

Assembly Bill No. 44—Committee on Commerce and Labor

CHAPTER.....

AN ACT relating to industrial insurance; abolishing the legislative committee on workers' compensation; revising the provisions governing maintenance of files of claims at the office of an insurer; requiring the administrator of the division of industrial relations of the department of business and industry to designate a vendor of certain data to assist the administrator in the establishment and revision of a schedule of reasonable fees for accident benefits; 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 616A.425 is hereby amended to read as follows:

616A.425 1. There is hereby established in the state treasury the fund for workers' compensation and safety as a special revenue fund. All money received from assessments levied on insurers and employers by the administrator pursuant to NRS 232.680 must be deposited in this fund.

2. All assessments, penalties, bonds, securities and all other properties received, collected or acquired by the division for functions supported in whole or in part from the fund must be delivered to the custody of the state treasurer for deposit to the credit of the fund.

3. All money and securities in the fund must be used to defray all costs and expenses of administering the program of workmen's compensation, including the payment of:

(a) All salaries and other expenses in administering the division of industrial relations, including the costs of the office and staff of the administrator.

(b) All salaries and other expenses of administering NRS 616A.435 to 616A.460, inclusive, the offices of the hearings division of the department of administration and the programs of self-insurance and review of premium rates by the commissioner.

(c) The salary and other expenses of a full-time employee of the legislative counsel bureau whose principal duties are limited to conducting research and reviewing and evaluating data related to industrial insurance.

(d) All salaries and other expenses of the fraud control unit for industrial insurance established pursuant to NRS 228.420.

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

(f) ~~All salaries and expenses of the members of the legislative committee on workers' compensation and any other expenses incurred by the committee in carrying out its duties pursuant to NRS 218.5375 to 218.5378, inclusive.~~

~~—(g)~~ That portion of the salaries and other expenses of the office for consumer health assistance established pursuant to NRS 223.550 that is related to providing assistance to consumers and injured employees concerning workers' compensation.

4. The state treasurer may disburse money from the fund only upon written order of the controller.

5. The state treasurer shall invest money of the fund in the same manner and in the same securities in which he is authorized to invest state

general funds which are in his custody. Income realized from the investment of the assets of the fund must be credited to the fund.

6. The commissioner shall assign an actuary to review the establishment of assessment rates. The rates must be filed with the commissioner 30 days before their effective date. Any insurer or employer who wishes to appeal the rate so filed must do so pursuant to NRS 679B.310.

Sec. 2. NRS 616B.021 is hereby amended to read as follows:

616B.021 1. An insurer shall provide access to the files of claims in its offices.

2. ~~{A file is}~~ *The physical records in a file concerning a claim filed in this state may be kept at an office located outside this state if all records in the file are accessible at offices located in this state on computer in a microphotographic, electronic or other similar format that produces an accurate reproduction of the original. If a claim filed in this state is open, the records in the file must be reproduced and* available for inspection during regular business hours *within 24 hours after requested* by the employee or his designated agent, the employer or his designated agent ~~{and}~~, or the administrator or his designated agent. *If a claim filed in this state is closed, the records in the file must be reproduced and available for inspection during regular business hours within 14 days after requested by such persons.*

3. Upon request, the insurer shall make copies *or other reproductions* of anything in the file and may charge a reasonable fee for this service. Copies *or other reproductions* of materials in the file which are requested by the administrator or his designated agent, or the Nevada attorney for injured workers or his designated agent must be provided free of charge.

4. ~~If a claim has been closed for at least 1 year, the insurer may microphotograph or film any of its records relating to that claim. The microphotographs or films must be placed in convenient and accessible files.~~

~~—5.—~~ The administrator ~~{shall}~~ *may* adopt regulations concerning the:

(a) Maintenance of records in a file on ~~{current}~~ *claims that are open* or closed ~~{claims;}~~ *; and*

(b) Preservation, examination and use of records which have been ~~{microphotographed or filmed}~~ *stored on computer or in a microphotographic, electronic or similar format* by an insurer. ~~{; and}~~

~~—(c) Location of a file on a closed claim.~~

~~—6.—~~ 5. This section does not require an insurer to allow inspection or reproduction of material regarding which a legal privilege against disclosure has been conferred.

