

SENATE BILL NO. 20—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE DIVISION OF INDUSTRIAL RELATIONS)

PREFILED JANUARY 26, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing claims against subsequent injury accounts. (BDR 53-562)

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; revising certain deadlines relating to claims against a subsequent injury account; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law creates certain subsequent injury accounts for the payment of  
2 compensation for a disability that is the result of a work-related subsequent injury.  
3 If the disability from a subsequent injury is substantially greater because of the  
4 combined effects of a preexisting work-related injury and the subsequent injury, the  
5 compensation due the injured employee must be paid from a subsequent injury  
6 account. (NRS 616B.557, 616B.578, 616B.587) Existing law establishes certain  
7 requirements relating to the notification of a possible claim against the account and  
8 to when decisions on claims for reimbursement from an account must be made.  
9 (NRS 616B.557, 616B.560, 616B.578, 616B.581, 616B.587, 616B.590) **Sections**  
10 **1-6** of this bill revise the deadlines for the submission of a claim for reimbursement  
11 from a subsequent injury account and for the notification of a decision on a claim  
12 for reimbursement from a subsequent injury account.

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

1 **Section 1.** NRS 616B.557 is hereby amended to read as  
2 follows:  
3 616B.557 Except as otherwise provided in NRS 616B.560:



1 1. If an employee of a self-insured employer has a permanent  
2 physical impairment from any cause or origin and incurs a  
3 subsequent disability by injury arising out of and in the course of his  
4 employment which entitles him to compensation for disability that  
5 is substantially greater by reason of the combined effects of the  
6 preexisting impairment and the subsequent injury than that which  
7 would have resulted from the subsequent injury alone, the  
8 compensation due must be charged to the Subsequent Injury  
9 Account for Self-Insured Employers in accordance with regulations  
10 adopted by the Board.

11 2. If the subsequent injury of such an employee results in his  
12 death and it is determined that the death would not have occurred  
13 except for the preexisting permanent physical impairment, the  
14 compensation due must be charged to the Subsequent Injury  
15 Account for Self-Insured Employers in accordance with regulations  
16 adopted by the Board.

17 3. As used in this section, "permanent physical impairment"  
18 means any permanent condition, whether congenital or caused by  
19 injury or disease, of such seriousness as to constitute a hindrance or  
20 obstacle to obtaining employment or to obtaining reemployment if  
21 the employee is unemployed. For the purposes of this section, a  
22 condition is not a "permanent physical impairment" unless it would  
23 support a rating of permanent impairment of 6 percent or more of  
24 the whole man if evaluated according to the American Medical  
25 Association's Guides to the Evaluation of Permanent Impairment as  
26 adopted and supplemented by the Division pursuant to  
27 NRS 616C.110.

28 4. To qualify under this section for reimbursement from the  
29 Subsequent Injury Account for Self-Insured Employers, the self-  
30 insured employer must establish by written records that the self-  
31 insured employer had knowledge of the "permanent physical  
32 impairment" at the time the employee was hired or that the  
33 employee was retained in employment after the self-insured  
34 employer acquired such knowledge.

35 5. A self-insured employer ~~{shall notify}~~ *must submit to* the  
36 Board ~~{of any possible claim against}~~ *a claim for reimbursement*  
37 *from* the Subsequent Injury Account for Self-Insured Employers ~~{as~~  
38 ~~soon as practicable, but}~~ not later than 100 weeks after the ~~{injury or~~  
39 ~~death.}~~ *date of the subsequent injury.*

40 6. The Board shall adopt regulations establishing procedures  
41 for submitting claims against the Subsequent Injury Account for  
42 Self-Insured Employers. The Board shall notify the self-insured  
43 employer of ~~{his}~~ *its* decision on such a claim within ~~{90}~~ *120* days  
44 after the claim is received.



7. An appeal of any decision made concerning a claim against the Subsequent Injury Account for Self-Insured Employers must be submitted directly to the district court.

**Sec. 2.** NRS 616B.560 is hereby amended to read as follows:

616B.560 1. A self-insured employer who pays compensation due ~~to~~ an employee who has a permanent physical impairment from any cause or origin and incurs a subsequent disability by injury arising out of and in the course of his employment which entitles him to compensation for disability that is substantially greater by reason of the combined effects of the preexisting impairment and the subsequent injury than that which would have resulted from the subsequent injury alone is entitled to be reimbursed from the Subsequent Injury Account for Self-Insured Employers if:

(a) The employee knowingly made a false representation as to his physical condition at the time he was hired by the self-insured employer;

(b) The self-insured employer relied upon the false representation and this reliance formed a substantial basis of the employment; and

(c) A causal connection existed between the false representation and the subsequent disability.

