

ASSEMBLY BILL NO. 223—ASSEMBLYMEN
DICKMAN, WHEELER AND O’NEILL

MARCH 10, 2021

JOINT SPONSOR: SENATOR SETTELMEYER

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing first responders.
(BDR 53-692)

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 occupational diseases; requiring that when certain physical examinations are administered to a firefighter, arson investigator or police officer, the physical examinations must include a PSA test to screen for prostate cancer; requiring certain examinations of the heart administered to a firefighter, volunteer firefighter, arson investigator or police officer to include certain elements; requiring certain examinations of the heart administered to a volunteer firefighter to be administered every 2 years instead of every 3 years; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law requires physical examinations for firefighters, arson investigators
- 2 and police officers to thoroughly test the functioning of the lungs and examine the
- 3 heart of the firefighter, arson investigator or police officer. (NRS 617.455, 617.457)
- 4 Existing law requires that when these physical examinations are administered, the
- 5 examination must include: (1) a thorough test of the functioning of the hearing of
- 6 the employee; and (2) a purified protein derivative skin test to screen for exposure
- 7 to tuberculosis. (NRS 617.454) **Section 1** of this bill requires that if an employee is
- 8 40 years of age or older, the physical examination must also include a PSA test to
- 9 screen for prostate cancer.
- 10 Existing law requires an employee who is a firefighter, arson investigator or
- 11 police officer to submit to a physical examination, including an examination of the
- 12 heart: (1) upon employment; (2) upon commencement of coverage; and (3)



13 thereafter on an annual basis during his or her employment. Existing law requires a
14 volunteer firefighter who is continuously on active status to submit to the
15 examination: (1) upon employment; (2) upon commencement of coverage; and (3)
16 once every 3 years after commencement of coverage until the volunteer firefighter
17 reaches the age of 50 years, at which point the examination is required once every 2
18 years during his or her employment. (NRS 617.457) Existing regulations require
19 such cardiac examinations to include at least the following elements: (1) a
20 stethoscopic examination of the heart; (2) an electrocardiogram, unless the person
21 being examined is a police officer or a salaried firefighter who is 40 years of age or
22 older, in which case a stress electrocardiogram is required; (3) a blood test to
23 determine the amounts of triglycerides and cholesterol which are present; and (4) a
24 blood or urine test to determine the amount of glucose which is present. Cardiac
25 examinations which are conducted in the sixth year of continuous service and in
26 each year of service thereafter must only include the following elements: (1) a
27 stethoscopic examination of the heart; and (2) if the examining physician believes
28 circumstances warrant such a test, an electrocardiogram. (NAC 617.070) **Section 2**
29 of this bill requires the annual examination of the heart administered to a
30 firefighter, arson investigator or police officer who is 40 years of age or older to
31 include at least the following elements: (1) a stethoscopic examination of the heart;
32 (2) a stress electrocardiogram; (3) a blood test to determine the amounts of
33 triglycerides and cholesterol which are present; and (4) a blood or urine test to
34 determine the amount of glucose which is present. **Section 2** requires the
35 examination of the heart that is administered to a volunteer firefighter: (1) to occur
36 once every 2 years once the volunteer firefighter reaches the age of 40 years; and
37 (2) if the volunteer firefighter is 40 years of age or older, to include at least the
38 elements required by **section 2** for a firefighter, arson investigator or police officer
39 who is 40 years of age or older.

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

1 **Section 1.** NRS 617.454 is hereby amended to read as follows:

2 617.454 1. Any physical examination administered pursuant
3 to NRS 617.455 or 617.457 must include:

4 (a) A thorough test of the functioning of the hearing of the
5 employee; ~~and~~

6 (b) A purified protein derivative skin test to screen for exposure
7 to tuberculosis ~~and~~; and

8 *(c) If the employee is 40 years of age or older, a PSA test to*
9 *screen for prostate cancer.*

10 2. Except as otherwise provided in subsection 8 of NRS
11 617.457, the tests required by this section must be paid for by the
12 employer.

13 3. Except as otherwise provided by the provisions governing
14 privacy in the Health Insurance Portability and Accountability Act
15 of 1996, Public Law 104-191, as amended, and applicable
16 regulations, or an employee's collective bargaining agreement,
17 whichever is more restrictive:



1 (a) The results of a physical examination administered pursuant
2 to NRS 617.455 or 617.457 may only be provided to:

3 (1) The examining physician;

4 (2) The employee;

5 (3) The employer's officer who is responsible for risk
6 management or human resources or his or her designee; and

7 (4) If the employee has filed a claim pursuant to NRS
8 617.455 or 617.457, the insurer.

