

SENATE BILL NO. 319—SENATOR SHAFFER

MARCH 17, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions regulating insurance. (BDR 57-599)

FISCAL NOTE: Effect on Local Government: No.
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 insurance; providing an exception to the counter-signature requirement for certain types of insurance; revising the membership of certain boards; providing that any refund of an assessment by the Division of Industrial Relations of the Department of Business and Industry must include payment for interest earned; providing that hearings officers and appeals officers shall designate the location of certain hearings; requiring the Commissioner of Insurance to conduct a study relating to the Investments of Insurers Model Act adopted by the National Association of Insurance Commissioners; 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 680A.310 is hereby amended to read as
2 follows:
3 680A.310 NRS 680A.300 does not apply to any of the
4 following:
5 1. Life insurance and annuities.
6 2. Health insurance.
7 3. Policies covering property in transit while in the possession
8 or custody of any common carrier, or the rolling stock or other
9 property of any common carrier employed by it in the operation and



1 maintenance of its plant and business as a common carrier of freight
2 or passengers, or both.

3 4. Reinsurance or retrocessions made by or for authorized
4 insurers.

5 5. Bid bonds issued in connection with any public or private
6 contract.

7 6. A policy issued to a risk retention group, as defined in NRS
8 695E.110, or to a member of a risk retention group.

9 **7. A policy that is not subject to taxation pursuant to**
10 **NRS 680B.025.**

11 **Sec. 2.** NRS 686C.140 is hereby amended to read as follows:

12 686C.140 1. The Board of Directors of the Association
13 consists of not less than five nor more than nine members, serving
14 terms as established in the plan of operation.

15 2. The members of the Board who represent insurers must be
16 selected by member insurers subject to the approval of the
17 Commissioner. **If practicable, one of the members of the Board**
18 **must be an officer of a domestic insurer.**

19 3. Two public representatives must be appointed to the Board
20 by the Commissioner. A public representative may not be an officer,
21 director or employee of an insurer or engaged in the business of
22 insurance.

23 4. Vacancies on the Board must be filled for the remaining
24 period of the term by majority vote of the members of the Board,
25 subject to the approval of the Commissioner, for members who
26 represent insurers, and by the Commissioner for public
27 representatives.

28 5. To select the initial Board of Directors, and initially organize
29 the Association, the Commissioner shall give notice to all member
30 insurers of the time and place of the organizational meeting. In
31 determining voting rights at the organizational meeting, each
32 member insurer is entitled to one vote in person or by proxy. If the
33 Board of Directors is not selected within 60 days after notice of the
34 organizational meeting, the Commissioner may appoint the initial
35 members to represent insurers in addition to the public
36 representatives.

37 ~~6.~~ 6. In approving selections or in appointing members to the
38 Board, the Commissioner shall consider, among other things,
39 whether all member insurers are fairly represented.

40 ~~7.~~ 7. Members of the Board may be reimbursed from the
41 assets of the Association for expenses incurred by them as members
42 of the Board of Directors but members of the Board may not
43 otherwise be compensated by the Association for their services.



1 **Sec. 3.** NRS 687A.050 is hereby amended to read as follows:
2 687A.050 1. The Board of Directors of the Association shall
3 consist of not fewer than five nor more than nine persons. The
4 members of the Board shall be appointed by the Commissioner and
5 shall serve at his discretion. Vacancies on the Board shall be filled
6 in the same manner as initial appointments.

7 2. A majority of the members appointed shall be the designated
8 representatives of member insurers. *If practicable, one of the*
9 *members appointed as a designated representative of the member*
10 *insurers must be an officer of a domestic insurer.* The
11 Commissioner shall consider among other things whether all
12 member insurers are fairly represented.

13 3. Members of the Board may be reimbursed from the assets of
14 the Association for expenses incurred by them as members of the
15 Board of Directors.