➔ If the subsequent injury of the employee results in his death and it is determined that the death would not have occurred except for the preexisting permanent physical impairment, any compensation paid is entitled to be reimbursed from the Subsequent Injury Account for Self-Insured Employers.

2. A self-insured employer ~~{shall notify}~~ *must submit to* the Board ~~{of any possible claim against}~~ *a claim for reimbursement from* the Subsequent Injury Account for Self-Insured Employers pursuant to this section ~~{no}~~ *not* later than ~~{60 days}~~ *50 weeks* after the date of the subsequent injury or the date the self-insured employer learns of the employee's false representation, whichever is later ~~{}~~, *except that under no circumstances may such a claim be filed later than 100 weeks after the date of the subsequent injury.*

**Sec. 3.** NRS 616B.578 is hereby amended to read as follows:

616B.578 Except as otherwise provided in NRS 616B.581:

1. If an employee of a member of an association of self-insured public or private employers has a permanent physical impairment from any cause or origin and incurs a subsequent disability by injury arising out of and in the course of his employment which entitles him to compensation for disability that is substantially greater by reason of the combined effects of the preexisting impairment and the subsequent injury than that which would have resulted from the subsequent injury alone, the compensation due must be charged to



1 the Subsequent Injury Account for Associations of Self-Insured  
2 Public or Private Employers in accordance with regulations adopted  
3 by the Board.

4 2. If the subsequent injury of such an employee results in his  
5 death and it is determined that the death would not have occurred  
6 except for the preexisting permanent physical impairment, the  
7 compensation due must be charged to the Subsequent Injury  
8 Account for Associations of Self-Insured Public or Private  
9 Employers in accordance with regulations adopted by the Board.

10 3. As used in this section, "permanent physical impairment"  
11 means any permanent condition, whether congenital or caused by  
12 injury or disease, of such seriousness as to constitute a hindrance or  
13 obstacle to obtaining employment or to obtaining reemployment if  
14 the employee is unemployed. For the purposes of this section, a  
15 condition is not a "permanent physical impairment" unless it would  
16 support a rating of permanent impairment of 6 percent or more of  
17 the whole man if evaluated according to the American Medical  
18 Association's Guides to the Evaluation of Permanent Impairment as  
19 adopted and supplemented by the Division pursuant to  
20 NRS 616C.110.

21 4. To qualify under this section for reimbursement from the  
22 Subsequent Injury Account for Associations of Self-Insured Public  
23 or Private Employers, the association of self-insured public or  
24 private employers must establish by written records that the  
25 employer had knowledge of the "permanent physical impairment" at  
26 the time the employee was hired or that the employee was retained  
27 in employment after the employer acquired such knowledge.

28 5. An association of self-insured public or private employers  
29 ~~{shall notify}~~ *must submit to* the Board ~~{of any possible claim~~  
30 ~~against}~~ *a claim for reimbursement from* the Subsequent Injury  
31 Account for Associations of Self-Insured Public or Private  
32 Employers ~~{as soon as practicable, but}~~ not later than 100 weeks  
33 after the ~~{injury or death.}~~ *date of the subsequent injury.*

34 6. The Board shall adopt regulations establishing procedures  
35 for submitting claims against the Subsequent Injury Account for  
36 Associations of Self-Insured Public or Private Employers. The  
37 Board shall notify the Association of Self-Insured Public or Private  
38 Employers of its decision on such a claim within ~~{90}~~ *120* days after  
39 the claim is received.

40 7. An appeal of any decision made concerning a claim against  
41 the Subsequent Injury Account for Associations of Self-Insured  
42 Public or Private Employers must be submitted directly to the  
43 district court.



**Sec. 4.** NRS 616B.581 is hereby amended to read as follows:

616B.581 1. An association of self-insured public or private employers that pays compensation due ~~to~~ an employee who has a permanent physical impairment from any cause or origin and incurs a subsequent disability by injury arising out of and in the course of his employment which entitles him to compensation for disability that is substantially greater by reason of the combined effects of the preexisting impairment and the subsequent injury than that which would have resulted from the subsequent injury alone is entitled to be reimbursed from the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers if:

(a) The employee knowingly made a false representation as to his physical condition at the time he was hired by the member of the Association of Self-Insured Public or Private Employers;

(b) The employer relied upon the false representation and this reliance formed a substantial basis of the employment; and

(c) A causal connection existed between the false representation and the subsequent disability.

