

ASSEMBLY BILL NO. 141—ASSEMBLYMAN O’NEILL

FEBRUARY 9, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing industrial insurance. (BDR 53-72)

FISCAL NOTE: Effect on Local Government: No. 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 governing the administration of a plan of insurance by certain associations of self-insured employers; eliminating assessments relating to a subsequent injury account; prohibiting certain claims against a subsequent injury account; repealing certain provisions relating to third-party administrators; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law governs industrial insurers, in general, in this State that provide benefits to employees who are injured in the course of employment. (Chapter 616B of NRS) Existing law authorizes certain groups of public or private employers to act as an association of self-insured employers if the group and each employer within the group meet certain requirements. (NRS 616B.350-616B.446) Existing law requires a board of trustees to operate any such association and to employ: (1) an administrator of the association to carry out the policies of the board; and (2) a third-party administrator to administer the plan of insurance of the association. (NRS 616B.365) Existing law prohibits: (1) the administrator of an association from performing any of the duties assigned to the third-party administrator; and (2) the administrator of the association and the third-party administrator from having a direct or indirect financial interest in each other. (NRS 616B.365, 616B.371) **Section 2** of this bill: (1) removes the requirement for such an association to employ a third-party administrator to administer the plan of insurance of the association; and (2) authorizes the administrator of the association to administer such a plan. **Section 16** of this bill repeals the prohibition on association administrators and third-party administrators having a financial interest in each other. **Sections 1, 3 and 4** of this bill make conforming changes to reflect the changes made in **sections 2 and 16**.



Existing law establishes the Fund for Workers' Compensation and Safety within the State Treasury. (NRS 616A.425) Within the Fund, existing law creates a Subsequent Injury Account for each of the following insurers: (1) self-insured employers; (2) associations of self-insured public or private employers; and (3) private carriers. (NRS 616B.554, 616B.575, 616B.584) Existing law requires that money in the Accounts be used to provide compensation or reimbursement in situations where an employee who has a preexisting permanent physical impairment incurs a subsequent disability by injury arising out of and in the course of employment which entitles the employee to compensation for the combined disability that is substantially greater than that which would have resulted from the subsequent injury alone. (NRS 616B.545-616B.590) Existing law requires a board for administration or the Administrator of the Division of Industrial Relations of the Department of Business and Industry to administer each Account. (NRS 616B.548, 616B.554, 616B.569, 616B.575, 616B.584) Existing law and regulations require self-insured employers, associations of self-insured public or private employers and private carriers to pay an annual assessment which funds the Accounts. (NRS 616B.554, 616B.575, 616B.584; chapter 616B of NAC)

**Sections 5, 8 and 11** of this bill remove the authority to adopt regulations which impose such assessments from each board for administration and the Administrator of the Division, and **section 14** of this bill voids the provisions of existing regulations relating to such assessments, thus eliminating the requirement for assessments to be paid for each Account. **Sections 6, 7, 9, 10, 12 and 13** of this bill require an employee to have incurred a subsequent injury and disability on or before September 30, 2023, in order for the compensation or reimbursement provisions to apply, thus prohibiting any claims against the Accounts due to a subsequent injury and disability which is incurred on or after October 1, 2023.

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

**Section 1.** NRS 616B.350 is hereby amended to read as follows:

616B.350 1. A group of five or more employers may not act as an association of self-insured public employers unless the group:

(a) Is composed of employers engaged in the same or similar classifications of employment; and

(b) Has been issued a certificate to act as such an association by the Commissioner.

2. A group of five or more employers may not act as an association of self-insured private employers unless each member of the group:

(a) Is a member or associate member of a bona fide trade association, as determined by the Commissioner, which:

(1) Is incorporated in this State; and

(2) Has been in existence for at least 5 years; and

(b) Has been issued a certificate to act as such an association by the Commissioner.



1 3. An association of public or private employers that wishes to  
2 be issued a certificate must file with the Commissioner an  
3 application for certification.

4 4. The application must include:

5 (a) The name of the association.

6 (b) The address of:

7 (1) The principal office of the association.

8 (2) The location where the books and records of the  
9 association will be maintained.

10 (c) The date the association was organized.

11 (d) The name and address of each member of the association.

12 (e) The names of the initial members of the board of trustees and  
13 the name of the initial association's administrator.

14 (f) Such other information as the Commissioner may require.

15 5. The application must be accompanied by:

16 (a) A nonrefundable filing fee of \$1,000 and, in addition to any  
17 other fee or charge, all applicable fees required pursuant to  
18 NRS 680C.110.

19 (b) Proof of compliance with NRS 616B.353.

20 (c) Proof that the association or its third-party administrator, *if*  
21 *applicable*, is licensed or otherwise authorized to conduct business  
22 in this State pursuant to title 57 of NRS.