Sec. 3. NRS 616B.027 is hereby amended to read as follows:

616B.027 1. Every insurer shall ~~{provide}~~:

~~—(a) An~~ :

(a) *Provide an* office in this state operated by the insurer or its third-party administrator in which:

(1) A complete file of each claim is ~~{kept;}~~ *accessible, in accordance with the provisions of NRS 616B.021;*

(2) Persons authorized to act for the insurer and, if necessary, licensed pursuant to chapter 683A of NRS, may receive information related

to a claim and provide the services to an employer and his employees required by chapters 616A to 617, inclusive, of NRS; and

(3) An employee or his employer, upon request, is provided with information related to a claim filed by the employee or a copy *or other reproduction* of the information from the file for that claim ~~+~~.

~~—(b) Statewide,~~ *in accordance with the provisions of NRS 616B.021.*

(b) Provide statewide toll-free telephone service to ~~that~~ *the* office *maintained pursuant to paragraph (a)* or accept collect calls from injured employees.

2. Each private carrier shall provide:

(a) Adequate services to its insured employers in controlling losses; and

(b) Adequate information on the prevention of industrial accidents and occupational diseases.

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 616C.260 is hereby amended to read as follows:

616C.260 1. All fees and charges for accident benefits must not:

(a) Exceed the ~~fees and charges~~ *amounts* usually *billed and* paid in the state for similar treatment.

(b) Be unfairly discriminatory as between persons legally qualified to provide the particular service for which the fees or charges are asked.

2. The administrator shall, giving consideration to the fees and charges being *billed and* paid in the state, establish a schedule of reasonable fees and charges allowable for accident benefits provided to injured employees whose insurers have not contracted with an organization for managed care or with providers of health care services pursuant to NRS 616B.527. The administrator shall review and revise the schedule on or before ~~October~~ *February* 1 of each year. ~~The administrator may increase or decrease.~~ *In the revision, the administrator shall adjust* the schedule ~~but shall not increase the schedule by any factor greater than~~ *by* the corresponding annual ~~increase~~ *change* in the Consumer Price Index, Medical Care Component. ~~unless the advisory council of the division approves such an increase.~~

3. The administrator ~~may request~~ *shall designate a vendor who compiles data on a national basis concerning fees and charges that are billed and paid for treatment or services similar to the treatment and services that qualify as accident benefits in this state to provide him with such information as he deems necessary to carry out the provisions of subsection 2. The designation must be made pursuant to reasonable competitive bidding procedures established by the administrator. In addition, the administrator may request* a health insurer, health maintenance organization or provider of accident benefits, an agent or employee of such a person, or an agency of the state ~~+~~ to provide the administrator with ~~such~~ *that are billed and paid in this state* information concerning fees and charges *for similar services as he deems necessary to carry out the provisions of subsection 2. The administrator shall require a* ~~person or entity providing~~ *health insurer, health maintenance organization or provider of accident benefits, an agent or employee of such a person, or an agency of the state that provides* records or reports of fees ~~charged~~ *and charges billed and paid pursuant to this section* to provide interpretation and identification concerning the information

delivered. The administrator may impose an administrative fine of \$500 *on a health insurer, health maintenance organization or provider of accident benefits, or an agent or employee of such a person* for each refusal to provide the information requested pursuant to this subsection.

4. The division may adopt reasonable regulations necessary to carry out the provisions of this section. The regulations must include provisions concerning:

(a) Standards for the development of the schedule of fees and charges ~~that are billed and paid; and~~

(b) The ~~periodic revision of the schedule; and~~
~~—(c) The~~ monitoring of compliance by providers of benefits with the ~~adopted~~ schedule of fees and charges.

5. The division shall adopt regulations requiring the ~~utilization~~ use of a system of billing codes as recommended by the American Medical Association.

Sec. 6. NRS 232.680 is hereby amended to read as follows:

232.680 1. The cost of carrying out the provisions of NRS 232.550 to 232.700, inclusive, and of supporting the division, a full-time employee of the legislative counsel bureau ~~and~~ *and* the fraud control unit for industrial insurance established pursuant to NRS 228.420 , ~~and the legislative committee on workers' compensation created pursuant to NRS 218.5375,~~ and that portion of the cost of the office for consumer health assistance established pursuant to NRS 223.550 that is related to providing assistance to consumers and injured employees concerning workers' compensation, must be paid from assessments payable by each insurer, including each employer who provides accident benefits for injured employees pursuant to NRS 616C.265, based upon expected annual expenditures for claims for injuries occurring on or after July 1, 1999. The division shall adopt regulations ~~which~~ *that* establish formulas of assessment which result in an equitable distribution of costs among the insurers and employers who provide accident benefits for injured employees. The formulas may utilize actual expenditures for claims.

