

ASSEMBLY BILL NO. 165—ASSEMBLYWOMAN JAUREGUI

FEBRUARY 14, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing payments for a permanent partial disability. (BDR 53-777)

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.

AN ACT relating to workers’ compensation; revising provisions governing the payment in a lump sum for certain claimants with a permanent partial disability; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes an award for a permanent partial disability to be paid in
2 a lump sum under certain conditions. (NRS 616C.495) Existing law further
3 provides that if a claimant is injured on or after July 1, 2017, and the disability
4 incurred exceeds 30 percent, the injured employee may elect to receive a lump sum
5 payment that is equal to the present value of an award for a disability of up to 30
6 percent. This bill authorizes a claimant who is injured on or after July 1, 2017, and
7 whose injury does not exceed 30 percent to elect to receive his or her compensation
8 in a lump sum.

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

1 **Section 1.** NRS 616C.495 is hereby amended to read as
2 follows:

3 616C.495 1. Except as otherwise provided in NRS 616C.380,
4 an award for a permanent partial disability may be paid in a lump
5 sum under the following conditions:

6 (a) A claimant injured on or after July 1, 1973, and before
7 July 1, 1981, who incurs a disability that does not exceed 12 percent
8 may elect to receive his or her compensation in a lump sum. A
9 claimant injured on or after July 1, 1981, and before July 1, 1995,



1 who incurs a disability that does not exceed 30 percent may elect to
2 receive his or her compensation in a lump sum.

3 (b) The spouse, or in the absence of a spouse, any dependent
4 child of a deceased claimant injured on or after July 1, 1973, who is
5 not entitled to compensation in accordance with NRS 616C.505, is
6 entitled to a lump sum equal to the present value of the deceased
7 claimant's undisbursed award for a permanent partial disability.

8 (c) Any claimant injured on or after July 1, 1981, and before
9 July 1, 1995, who incurs a disability that exceeds 30 percent may
10 elect to receive his or her compensation in a lump sum equal to the
11 present value of an award for a disability of 30 percent. If the
12 claimant elects to receive compensation pursuant to this paragraph,
13 the insurer shall pay in installments to the claimant that portion of
14 the claimant's disability in excess of 30 percent.

15 (d) Any claimant injured on or after July 1, 1995, and before
16 January 1, 2016, who incurs a disability that:

17 (1) Does not exceed 25 percent may elect to receive his or
18 her compensation in a lump sum.

19 (2) Exceeds 25 percent may:

20 (I) Elect to receive his or her compensation in a lump sum
21 equal to the present value of an award for a disability of 25 percent.
22 If the claimant elects to receive compensation pursuant to this sub-
23 subparagraph, the insurer shall pay in installments to the claimant
24 that portion of the claimant's disability in excess of 25 percent.

25 (II) To the extent that the insurer has offered to provide
26 compensation in a lump sum up to the present value of an award for
27 disability of 30 percent, elect to receive his or her compensation in a
28 lump sum up to the present value of an award for a disability of 30
29 percent. If the claimant elects to receive compensation pursuant to
30 this sub-subparagraph, the insurer shall pay in installments to the
31 claimant that portion of the claimant's disability in excess of 30
32 percent.

33 (e) Any claimant injured on or after January 1, 2016, and before
34 July 1, 2017, who incurs a disability that:

35 (1) Does not exceed 30 percent may elect to receive his or
36 her compensation in a lump sum.

37 (2) Exceeds 30 percent may elect to receive his or her
38 compensation in a lump sum equal to the present value of an award
39 for a disability of 30 percent. If the claimant elects to receive
40 compensation pursuant to this subparagraph, the insurer shall pay in
41 installments to the claimant that portion of the claimant's disability
42 in excess of 30 percent.

43 (f) Any claimant injured on or after July 1, 2017, who incurs a
44 disability that ~~exceeds~~:



1 (1) *Does not exceed 30 percent may elect to receive his or*
2 *her compensation in a lump sum.*

3 (2) *Exceeds* 30 percent may elect to receive his or her
4 compensation in a lump sum equal to the present value of an award
5 for a disability of up to 30 percent. If the claimant elects to receive
6 compensation pursuant to this ~~paragraph,~~ *subparagraph,* the
7 insurer shall pay in installments to the claimant that portion of the
8 claimant's disability in excess of 30 percent.

