

SENATE BILL NO. 3—COMMITTEE ON COMMERCE AND LABOR

PREFILED JANUARY 11, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing qualification as association of self-insured private employers. (BDR 53-305)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~limited material~~ is material to be omitted.

AN ACT relating to industrial insurance; revising the requirements for a group of employers to qualify as an association of self-insured private employers; 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.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]~~ *the group has* been issued a certificate to act as such an association by the commissioner.

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

4. The application must include:

(a) The name of the association.

(b) The address of:

(1) The principal office of the association.

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

(c) The date the association was organized.

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

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

(f) Such other information as the commissioner may require.

5. The application must be accompanied by:

(a) A nonrefundable filing fee of \$1,000.

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

(c) Proof that the association or its third-party administrator is licensed or otherwise authorized to conduct business in this state pursuant to Title 57 of NRS.

(d) A copy of the agreements entered into with the association's administrator and a third-party administrator.

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

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

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

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

(i) Proof that each member of the association will make the initial payment to the association required pursuant to NRS 616B.416 on a date specified by the commissioner. The payment shall be deemed to be a part of the assessment required to be paid by each member for the first year of self-insurance if certification is issued to the association.

6. Any financial information relating to a member of an association received by the commissioner pursuant to the provisions of this section is confidential and must not be disclosed.

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

~~— (a) Is limited to a specific industry; and~~

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

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:

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

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

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

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

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

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

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

22 5. An association of self-insured private employers may apply to the
23 commissioner for authority to determine the amount of tangible net worth
24 and manual premium that an employer must have to become a member of
25 the association. The commissioner shall approve the application if the
26 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 association
29 filed the application with the commissioner;

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

32 (c) Has at least 15 members; and

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

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

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

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

49 (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. 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.

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

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

(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 (b), unless the association first receives notice from the administrator that the member has:

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

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

(3) Become insured by a private carrier.

11. If a member of an association changes his name or form of organization, the member remains liable for any obligations incurred or

1 any responsibilities imposed pursuant to chapters 616A to 617, inclusive,
2 of NRS under his former name or form of organization.

3 12. An association is liable for the payment of any compensation
4 required to be paid by a member of the association pursuant to chapters
5 616A to 616D, inclusive, or chapter 617 of NRS during his period of
6 membership. The insolvency or bankruptcy of a member does not relieve
7 the association of liability for the payment of the compensation.

8 **Sec. 3.** NRS 616B.401 is hereby amended to read as follows:

9 616B.401 1. An association of self-insured public employers may
10 merge with another association of self-insured public employers *or an*
11 *association of self-insured private employers may merge with another*
12 *association of self-insured private employers* if:

13 (a) The resulting association assumes in full all obligations of the
14 merging associations; and

15 (b) The merger is approved by the commissioner.

16 2. ~~[An association of self-insured private employers may merge with~~
17 ~~another association of self-insured private employers if:~~

18 ~~—(a) The members of the merging associations are engaged in the same or~~
19 ~~similar trade;~~

20 ~~—(b) The resulting association assumes in full all obligations of the~~
21 ~~merging associations; and~~

22 ~~—(c) The merger is approved by the commissioner.~~

23 ~~—3.]~~ The commissioner shall conduct a hearing on the proposed merger
24 if any member of the merging associations so requests. The commissioner
25 may on his own motion conduct such a hearing.

26 **Sec. 4.** This act becomes effective on July 1, 2001.

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