

SENATE BILL NO. 126—SENATORS SCHNEIDER, CARE, CARLTON,
COFFIN, HORSFORD, LEE, MATHEWS, TITUS AND WIENER

FEBRUARY 24, 2005

JOINT SPONSORS: ASSEMBLYMEN MCCLAIN AND MUNFORD

Referred to Committee on Commerce and Labor

SUMMARY—Establishes Office for Injured Employee Assistance.
(BDR 18-246)

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 the Office of the Governor; establishing the Office for Injured Employee Assistance; revising the provisions relating to the Office for Consumer Health Assistance; providing that the cost of the Office for Injured Employee Assistance must be paid from certain assessments; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, the Office for Consumer Health Assistance in the Office of
2 the Governor is responsible for investigating complaints by consumers and injured
3 employees concerning their health care plans and industrial insurance. (NRS
4 223.550, 223.560) The Office also provides counseling and assistance to consumers
5 and injured employees concerning their health care plans and industrial insurance.
6 Under certain circumstances, the Office also refers complaints and the results of
7 investigations to the Attorney General for further action. (NRS 223.560) A portion
8 of the money collected from the assessment levied on insurers is used to pay the
9 expenses incurred by the Office in assisting consumers and injured employees.
10 (NRS 232.680)

11 This bill establishes the Office for Injured Employee Assistance in the Office of
12 the Governor and requires the Governor to appoint a Director. This bill transfers the
13 duties and powers of the Office for Consumer Health Assistance concerning injured
14 employees and industrial insurance to the Office for Injured Employee Assistance.
15 The Office for Consumer Health Assistance will continue to investigate consumer
16 complaints and provide counseling to consumers about their health care plans.



17 The expenses incurred by the Office for Injured Employee Assistance are to be
18 paid from a portion of the assessment levied on insurers.

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

1 **Section 1.** Chapter 223 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 10, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 10, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 3, 4 and 5 of this act have the meanings ascribed to*
7 *them in those sections.*

8 **Sec. 3.** *“Director” means the Director of the Office for*
9 *Injured Employee Assistance appointed pursuant to section 7 of*
10 *this act.*

11 **Sec. 4.** *“Industrial insurance” means insurance which*
12 *provides the compensation required by chapters 616A to 617,*
13 *inclusive, of NRS and employer’s liability insurance incidental to*
14 *and provided in connection with that insurance.*

15 **Sec. 5.** *“Office” means the Office for Injured Employee*
16 *Assistance established pursuant to section 7 of this act.*

17 **Sec. 6.** *The provisions of NRS 223.085 do not apply to the*
18 *provisions of sections 2 to 10, inclusive, of this act.*

19 **Sec. 7. 1.** *The Office for Injured Employee Assistance is*
20 *hereby established in the Office of the Governor. The Governor*
21 *shall appoint the Director. The Director must:*

22 *(a) Be:*

23 *(1) A physician, as that term is defined in NRS 0.040;*

24 *(2) A registered nurse, as that term is defined in*
25 *NRS 632.019;*

26 *(3) An advanced practitioner of nursing, as that term is*
27 *defined in NRS 453.023; or*

28 *(4) A physician assistant, as that term is defined in NRS*
29 *630.015; and*

30 *(b) Have expertise and experience in the field of advocacy.*

31 **2.** *The cost of carrying out the provisions of sections 2 to 10,*
32 *inclusive, of this act must be paid from the assessments levied*
33 *pursuant to NRS 232.680.*

34 **Sec. 8.** *The Director shall:*

35 **1.** *Respond to written and telephonic inquiries received from*
36 *injured employees regarding concerns and problems related to*
37 *workers’ compensation.*



1 2. Assist injured employees in understanding their rights and
2 responsibilities under policies of industrial insurance.

3 3. Identify and investigate complaints of injured employees
4 regarding policies of industrial insurance and assist those injured
5 employees to resolve their complaints, including, without
6 limitation:

7 (a) Referring injured employees to the appropriate agency,
8 department or other entity that is responsible for addressing the
9 specific complaint of the injured employee; and

10 (b) Providing counseling and assistance to injured employees
11 concerning policies of industrial insurance.

12 4. Provide information to injured employees concerning
13 policies of industrial insurance in this State.

