

Senate Bill No. 44—Committee on Commerce and Labor

CHAPTER.....

AN ACT relating to industrial insurance; authorizing certain associations of self-insured private employers to determine the amount of tangible net worth and manual premium that an employer must have to become a member of the association; authorizing certain associations of self-insured private employers to determine the documentation demonstrating solvency that an employer must provide to become a member of the association; specifying that under certain circumstances the addition of an employer to the membership of an association of self-insured private employers is not a change in the information that the association submitted to the commissioner of insurance in its application for certification; and providing other matters properly relating thereto.

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

Section 1. NRS 616B.386 is hereby amended to read as follows:

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

- (a) Submit an application for membership to the board of trustees or third-party administrator of the association; and
- (b) Enter into an indemnity agreement as required by NRS 616B.353.

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

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

- (a) Have a tangible net worth of at least \$500,000; or
- (b) Have had a reported payroll for the previous 12 months which would have resulted in a manual premium ~~calculated according to the regulations adopted pursuant to NRS 616B.206~~ of at least \$15,000 ~~Any~~, *calculated in accordance with a manual prepared pursuant to subsection 4 of NRS 686B.1765.*

4. *An employer who seeks to become a member of the association ~~subsequently~~ after the 12 months immediately following the formation of the association must meet the requirement set forth in paragraph (a) or (b) of subsection 3 unless the commissioner adjusts the requirement for membership in the association after conducting an annual review of the actuarial solvency of the association pursuant to subsection 1 of NRS 616B.353.*

~~4.~~ 5. *An association of self-insured private employers may apply to the commissioner for authority to determine the amount of tangible net worth and manual premium that an employer must have to become a*

member of the association. The commissioner shall approve the application if the association:

- (a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the commissioner;*
- (b) Has a combined tangible net worth of all members in the association of at least \$5,000,000;*
- (c) Has at least 15 members; and*
- (d) Has not been required to meet informally with the commissioner pursuant to subsection 1 of NRS 616B.431 during the 18-month period immediately preceding the date on which the association filed the application with the commissioner or, if the association has been required to attend such a meeting during that period, has not had its certificate withdrawn before the date on which the association filed the application.*

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

- (a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the commissioner;*
- (b) Has a combined tangible net worth of all members in the association of at least \$5,000,000; and*
- (c) Has at least 15 members.*

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

8. Except as otherwise provided in NRS 616B.389, a member of an association may terminate his membership at any time. To terminate his membership, a member must submit to the association's administrator a notice of intent to withdraw from the association at least 120 days before the effective date of withdrawal. The association's administrator shall, within 10 days after receipt of the notice, notify the commissioner of the employer's intent to withdraw from the association.

~~15.1~~ *9. The members of an association may cancel the membership of any member of the association in accordance with the bylaws of the association.*

~~16.1~~ *10. The association shall:*

- (a) Within 30 days after the addition of an employer to the membership of the association, notify the commissioner of the addition and:*

- (1) If the association has not received authority from the commissioner pursuant to subsection 5 or 6, as applicable, provide to the*

commissioner all information and assurances for the new member that were required from each of the original members of the association upon its organization; or

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

(b) Notify the commissioner and the administrator of the termination or cancellation of the membership of any member of the association within 10 days after the termination or cancellation; and

~~1(b)~~ **(c)** At the expense of the member whose membership is terminated or canceled, maintain coverage for that member for 30 days after notice is given pursuant to paragraph ~~1(a)~~ **(b)**, unless the association first receives notice from the administrator that the member has:

(1) Provided and secured compensation according to the terms, conditions and provisions of chapters 616A to 616D, inclusive, of NRS for any injury sustained by an employee arising out of and in the course of his employment;

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

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

~~17~~ **11.** If a member of an association changes his name or form of organization, the member remains liable for any obligations incurred or any responsibilities imposed pursuant to chapters 616A to 617, inclusive, of NRS under his former name or form of organization.

~~18~~ **12.** An association is liable for the payment of any compensation required to be paid by a member of the association under chapters 616A to 616D, inclusive, or chapter 617 of NRS during his period of membership. The insolvency or bankruptcy of a member does not relieve the association of liability for the payment of such compensation.

