

SENATE BILL NO. 3—SENATOR TOWNSEND

PREFILED DECEMBER 11, 2006

Referred to Committee on Commerce and Labor

SUMMARY—Revises various provisions relating to the death benefits payable to surviving spouses of certain police officers and firefighters. (BDR 53-244)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 public employees; allowing the surviving spouse of a deceased police officer or firefighter who was killed in the line of duty to continue to receive death benefits under industrial insurance after the surviving spouse remarries; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, if the death of an employee is caused by an injury by
2 accident arising out of and in the course of employment covered by state laws on
3 industrial insurance, the surviving spouse of the deceased employee may receive a
4 compensation known as a death benefit. (NRS 616C.505) The death benefit
5 presently ends upon the surviving spouse's death or remarriage. (NRS 616C.505)
6 This bill allows the surviving spouse of a deceased police officer or firefighter who
7 was killed in the line of duty to continue to receive certain compensation under the
8 death benefit even if the surviving spouse remarries.

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

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

3 ***1. Except as otherwise provided in this section, if the***
4 ***surviving spouse of a deceased police officer or firefighter who***
5 ***was killed in the line of duty is entitled to be paid compensation***
6 ***pursuant to subsection 2 of NRS 616C.505, the surviving spouse:***



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1 (a) Must be paid that compensation until the death of the
2 surviving spouse, whether or not the surviving spouse remarries;
3 and

4 (b) Must not be paid any compensation pursuant to subsection
5 2 of NRS 616C.505 in one lump sum upon remarriage.

6 2. If the surviving spouse of a deceased police officer or
7 firefighter becomes the spouse of another employee who thereafter
8 dies under circumstances that would otherwise entitle the
9 surviving spouse to be paid compensation pursuant to subsection 2
10 of NRS 616C.505 with respect to the other employee, the surviving
11 spouse:

12 (a) Must not be paid compensation pursuant to subsection 2 of
13 NRS 616C.505 with respect to the other employee; and

14 (b) Shall be deemed to have predeceased the other employee
15 for the purposes of chapters 616A to 616D, inclusive, of NRS.

16 3. The provisions of this section:

17 (a) Do not apply to the surviving spouse of a deceased police
18 officer or firefighter if the death of that police officer or firefighter
19 is made compensable only by chapter 617 of NRS; and

20 (b) Do not affect any compensation payable under chapter 617
21 of NRS.

22 4. As used in this section, "killed in the line of duty" means
23 killed as a direct and proximate result of injuries sustained:

24 (a) If the person is on duty:

25 (1) While en route to or from, or otherwise responding to,
26 an emergency, a call for service, a request for assistance or a
27 situation requiring immediate law enforcement or emergency
28 service attention; or

29 (2) From a hostile act;

30 (b) If the person is off duty, is a police officer and is using the
31 tools of his trade, while en route to or from, or otherwise
32 responding to, an emergency, a call for service, a request for
33 assistance or a situation requiring immediate law enforcement
34 attention; or

35 (c) During training that is approved by his employer and is
36 scheduled or identified as training before the training occurs.

37 Sec. 2. NRS 616C.505 is hereby amended to read as follows:

38 616C.505 If an injury by accident arising out of and in the
39 course of employment causes the death of an employee in the
40 employ of an employer, within the provisions of chapters 616A to
41 616D, inclusive, of NRS, the compensation is known as a death
42 benefit **H** and is payable as follows:

43 1. In addition to any other compensation payable pursuant to
44 chapters 616A to 616D, inclusive, of NRS, burial expenses are
45 payable in an amount not to exceed \$5,000. When the remains of the



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1 deceased employee and the person accompanying the remains are to
2 be transported to a mortuary or mortuaries, the charge of
3 transportation must be borne by the insurer.

4 2. ~~[(F)]~~ *Except as otherwise provided in section 1 of this act,*
5 *to* the surviving spouse of the deceased employee, 66 2/3 percent of
6 the average monthly wage is payable until his death or remarriage,
7 with 2 years' compensation payable in one lump sum upon
8 remarriage.

9 3. In the event of the subsequent death of the surviving spouse:

10 (a) Each surviving child of the deceased employee must share
11 equally the compensation theretofore paid to the surviving spouse
12 but not in excess thereof, and it is payable until the youngest child
13 reaches the age of 18 years.

14 (b) Except as otherwise provided in subsection 11, if the
15 children have a guardian, the compensation they are entitled to
16 receive may be paid to the guardian.