16 **Sec. 4.** Chapter 687B of NRS is hereby amended by adding
17 thereto a new section to read as follows:

18 *Unless otherwise provided by a specific statute, if a signature is*
19 *required of any person, the person may provide as the signature of*
20 *the person:*

21 1. *An original signature;*

22 2. *A facsimile signature; or*

23 3. *An electronic signature pursuant to the provisions of*
24 *chapter 719 of NRS.*

25 **Sec. 5.** NRS 687B.160 is hereby amended to read as follows:

26 687B.160 1. Every insurance policy must be executed in the
27 name of and on behalf of the insurer by its officer, attorney in fact,
28 employee or representative duly authorized by the insurer.

29 2. ~~[A facsimile signature of any]~~ *Any* such executing individual
30 may ~~[be used]~~ *use*, in lieu of an original signature ~~[]~~:

31 (a) *A facsimile signature; or*

32 (b) *An electronic signature pursuant to the provisions of*
33 *chapter 719 of NRS.*

34 3. An insurance contract issued before, on or after January 1,
35 1972, which is otherwise valid is not rendered invalid by reason of
36 the apparent execution thereof on behalf of the insurer by the
37 imprinted facsimile signature of an individual not authorized so to
38 execute as of the date of the policy.

39 **Sec. 6.** NRS 232.680 is hereby amended to read as follows:

40 232.680 1. The cost of carrying out the provisions of NRS
41 232.550 to 232.700, inclusive, and of supporting the Division, a
42 full-time employee of the Legislative Counsel Bureau and the Fraud
43 Control Unit for Industrial Insurance established pursuant to NRS
44 228.420, and that portion of the cost of the Office for Consumer
45 Health Assistance established pursuant to NRS 223.550 that is



1 related to providing assistance to consumers and injured employees
2 concerning workers' compensation, must be paid from assessments
3 payable by each insurer, including each employer who provides
4 accident benefits for injured employees pursuant to NRS 616C.265.

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

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

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

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

34 (d) Employers who provide accident benefits pursuant to NRS
35 616C.265 that reflect the relative hazard of the employments
36 covered by those employers, results in an equitable distribution of
37 costs among the employers and is based upon expected annual
38 expenditures for claims.

39 The Administrator shall adopt regulations that establish the formula
40 for the assessment and for the administration of payment, and any
41 penalties that the Administrator determines are necessary to carry
42 out the provisions of this subsection. The formula may use actual
43 expenditures for claims. As used in this subsection, the term "group
44 of insurers" includes the group of employers who provide accident
45 benefits for injured employees pursuant to NRS 616C.265.



1 3. Federal grants may partially defray the costs of the Division.
2 4. Assessments made against insurers by the Division after the
3 adoption of regulations must be used to defray all costs and
4 expenses of administering the program of workers' compensation,
5 including the payment of:

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

8 (b) All salaries and other expenses of administering NRS
9 616A.435 to 616A.460, inclusive, the offices of the Hearings
10 Division of the Department of Administration and the programs of
11 self-insurance and review of premium rates by the Commissioner of
12 Insurance.

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

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

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

21 (f) That portion of the salaries and other expenses of the Office
22 for Consumer Health Assistance established pursuant to NRS
23 223.550 that is related to providing assistance to consumers and
24 injured employees concerning workers' compensation.

25 *5. If the Division refunds any part of an assessment, the*
26 *Division shall include in that refund any interest earned by the*
27 *Division from the refunded part of the assessment.*

28 **Sec. 7.** NRS 616A.425 is hereby amended to read as follows:

29 616A.425 1. There is hereby established in the State Treasury
30 the Fund for Workers' Compensation and Safety as an enterprise
31 fund. All money received from assessments levied on insurers and
32 employers by the Administrator pursuant to NRS 232.680 must be
33 deposited in this Fund.

34 2. All assessments, penalties, bonds, securities and all other
35 properties received, collected or acquired by the Division for
36 functions supported in whole or in part from the Fund must be
37 delivered to the custody of the State Treasurer for deposit to the
38 credit of the Fund.

39 3. All money and securities in the Fund must be used to defray
40 all costs and expenses of administering the program of workmen's
41 compensation, including the payment of:

42 (a) All salaries and other expenses in administering the Division
43 of Industrial Relations, including the costs of the office and staff of
44 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 established pursuant to NRS
15 223.550 that is related to providing assistance to consumers and
16 injured employees concerning workers' compensation.

