

SENATE BILL NO. 422—SENATOR OHRENSCHALL

MARCH 21, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to industrial insurance.
(BDR 53-1085)

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; revising provisions providing for an annual increase in benefits for permanent total disability; repealing provisions authorizing annual payments to certain persons who are entitled to compensation for permanent total disability; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides for an annual increase in compensation in the amount of 2.3 percent to claimants or dependents thereof who are entitled to compensation for permanent total disability under industrial insurance for an industrial injury or disablement from an occupational disease that occurs on or after January 1, 2004. (NRS 616C.473) Existing law provides for a single annual payment to claimants and their dependents who are entitled to receive compensation for permanent total disability but are not entitled to the 2.3 percent annual increase in that compensation because the industrial injury or disablement occurred before January 1, 2004. (NRS 616C.453) Existing law provides that such annual payments are paid from the Uninsured Employers’ Claim Account in the Fund for Workers’ Compensation and Safety in the State Treasury, an account which is funded by assessments against insurers and certain employers who provide accident benefits for injured employees. (NRS 616A.430)

Section 2 of this bill provides for a 2.3 percent annual increase in compensation for permanent total disability to claimants and dependents who are entitled to such compensation due to an industrial injury or disablement which occurred before January 1, 2004, with compensation to be increased on January 1, 2020, and on January 1 each year thereafter.

Section 4 of this bill sets forth the calculation of the base amount of the annual compensation of a claimant or a dependent of a claimant who is entitled to receive future increases in that compensation for a permanent total disability caused by an industrial injury or a disablement from an occupational disease that occurred before January 1, 2004.



24 **Section 5** of this bill repeals provisions which authorize a single annual
25 payment to claimants and their dependents who are entitled to receive
26 compensation for permanent total disability but are not entitled to the 2.3 percent
27 annual increase in that compensation. **Section 1** of this bill eliminates the authority
28 of the Administrator of the Division of Industrial Relations of the Department of
29 Business and Industry to make the annual payments from the Uninsured
30 Employers' Claim Account in the Fund for Workers' Compensation and Safety.

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

1 **Section 1.** NRS 616A.430 is hereby amended to read as
2 follows:

3 616A.430 1. There is hereby established in the State Treasury
4 the Uninsured Employers' Claim Account in the Fund for Workers'
5 Compensation and Safety, which may be used only for the purpose
6 of making payments in accordance with the provisions of NRS
7 616C.220 [~~616C.453~~] and 617.401. The Administrator shall
8 administer the Account and shall credit any excess money toward
9 the assessments of the insurers for the succeeding years.

10 2. All assessments, penalties, bonds, securities and all other
11 properties received, collected or acquired by the Administrator for
12 the Uninsured Employers' Claim Account must be delivered to the
13 custody of the State Treasurer.

14 3. All money and securities in the Account must be held by the
15 State Treasurer as custodian thereof to be used solely for workers'
16 compensation.

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

19 5. The State Treasurer shall invest money of the Account in the
20 same manner and in the same securities in which the State Treasurer
21 is authorized to invest money of the State General Fund. Income
22 realized from the investment of the assets of the Account must be
23 credited to the Account.

24 6. The Administrator shall assess each insurer, including each
25 employer who provides accident benefits for injured employees
26 pursuant to NRS 616C.265, an amount to be deposited in the
27 Uninsured Employers' Claim Account. To establish the amount of
28 the assessment, the Administrator shall determine the amount of
29 money necessary to maintain an appropriate balance in the Account
30 for each fiscal year and shall allocate a portion of that amount to be
31 payable by private carriers, a portion to be payable by self-insured
32 employers, a portion to be payable by associations of self-insured
33 public or private employers and a portion to be payable by
34 the employers who provide accident benefits pursuant to



1 NRS 616C.265, based upon the expected annual expenditures for
2 claims of each group of insurers. After allocating the amounts
3 payable, the Administrator shall apply an assessment rate to the:

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

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

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

15 (d) Employers who provide accident benefits pursuant to NRS
16 616C.265 that reflects the relative hazard of the employments
17 covered by those employers, results in an equitable distribution of
18 costs among the employers and is based upon expected annual
19 expenditures for claims.

20 ↪ The Administrator shall adopt regulations for the establishment
21 and administration of the assessment rates, payments and any
22 penalties that the Administrator determines are necessary to carry
23 out the provisions of this subsection. As used in this subsection, the
24 term "group of insurers" includes the group of employers who
25 provide accident benefits for injured employees pursuant to
26 NRS 616C.265.

