

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 certain deceased police officers and firefighters 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 died while actively employed as a police officer or firefighter to continue to receive
8 certain compensation under the death benefit even if the surviving spouse
9 remarries. This bill also allows the surviving spouse of certain retired police
10 officers or firefighters to receive this benefit.

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 *died while actively employed as a police officer or firefighter is*
6 *entitled to be paid compensation pursuant to subsection 2 of NRS*



1 616C.505 or NRS 617.453, 617.455, 617.457, 617.485 or 617.487,
2 the surviving spouse:

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

6 (b) Must not be paid any compensation pursuant to subsection
7 2 of NRS 616C.505 or NRS 617.453, 617.455, 617.457, 617.485 or
8 617.487 in one lump sum upon remarriage.

9 2. A surviving spouse of a deceased police officer or
10 firefighter who was retired from employment as a police officer or
11 firefighter at the time of death is entitled to receive compensation
12 to the same extent and in the same manner as a surviving spouse
13 specified in subsection 1 if:

14 (a) The police officer or firefighter retired because of the
15 injury or occupational disease for which compensation is paid to
16 the surviving spouse pursuant to this section; and

17 (b) The death of the police officer or firefighter was the direct
18 and proximate result of the injury or occupational disease.

19 3. If the surviving spouse of a deceased police officer or
20 firefighter specified in subsection 1 or 2 becomes the spouse of
21 another employee or retiree who thereafter dies under
22 circumstances that would otherwise entitle the surviving spouse to
23 be paid compensation pursuant to subsection 2 of NRS 616C.505
24 or NRS 617.453, 617.455, 617.457, 617.485 or 617.487 with
25 respect to the other employee, the surviving spouse:

26 (a) Must not be paid compensation pursuant to subsection 2 of
27 NRS 616C.505 or NRS 617.453, 617.455, 617.457, 617.485 or
28 617.487 with respect to the other employee; and

29 (b) Shall be deemed to have predeceased the other employee
30 for the purposes of chapters 616A to 616D, inclusive, and 617 of
31 NRS.

32 4. Except as otherwise provided in subsections 1 and 2, the
33 provisions of this section do not affect any compensation payable
34 under chapter 617 of NRS.

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

36 616C.505 If an injury by accident arising out of and in the
37 course of employment causes the death of an employee in the
38 employ of an employer, within the provisions of chapters 616A to
39 616D, inclusive, of NRS, the compensation is known as a death
40 benefit **H** and is payable as follows:

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



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1 be transported to a mortuary or mortuaries, the charge of
2 transportation must be borne by the insurer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 8. In all other cases involving a question of total or partial
45 dependency:



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

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

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

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

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

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

43 12. Except as otherwise provided in paragraphs (a) and (b), the
44 entitlement of any child to receive his proportionate share of
45 compensation pursuant to this section ceases when he dies, marries



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1 or reaches the age of 18 years. A child is entitled to continue to
2 receive compensation pursuant to this section if he is:

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

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

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

11 **Sec. 3.** The amendatory provisions of sections 1 and 2 of this
12 act do not apply to a surviving spouse of a deceased police officer or
13 firefighter if the surviving spouse is remarried before October 1,
14 2007.