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

19 5. The State Treasurer shall invest money of the Fund in the
20 same manner and in the same securities in which he is authorized to
21 invest state general funds which are in his custody. Income realized
22 from the investment of the assets of the Fund must be credited to the
23 Fund.

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

29 *7. If the Division refunds any part of an assessment, the*
30 *Division shall include in that refund any interest earned by the*
31 *Division from the refunded part of the assessment.*

32 **Sec. 8.** NRS 616C.330 is hereby amended to read as follows:

33 616C.330 1. The hearing officer shall:

34 (a) Within 5 days after receiving a request for a hearing, set the
35 hearing for a date and time within 30 days after his receipt of the
36 request **[H]** *at a place in Carson City, Nevada, or Las Vegas,*
37 *Nevada, or upon agreement of one or more of the parties to pay all*
38 *additional costs directly related to an alternative location, at any*
39 *other place of convenience to the parties, as determined by the*
40 *hearing officer;*

41 (b) Give notice by mail or by personal service to all interested
42 parties to the hearing at least 15 days before the date and time
43 scheduled; and

44 (c) Conduct hearings expeditiously and informally.



1 2. The notice must include a statement that the injured
2 employee may be represented by a private attorney or seek
3 assistance and advice from the Nevada Attorney for Injured
4 Workers.

5 3. If necessary to resolve a medical question concerning an
6 injured employee's condition or to determine the necessity of
7 treatment for which authorization for payment has been denied, the
8 hearing officer may refer the employee to a physician or
9 chiropractor of his choice who has demonstrated special competence
10 to treat the particular medical condition of the employee. If the
11 medical question concerns the rating of a permanent disability, the
12 hearing officer may refer the employee to a rating physician or
13 chiropractor. The rating physician or chiropractor must be selected
14 in rotation from the list of qualified physicians and chiropractors
15 maintained by the Administrator pursuant to subsection 2 of NRS
16 616C.490, unless the insurer and injured employee otherwise agree
17 to a rating physician or chiropractor. The insurer shall pay the costs
18 of any medical examination requested by the hearing officer.

19 4. If an injured employee has requested payment for the cost of
20 obtaining a second determination of his percentage of disability
21 pursuant to NRS 616C.100, the hearing officer shall decide whether
22 the determination of the higher percentage of disability made
23 pursuant to NRS 616C.100 is appropriate and, if so, may order the
24 insurer to pay to the employee an amount equal to the maximum
25 allowable fee established by the Administrator pursuant to NRS
26 616C.260 for the type of service performed, or the usual fee of that
27 physician or chiropractor for such service, whichever is less.

28 5. The hearing officer shall order an insurer, organization for
29 managed care or employer who provides accident benefits for
30 injured employees pursuant to NRS 616C.265 to pay the charges of
31 a provider of health care if the conditions of NRS 616C.138 are
32 satisfied.

33 6. The hearing officer may allow or forbid the presence of a
34 court reporter and the use of a tape recorder in a hearing.

35 7. The hearing officer shall render his decision within 15 days
36 after:

37 (a) The hearing; or

38 (b) He receives a copy of the report from the medical
39 examination he requested.

40 8. The hearing officer shall render his decision in the most
41 efficient format developed by the Chief of the Hearings Division of
42 the Department of Administration.

43 9. The hearing officer shall give notice of his decision to each
44 party by mail. He shall include with the notice of his decision the
45 necessary forms for appealing from the decision.



1 10. Except as otherwise provided in NRS 616C.380, the
2 decision of the hearing officer is not stayed if an appeal from that
3 decision is taken unless an application for a stay is submitted by a
4 party. If such an application is submitted, the decision is
5 automatically stayed until a determination is made on the
6 application. A determination on the application must be made within
7 30 days after the filing of the application. If, after reviewing the
8 application, a stay is not granted by the hearing officer or an appeals
9 officer, the decision must be complied with within 10 days after the
10 refusal to grant a stay.