14 5. Work with an injured employee, the employer of the
15 injured employee, the insurer issuing the policy of industrial
16 insurance and any appropriate person, agency, department or
17 other entity to:

18 (a) Ensure that the injured employee receives all appropriate
19 medical treatment; and

20 (b) Facilitate the resolution of the claim by the injured
21 employee for compensation pursuant to the policy of industrial
22 insurance.

23 6. Establish and maintain a system to collect and maintain
24 information pertaining to the written and telephonic inquiries
25 received by the Office.

26 7. Take such actions as are necessary to ensure public
27 awareness of the existence and purpose of the services provided by
28 the Director pursuant to this section.

29 8. In appropriate cases and pursuant to the direction of the
30 Governor, refer a complaint or the results of an investigation to
31 the Attorney General for further action.

32 **Sec. 9. 1. The Director may:**

33 (a) Within the limits of available money, employ:

34 (1) Such persons in the unclassified service of the State as
35 he determines to be necessary to carry out the provisions of
36 sections 2 to 10, inclusive, of this act, including, without
37 limitation, a provider of health care, as that term is defined in
38 NRS 449.581.

39 (2) Such additional personnel as may be required to carry
40 out the provisions of sections 2 to 10, inclusive, of this act, who
41 must be in the classified services of the State.

42 ↪ A person employed pursuant to the authority set forth in this
43 subsection must be qualified by training and experience to
44 perform the duties for which the Director employs him.



1 (b) *To the extent not otherwise prohibited by law, obtain such*
2 *information from injured employees and policies of industrial*
3 *insurance as he determines to be necessary to carry out the*
4 *provisions of sections 2 to 10, inclusive, of this act.*

5 (c) *Adopt such regulations as he determines to be necessary to*
6 *carry out the provisions of sections 2 to 10, inclusive, of this act.*

7 (d) *Apply for any available grants, accept any gifts, grants or*
8 *donations and use any such gifts, grants or donations to aid the*
9 *Office in carrying out its duties.*

10 2. *The Director and his employees shall not have any conflict*
11 *of interest relating to the performance of their duties pursuant*
12 *sections 2 to 10, inclusive, of this act. For purposes of this*
13 *subsection, a conflict of interest shall be deemed to exist if the*
14 *Director or employee, or any person affiliated with the Director or*
15 *employee:*

16 (a) *Has direct involvement in the licensing of an insurer that*
17 *issues policies of industrial insurance;*

18 (b) *Has a direct ownership interest or investment interest in an*
19 *employer required to provide to its employees coverage under a*
20 *policy of industrial insurance pursuant to chapters 616A to 617,*
21 *inclusive, of NRS or an insurer that issues policies of industrial*
22 *insurance;*

23 (c) *Is employed by, or participates in, the management of an*
24 *employer required to provide to its employees coverage under a*
25 *policy of industrial insurance pursuant to chapters 616A to 617,*
26 *inclusive, of NRS or an insurer that issues policies of industrial*
27 *insurance; or*

28 (d) *Receives or has the right to receive, directly or indirectly,*
29 *remuneration pursuant to any arrangement for compensation with*
30 *an employer required to provide to its employees coverage under a*
31 *policy of industrial insurance pursuant to chapters 616A to 617,*
32 *inclusive, of NRS or an insurer that issues policies of industrial*
33 *insurance.*

34 **Sec. 10.** *On or before February 1 of each year, the Director*
35 *shall submit a written report to the Governor and to the Director*
36 *of the Legislative Counsel Bureau for transmittal to the*
37 *appropriate committee or committees of the Legislature. The*
38 *report must include, without limitation:*

39 1. *A statement setting forth the number and geographic*
40 *origin of the written and telephonic inquiries received by the*
41 *Office and the issues to which those inquiries were related;*

42 2. *A statement setting forth the type of assistance provided to*
43 *each injured employee who sought assistance from the Director,*
44 *including, without limitation, the number of referrals made to the*



1 *Attorney General pursuant to subsection 8 of section 8 of this act;*
2 *and*

3 *3. A statement setting forth the disposition of each inquiry*
4 *and complaint received by the Director.*

5 **Sec. 11.** NRS 223.530 is hereby amended to read as follows:

6 223.530 "Health care plan" means a policy, contract, certificate
7 or agreement offered or issued to provide, deliver, arrange for, pay
8 for or reimburse any of the costs of health care services. *The term*
9 *does not include a policy of industrial insurance.*

10 **Sec. 12.** NRS 223.550 is hereby amended to read as follows:

11 223.550 1. The Office for Consumer Health Assistance is
12 hereby established in the Office of the Governor. The Governor
13 shall appoint the Director. The Director must:

14 (a) Be:

15 (1) A physician, as that term is defined in NRS 0.040;

16 (2) A registered nurse, as that term is defined in
17 NRS 632.019;

18 (3) An advanced practitioner of nursing, as that term is
19 defined in NRS 453.023; or

20 (4) A physician assistant, as that term is defined in NRS
21 630.015; and

22 (b) Have expertise and experience in the field of advocacy.

