
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 quarterly affidavit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry; authorizing the Administrator to order the owner or principal contractor to cease all activity at a construction site and to impose an administrative fine under certain circumstances; authorizing the Commissioner of Insurance to prohibit an owner or principal contractor from establishing or administering a consolidated insurance program for 5 years under certain circumstances; requiring an order issued by the Administrator to the owner or principal contractor to include certain information and provide notice and an opportunity for a hearing 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:

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

1. On or before the fifth day of each quarter, each owner who establishes and administers an owner-controlled insurance program and each principal contractor who establishes and administers a contractor-controlled insurance program shall submit an affidavit to the Administrator indicating that, for the quarter immediately preceding the quarter in which he submits the affidavit, the owner or principal contractor:

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

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

2. If an owner or principal contractor specified in subsection 1 fails to submit an affidavit in accordance with that subsection, or if the Administrator reasonably believes that the owner or principal contractor has falsified the affidavit or otherwise failed to comply with the provisions of NRS 616B.725 or 616B.727, the Administrator may:

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

(b) Impose an administrative fine of \$5,000 per day for each day that the Administrator determines that the owner or principal contractor failed to comply with NRS 616B.725 or 616B.727.

3. If the Administrator determines that the owner or principal contractor falsified the affidavit required pursuant to subsection 1 or failed to comply with the provisions of subsection 6 of NRS 616B.725 or subsection 4 of NRS 616B.727, the Administrator shall notify the Commissioner of his determination. Upon receipt of such notice, the Commissioner may prohibit the owner or principal contractor from establishing or administering a consolidated insurance program for 5 years after the date of completion of the construction project.

4. An order issued by the Administrator pursuant to this section must:

(a) Include a reference to the particular sections of the statutes or regulations alleged to have been violated and a short plain statement of the facts alleged to constitute the violation;



(b) Provide notice and an opportunity for a hearing to the owner or principal contractor on a date fixed in the order which must be not less than 5 days and not more than 15 days after the date of the order unless, upon demand by the owner or principal contractor, the date of the hearing is scheduled for the next business day after the demand is made to the Administrator by the owner or principal contractor; and

(c) If the order is an order for summary suspension, include the date and hour that the Administrator issued the order and entered it as a matter of record in his office.

5. Immediately upon receiving an order to cease all activity at a construction site pursuant to subsection 2, the owner or principal contractor shall order all employees and other persons to leave the construction site and to cease all activity relating to construction at the construction site.

6. Upon request by the Administrator, any law enforcement agency in this State shall render any assistance necessary to carry out the requirements of subsection 5, including, but not limited to, preventing any employee or other person from remaining at the construction site.

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

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

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

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

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

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

(b) Pursuant to the contract for the construction of the project, owes a periodic payment to a contractor or subcontractor whose employees are covered under the consolidated insurance program,

➔ the private company, public entity or utility shall not withhold such a periodic payment on the basis that the contractor or subcontractor has not signed an employer's report of industrial injury or occupational disease as required pursuant to NRS 616C.045.



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

4. As used in this section:

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

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

(1) Designing the project;

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

(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;



1 (b) An overview of the provisions of NRS 616B.710 to
2 616B.737, inclusive ~~H~~, *and section 1 of this act*;

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

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

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

8 616B.737 The Commissioner may adopt such regulations as
9 the Commissioner determines are necessary to carry out the
10 provisions of NRS 616B.710 to 616B.737, inclusive, *and section 1*
11 *of this act* to the extent that the authority granted pursuant to this
12 section does not duplicate authority granted to the Administrator.