11 **Sec. 9.** NRS 616C.345 is hereby amended to read as follows:

12 616C.345 1. Any party aggrieved by a decision of the
13 hearing officer relating to a claim for compensation may appeal
14 from the decision by filing a notice of appeal with an appeals officer
15 within 30 days after the date of the decision.

16 2. If a dispute is required to be submitted to a procedure for
17 resolving complaints pursuant to NRS 616C.305 and:

18 (a) A final determination was rendered pursuant to that
19 procedure; or

20 (b) The dispute was not resolved pursuant to that procedure
21 within 14 days after it was submitted,
22 any party to the dispute may file a notice of appeal within 70 days
23 after the date on which the final determination was mailed to the
24 employee, or his dependent, or the unanswered request for
25 resolution was submitted. Failure to render a written determination
26 within 30 days after receipt of such a request shall be deemed by the
27 appeals officer to be a denial of the request.

28 3. Except as otherwise provided in NRS 616C.380, the filing of
29 a notice of appeal does not automatically stay the enforcement of the
30 decision of a hearing officer or a determination rendered pursuant to
31 NRS 616C.305. The appeals officer may order a stay, when
32 appropriate, upon the application of a party. If such an application is
33 submitted, the decision is automatically stayed until a determination
34 is made concerning the application. A determination on the
35 application must be made within 30 days after the filing of the
36 application. If a stay is not granted by the officer after reviewing
37 the application, the decision must be complied with within 10 days
38 after the date of the refusal to grant a stay.

39 4. Except as otherwise provided in ~~this subsection,~~
40 *subsection 5*, the appeals officer shall, within 10 days after
41 receiving a notice of appeal pursuant to this section or a contested
42 claim pursuant to subsection 5 of NRS 616C.315 ~~[-schedule]~~ :

43 (a) *Schedule* a hearing on the merits of the appeal or contested
44 claim for a date and time within 90 days after his receipt of the
45 notice *at a place in Carson City, Nevada, or Las Vegas, Nevada, or*



1 *upon agreement of one or more of the parties to pay all additional*
2 *costs directly related to an alternative location, at any other place*
3 *of convenience to the parties, as determined by the appeals officer;*
4 and ~~give~~

5 (b) *Give* notice by mail or by personal service to all parties to
6 the matter and their attorneys or agents at least 30 days before the
7 date and time scheduled.

8 5. A request to schedule the hearing for a date and time which
9 is:

10 (a) Within 60 days after the receipt of the notice of appeal or
11 contested claim; or

12 (b) More than 90 days after the receipt of the notice or
13 claim,

14 may be submitted to the appeals officer only if all parties to the
15 appeal or contested claim agree to the request.

16 ~~5.~~ 6. An appeal or contested claim may be continued upon
17 written stipulation of all parties, or upon good cause shown.

18 ~~6.~~ 7. Failure to file a notice of appeal within the period
19 specified in subsection 1 or 2 may be excused if the party aggrieved
20 shows by a preponderance of the evidence that he did not receive
21 the notice of the determination and the forms necessary to appeal the
22 determination. The claimant, employer or insurer shall notify the
23 hearing officer of a change of address.

24 **Sec. 10.** 1. The Commissioner of Insurance shall conduct a
25 study to review whether the State of Nevada should enact, in the
26 interest of the public:

27 (a) The Defined Limits Version of the Investments of Insurers
28 Model Act adopted by the National Association of Insurance
29 Commissioners;

30 (b) The Defined Standards Version of the Investments of
31 Insurers Model Act adopted by the National Association of
32 Insurance Commissioners; or

33 (c) Other legislation regulating the investments of insurers.

34 2. The Commissioner shall seek to obtain all relevant
35 information from public and private sources as part of this study.
36 Any such information obtained by the Commissioner may only be
37 used for the purposes of conducting this study.

38 3. The Commissioner shall complete this study and submit a
39 copy of his findings and recommendations on or before January 1,
40 2005, to the Director of the Legislative Counsel Bureau for
41 distribution to the 73rd Session of the Nevada Legislature.