23 2. The cost of carrying out the provisions of NRS 223.500 to
24 223.580, inclusive, must be paid as follows:

25 (a) ~~That portion of the cost related to providing assistance to~~
26 ~~consumers and injured employees concerning workers'~~
27 ~~compensation must be paid from the assessments levied pursuant to~~
28 ~~NRS 232.680.~~

29 ~~—(b)—~~ That portion of the cost related to the operation of the
30 Bureau for Hospital Patients created pursuant to NRS 223.575 must
31 be paid from the assessments levied pursuant to that section.

32 ~~[(e)]~~ (b) That portion of the cost related to providing assistance
33 to consumers in need of information or other facilitation regarding a
34 prescription drug program may, to the extent money is available
35 from this source, be paid from the proceeds of any gifts, grants or
36 donations that are received by the Director for this purpose.

37 ~~[(d)]~~ (c) The remaining cost must be provided by direct
38 legislative appropriation from the State General Fund and be paid
39 out on claims as other claims against the State are paid.

40 **Sec. 13.** NRS 223.560 is hereby amended to read as follows:

41 223.560 The Director shall:

42 1. Respond to written and telephonic inquiries received from
43 consumers ~~[and injured employees]~~ regarding concerns and
44 problems related to health care ; ~~[and workers' compensation;]~~



2. Assist consumers ~~{and injured employees}~~ in understanding their rights and responsibilities under health care plans ; ~~{and policies of industrial insurance;}~~

3. Identify and investigate complaints of consumers ~~{and injured employees}~~ regarding their health care plans ~~{and policies of industrial insurance}~~ and assist those consumers ~~{and injured employees}~~ to resolve their complaints, including, without limitation:

(a) Referring consumers ~~{and injured employees}~~ to the appropriate agency, department or other entity that is responsible for addressing the specific complaint of the consumer ; ~~{or injured employee;}~~ and

(b) Providing counseling and assistance to consumers ~~{and injured employees}~~ concerning health care plans ; ~~{and policies of industrial insurance;}~~

4. Provide information to consumers ~~{and injured employees}~~ concerning health care plans ~~{and policies of industrial insurance}~~ in this State;

5. Establish and maintain a system to collect and maintain information pertaining to the written and telephonic inquiries received by the Office;

6. Take such actions as are necessary to ensure public awareness of the existence and purpose of the services provided by the Director pursuant to this section;

7. In appropriate cases and pursuant to the direction of the Governor, refer a complaint or the results of an investigation to the Attorney General for further action; and

8. Provide information to and applications for prescription drug programs for consumers without insurance coverage for prescription drugs or pharmaceutical services.

Sec. 14. NRS 223.570 is hereby amended to read as follows:

223.570 1. The Director may:

(a) Within the limits of available money, employ:

(1) Such persons in the unclassified service of the State as he determines to be necessary to carry out the provisions of this section and NRS 223.560 and 223.580, including, without limitation, a provider of health care, as that term is defined in NRS 449.581.

(2) Such additional personnel as may be required to carry out the provisions of this section and NRS 223.560 and 223.580, who must be in the classified service of the State.

➔ A person employed pursuant to the authority set forth in this subsection must be qualified by training and experience to perform the duties for which the Director employs him.

(b) To the extent not otherwise prohibited by law, obtain such information from consumers, ~~{injured employees,}~~ health care plans



1 ~~[] and~~ prescription drug programs ~~[and policies of industrial~~
2 ~~insurance]~~ as he determines to be necessary to carry out the
3 provisions of this section and NRS 223.560 and 223.580.

4 (c) Adopt such regulations as he determines to be necessary to
5 carry out the provisions of this section and NRS 223.560 and
6 223.580.

7 (d) Apply for any available grants, accept any gifts, grants or
8 donations and use any such gifts, grants or donations to aid the
9 Office in carrying out its duties pursuant to subsection 8 of
10 NRS 223.560.