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

32 **Sec. 2.** NRS 616C.473 is hereby amended to read as follows:

33 616C.473 1. If a claimant or a dependent of a claimant is
34 entitled to receive compensation pursuant to chapters 616A to 617,
35 inclusive, of NRS for a permanent total disability caused by an
36 industrial injury or a disablement from an occupational disease that
37 occurs on or after January 1, 2004, the claimant or dependent is
38 entitled to an annual increase in that compensation in the amount of
39 2.3 percent. The compensation must be increased pursuant to this
40 ~~[section:]~~ **subsection:**

41 (a) On January 1 of the year immediately after the year in which
42 the claimant or dependent becomes entitled to receive that
43 compensation; and



1 (b) On January 1 of each successive year after the year specified
2 in paragraph (a) in which the claimant or dependent is entitled to
3 receive that compensation.

4 2. *If a claimant or a dependent of a claimant is entitled to*
5 *receive compensation pursuant to chapters 616A to 617, inclusive,*
6 *of NRS for a permanent total disability caused by an industrial*
7 *injury or a disablement from an occupational disease that*
8 *occurred before January 1, 2004, the claimant or dependent is*
9 *entitled to an annual increase in that compensation in the amount*
10 *of 2.3 percent. The compensation must be increased pursuant to*
11 *this subsection:*

12 (a) *On January 1, 2020; and*

13 (b) *On January 1 of each year thereafter.*

14 3. Any increase in compensation provided pursuant to this
15 section is in addition to any increase in compensation to which a
16 claimant or a dependent of a claimant is otherwise entitled by law.

17 **Sec. 3.** The amendatory provisions of this act apply to all
18 claims of compensation for permanent total disability pursuant to
19 the provisions of chapters 616A to 616D, inclusive, or 617 of NRS,
20 regardless of the date on which the claim was filed.

21 **Sec. 4.** For the purposes of paragraph (a) of subsection 2 of
22 NRS 616C.473, as amended by section 2 of this act, the amount of
23 compensation which is to be increased by 2.3 percent on January 1,
24 2020, shall be deemed to be the amount of annual compensation the
25 claimant or a dependent of the claimant was entitled to receive
26 before the effective date of this act, compounded 15 times at 2.3
27 percent. The intent of this section is to put the claimant or a
28 dependent of the claimant in the same position on January 1, 2020,
29 with regard to the amount of compensation to be increased by 2.3
30 percent pursuant to paragraph (a) of subsection 2 of NRS 616C.473,
31 as amended by section 2 of this act, as if the claimant or a dependent
32 of the claimant had been receiving an annual increase of 2.3 percent
33 of his or her annual compensation on January 1 of each year
34 beginning on January 1, 2005.

35 **Sec. 5.** NRS 616C.453 is hereby repealed.

36 **Sec. 6.** This act becomes effective on July 1, 2019.

TEXT OF REPEALED SECTION

**616C.453 Additional annual payment to certain claimants
and dependents of claimants who are entitled to receive**



compensation for permanent total disability; adoption of regulations to determine amount of payment.

1. If a claimant or a dependent of a claimant is entitled to receive compensation pursuant to chapters 616A to 617, inclusive, of NRS for a permanent total disability and the claimant or dependent is not entitled to an annual increase in that compensation pursuant to NRS 616C.473, the claimant or dependent is entitled to an annual payment for that permanent total disability in an amount determined by the Administrator pursuant to subsection 3, but such annual payments may not exceed \$1,200 per claimant or dependent. Except as otherwise provided in subsection 5, the total payments made pursuant to this section may not exceed \$500,000 per year.

2. Each year, the Administrator shall withdraw from the Uninsured Employers' Claim Account established pursuant to NRS 616A.430 an amount of the income realized from the investment of the assets in the Account that is necessary to fund the payments calculated pursuant to subsection 3.

3. The Administrator shall adopt regulations establishing a method for the equitable distribution of the money withdrawn from the Account pursuant to subsection 2. The regulations must provide for payments that result in the largest proportional share of the money being paid to claimants and dependents who receive the lowest amount of compensation pursuant to chapters 616A to 617, inclusive, of NRS for the permanent total disability. The Administrator may adopt any other regulations that are necessary to carry out the provisions of this section.

4. Except as otherwise provided in subsection 5, the Administrator shall make the payment required by this section to each claimant and dependent of the claimant who is entitled to the payment not later than October 1 of each year. Any payment received by the claimant or dependent of the claimant pursuant to this section is in addition to any compensation to which the claimant or dependent of the claimant is otherwise entitled by law.

5. The Administrator may make a payment from the Account to a claimant or a dependent of a claimant that would have been payable in a prior year pursuant to subsection 3 if the Administrator determines that the claimant or dependent was entitled to the payment pursuant to subsection 1.