23 (d) ~~[A]~~ *If the association's administrator does not administer*  
24 *the plan of insurance of the association, a copy of ~~the~~ any*  
25 *agreements entered into with the association's administrator and a*  
26 *third-party administrator.*

27 (e) A copy of the bylaws of the association.

28 (f) A copy of an agreement jointly and severally binding the  
29 association and each member of the association to secure the  
30 payment of all compensation due pursuant to chapters 616A to 617,  
31 inclusive, of NRS.

32 (g) A pro forma financial statement prepared by an independent  
33 certified public accountant in accordance with generally accepted  
34 accounting principles that shows the financial ability of the  
35 association to pay all compensation due pursuant to chapters 616A  
36 to 617, inclusive, of NRS.

37 (h) A reviewed financial statement prepared by an independent  
38 certified public accountant for each proposed member of the  
39 association or evidence of the ability of the association or its  
40 proposed members to provide a solvency bond pursuant to  
41 subsection 3 of NRS 616B.353.

42 (i) Proof that each member of the association will make the  
43 initial payment to the association required pursuant to NRS  
44 616B.416 on a date specified by the Commissioner. The payment  
45 shall be deemed to be a part of the assessment required to be paid by



1 each member for the first year of self-insurance if certification is  
2 issued to the association.

3 6. Except as otherwise provided in NRS 239.0115, any  
4 financial information relating to a member of an association  
5 received by the Commissioner pursuant to the provisions of this  
6 section is confidential and must not be disclosed.

7 7. For the purposes of this section, "associate member of a  
8 bona fide trade association" means a supplier whose business, as  
9 determined by the Commissioner:

10 (a) Is limited to a specific industry; and

11 (b) Primarily involves providing a product or service that is  
12 directly used or consumed by substantially all of the members of the  
13 trade association or bears a direct relationship to the business of the  
14 members of the association.

15 **Sec. 2.** NRS 616B.365 is hereby amended to read as follows:

16 616B.365 1. An association of self-insured public or private  
17 employers must be operated by a board of trustees consisting of at  
18 least five members whom the members of the association elect for  
19 terms set forth in the bylaws of the association. If the association is  
20 an association of self-insured:

21 (a) Public employers, the members of the board of trustees must  
22 be officers or employees of the public employers who are members  
23 of the association.

24 (b) Private employers, at least two-thirds of the members of the  
25 board of trustees must be employees, officers or directors of the  
26 members of the association. No association's administrator or third-  
27 party administrator employed by the association, or any owner,  
28 officer, employee or other person affiliated with the association's  
29 administrator or third-party administrator, may serve as a member of  
30 the board of trustees. Each member of the board of trustees must be  
31 a resident of this State or an officer of a corporation authorized to do  
32 business in this State.

33 2. The board of trustees of an association shall:

34 (a) Ensure the prompt payment of any compensation due  
35 pursuant to chapters 616A to 616D, inclusive, or chapter 617 of  
36 NRS.

37 (b) Take such actions as are necessary to protect the assets of the  
38 association.

39 (c) Employ full-time an association's administrator to carry out  
40 the policies of the board of trustees and perform such duties as the  
41 board delegates to him or her. An association's administrator shall  
42 not perform any of the duties assigned to a third-party administrator.

43 (d) ~~Employ~~ *If the association's administrator does not*  
44 *administer the plan of insurance of the association, employ a*



1 third-party administrator to carry out the duties set forth in  
2 NRS 616B.503.

3 (e) Employ an independent certified public accountant to  
4 prepare the statement of financial condition required by  
5 NRS 616B.404.

6 (f) Maintain minutes of its meetings and make the minutes  
7 available for inspection by the Commissioner.

8 3. The board of trustees of an association shall not:

9 (a) Extend credit to any member of the association for the  
10 payment of that member's annual assessment, except pursuant to a  
11 payment plan approved by the Commissioner.

12 (b) Borrow any money from the association or in the name of  
13 the association, except in the ordinary course of its business, without  
14 the prior approval of the Commissioner.

15 **Sec. 3.** NRS 616B.386 is hereby amended to read as follows:

16 616B.386 1. If an employer wishes to become a member of  
17 an association of self-insured public or private employers, the  
18 employer must:

19 (a) Submit an application for membership to the board of  
20 trustees or third-party administrator of the association ~~§~~ , *if*  
21 *applicable*; and

22 (b) Enter into an indemnity agreement as required by  
23 NRS 616B.353.

24 2. The membership of the applicant becomes effective when  
25 each member of the association approves the application or on a  
26 later date specified by the association. The application for  
27 membership and the action taken on the application must be  
28 maintained as permanent records of the board of trustees.