11 2. The Director and his employees shall not have any conflict
12 of interest relating to the performance of their duties pursuant to this
13 section and NRS 223.560 and 223.580. For the purposes of this
14 subsection, a conflict of interest shall be deemed to exist if the
15 Director or employee, or any person affiliated with the Director or
16 employee:

17 (a) Has direct involvement in the licensing, certification or
18 accreditation of a health care facility, insurer or provider of health
19 care;

20 (b) Has a direct ownership interest or investment interest in a
21 health care facility, insurer or provider of health care;

22 (c) Is employed by, or participating in, the management of a
23 health care facility, insurer or provider of health care; or

24 (d) Receives or has the right to receive, directly or indirectly,
25 remuneration pursuant to any arrangement for compensation with a
26 health care facility, insurer or provider of health care.

27 **Sec. 15.** NRS 223.580 is hereby amended to read as follows:

28 223.580 On or before February 1 of each year, the Director
29 shall submit a written report to the Governor ~~[]~~ and to the Director
30 of the Legislative Counsel Bureau for transmittal to the appropriate
31 committee or committees of the Legislature. The report must
32 include, without limitation:

33 1. A statement setting forth the number and geographic origin
34 of the written and telephonic inquiries received by the Office and
35 the issues to which those inquiries were related;

36 2. A statement setting forth the type of assistance provided to
37 each consumer ~~[and injured employee]~~ who sought assistance from
38 the Director, including, without limitation, the number of referrals
39 made to the Attorney General pursuant to subsection 7 of
40 NRS 223.560;

41 3. A statement setting forth the disposition of each inquiry and
42 complaint received by the Director; and

43 4. A statement setting forth the number of external reviews
44 conducted by external review organizations pursuant to NRS



695G.241 to 695G.310, inclusive, and the disposition of each of those reviews as reported pursuant to NRS 695G.310.

Sec. 16. 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~~ the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420 ~~[, and that portion of the cost of]~~ and the Office for ~~[Consumer Health]~~ **Injured Employee** Assistance established pursuant to ~~[NRS 223.550 that is related to providing assistance to consumers and injured employees concerning workers' compensation.]~~ **section 7 of this act**, must be paid from assessments payable by each insurer, including each employer who provides accident benefits for injured employees pursuant to NRS 616C.265.

2. The Administrator shall assess each insurer, including each employer who provides accident benefits for injured employees pursuant to NRS 616C.265. To establish the amount of the assessment, the Administrator shall determine the amount of money necessary for each of the expenses set forth in subsections 1 and 4 of this section and subsection 3 of NRS 616A.425 and determine the amount that is payable by the private carriers, the self-insured employers, the associations of self-insured public or private employers and the employers who provide accident benefits pursuant to NRS 616C.265 for each of the programs. For the expenses from which more than one group of insurers receives benefit, the Administrator shall allocate a portion of the amount necessary for that expense to be payable by each of the relevant group of insurers, based upon the expected annual expenditures for claims of each group of insurers. After allocating the amounts payable among each group of insurers for all the expenses from which each group receives benefit, the Administrator shall apply an assessment rate to the:

(a) Private carriers that reflects the relative hazard of the employments covered by the private carriers, results in an equitable distribution of costs among the private carriers and is based upon expected annual premiums to be received;

(b) Self-insured employers that results in an equitable distribution of costs among the self-insured employers and is based upon expected annual expenditures for claims;

(c) Associations of self-insured public or private employers that results in an equitable distribution of costs among the associations of self-insured public or private employers and is based upon expected annual expenditures for claims; and

(d) Employers who provide accident benefits pursuant to NRS 616C.265 that reflect the relative hazard of the employments



1 covered by those employers, results in an equitable distribution of
2 costs among the employers and is based upon expected annual
3 expenditures for claims.

4 ➤ The Administrator shall adopt regulations that establish the
5 formula for the assessment and for the administration of payment,
6 and any penalties that the Administrator determines are necessary to
7 carry out the provisions of this subsection. The formula may use
8 actual expenditures for claims. As used in this subsection, the term
9 “group of insurers” includes the group of employers who provide
10 accident benefits for injured employees pursuant to NRS 616C.265.

11 3. Federal grants may partially defray the costs of the Division.