9 (g) If the permanent partial disability rating of a claimant
10 seeking compensation pursuant to this section would, when
11 combined with any previous permanent partial disability rating of
12 the claimant that resulted in an award of benefits to the claimant,
13 result in the claimant having a total permanent partial disability
14 rating in excess of 100 percent, the claimant's disability rating upon
15 which compensation is calculated must be reduced by such
16 percentage as required to limit the total permanent partial disability
17 rating of the claimant for all injuries to not more than 100 percent.

18 2. If the claimant elects to receive his or her payment for a
19 permanent partial disability in a lump sum pursuant to subsection 1,
20 all of the claimant's benefits for compensation terminate. Except as
21 otherwise provided in paragraph (d), the claimant's acceptance of
22 that payment constitutes a final settlement of all factual and legal
23 issues in the case. By so accepting the claimant waives all of his or
24 her rights regarding the claim, including the right to appeal from the
25 closure of the case or the percentage of his or her disability, except:

26 (a) The right of the claimant to:

27 (1) Reopen his or her claim in accordance with the
28 provisions of NRS 616C.390; or

29 (2) Have his or her claim considered by his or her insurer
30 pursuant to NRS 616C.392;

31 (b) Any counseling, training or other rehabilitative services
32 provided by the insurer;

33 (c) The right of the claimant to receive a benefit penalty in
34 accordance with NRS 616D.120; and

35 (d) The right of the claimant to conclude or resolve any
36 contested matter which is pending at the time that the claimant
37 executes his or her election to receive his or her payment for a
38 permanent partial disability in a lump sum. The provisions of this
39 paragraph do not apply to:

40 (1) The scope of the claim;

41 (2) The claimant's stable and ratable status; and

42 (3) The claimant's average monthly wage.

43 3. The claimant, when he or she demands payment in a lump
44 sum pursuant to subsection 2, must be provided with a written
45 notice which prominently displays a statement describing the effects



1 of accepting payment in a lump sum of an entire permanent partial
2 disability award, any portion of such an award or any uncontested
3 portion of such an award, and that the claimant has 20 days after the
4 mailing or personal delivery of the notice within which to retract or
5 reaffirm the demand, before payment may be made and the
6 claimant's election becomes final.

7 4. Any lump-sum payment which has been paid on a claim
8 incurred on or after July 1, 1973, must be supplemented if necessary
9 to conform to the provisions of this section.

10 5. Except as otherwise provided in this subsection, the total
11 lump-sum payment for disablement must not be less than one-half
12 the product of the average monthly wage multiplied by the
13 percentage of disability. If the claimant received compensation in
14 installment payments for his or her permanent partial disability
15 before electing to receive payment for that disability in a lump sum,
16 the lump-sum payment must be calculated for the remaining
17 payment of compensation.

18 6. The lump sum payable must be equal to the present value of
19 the compensation awarded, less any advance payment or lump sum
20 previously paid. The present value must be calculated using monthly
21 payments in the amounts prescribed in subsection 8 of NRS
22 616C.490 and actuarial annuity tables adopted by the Division. The
23 tables must be reviewed annually by a consulting actuary and must
24 be adjusted accordingly on July 1 of each year by the Division
25 using:

26 (a) The most recent unisex "Static Mortality Tables for Defined
27 Benefit Pension Plans" published by the Internal Revenue Service;
28 and

29 (b) The average 30-Year Treasury Constant Maturity Rate for
30 March of the current year as reported by the Board of Governors of
31 the Federal Reserve System.

32 7. If a claimant would receive more money by electing to
33 receive compensation in a lump sum than the claimant would if he
34 or she receives installment payments, the claimant may elect to
35 receive the lump-sum payment.

36 **Sec. 2.** The provisions of this act apply retroactively from and
37 after July 1, 2017, and apply to any injury incurred on or after
38 July 1, 2017.

39 **Sec. 3.** This act becomes effective upon passage and approval.