29 3. Each member who is a member of an association during the  
30 12 months immediately following the formation of the association  
31 must:

32 (a) Have a tangible net worth of at least \$500,000; or

33 (b) Have had a reported payroll for the previous 12 months  
34 which would have resulted in a manual premium of at least \$15,000,  
35 calculated in accordance with a manual prepared pursuant to  
36 subsection 4 of NRS 686B.1765.

37 4. An employer who seeks to become a member of the  
38 association after the 12 months immediately following the formation  
39 of the association must meet the requirement set forth in paragraph

40 (a) or (b) of subsection 3 unless the Commissioner adjusts the  
41 requirement for membership in the association after conducting an  
42 annual review of the actuarial solvency of the association pursuant  
43 to subsection 1 of NRS 616B.353.

44 5. An association of self-insured private employers may apply  
45 to the Commissioner for authority to determine the amount of



1 tangible net worth and manual premium that an employer must have  
2 to become a member of the association. The Commissioner shall  
3 approve the application if the association:

4 (a) Has been certified to act as an association for at least the 3  
5 consecutive years immediately preceding the date on which the  
6 association filed the application with the Commissioner;

7 (b) Has, as determined by the Commissioner, either:

8 (1) A combined tangible net worth of all members in the  
9 association of at least \$5,000,000; or

10 (2) Combined net cash flows from operating activities plus  
11 net cash flows from financing activities of all members in the  
12 association of five times the average of claims paid for each of the  
13 last 3 years or \$7,500,000, whichever is less;

14 (c) Has at least 15 members; and

15 (d) Has not been required to meet informally with the  
16 Commissioner pursuant to subsection 1 of NRS 616B.431 during  
17 the 18-month period immediately preceding the date on which the  
18 association filed the application with the Commissioner or, if the  
19 association has been required to attend such a meeting during that  
20 period, has not had its certificate withdrawn before the date on  
21 which the association filed the application.

22 6. An association of self-insured private employers may apply  
23 to the Commissioner for authority to determine the documentation  
24 demonstrating solvency that an employer must provide to become a  
25 member of the association. The Commissioner shall approve the  
26 application if the association:

27 (a) Has been certified to act as an association for at least the 3  
28 consecutive years immediately preceding the date on which the  
29 association filed the application with the Commissioner;

30 (b) Has, as determined by the Commissioner, either:

31 (1) A combined tangible net worth of all members in the  
32 association of at least \$5,000,000; or

33 (2) Combined net cash flows from operating activities plus  
34 net cash flows from financing activities of all members in the  
35 association of five times the average of claims paid for each of the  
36 last 3 years or \$7,500,000, whichever is less; and

37 (c) Has at least 15 members.

38 7. The Commissioner may withdraw approval of an application  
39 submitted pursuant to subsection 5 or 6 if the Commissioner  
40 determines the association has ceased to comply with any of the  
41 requirements set forth in subsection 5 or 6, as applicable.

42 8. A member of an association of self-insured public or private  
43 employers may terminate his or her membership at any time. To  
44 terminate his or her membership, a member must submit to the  
45 association's administrator a notice of intent to withdraw from the



1 association at least 120 days before the effective date of withdrawal.  
2 The notice of intent to withdraw shall be deemed rescinded if the  
3 member does not provide to the association before the expiration of  
4 the 120-day period proof that the member has:

5 (a) Been certified as a self-insured employer pursuant to  
6 NRS 616B.312;

7 (b) Become a member of another association of self-insured  
8 public or private employers; or

9 (c) Become insured by a private carrier.

10 9. The members of an association may cancel the membership  
11 of any member of the association in accordance with the bylaws of  
12 the association.

13 10. The association shall:

14 (a) Within 30 days after the addition of an employer to the  
15 membership of the association, notify the Commissioner of the  
16 addition and:

17 (1) If the association has not received authority from the  
18 Commissioner pursuant to subsection 5 or 6, as applicable, provide  
19 to the Commissioner all information and assurances for the new  
20 member that were required from each of the original members of the  
21 association upon its organization; or

22 (2) If the association has received authority from the  
23 Commissioner pursuant to subsection 5 or 6, as applicable, provide  
24 to the Commissioner evidence that is satisfactory to the  
25 Commissioner that the new member is a member or associate  
26 member of the bona fide trade association as required pursuant to  
27 paragraph (a) of subsection 2 of NRS 616B.350, a copy of the  
28 indemnity agreement that jointly and severally binds the new  
29 member, the other members of the association and the association  
30 that is required to be executed pursuant to paragraph (a) of  
31 subsection 1 of NRS 616B.353 and any other information the  
32 Commissioner may reasonably require to determine whether the  
33 amount of security deposited with the Commissioner pursuant to  
34 paragraph (d) or (e) of subsection 1 of NRS 616B.353 is sufficient,  
35 but such information must not exceed the information required to be  
36 provided to the Commissioner pursuant to subparagraph (1);

37 (b) Notify the Commissioner and the Administrator of the  
38 termination or cancellation of the membership of any member of the  
39 association within 10 days after the termination or cancellation; and

40 (c) At the expense of the member whose membership is  
41 terminated or cancelled, maintain coverage for that member for 60  
42 days after notice is given pursuant to paragraph (b), unless the  
43 association first receives notice from the Administrator that the  
44 member has:



1 (1) Been certified as a self-insured employer pursuant to  
2 NRS 616B.312;

3 (2) Become a member of another association of self-insured  
4 public or private employers; or

5 (3) Become insured by a private carrier.

