

SENATE BILL NO. 377—SENATORS D. HARRIS
AND OHRENSCHALL

MARCH 20, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to workers’ compensation. (BDR 53-1025)

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; authorizing the use of money in the Fund for Workers’ Compensation and Safety in the State Treasury to make certain payments; revising the authority of the Administrator of the Division of Industrial Relations of the Department of Business and Industry to make certain payments from the Uninsured Employers’ Claim Account in the Fund for Workers’ Compensation and Safety; revising provisions providing for an annual increase in benefits for permanent total disability; authorizing assessments against certain employers to defray the costs of certain compensation 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:

- 1 Existing law provides for an annual increase in compensation in the amount of
- 2 2.3 percent to claimants or dependents thereof who are entitled to compensation for
- 3 permanent total disability under industrial insurance for an industrial injury or
- 4 disablement from an occupational disease that occurs on or after January 1, 2004.
- 5 (NRS 616C.473) Existing law provides for a single annual payment to claimants
- 6 and their dependents who are entitled to receive compensation for permanent total
- 7 disability but are not entitled to the 2.3 percent annual increase in that
- 8 compensation because the industrial injury or disablement occurred before
- 9 January 1, 2004. (NRS 616C.453) Existing law provides that such annual payments
- 10 are paid from the Uninsured Employers’ Claim Account in the Fund for Workers’
- 11 Compensation and Safety in the State Treasury, an account which is funded by



12 assessments against insurers and certain employers who provide accident benefits
13 for injured employees. (NRS 616A.430)

14 Existing law sets forth the uses of money and securities in the Fund for
15 Workers' Compensation and Safety. (NRS 616A.425) **Section 1** of this bill
16 provides that money in the Fund may also be used to: (1) reimburse insurers and
17 employers for payments of an annual increase in compensation for permanent total
18 disability to claimants and dependents of claimants who are entitled to such
19 compensation due to an industrial injury or disablement which occurred before
20 January 1, 2004, to the extent income realized on the investment of the assets in the
21 Uninsured Employers' Claim Account in the Fund is sufficient to pay that
22 compensation; and (2) pay the salary and other expenses of administering the
23 payment of increased compensation to claimants and dependents of claimants who
24 are entitled to compensation for permanent total disability caused by industrial
25 injuries and disablements from occupational diseases that occurred before
26 January 1, 2004.

27 **Section 2.5** of this bill authorizes an insurer or employer who pays an annual
28 increase in compensation for permanent total disability to a claimant or dependent
29 who is entitled to such compensation due to an industrial injury or disablement
30 which occurred before January 1, 2004, to obtain reimbursement from the
31 Administrator of the Division of Industrial Relations of the Department of Business
32 and Industry and establishes the procedure for obtaining such a reimbursement.
33 Under **section 2.5**, reimbursements approved by the Administrator are required to
34 be paid from the income realized on the investment of the assets in the Uninsured
35 Employers' Claim Account in the Fund for Workers' Compensation and Safety in
36 the State Treasury. If the income realized on the investment of the assets in that
37 Account is insufficient to fund the annual increase in compensation, the remainder
38 of the reimbursements are required to be paid from certain assessments levied on
39 insurers and employers by the Administrator.

40 **Section 3** of this bill provides for a 2.3 percent annual increase in compensation
41 for permanent total disability to claimants and dependents of claimants who are
42 entitled to such compensation due to an industrial injury or disablement which
43 occurred before January 1, 2004, with compensation to be increased on January 1,
44 2020, and on January 1 each year thereafter.

45 **Section 4** of this bill provides that assessments against employers who provide
46 accident benefits for injured employees may be used to pay reimbursement to
47 insurers for the cost of the annual increase in compensation payable to claimants
48 and dependents of claimants who are entitled to such compensation due to an
49 industrial injury or disablement which occurred before January 1, 2004, to the
50 extent that income realized on the investment of the assets in the Uninsured
51 Employers' Claim Account is insufficient to pay that reimbursement.