2. Federal grants may partially defray the costs of the division.

3. Assessments made against insurers by the division after the adoption of regulations must be used to defray all costs and expenses of administering the program of workers' compensation, including the payment of:

(a) All salaries and other expenses in administering the division, including the costs of the office and staff of the administrator.

(b) All salaries and other expenses of administering NRS 616A.435 to 616A.460, inclusive, the offices of the hearings division of the department of administration and the programs of self-insurance and review of premium rates by the commissioner of insurance.

(c) The salary and other expenses of a full-time employee of the legislative counsel bureau whose principal duties are limited to conducting research and reviewing and evaluating data related to industrial insurance.

(d) All salaries and other expenses of the fraud control unit for industrial insurance established pursuant to NRS 228.420.

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

(f) ~~All salaries and expenses of the members of the legislative committee on workers' compensation and any other expenses incurred by the committee in carrying out its duties pursuant to NRS 218.5375 to 218.5378, inclusive.~~

~~(g)~~ That portion of the salaries and other expenses of the office for consumer health assistance established pursuant to NRS 223.550 that is related to providing assistance to consumers and injured employees concerning workers' compensation.

Sec. 7. NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

- (a) The governor.
- (b) The department of prisons.
- (c) The University and Community College System of Nevada.
- (d) The office of the military.
- (e) The state gaming control board.
- (f) The Nevada gaming commission.
- (g) The welfare division of the department of human resources.
- (h) The division of health care financing and policy of the department of human resources.
- (i) The state board of examiners acting pursuant to chapter 217 of NRS.
- (j) Except as otherwise provided in NRS 533.365, the office of the state engineer.
- (k) The division of industrial relations of the department of business and industry *in* acting to enforce the provisions of NRS 618.375.
- (l) *The administrator of the division in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.*
- (m)* The board to review claims in adopting resolutions to carry out its duties pursuant to NRS 590.830.

2. Except as otherwise provided in NRS 391.323, the department of education, the board of the public employees' benefits program and the commission on professional standards in education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

- (a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the employment security division of the department of employment, training and rehabilitation;
 - (b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;
 - (c) Chapter 703 of NRS for the judicial review of decisions of the public utilities commission of Nevada;
 - (d) Chapter 91 of NRS for the judicial review of decisions of the administrator of the securities division of the office of the secretary of state; and
 - (e) NRS 90.800 for the use of summary orders in contested cases,
- prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the department of human resources in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the state board of agriculture, the state board of health, the state board of sheep commissioners or any other agency of this state in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control; or

(b) An extraordinary regulation of the state board of pharmacy adopted pursuant to NRS 453.2184.

6. The state board of parole commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

Sec. 8. NRS 218.5375, 218.5376, 218.5377 and 218.5378 are hereby repealed.

Sec. 9. Notwithstanding the amendatory provisions of section 5 of this act, the administrator of the division of industrial relations of the department of business and industry is not required to designate a vendor that compiles data on a national basis concerning fees and charges that are billed and paid for certain treatment and services pursuant to section 5 of this act in sufficient time to ensure that the schedule of reasonable fees and charges allowable for accident benefits that must be revised on or before February 1, 2002, includes the data obtained from that vendor, but shall use his best efforts to do so.

Sec. 10. 1. This section becomes effective upon passage and approval.

2. Section 5 of this act becomes effective:

(a) Upon passage and approval for the purpose of requiring the administrator to designate a vendor who compiles data on a national basis concerning fees and charges that are billed and paid for treatment or services similar to the treatment and services that qualify as accident benefits in this state to provide the administrator with such information as he deems necessary to carry out the provisions of subsection 2 of section 5 of this act.

(b) On July 1, 2001, for all other purposes.

3. Sections 1 to 4, inclusive, and 6 to 9, inclusive, of this act become effective on July 1, 2001.