9 (b) A person who receives the results of a physical examination
10 pursuant to paragraph (a) may only use the results for the purposes
11 of:

12 (1) Complying with the requirements of NRS 617.455 or
13 617.457, as applicable; or

14 (2) Creating a report pursuant to paragraph (c).

15 (c) The employer's officer who is responsible for risk
16 management or human resources or his or her designee may create
17 and release a report that is based on the results of a physical
18 examination administered pursuant to NRS 617.455 or 617.457 to
19 any person whom the employer's officer determines has a need to
20 know the information in the report. The report must only contain the
21 following information:

22 (1) The name of the employee who was the subject of the
23 physical examination; and

24 (2) A statement that the employee, as applicable:

25 (I) Satisfies the physical qualifications required for his or
26 her employment; or

27 (II) Does not satisfy the physical qualifications required
28 for his or her employment.

29 *4. As used in this section, "PSA test" means a blood test used*
30 *to screen for prostate cancer by measuring the amount of prostate-*
31 *specific antigen in a person's blood.*

32 **Sec. 2.** NRS 617.457 is hereby amended to read as follows:

33 617.457 1. Notwithstanding any other provision of this
34 chapter, diseases of the heart of a person who, for 2 years or more,
35 has been employed in a full-time continuous, uninterrupted and
36 salaried occupation as a firefighter, arson investigator or police
37 officer in this State before the date of disablement are conclusively
38 presumed to have arisen out of and in the course of the employment
39 if the disease is diagnosed and causes the disablement:

40 (a) During the course of that employment;

41 (b) If the person ceases employment before completing 20 years
42 of service as a police officer, firefighter or arson investigator, during
43 the period after separation from employment which is equal to the
44 number of years worked; or



1 (c) If the person ceases employment after completing 20 years
2 or more of service as a police officer, firefighter or arson
3 investigator, at any time during the person's life.

4 ↪ Service credit which is purchased in a retirement system must not
5 be calculated towards the years of service of a person for the
6 purposes of this section.

7 2. Frequent or regular use of a tobacco product within 1 year,
8 or a material departure from a physician's prescribed plan of care by
9 a person within 3 months, immediately preceding the filing of a
10 claim for compensation excludes a person who has separated from
11 service from the benefit of the conclusive presumption provided in
12 subsection 1.

13 3. Notwithstanding any other provision of this chapter, diseases
14 of the heart, resulting in either temporary or permanent disability or
15 death, are occupational diseases and compensable as such under the
16 provisions of this chapter if caused by extreme overexertion in times
17 of stress or danger and a causal relationship can be shown by
18 competent evidence that the disability or death arose out of and was
19 caused by the performance of duties as a volunteer firefighter by a
20 person entitled to the benefits of chapters 616A to 616D, inclusive,
21 of NRS pursuant to the provisions of NRS 616A.145 and who, for 5
22 years or more, has served continuously as a volunteer firefighter in
23 this State by continuously maintaining an active status on the roster
24 of a volunteer fire department.

25 4. Except as otherwise provided in subsection 5, each
26 employee who is to be covered for diseases of the heart pursuant to
27 the provisions of this section shall submit to a physical examination,
28 including an examination of the heart, upon employment, upon
29 commencement of coverage and thereafter on an annual basis during
30 his or her employment. *If the employee is 40 years of age or older,*
31 *the annual physical examination of the heart must include at least*
32 *the following elements:*

33 (a) *A stethoscopic examination of the heart;*

34 (b) *A stress electrocardiogram;*

35 (c) *A blood test to determine the amounts of triglycerides and*
36 *cholesterol which are present; and*

37 (d) *A blood or urine test to determine the amount of glucose*
38 *which is present.*

39 5. During the period in which a volunteer firefighter is
40 continuously on active status on the roster of a volunteer fire
41 department, a physical examination for the volunteer firefighter is
42 required:

43 (a) Upon employment;

44 (b) Upon commencement of coverage; and



1 (c) Once every 3 years after the physical examination that is
2 required pursuant to paragraph (b),
3 ↪ until the firefighter reaches the age of ~~50~~ 40 years. Each
4 volunteer firefighter who is ~~50~~ 40 years of age or older shall
5 submit to a physical examination once every 2 years during his or
6 her employment. *Such a physical examination must include at
7 least the elements set forth in paragraphs (a) to (d), inclusive, of
8 subsection 4.*

9 6. The employer of the volunteer firefighter is responsible for
10 scheduling the physical examination. The employer shall mail to the
11 volunteer firefighter a written notice of the date, time and place of
12 the physical examination at least 10 days before the date of the
13 physical examination and shall obtain, at the time of mailing, a
14 certificate of mailing issued by the United States Postal Service.