52 **Section 5** of this bill repeals provisions which authorize a single annual
53 payment to claimants and their dependents who are entitled to receive
54 compensation for permanent total disability but are not entitled to the 2.3 percent
55 annual increase in that compensation. **Section 2** of this bill eliminates the authority
56 of the Administrator of the Division of Industrial Relations of the Department of
57 Business and Industry to make the annual payments from the Uninsured
58 Employers' Claim Account in the Fund for Workers' Compensation and Safety
59 and, instead, authorizes the reimbursements authorized by **section 2.5** to be paid
60 from the Account.



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

1 **Section 1.** NRS 616A.425 is hereby amended to read as
2 follows:

3 616A.425 1. There is hereby established in the State Treasury
4 the Fund for Workers' Compensation and Safety as an enterprise
5 fund. All money received from assessments levied on insurers and
6 employers by the Administrator pursuant to NRS 232.680 must be
7 deposited in this Fund.

8 2. All assessments, penalties, bonds, securities and all other
9 properties received, collected or acquired by the Division for
10 functions supported in whole or in part from the Fund must be
11 delivered to the custody of the State Treasurer for deposit to the
12 credit of the Fund.

13 3. All money and securities in the Fund must be used to defray
14 all costs and expenses of administering the program of workers'
15 compensation, including the payment of:

16 (a) All salaries and other expenses in administering the Division
17 of Industrial Relations, including the costs of the office and staff of
18 the Administrator.

19 (b) All salaries and other expenses of administering NRS
20 616A.435 to 616A.460, inclusive, the offices of the Hearings
21 Division of the Department of Administration and the programs of
22 self-insurance and review of premium rates by the Commissioner.

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

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

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

31 (f) That portion of the salaries and other expenses of the Office
32 for Consumer Health Assistance of the Department of Health and
33 Human Services established pursuant to NRS 232.458 that is related
34 to providing assistance to consumers and injured employees
35 concerning workers' compensation.

36 (g) *For claimants and dependents of claimants who are*
37 *entitled to receive compensation for a permanent total disability*
38 *caused by an industrial injury or a disablement that occurred*
39 *before January 1, 2004:*

40 (1) *Reimbursement to insurers for the cost of the annual*
41 *increase in the compensation pursuant to subsection 2 of NRS*
42 *616C.473; and*



1 (2) *The salary and other expenses of administering the*
2 *payment of the annual increase in the compensation pursuant to*
3 *subsection 2 of NRS 616C.473.*

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

6 5. The State Treasurer shall invest money of the Fund in the
7 same manner and in the same securities in which the State Treasurer
8 is authorized to invest state general funds which are in his or her
9 custody. Income realized from the investment of the assets of the
10 Fund must be credited to the Fund.

11 6. 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 insurer or
14 employer who wishes to appeal the rate so filed must do so pursuant
15 to NRS 679B.310.

16 7. If the Division refunds any part of an assessment, the
17 Division shall include in that refund any interest earned by the
18 Division from the refunded part of the assessment.

19 **Sec. 2.** NRS 616A.430 is hereby amended to read as follows:

20 616A.430 1. There is hereby established in the State Treasury
21 the Uninsured Employers' Claim Account in the Fund for Workers'
22 Compensation and Safety, which may be used only for the purpose
23 of making payments in accordance with the provisions of NRS
24 616C.220 [~~616C.453~~] and 617.401 [~~617.401~~] *and subsection 2 of NRS*
25 *616C.473.* The Administrator shall administer the Account and shall
26 credit any excess money toward the assessments of the insurers for
27 the succeeding years.

28 2. All assessments, penalties, bonds, securities and all other
29 properties received, collected or acquired by the Administrator for
30 the Uninsured Employers' Claim Account must be delivered to the
31 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.