6 11. If a member of an association changes his or her name or  
7 form of organization, the member remains liable for any obligations  
8 incurred or any responsibilities imposed pursuant to chapters 616A  
9 to 617, inclusive, of NRS under the member's former name or form  
10 of organization.

11 12. An association is liable for the payment of any  
12 compensation required to be paid by a member of the association  
13 pursuant to chapters 616A to 616D, inclusive, or chapter 617 of  
14 NRS during the member's period of membership. The insolvency or  
15 bankruptcy of a member does not relieve the association of liability  
16 for the payment of the compensation.

17 **Sec. 4.** NRS 616B.440 is hereby amended to read as follows:

18 616B.440 1. For the purposes of NRS 616B.350 to  
19 616B.446, inclusive, an association of self-insured public or private  
20 employers is insolvent if it is unable to pay its outstanding  
21 obligations as they mature in the regular course of its business.

22 2. If an association of self-insured public or private employers  
23 becomes insolvent, institutes any voluntary proceeding pursuant to  
24 the Bankruptcy Act or is named in any voluntary proceeding  
25 thereunder, makes a general or special assignment for the benefit of  
26 creditors or fails to pay compensation pursuant to chapters 616A to  
27 616D, inclusive, or chapter 617 of NRS after an order for the  
28 payment of any claim becomes final, the Commissioner may, after  
29 giving at least 10 days' notice to the association and any insurer or  
30 guarantor, use money or interest on securities, sell securities or  
31 institute legal proceedings on surety bonds deposited with the  
32 Commissioner pursuant to NRS 679B.175 to the extent necessary to  
33 make those payments.

34 3. A licensed surety providing a surety bond pursuant to NRS  
35 616B.353 may terminate liability on its surety bond by giving the  
36 Commissioner and the association, association's administrator or  
37 third-party administrator, *if applicable*, 90 days' written notice. The  
38 termination does not limit liability that was incurred under the  
39 surety bond before the termination.

40 **Sec. 5.** NRS 616B.554 is hereby amended to read as follows:

41 616B.554 1. There is hereby created in the Fund for  
42 Workers' Compensation and Safety in the State Treasury the  
43 Subsequent Injury Account for Self-Insured Employers, which may  
44 be used only to make payments in accordance with the provisions of  
45 NRS 616B.557 and 616B.560. The Board shall administer the





1 Account based upon recommendations made by the Administrator  
2 pursuant to subsection ~~[8.]~~ 7.

3 2. All ~~[assessments,]~~ penalties, bonds, securities and all other  
4 properties received, collected or acquired by the Board for the  
5 Subsequent Injury Account for Self-Insured Employers must be  
6 delivered to the custody of the State Treasurer.

7 3. All money and securities in the Account must be held by the  
8 State Treasurer as custodian thereof to be used solely for workers'  
9 compensation for employees of self-insured employers.

10 4. The State Treasurer may disburse money from the Account  
11 only upon written order of the Board.

12 5. The State Treasurer shall invest money of the Account in the  
13 same manner and in the same securities in which the State Treasurer  
14 is authorized to invest State General Funds which are in the custody  
15 of the State Treasurer. Income realized from the investment of the  
16 assets of the Account must be credited to the Fund.

17 6. The Board shall adopt regulations for the establishment and  
18 administration of ~~[assessment rates,]~~ payments and penalties.  
19 ~~[Assessment rates must result in an equitable distribution of costs~~  
20 ~~among the self-insured employers and must be based upon expected~~  
21 ~~annual expenditures for claims for payments from the Subsequent~~  
22 ~~Injury Account for Self-Insured Employers.]~~

23 7. ~~[The Commissioner shall assign an actuary to review the~~  
24 ~~establishment of assessment rates. The rates must be filed with the~~  
25 ~~Commissioner 30 days before their effective date. Any self-insured~~  
26 ~~employer who wishes to appeal the rate so filed must do so pursuant~~  
27 ~~to NRS 679B.310.~~

28 ~~—8.]~~ The Administrator shall:

29 (a) Evaluate any claim submitted to the Board for payment or  
30 reimbursement from the Subsequent Injury Account for Self-Insured  
31 Employers and recommend to the Board any appropriate action to  
32 be taken concerning the claim; and

33 (b) Submit to the Board any other recommendations relating to  
34 the Account.

