
ASSEMBLY BILL NO. 363—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE INTERIM STUDY COMMITTEE ON NEVADA'S
INDUSTRIAL INSURANCE PROGRAM)

MARCH 23, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to consolidated insurance programs. (BDR 53-252)

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 ~~omitted material~~ is material to be omitted.

AN ACT relating to industrial insurance; requiring an owner or principal contractor who establishes and administers a consolidated insurance program to submit a monthly affidavit to the Commissioner of Insurance setting forth certain information; requiring the Occupational Safety and Health Review Board to hold a review hearing concerning certain allegations made by the Commissioner; requiring the Commissioner to impose an administrative fine against the owner or principal contractor under certain circumstances; and providing other matters properly relating thereto.

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

1 **Section 1.** Chapter 616B of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *On or before the fifth day of each month, each owner who*
4 *establishes and administers an owner-controlled insurance*
5 *program and each principal contractor who establishes and*
6 *administers a contractor-controlled insurance program shall*
7 *submit an affidavit to the Commissioner indicating that, for the*



1 month immediately preceding the month in which he submits the
2 affidavit, the owner or principal contractor:

3 (a) Complied with the provisions of subsection 6 of NRS
4 616B.725 and subsection 4 of NRS 616B.727; or

5 (b) Was not required to comply with those provisions because
6 activity relating to construction at the site of the construction
7 project did not take place at the site during the month for which he
8 submits the affidavit.

9 2. If an owner or principal contractor specified in subsection
10 1 fails to submit an affidavit in accordance with that subsection, or
11 if the Commissioner reasonably believes that the owner or
12 principal contractor has falsified the affidavit or otherwise failed
13 to comply with the provisions of NRS 616B.725 or 616B.727, the
14 Commissioner shall notify the Board of that fact as soon as
15 practicable after becoming aware of the failure to submit the
16 affidavit or after formulating that belief. As soon as practicable
17 after receiving the notice, the Board shall hold a review hearing
18 concerning each alleged violation set forth in the notice. After
19 holding the review hearing, the Board shall submit a written
20 notice of its determination concerning each of those violations to
21 the owner or principal contractor and the Commissioner. If the
22 Board determines that a violation occurred, the Board shall:

23 (a) Order the owner or principal contractor to cease all activity
24 relating to construction at the construction site until the Board
25 determines that the owner or principal contractor has complied
26 with NRS 616B.725 and 616B.727; and

27 (b) Submit a copy of the order to the owner or principal
28 contractor and the Commissioner.

29 3. In addition to any penalty set forth in a contract pursuant
30 to NRS 616B.720 or any administrative fine or benefit penalty
31 imposed by the Administrator pursuant to NRS 616D.120, the
32 Commissioner shall:

33 (a) Impose an administrative fine of \$5,000 per day for each
34 day that the Board determines that the owner or principal
35 contractor failed to comply with NRS 616B.720 or 616B.727; and

36 (b) If the Board determines that the owner or principal
37 contractor falsified the affidavit required pursuant to subsection 1
38 or failed to comply with the provisions of subsection 6 of NRS
39 616B.725 or subsection 4 of NRS 616B.727, prohibit the owner or
40 principal contractor from establishing or administering a
41 consolidated insurance program for 5 years after the date of
42 completion of the construction project.

43 4. As used in this section, "Board" means the Occupational
44 Safety and Health Review Board created by NRS 618.565.



1 **Sec. 2.** NRS 616B.710 is hereby amended to read as follows:

2 616B.710 1. ~~1A~~ *Except as otherwise provided in section 1*
3 *of this act, a* private company, public entity or utility may:

4 (a) Establish and administer a consolidated insurance program to
5 provide industrial insurance coverage for employees of contractors
6 and subcontractors who are engaged in a construction project of
7 which the private company, public entity or utility is the owner or
8 principal contractor, if the estimated total cost of the construction
9 project is equal to or greater than the threshold amount established
10 by the Commissioner pursuant to subsection 3; and

11 (b) As a condition precedent to the award of a contract to
12 perform work on the construction project, require that contractors
13 and subcontractors who will be engaged in the construction of the
14 project participate in the consolidated insurance program.