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

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

42 6. The Administrator shall assess each insurer, including each
43 employer who provides accident benefits for injured employees
44 pursuant to NRS 616C.265, an amount to be deposited in the
45 Uninsured Employers' Claim Account. To establish the amount of



1 the assessment, the Administrator shall determine the amount of
2 money necessary to maintain an appropriate balance in the Account
3 for each fiscal year and shall allocate a portion of that amount to be
4 payable by private carriers, a portion to be payable by self-insured
5 employers, a portion to be payable by associations of self-insured
6 public or private employers and a portion to be payable by the
7 employers who provide accident benefits pursuant to NRS
8 616C.265, based upon the expected annual expenditures for claims
9 of each group of insurers. After allocating the amounts payable, the
10 Administrator shall apply an assessment rate to the:

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

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

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

22 (d) Employers who provide accident benefits pursuant to NRS
23 616C.265 that reflects the relative hazard of the employments
24 covered by those employers, results in an equitable distribution of
25 costs among the employers and is based upon expected annual
26 expenditures for claims.

27 ↪ The Administrator shall adopt regulations for the establishment
28 and administration of the assessment rates, payments and any
29 penalties that the Administrator determines are necessary to carry
30 out the provisions of this subsection. As used in this subsection, the
31 term "group of insurers" includes the group of employers who
32 provide accident benefits for injured employees pursuant to
33 NRS 616C.265.

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

39 **Sec. 2.5.** Chapter 616C of NRS is hereby amended by adding
40 thereto a new section to read as follows:

41 *1. An insurer, including an employer who provides accident*
42 *benefits for injured employees pursuant to NRS 616C.265, who*
43 *pays an annual increase in compensation for a permanent total*
44 *disability to a claimant or a dependent of a claimant pursuant to*
45 *subsection 2 of NRS 616C.473 is entitled to be reimbursed for the*



1 *amount of that increase in accordance with this section if the*
2 *insurer provides to the Administrator all of the following:*

3 (a) *The name of the claimant or dependent of a claimant to*
4 *whom the insurer paid the increase in compensation.*

5 (b) *The claim number under which the compensation for a*
6 *permanent total disability was paid to the claimant or dependent of*
7 *a claimant.*

8 (c) *The date of the industrial injury or disablement from an*
9 *occupational disease which resulted in the permanent total*
10 *disability of the injured employee.*

11 (d) *The date on which the disability of the injured employee*
12 *was determined or deemed to be total and permanent.*

13 (e) *The amount of the compensation for a permanent total*
14 *disability to which the claimant or dependent of a claimant was*
15 *entitled as of December 31, 2019.*

16 (f) *Proof of the insurer's payment of the increase in*
17 *compensation for a permanent total disability.*

18 (g) *The amount of reimbursement requested by the insurer.*

19 2. *An insurer must provide the Administrator with the items*
20 *required pursuant to subsection 1 not later than March 31 of each*
21 *year to be eligible for reimbursement for payments of increases in*
22 *compensation for permanent total disability which were made in*
23 *the immediately preceding calendar year.*

24 3. *An insurer may not be reimbursed pursuant to this section*
25 *unless the insurer's request for reimbursement is approved by the*
26 *Administrator.*

27 4. *If the Administrator approves an insurer's request for*
28 *reimbursement, the Administrator must withdraw from the*
29 *Uninsured Employers' Claim Account established pursuant to*
30 *NRS 616A.430 an amount of the income realized from the*
31 *investment of the assets in that Account that is necessary to*
32 *reimburse the insurer or employer for the cost of the increase in*
33 *compensation paid to claimants and dependents pursuant to*
34 *subsection 2 of NRS 616C.473. If the income realized from the*
35 *investment of the assets in the Account is insufficient to pay such*
36 *reimbursement, the Administrator must pay the remainder of the*
37 *reimbursement from the assessments levied by the Administrator*
38 *pursuant to NRS 232.680.*

39 5. *An insurer may elect to apply any approved reimbursement*
40 *under this section towards any current or future assessment levied*
41 *by the Administrator pursuant to NRS 232.680.*

42 **Sec. 3.** NRS 616C.473 is hereby amended to read as follows:

43 616C.473 1. If a claimant or a dependent of a claimant is
44 entitled to receive compensation pursuant to chapters 616A to 617,
45 inclusive, of NRS for a permanent total disability caused by an



1 industrial injury or a disablement from an occupational disease that
2 occurs on or after January 1, 2004, the claimant or dependent is
3 entitled to an annual increase in that compensation in the amount of
4 2.3 percent. The compensation must be increased pursuant to this
5 ~~[section:]~~ *subsection:*