35 **Sec. 6.** NRS 616B.557 is hereby amended to read as follows:

36 616B.557 Except as otherwise provided in NRS 616B.560:

37 1. If an employee of a self-insured employer has a permanent  
38 physical impairment from any cause or origin and incurs , *on or*  
39 *before September 30, 2023*, a subsequent disability by injury arising  
40 out of and in the course of his or her employment which entitles the  
41 employee to compensation for disability that is substantially greater  
42 by reason of the combined effects of the preexisting impairment and  
43 the subsequent injury than that which would have resulted from the  
44 subsequent injury alone, the compensation due must be charged to



1 the Subsequent Injury Account for Self-Insured Employers in  
2 accordance with regulations adopted by the Board.

3 2. If the subsequent injury of such an employee *incurred on or*  
4 *before September 30, 2023*, results in his or her death and it is  
5 determined that the death would not have occurred except for the  
6 preexisting permanent physical impairment, the compensation due  
7 must be charged to the Subsequent Injury Account for Self-Insured  
8 Employers in accordance with regulations adopted by the Board.

9 3. As used in this section, “permanent physical impairment”  
10 means any permanent condition, whether congenital or caused by  
11 injury or disease, of such seriousness as to constitute a hindrance or  
12 obstacle to obtaining employment or to obtaining reemployment if  
13 the employee is unemployed. For the purposes of this section, a  
14 condition is not a “permanent physical impairment” unless it would  
15 support a rating of permanent impairment of 6 percent or more of  
16 the whole person if evaluated according to the American Medical  
17 Association’s Guides to the Evaluation of Permanent Impairment as  
18 adopted and supplemented by the Division pursuant to  
19 NRS 616C.110.

20 4. To qualify under this section for reimbursement from the  
21 Subsequent Injury Account for Self-Insured Employers, the self-  
22 insured employer must establish by written records that the self-  
23 insured employer had knowledge of the “permanent physical  
24 impairment” at the time the employee was hired or that the  
25 employee was retained in employment after the self-insured  
26 employer acquired such knowledge.

27 5. A self-insured employer must submit to the Board a claim  
28 for reimbursement from the Subsequent Injury Account for Self-  
29 Insured Employers.

30 6. The Board shall adopt regulations establishing procedures  
31 for submitting claims against the Subsequent Injury Account for  
32 Self-Insured Employers. The Board shall notify the self-insured  
33 employer of its decision on such a claim within 120 days after the  
34 claim is received.

35 7. An appeal of any decision made concerning a claim against  
36 the Subsequent Injury Account for Self-Insured Employers must be  
37 submitted directly to the district court.

38 **Sec. 7.** NRS 616B.560 is hereby amended to read as follows:

39 616B.560 1. A self-insured employer who pays  
40 compensation due to an employee who has a permanent physical  
41 impairment from any cause or origin and incurs , *on or before*  
42 *September 30, 2023*, a subsequent disability by injury arising out of  
43 and in the course of his or her employment which entitles the  
44 employee to compensation for disability that is substantially greater  
45 by reason of the combined effects of the preexisting impairment and



1 the subsequent injury than that which would have resulted from the  
2 subsequent injury alone is entitled to be reimbursed from the  
3 Subsequent Injury Account for Self-Insured Employers if:

4 (a) The employee knowingly made a false representation as to  
5 his or her physical condition at the time the employee was hired by  
6 the self-insured employer;

7 (b) The self-insured employer relied upon the false  
8 representation and this reliance formed a substantial basis of the  
9 employment; and

10 (c) A causal connection existed between the false representation  
11 and the subsequent disability.

12 ➤ If the subsequent injury of the employee *incurred on or before*  
13 *September 30, 2023*, results in his or her death and it is determined  
14 that the death would not have occurred except for the preexisting  
15 permanent physical impairment, any compensation paid is entitled  
16 to be reimbursed from the Subsequent Injury Account for Self-  
17 Insured Employers.

18 2. A self-insured employer shall notify the Board of any  
19 possible claim against the Subsequent Injury Account for Self-  
20 Insured Employers pursuant to this section no later than 60 days  
21 after the date of the subsequent injury or the date the self-insured  
22 employer learns of the employee's false representation, whichever is  
23 later.

24 **Sec. 8.** NRS 616B.575 is hereby amended to read as follows:

25 616B.575 1. There is hereby created in the Fund for  
26 Workers' Compensation and Safety in the State Treasury the  
27 Subsequent Injury Account for Associations of Self-Insured Public  
28 or Private Employers, which may be used only to make payments in  
29 accordance with the provisions of NRS 616B.578 and 616B.581.  
30 The Board shall administer the Account based upon  
31 recommendations made by the Administrator pursuant to  
32 subsection ~~[8.]~~ 7.