12 4. Assessments made against insurers by the Division after the
13 adoption of regulations must be used to defray all costs and
14 expenses of administering the program of workers’ compensation,
15 including the payment of:

16 (a) All salaries and other expenses in administering the Division,
17 including the costs of the office and staff of the Administrator.

18 (b) All salaries and other expenses of administering NRS
19 616A.435 to 616A.460, inclusive, the offices of the Hearings
20 Division of the Department of Administration and the programs of
21 self-insurance and review of premium rates by the Commissioner of
22 Insurance.

23 (c) The salary and other expenses of a full-time employee of the
24 Legislative Counsel Bureau whose principal duties are limited to
25 conducting research and reviewing and evaluating data related to
26 industrial insurance.

27 (d) All salaries and other expenses of the Fraud Control Unit for
28 Industrial Insurance established pursuant to NRS 228.420.

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

31 (f) ~~[That portion of the]~~ *All* salaries and other expenses of the
32 Office for ~~[Consumer Health]~~ *Injured Employee* Assistance
33 established pursuant to ~~[NRS 223.550 that is related to providing~~
34 ~~assistance to consumers and injured employees concerning workers’~~
35 ~~compensation.]~~ *section 7 of this act.*

36 5. If the Division refunds any part of an assessment, the
37 Division shall include in that refund any interest earned by the
38 Division from the refunded part of the assessment.

39 **Sec. 17.** NRS 284.140 is hereby amended to read as follows:

40 284.140 The unclassified service of the State consists of the
41 following state officers or employees in the Executive Department
42 of the State Government who receive annual salaries for their
43 services:



1 1. Members of boards and commissions, and heads of
2 departments, agencies and institutions required by law to be
3 appointed.

4 2. Except as otherwise provided in NRS 223.085, 223.570 and
5 223.600, *and section 9 of this act*, all persons required by law to be
6 appointed by the Governor or heads of departments or agencies
7 appointed by the Governor or by boards.

8 3. All employees other than clerical in the Office of the
9 Attorney General and the State Public Defender required by law to
10 be appointed by the Attorney General or the State Public Defender.

11 4. Except as otherwise provided by the Board of Regents of the
12 University of Nevada pursuant to NRS 396.251, officers and
13 members of the teaching staff and the staffs of the Agricultural
14 Extension Department and Experiment Station of the University and
15 Community College System of Nevada, or any other state institution
16 of learning, and student employees of these institutions. Custodial,
17 clerical or maintenance employees of these institutions are in the
18 classified service. The Board of Regents of the University of
19 Nevada shall assist the Director in carrying out the provisions of this
20 chapter applicable to the University and Community College
21 System of Nevada.

22 5. All other officers and employees authorized by law to be
23 employed in the unclassified service.

24 **Sec. 18.** NRS 616A.425 is hereby amended to read as follows:

25 616A.425 1. There is hereby established in the State Treasury
26 the Fund for Workers' Compensation and Safety as an enterprise
27 fund. All money received from assessments levied on insurers and
28 employers by the Administrator pursuant to NRS 232.680 must be
29 deposited in this Fund.

30 2. All assessments, penalties, bonds, securities and all other
31 properties received, collected or acquired by the Division for
32 functions supported in whole or in part from the Fund must be
33 delivered to the custody of the State Treasurer for deposit to the
34 credit of the Fund.

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

38 (a) All salaries and other expenses in administering the Division
39 of Industrial Relations, including the costs of the office and staff of
40 the Administrator.

41 (b) All salaries and other expenses of administering NRS
42 616A.435 to 616A.460, inclusive, the offices of the Hearings
43 Division of the Department of Administration and the programs of
44 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) ~~That portion of the~~ All salaries and other expenses of the Office for ~~Consumer Health~~ *Injured Worker* Assistance established pursuant to ~~NRS 223.550 that is related to providing assistance to consumers and injured employees concerning workers' compensation.~~ *section 7 of this act.*

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.

7. If the Division refunds any part of an assessment, the Division shall include in that refund any interest earned by the Division from the refunded part of the assessment.

Sec. 19. Any balance remaining in the accounts of the Office for Consumer Health Assistance established pursuant to NRS 223.550 which is derived from the assessments levied pursuant to NRS 232.680 is hereby transferred to the accounts of the Office for Injured Employee Assistance established pursuant to section 7 of this act.

Sec. 20. This act becomes effective on July 1, 2005.