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

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

12 2. *If a claimant or a dependent of a claimant is entitled to*
13 *receive compensation pursuant to chapters 616A to 617, inclusive,*
14 *of NRS for a permanent total disability caused by an industrial*
15 *injury or a disablement from an occupational disease that*
16 *occurred before January 1, 2004, the claimant or dependent is*
17 *entitled to an annual increase in that compensation in the amount*
18 *of 2.3 percent. The compensation must be increased pursuant to*
19 *this subsection:*

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

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

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

25 **Sec. 4.** NRS 232.680 is hereby amended to read as follows:

26 232.680 1. The cost of carrying out the provisions of NRS
27 232.550 to 232.700, inclusive, and of supporting the Division,
28 a full-time employee of the Legislative Counsel Bureau and the
29 Fraud Control Unit for Industrial Insurance established pursuant to
30 NRS 228.420, and that portion of the cost of the Office for
31 Consumer Health Assistance established pursuant to NRS 232.458
32 that is related to providing assistance to consumers and injured
33 employees concerning workers' compensation, must be paid from
34 assessments payable by each insurer, including each employer who
35 provides accident benefits for injured employees pursuant to
36 NRS 616C.265.

37 2. The Administrator shall assess each insurer, including each
38 employer who provides accident benefits for injured employees
39 pursuant to NRS 616C.265. To establish the amount of the
40 assessment, the Administrator shall determine the amount of money
41 necessary for each of the expenses set forth in subsections 1 and 4 of
42 this section and subsection 3 of NRS 616A.425 and determine the
43 amount that is payable by the private carriers, the self-insured
44 employers, the associations of self-insured public or private
45 employers and the employers who provide accident benefits



1 pursuant to NRS 616C.265 for each of the programs. For the
2 expenses from which more than one group of insurers receives
3 benefit, the Administrator shall allocate a portion of the amount
4 necessary for that expense to be payable by each of the relevant
5 group of insurers, based upon the expected annual expenditures for
6 claims of each group of insurers. After allocating the amounts
7 payable among each group of insurers for all the expenses from
8 which each group receives benefit, the Administrator shall apply an
9 assessment rate to the:

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

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

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

21 (d) Employers who provide accident benefits pursuant to NRS
22 616C.265 that reflect the relative hazard of the employments
23 covered by those employers, results in an equitable distribution of
24 costs among the employers and is based upon expected annual
25 expenditures for claims.

26 ↪ The Administrator shall adopt regulations that establish the
27 formula for the assessment and for the administration of payment,
28 and any penalties that the Administrator determines are necessary to
29 carry out the provisions of this subsection. The formula may use
30 actual expenditures for claims. As used in this subsection, the term
31 "group of insurers" includes the group of employers who provide
32 accident benefits for injured employees pursuant to NRS 616C.265.

33 3. Federal grants may partially defray the costs of the Division.

34 4. Assessments made against insurers by the Division after the
35 adoption of regulations must be used to defray all costs and
36 expenses of administering the program of workers' compensation,
37 including the payment of:

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

40 (b) All salaries and other expenses of administering NRS
41 616A.435 to 616A.460, inclusive, the offices of the Hearings
42 Division of the Department of Administration and the programs of
43 self-insurance and review of premium rates by the Commissioner of
44 Insurance.



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

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

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

9 (f) That portion of the salaries and other expenses of the Office
10 for Consumer Health Assistance established pursuant to NRS
11 232.458 that is related to providing assistance to consumers and
12 injured employees concerning workers' compensation.

13 ~~{5. If the Division refunds any part of an assessment, the~~
14 ~~Division shall include in that refund any interest earned by the~~
15 ~~Division from the refunded part of the assessment.}~~

16 (g) *For claimants and dependents of claimants who are*
17 *entitled to receive compensation for a permanent total disability*
18 *caused by an industrial injury or a disablement that occurred*
19 *before January 1, 2004, reimbursement to insurers for the cost of*
20 *the annual increase in the compensation pursuant to subsection 2*
21 *of NRS 616C.473.*

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

23 **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.