15 7. Failure to submit to a physical examination that is scheduled
16 by his or her employer pursuant to subsection 6 excludes the
17 volunteer firefighter from the benefits of this section.

18 8. The chief of a volunteer fire department may require an
19 applicant to pay for any physical examination required pursuant to
20 this section if the applicant:

21 (a) Applies to the department for the first time as a volunteer
22 firefighter; and

23 (b) Is 50 years of age or older on the date of his or her
24 application.

25 9. The volunteer fire department shall reimburse an applicant
26 for the cost of a physical examination required pursuant to this
27 section if the applicant:

28 (a) Paid for the physical examination in accordance with
29 subsection 8;

30 (b) Is declared physically fit to perform the duties required of a
31 firefighter; and

32 (c) Becomes a volunteer with the volunteer fire department.

33 10. Except as otherwise provided in subsection 8, all physical
34 examinations required pursuant to subsections 4 and 5 must be paid
35 for by the employer.

36 11. Failure to correct predisposing conditions which lead to
37 heart disease when so ordered in writing by the examining physician
38 subsequent to a physical examination required pursuant to
39 subsection 4 or 5 excludes the employee from the benefits of this
40 section if the correction is within the ability of the employee.

41 12. A person who is determined to be:

42 (a) Partially disabled from an occupational disease pursuant to
43 the provisions of this section; and



1 (b) Incapable of performing, with or without remuneration, work
2 as a firefighter, arson investigator or police officer,
3 → may elect to receive the benefits provided under NRS 616C.440
4 for a permanent total disability.

5 13. Claims filed under this section may be reopened at any
6 time during the life of the claimant for further examination and
7 treatment of the claimant upon certification by a physician of a
8 change of circumstances related to the occupational disease which
9 would warrant an increase or rearrangement of compensation.

10 14. A person who files a claim for a disease of the heart
11 specified in this section after he or she retires from employment as a
12 firefighter, arson investigator or police officer is not entitled to
13 receive any compensation for that disease other than medical
14 benefits.

15 15. The Administrator shall review a claim filed by a claimant
16 pursuant to this section that has been in the appeals process for
17 longer than 6 months to determine the circumstances causing the
18 delay in processing the claim. As used in this subsection, "appeals
19 process" means the period of time that:

20 (a) Begins on the date on which the claimant first files or
21 submits a request for a hearing or an appeal of a determination
22 regarding the claim; and

23 (b) Continues until the date on which the claim is adjudicated to
24 a final decision.

25 16. Except as otherwise provided in this subsection, if an
26 employer, insurer or third-party administrator denies a claim that
27 was filed pursuant to this section and the claimant ultimately
28 prevails, the Administrator may order the employer, insurer or third-
29 party administrator, as applicable, to pay to the claimant a benefit
30 penalty of not more than \$200 for each day from the date on which
31 an appeal is filed until the date on which the claim is adjudicated to
32 a final decision. Such benefit penalty is payable in addition to any
33 benefits to which the claimant is entitled under the claim and any
34 fines and penalties imposed by the Administrator pursuant to NRS
35 616D.120. If a hearing before a hearing officer is requested pursuant
36 to NRS 616C.315 and held pursuant to NRS 616C.330, the
37 employer, insurer or third-party administrator, as applicable, shall
38 pay to the claimant all medical costs which are associated with the
39 occupational disease and are incurred from the date on which the
40 hearing is requested until the date on which the claim is adjudicated
41 to a final decision. If the employer, insurer or third-party
42 administrator, as applicable, ultimately prevails, the employer,
43 insurer or third-party administrator, as applicable, is entitled to
44 recover the amount paid pursuant to this subsection in accordance
45 with the provisions of NRS 616C.138.



1 **Sec. 3.** This act becomes effective on July 1, 2021.

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