17 4. Upon the remarriage of a surviving spouse with children:

18 (a) The surviving spouse must be paid 2 years' compensation in
19 one lump sum and further benefits must cease; and

20 (b) Each child must be paid 15 percent of the average monthly
21 wage, up to a maximum family benefit of 66 2/3 percent of the
22 average monthly wage.

23 *↪ The provisions of this subsection do not apply to the remarriage*
24 *of a surviving spouse of a deceased police officer or firefighter if*
25 *the provisions of section 1 of this act apply to the surviving spouse.*

26 5. If there are any surviving children of the deceased employee
27 under the age of 18 years, but no surviving spouse, then each such
28 child is entitled to his proportionate share of 66 2/3 percent of the
29 average monthly wage for his support.

30 6. Except as otherwise provided in subsection 7, if there is no
31 surviving spouse or child under the age of 18 years, there must be
32 paid:

33 (a) To a parent, if wholly dependent for support upon the
34 deceased employee at the time of the injury causing his death,
35 33 1/3 percent of the average monthly wage.

36 (b) To both parents, if wholly dependent for support upon the
37 deceased employee at the time of the injury causing his death,
38 66 2/3 percent of the average monthly wage.

39 (c) To each brother or sister until he or she reaches the age of 18
40 years, if wholly dependent for support upon the deceased employee
41 at the time of the injury causing his death, his proportionate share of
42 66 2/3 percent of the average monthly wage.

43 7. The aggregate compensation payable pursuant to subsection
44 6 must not exceed 66 2/3 percent of the average monthly wage.



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1 8. In all other cases involving a question of total or partial
2 dependency:

3 (a) The extent of the dependency must be determined in
4 accordance with the facts existing at the time of the injury.

5 (b) If the deceased employee leaves dependents only partially
6 dependent upon his earnings for support at the time of the injury
7 causing his death, the monthly compensation to be paid must be
8 equal to the same proportion of the monthly payments for the
9 benefit of persons totally dependent as the amount contributed by
10 the deceased employee to the partial dependents bears to the average
11 monthly wage of the deceased employee at the time of the injury
12 resulting in his death.

13 (c) The duration of compensation to partial dependents must be
14 fixed in accordance with the facts shown, but may not exceed
15 compensation for 100 months.

16 9. Compensation payable to a surviving spouse is for the use
17 and benefit of the surviving spouse and the dependent children, and
18 the insurer may, from time to time, apportion such compensation
19 between them in such a way as it deems best for the interest of all
20 dependents.

21 10. In the event of the death of any dependent specified in this
22 section before the expiration of the time during which compensation
23 is payable to him, funeral expenses are payable in an amount not to
24 exceed \$5,000.

25 11. If a dependent is entitled to receive a death benefit pursuant
26 to this section and is less than 18 years of age or incompetent, the
27 legal representative of the dependent shall petition for a guardian to
28 be appointed for that dependent pursuant to NRS 159.044. An
29 insurer shall not pay any compensation in excess of \$3,000, other
30 than burial expenses, to the dependent until a guardian is appointed
31 and legally qualified. Upon receipt of a certified letter of
32 guardianship, the insurer shall make all payments required by this
33 section to the guardian of the dependent until the dependent is
34 emancipated, the guardianship terminates or the dependent reaches
35 the age of 18 years, whichever occurs first, unless paragraph (a) of
36 subsection 12 is applicable. The fees and costs related to the
37 guardianship must be paid from the estate of the dependent. A
38 guardianship established pursuant to this subsection must be
39 administered in accordance with chapter 159 of NRS, except that
40 after the first annual review required pursuant to NRS 159.176, a
41 court may elect not to review the guardianship annually. The court
42 shall review the guardianship at least once every 3 years. As used in
43 this subsection, "incompetent" has the meaning ascribed to it in
44 NRS 159.019.



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12. Except as otherwise provided in paragraphs (a) and (b), the entitlement of any child to receive his proportionate share of compensation pursuant to this section ceases when he dies, marries or reaches the age of 18 years. A child is entitled to continue to receive compensation pursuant to this section if he is:

(a) Over 18 years of age and incapable of supporting himself, until such time as he becomes capable of supporting himself; or

(b) Over 18 years of age and enrolled as a full-time student in an accredited vocational or educational institution, until he reaches the age of 22 years.

13. As used in this section, “surviving spouse” means a surviving husband or wife who was married to the employee at the time of the employee’s death.

Sec. 3. The amendatory provisions of sections 1 and 2 of this act do not apply to a surviving spouse of a deceased police officer or firefighter if the surviving spouse is remarried before October 1, 2007.