33 2. All ~~[assessments.]~~ penalties, bonds, securities and all other  
34 properties received, collected or acquired by the Board for the  
35 Subsequent Injury Account for Associations of Self-Insured Public  
36 or Private Employers must be delivered to the custody of the State  
37 Treasurer.

38 3. All money and securities in the Account must be held by the  
39 State Treasurer as custodian thereof to be used solely for workers'  
40 compensation for employees of members of Associations of Self-  
41 Insured Public or Private Employers.

42 4. The State Treasurer may disburse money from the Account  
43 only upon written order of the Board.

44 5. The State Treasurer shall invest money of the Account in the  
45 same manner and in the same securities in which the State Treasurer



1 is authorized to invest State General Funds which are in the custody  
2 of the State Treasurer. Income realized from the investment of the  
3 assets of the Account must be credited to the Account.

4 6. The Board shall adopt regulations for the establishment and  
5 administration of ~~[assessment rates,]~~ payments and penalties.  
6 ~~[Assessment rates must result in an equitable distribution of costs~~  
7 ~~among the associations of self-insured public or private employers~~  
8 ~~and must be based upon expected annual expenditures for claims for~~  
9 ~~payments from the Subsequent Injury Account for Associations of~~  
10 ~~Self-Insured Public or Private Employers.]~~

11 7. ~~[The Commissioner shall assign an actuary to review the~~  
12 ~~establishment of assessment rates. The rates must be filed with the~~  
13 ~~Commissioner 30 days before their effective date. Any association~~  
14 ~~of self-insured public or private employers that wishes to appeal the~~  
15 ~~rate so filed must do so pursuant to NRS 679B.310.~~

16 ~~—8.]~~ The Administrator shall:

17 (a) Evaluate any claim submitted to the Board for payment or  
18 reimbursement from the Subsequent Injury Account for  
19 Associations of Self-Insured Public or Private Employers and  
20 recommend to the Board any appropriate action to be taken  
21 concerning the claim; and

22 (b) Submit to the Board any other recommendations relating to  
23 the Account.

24 **Sec. 9.** NRS 616B.578 is hereby amended to read as follows:

25 616B.578 Except as otherwise provided in NRS 616B.581:

26 1. If an employee of a member of an association of self-insured  
27 public or private employers has a permanent physical impairment  
28 from any cause or origin and incurs *, on or before September 30,*  
29 *2023,* a subsequent disability by injury arising out of and in the  
30 course of his or her employment which entitles the employee to  
31 compensation for disability that is substantially greater by reason of  
32 the combined effects of the preexisting impairment and the  
33 subsequent injury than that which would have resulted from the  
34 subsequent injury alone, the compensation due must be charged to  
35 the Subsequent Injury Account for Associations of Self-Insured  
36 Public or Private Employers in accordance with regulations adopted  
37 by the Board.

38 2. If the subsequent injury of such an employee *incurred on or*  
39 *before September 30, 2023,* results in his or her death and it is  
40 determined that the death would not have occurred except for the  
41 preexisting permanent physical impairment, the compensation due  
42 must be charged to the Subsequent Injury Account for Associations  
43 of Self-Insured Public or Private Employers in accordance with  
44 regulations adopted by the Board.



1 3. As used in this section, “permanent physical impairment”  
2 means any permanent condition, whether congenital or caused by  
3 injury or disease, of such seriousness as to constitute a hindrance or  
4 obstacle to obtaining employment or to obtaining reemployment if  
5 the employee is unemployed. For the purposes of this section, a  
6 condition is not a “permanent physical impairment” unless it would  
7 support a rating of permanent impairment of 6 percent or more of  
8 the whole person if evaluated according to the American Medical  
9 Association’s Guides to the Evaluation of Permanent Impairment as  
10 adopted and supplemented by the Division pursuant to  
11 NRS 616C.110.

12 4. To qualify under this section for reimbursement from the  
13 Subsequent Injury Account for Associations of Self-Insured Public  
14 or Private Employers, the association of self-insured public or  
15 private employers must establish by written records that the  
16 employer had knowledge of the “permanent physical impairment” at  
17 the time the employee was hired or that the employee was retained  
18 in employment after the employer acquired such knowledge.

19 5. An association of self-insured public or private employers  
20 must submit to the Board a claim for reimbursement from the  
21 Subsequent Injury Account for Associations of Self-Insured Public  
22 or Private Employers.

23 6. The Board shall adopt regulations establishing procedures  
24 for submitting claims against the Subsequent Injury Account for  
25 Associations of Self-Insured Public or Private Employers. The  
26 Board shall notify the Association of Self-Insured Public or Private  
27 Employers of its decision on such a claim within 120 days after the  
28 claim is received.

29 7. An appeal of any decision made concerning a claim against  
30 the Subsequent Injury Account for Associations of Self-Insured  
31 Public or Private Employers must be submitted directly to the  
32 district court.