➔ If the subsequent injury of the employee results in his death and it is determined that the death would not have occurred except for the preexisting permanent physical impairment, any compensation paid is entitled to be reimbursed from the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers.

2. An association of self-insured public or private employers ~~{shall notify}~~ *must submit to* the Board ~~{of any possible claim against}~~ *a claim for reimbursement from* the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers pursuant to this section ~~{no}~~ *not* later than ~~{60 days}~~ *50 weeks* after the date of the subsequent injury or the date the employer learns of the employee's false representation, whichever is later ~~{,}~~ *, except that under no circumstances may such a claim be filed later than 100 weeks after the date of the subsequent injury.*

**Sec. 5.** NRS 616B.587 is hereby amended to read as follows:

616B.587 Except as otherwise provided in NRS 616B.590:

1. If an employee of an employer who is insured by a private carrier has a permanent physical impairment from any cause or origin and incurs a subsequent disability by injury arising out of and in the course of his employment which entitles him to compensation for disability that is substantially greater by reason of the combined effects of the preexisting impairment and the subsequent injury than that which would have resulted from the subsequent injury alone, the compensation due must be charged to the Subsequent Injury Account for Private Carriers in accordance with regulations adopted by the Administrator.



2. If the subsequent injury of such an employee results in his death and it is determined that the death would not have occurred except for the preexisting permanent physical impairment, the compensation due must be charged to the Subsequent Injury Account for Private Carriers in accordance with regulations adopted by the Administrator.

3. As used in this section, "permanent physical impairment" means any permanent condition, whether congenital or caused by injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining reemployment if the employee is unemployed. For the purposes of this section, a condition is not a "permanent physical impairment" unless it would support a rating of permanent impairment of 6 percent or more of the whole man if evaluated according to the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted and supplemented by the Division pursuant to NRS 616C.110.

4. To qualify under this section for reimbursement from the Subsequent Injury Account for Private Carriers, the private carrier must establish by written records that the employer had knowledge of the "permanent physical impairment" at the time the employee was hired or that the employee was retained in employment after the employer acquired such knowledge.

5. A private carrier ~~[shall notify]~~ *must submit to* the Administrator ~~[of any possible claim against]~~ *a claim for reimbursement from* the Subsequent Injury Account for Private Carriers ~~[as soon as practicable, but]~~ not later than 100 weeks after the ~~[injury or death.]~~ *date of the subsequent injury.*

6. The Administrator shall adopt regulations establishing procedures for submitting claims against the Subsequent Injury Account for Private Carriers. The Administrator shall notify the private carrier of his decision on such a claim within ~~[90]~~ *120* days after the claim is received.

7. An appeal of any decision made concerning a claim against the Subsequent Injury Account for Private Carriers must be submitted directly to the appeals officer. The appeals officer shall hear such an appeal within 45 days after the appeal is submitted to him.

**Sec. 6.** NRS 616B.590 is hereby amended to read as follows:

616B.590 1. A private carrier who pays compensation due ~~[to]~~ an employee who has a permanent physical impairment from any cause or origin and incurs a subsequent disability by injury arising out of and in the course of his employment which entitles him to compensation for disability that is substantially greater by reason of the combined effects of the preexisting impairment and



1 the subsequent injury than that which would have resulted from the  
2 subsequent injury alone is entitled to be reimbursed from the  
3 Subsequent Injury Account for Private Carriers if:

4 (a) The employee knowingly made a false representation as to  
5 his physical condition at the time he was hired by the employer  
6 insured by a private carrier;

7 (b) The employer relied upon the false representation and this  
8 reliance formed a substantial basis of the employment; and

9 (c) A causal connection existed between the false representation  
10 and the subsequent disability.

11 ➔ If the subsequent injury of the employee results in his death and  
12 it is determined that the death would not have occurred except for  
13 the preexisting permanent physical impairment, any compensation  
14 paid is entitled to be reimbursed from the Subsequent Injury  
15 Account for Private Carriers.

16 2. A private carrier ~~[shall notify]~~ *must submit to* the  
17 Administrator ~~[of any possible claim against]~~ *a claim for*  
18 *reimbursement from* the Subsequent Injury Account for Private  
19 Carriers pursuant to this section ~~[no]~~ *not* later than ~~[60 days]~~ *50*  
20 *weeks* after the date of the subsequent injury or the date the  
21 employer learns of the employee's false representation, whichever is  
22 later ~~[.]~~, *except that under no circumstances may such a claim be*  
23 *filed later than 100 weeks after the date of the subsequent injury.*