15 2. If a private company, public entity or utility:

16 (a) Establishes and administers a consolidated insurance
17 program; and

18 (b) Pursuant to the contract for the construction of the project,
19 owes a periodic payment to a contractor or subcontractor whose
20 employees are covered under the consolidated insurance program,
21 ➔ the private company, public entity or utility shall not withhold
22 such a periodic payment on the basis that the contractor or
23 subcontractor has not signed an employer's report of industrial
24 injury or occupational disease as required pursuant to
25 NRS 616C.045.

26 3. The Commissioner shall establish the threshold amount that
27 the estimated total cost of a construction project must be equal to or
28 greater than before a consolidated insurance program may be
29 established and administered for that project pursuant to this section.
30 The base amount for the threshold must initially be \$150,000,000
31 and thereafter must be an amount equal to \$150,000,000 as adjusted
32 by the Commissioner on June 30 of each year to reflect the present
33 value of that amount with respect to the construction cost index.

34 4. As used in this section:

35 (a) "Construction cost index" means the construction cost index
36 published by the Engineering News-Record as a measure of
37 inflation.

38 (b) "Estimated total cost" means the estimated cost to complete
39 all parts of a construction project, including, without limitation, the
40 cost of:

41 (1) Designing the project;

42 (2) Acquiring the real property on which the project will be
43 constructed;

44 (3) Connecting the project to utilities;



(4) Excavating and carrying out underground improvements for the project; and

(5) Acquiring equipment and furnishings for the project.

➔ The term does not include the cost of any fees or charges associated with acquiring the money necessary to complete the project.

Sec. 3. NRS 616B.735 is hereby amended to read as follows:

616B.735 With respect to a construction project for which the owner intends to establish and administer an owner-controlled insurance program or the principal contractor intends to establish and administer a contractor-controlled insurance program, the owner or principal contractor, as appropriate, shall:

1. In the notice or advertisement for bids for the construction of the project, state:

(a) That the employees of contractors and subcontractors who are engaged in the construction of the project will be covered under a consolidated insurance program when such employees work at the site of the project; and

(b) Whether such a program will be an owner-controlled insurance program or a contractor-controlled insurance program; and

2. Hold a pre-bid conference at which it provides to potential contractors and subcontractors, without limitation, the following information:

(a) A general explanation of the manner in which a consolidated insurance program operates;

(b) An overview of the provisions of NRS 616B.710 to 616B.737, inclusive, **H, and section 1 of this act**;

(c) A general description of the safety procedures that will be required as part of the consolidated insurance program; and

(d) The procedures pursuant to which claims for industrial insurance will be administered.

Sec. 4. NRS 616B.737 is hereby amended to read as follows:

616B.737 The Commissioner may adopt such regulations as the Commissioner determines are necessary to carry out the provisions of NRS 616B.710 to 616B.737, inclusive, **and section 1 of this act** to the extent that the authority granted pursuant to this section does not duplicate authority granted to the Administrator.

Sec. 5. NRS 618.585 is hereby amended to read as follows:

618.585 1. The Board shall:

(a) Meet as often as necessary to hold review hearings, as provided in NRS 618.605 **H and section 1 of this act**, at such times and places as the Chairman may determine;

(b) Enact rules and regulations governing the conduct of review hearings; and



- 1 (c) Perform such other duties as the Division may prescribe.
- 2 2. The Board may employ legal counsel to advise it concerning
- 3 matters which come before it.
- 4 3. A quorum of the Board must be present in order for the
- 5 conduct of review hearings or other business.
- 6 4. A quorum consists of at least three members of the Board, at
- 7 least one of whom must represent labor and one of whom must
- 8 represent management.
- 9 5. All decisions of the Board must be determined by a majority
- 10 decision.
- 11 6. A complete record of every review hearing must be made.
- 12 7. If the alternate for the regular member representing the
- 13 general public attends a meeting of the Board in the place of the
- 14 regular member, the alternate fully assumes the duties, rights and
- 15 responsibilities for the duration of that meeting and is entitled to the
- 16 compensation, allowances and expenses otherwise payable for
- 17 members who attend that meeting.