33 **Sec. 10.** NRS 616B.581 is hereby amended to read as follows:

34 616B.581 1. An association of self-insured public or private  
35 employers that pays compensation due to an employee who has a  
36 permanent physical impairment from any cause or origin and incurs  
37 *, on or before September 30, 2023,* a subsequent disability by injury  
38 arising out of and in the course of his or her employment which  
39 entitles the employee to compensation for disability that is  
40 substantially greater by reason of the combined effects of the  
41 preexisting impairment and the subsequent injury than that which  
42 would have resulted from the subsequent injury alone is entitled to  
43 be reimbursed from the Subsequent Injury Account for Associations  
44 of Self-Insured Public or Private Employers if:



1 (a) The employee knowingly made a false representation as to  
2 his or her physical condition at the time the employee was hired by  
3 the member of the Association of Self-Insured Public or Private  
4 Employers;

5 (b) The employer relied upon the false representation and this  
6 reliance formed a substantial basis of the employment; and

7 (c) A causal connection existed between the false representation  
8 and the subsequent disability.

9 ➔ If the subsequent injury of the employee *incurred on or before*  
10 *September 30, 2023*, results in his or her death and it is determined  
11 that the death would not have occurred except for the preexisting  
12 permanent physical impairment, any compensation paid is entitled  
13 to be reimbursed from the Subsequent Injury Account for  
14 Associations of Self-Insured Public or Private Employers.

15 2. An association of self-insured public or private employers  
16 shall notify the Board of any possible claim against the Subsequent  
17 Injury Account for Associations of Self-Insured Public or Private  
18 Employers pursuant to this section no later than 60 days after the  
19 date of the subsequent injury or the date the employer learns of the  
20 employee's false representation, whichever is later.

21 **Sec. 11.** NRS 616B.584 is hereby amended to read as follows:

22 616B.584 1. There is hereby created in the Fund for  
23 Workers' Compensation and Safety in the State Treasury the  
24 Subsequent Injury Account for Private Carriers, which may be used  
25 only to make payments in accordance with the provisions of NRS  
26 616B.587 and 616B.590. The Administrator shall administer the  
27 Account.

28 2. All ~~assessments,~~ penalties, bonds, securities and all other  
29 properties received, collected or acquired by the Administrator for  
30 the Subsequent Injury Account for Private Carriers must be  
31 delivered to the custody of the State Treasurer.

32 3. All money and securities in the Account must be held by the  
33 State Treasurer as custodian thereof to be used solely for workers'  
34 compensation for employees whose employers are insured by  
35 private carriers.

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

38 5. The State Treasurer shall invest money of the Account in the  
39 same manner and in the same securities in which the State Treasurer  
40 is authorized to invest State General Funds which are in the custody  
41 of the State Treasurer. Income realized from the investment of the  
42 assets of the Account must be credited to the Account.

43 6. The Administrator shall adopt regulations for the  
44 establishment and administration of ~~assessment rates,~~ payments  
45 and penalties. ~~Assessment rates must reflect the relative hazard of~~



~~1 the employments covered by private carriers, must result in an  
2 equitable distribution of costs among the private carriers and must  
3 be based upon expected annual premiums to be received.~~

~~4 —7. The Commissioner shall assign an actuary to review the  
5 establishment of assessment rates. The rates must be filed with the  
6 Commissioner 30 days before their effective date. Any private  
7 carrier who wishes to appeal the rate so filed must do so pursuant to  
8 NRS 679B.310.]~~

9 **Sec. 12.** NRS 616B.587 is hereby amended to read as follows:  
10 616B.587 Except as otherwise provided in NRS 616B.590:

11 1. If an employee of an employer who is insured by a private  
12 carrier has a permanent physical impairment from any cause or  
13 origin and incurs *, on or before September 30, 2023,* a subsequent  
14 disability by injury arising out of and in the course of his or her  
15 employment which entitles the employee to compensation for  
16 disability that is substantially greater by reason of the combined  
17 effects of the preexisting impairment and the subsequent injury than  
18 that which would have resulted from the subsequent injury alone,  
19 the compensation due must be charged to the Subsequent Injury  
20 Account for Private Carriers in accordance with regulations adopted  
21 by the Administrator.

22 2. If the subsequent injury of such an employee *incurred on or*  
23 *before September 30, 2023,* results in his or her death and it is  
24 determined that the death would not have occurred except for the  
25 preexisting permanent physical impairment, the compensation due  
26 must be charged to the Subsequent Injury Account for Private  
27 Carriers in accordance with regulations adopted by the  
28 Administrator.