Sec. 2. NRS 616B.386 is hereby amended to read as follows:

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

(a) Submit an application for membership to the board of trustees or third-party administrator of the association; and

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

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

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

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

(b) Have had a reported payroll for the previous 12 months which would have resulted in a manual premium ~~{calculated according to the regulations adopted pursuant to NRS 616B.206}~~ of at least \$15,000 ~~{Any}~~, *calculated in accordance with a manual prepared pursuant to subsection 4 of NRS 686B.1765.*

4. *An employer who seeks to become a member of the association ~~{subsequently}~~ after the 12 months immediately following the formation of the association must meet the requirement set forth in paragraph (a) or (b) of subsection 3 unless the commissioner adjusts the requirement for membership in the association after conducting an annual review of the actuarial solvency of the association pursuant to subsection 1 of NRS 616B.353.*

~~{4.}~~ 5. *An association of self-insured private employers may apply to the commissioner for authority to determine the amount of tangible net worth and manual premium that an employer must have to become a member of the association. The commissioner shall approve the application if the association:*

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

(b) Has a combined tangible net worth of all members in the association of at least \$5,000,000;

(c) Has at least 15 members; and

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

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

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

(b) Has a combined tangible net worth of all members in the association of at least \$5,000,000; and

(c) Has at least 15 members.

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

8. Except as otherwise provided in NRS 616B.389, a member of an association may terminate his membership at any time. To terminate his membership, a member must submit to the association's administrator a notice of intent to withdraw from the association at least 120 days before the effective date of withdrawal. The association's administrator shall, within 10 days after receipt of the notice, notify the commissioner of the employer's intent to withdraw from the association.

~~15.1~~ 9. The members of an association may cancel the membership of any member of the association in accordance with the bylaws of the association.

~~16.1~~ 10. The association shall:

(a) *Within 30 days after the addition of an employer to the membership of the association, notify the commissioner of the addition and:*

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

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

(b) Notify the commissioner and the administrator of the termination or cancellation of the membership of any member of the association within 10 days after the termination or cancellation; and

~~[(b)]~~ (c) At the expense of the member whose membership is terminated or canceled, maintain coverage for that member for 30 days after notice is given pursuant to paragraph ~~[(a)]~~ (b), unless the association first receives notice from the administrator that the member has:

- (1) Become insured by the system;
- (2) Been certified as a self-insured employer pursuant to NRS 616B.312;
- (3) Become a member of another association of self-insured public or private employers; or
- (4) Become insured by a private carrier.

~~[(7)]~~ 11. If a member of an association changes his name or form of organization, the member remains liable for any obligations incurred or any responsibilities imposed pursuant to chapters 616A to 617, inclusive, of NRS under his former name or form of organization.

~~[(8)]~~ 12. An association is liable for the payment of any compensation required to be paid by a member of the association pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS during his period of membership. The insolvency or bankruptcy of a member does not relieve the association of liability for the payment of the compensation.

Sec. 3. NRS 616B.389 is hereby amended to read as follows:

616B.389 1. Except as otherwise provided in subsection 2, if the membership of an employer who was a member of an association of self-insured public or private employers has been terminated or canceled and the system subsequently insures that employer:

(a) The employer shall remain insured by the system for at least 2 years before it may join an association of self-insured public or private employers.

(b) The system shall determine the amount of premium that such an employer must pay based on:

- (1) The premium rate for the standard industrial classification of that employer which the system may deviate from not more than 15 percent; and
- (2) An adjustment based on the experience of the employer for the 3 previous years,

in accordance with ~~[(the regulations adopted)]~~ *rates approved by the commissioner* pursuant to NRS ~~[(616B.206.)]~~ *686B.177.*

2. A member of an association who terminates his membership in the association pursuant to subsection ~~[(4)]~~ 8 of NRS 616B.386 may not, before July 1, 1998, obtain industrial insurance from the system.

Sec. 4. NRS 616B.392 is hereby amended to read as follows:

616B.392 1. An association of self-insured public or private employers shall notify the commissioner of any change in the information submitted in its application for certification or in the manner of its compliance with NRS 616B.353 not later than 30 days after the change.

2. For the purposes of this section, the addition of an employer to the membership of an association of self-insured private employers is not a change in the information that the association submitted in its application for certification.

Sec. 5. 1. This section and sections 1, 3 and 4 of this act become effective upon passage and approval.

2. Section 1 of this act expires by limitation on July 1, 1999.

3. Section 2 of this act becomes effective at 12:01 a.m. on July 1, 1999.

~