

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 1,**
10 **3 and 5** of this bill revise the deadlines for the notification of a claim for
11 reimbursement from a subsequent injury account and for the notification of a
12 decision on a claim 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:
4 1. If an employee of a self-insured employer has a permanent
5 physical impairment from any cause or origin and incurs a



1 subsequent disability by injury arising out of and in the course of his
2 employment which entitles him to compensation for disability that
3 is substantially greater by reason of the combined effects of the
4 preexisting impairment and the subsequent injury than that which
5 would have resulted from the subsequent injury alone, the
6 compensation due must be charged to the Subsequent Injury
7 Account for Self-Insured Employers in accordance with regulations
8 adopted by the Board.

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

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

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

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

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

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



1 **Sec. 2.** (Deleted by amendment.)

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

3 616B.578 Except as otherwise provided in NRS 616B.581:

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

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

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

32 4. To qualify under this section for reimbursement from the
33 Subsequent Injury Account for Associations of Self-Insured Public
34 or Private Employers, the association of self-insured public or
35 private employers must establish by written records that the
36 employer had knowledge of the "permanent physical impairment" at
37 the time the employee was hired or that the employee was retained
38 in employment after the employer acquired such knowledge.

39 5. An association of self-insured public or private employers
40 ~~{shall notify}~~ **must submit to** the Board ~~{of any possible claim~~
41 ~~against}~~ **a claim for reimbursement from** the Subsequent Injury
42 Account for Associations of Self-Insured Public or Private
43 Employers . ~~{as soon as practicable, but not later than 100 weeks~~
44 ~~after the injury or death.}~~



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6. The Board shall adopt regulations establishing procedures for submitting claims against the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers. The Board shall notify the Association of Self-Insured Public or Private Employers of its 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 Associations of Self-Insured Public or Private Employers must be submitted directly to the district court.

Sec. 4. (Deleted by amendment.)

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



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1 was hired or that the employee was retained in employment after the
2 employer acquired such knowledge.

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

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

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

18 **Sec. 6.** (Deleted by amendment.)