29 3. As used in this section, “permanent physical impairment”  
30 means any permanent condition, whether congenital or caused by  
31 injury or disease, of such seriousness as to constitute a hindrance or  
32 obstacle to obtaining employment or to obtaining reemployment if  
33 the employee is unemployed. For the purposes of this section, a  
34 condition is not a “permanent physical impairment” unless it would  
35 support a rating of permanent impairment of 6 percent or more of  
36 the whole person if evaluated according to the American Medical  
37 Association’s Guides to the Evaluation of Permanent Impairment as  
38 adopted and supplemented by the Division pursuant to  
39 NRS 616C.110.

40 4. To qualify under this section for reimbursement from the  
41 Subsequent Injury Account for Private Carriers, the private carrier  
42 must establish by written records that the employer had knowledge  
43 of the “permanent physical impairment” at the time the employee  
44 was hired or that the employee was retained in employment after the  
45 employer acquired such knowledge.



1 5. A private carrier must submit to the Administrator a claim  
2 for reimbursement from the Subsequent Injury Account for Private  
3 Carriers.

4 6. The Administrator shall adopt regulations establishing  
5 procedures for submitting claims against the Subsequent Injury  
6 Account for Private Carriers. The Administrator shall notify the  
7 private carrier of his or her decision on such a claim within 120 days  
8 after the claim is received.

9 7. An appeal of any decision made concerning a claim against  
10 the Subsequent Injury Account for Private Carriers must be  
11 submitted directly to the appeals officer. The appeals officer shall  
12 hear such an appeal within 45 days after the appeal is submitted to  
13 the appeals officer.

14 **Sec. 13.** NRS 616B.590 is hereby amended to read as follows:

15 616B.590 1. A private carrier who pays compensation due to  
16 an employee who has a permanent physical impairment from any  
17 cause or origin and incurs , *on or before September 30, 2023*, a  
18 subsequent disability by injury arising out of and in the course of his  
19 or her employment which entitles the employee to compensation for  
20 disability that is substantially greater by reason of the combined  
21 effects of the preexisting impairment and the subsequent injury than  
22 that which would have resulted from the subsequent injury alone is  
23 entitled to be reimbursed from the Subsequent Injury Account for  
24 Private Carriers if:

25 (a) The employee knowingly made a false representation as to  
26 his or her physical condition at the time the employee was hired by  
27 the employer insured by a private carrier;

28 (b) The employer relied upon the false representation and this  
29 reliance formed a substantial basis of the employment; and

30 (c) A causal connection existed between the false representation  
31 and the subsequent disability.

32 ↪ If the subsequent injury of the employee *incurred on or before*  
33 *September 30, 2023*, results in his or her death and it is determined  
34 that the death would not have occurred except for the preexisting  
35 permanent physical impairment, any compensation paid is entitled  
36 to be reimbursed from the Subsequent Injury Account for Private  
37 Carriers.

38 2. A private carrier shall notify the Administrator of any  
39 possible claim against the Subsequent Injury Account for Private  
40 Carriers pursuant to this section no later than 60 days after the date  
41 of the subsequent injury or the date the employer learns of the  
42 employee's false representation, whichever is later.

43 **Sec. 14.** 1. The provisions of any administrative regulations  
44 which conflict or are inconsistent with the provisions of this act are  
45 void, including, without limitation, the provisions of any





1 administrative regulations which impose an assessment relating to a  
2 subsequent injury account pursuant to NRS 616B.554, 616B.575 or  
3 616B.584.

4 2. As used in this section, "subsequent injury account" means:

5 (a) The Subsequent Injury Account for Self-Insured Employers  
6 created by NRS 616B.554;

7 (b) The Subsequent Injury Account for Associations of Self-  
8 Insured Public or Private Employers created by NRS 616B.575; and

9 (c) The Subsequent Injury Account for Private Carriers created  
10 by NRS 616B.584.

11 **Sec. 15.** The provisions of sections 5 to 14, inclusive, of this  
12 act do not affect a claim, action or proceeding commenced or right  
13 accrued before October 1, 2023.

14 **Sec. 16.** NRS 616B.371 is hereby repealed.

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### TEXT OF REPEALED SECTION

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#### **616B.371 Association's administrator prohibited from financial interest in third-party administrator; third-party administrator prohibited from financial interest in association's administrator; contractual requirement.**

1. An association's administrator employed by an association of self-insured public or private employers, or an employee, officer or director of an association's administrator, may not be an employee, officer or director of a third-party administrator employed by the association or have a direct or indirect financial interest in the third-party administrator of the association.

2. The third-party administrator of an association of self-insured public or private employers, or an employee, officer or director of the third-party administrator, may not be an employee, officer or director of an association's administrator employed by the association or have a direct or indirect financial interest in that association's administrator.

3. Any contract entered into by an association of self-insured public or private employers and a third-party administrator must include a provision which states that, unless the Commissioner otherwise provides, the third-party administrator shall administer any claim or other obligation of the association to its conclusion during the period of the contract.







