the  
43 amount it has already paid out as a lump sum; or

44 (b) If the employee received a minimum lump sum, the insurer  
45 of the employee's employer shall ~~[deduct]~~ :



1           ***(1) Deduct*** from the compensation for the permanent total  
2 disability an amount of not more than 10 percent of the rate of  
3 compensation for a permanent total disability until the lump sum is  
4 recovered ***[-]***; ***or***

5           ***(2) Upon the request of the employee, accept in a single***  
6 ***payment from the employee an amount that equals the amount of***  
7 ***the lump sum which has not been deducted pursuant to***  
8 ***subparagraph (1).***

9 The provisions of this subsection are retroactive for all claims for  
10 compensation for a permanent total disability remaining open on  
11 January 1, 2000 ***[-]***, ***and all claims for which deductions are made***  
12 ***on or after July 1, 2003, pursuant to subparagraph (1) of***  
13 ***paragraph (b).***

14       **Sec. 2.** This act becomes effective on July 1, 2003.

