

Amendment No. 25

Senate Amendment to Senate Bill No. 20 (BDR 53-562)

Proposed by: Senate Committee on Commerce and Labor**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

WLK



Date: 4/4/2007

S.B. No. 20—Revises provisions governing claims against subsequent injury accounts. (BDR 53-562)



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.

~

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:

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

Section 1. NRS 616B.557 is hereby amended to read as follows:

616B.557 Except as otherwise provided in NRS 616B.560:

1. If an employee of a self-insured employer 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

1 be charged to the Subsequent Injury Account for Self-Insured Employers in
2 accordance with regulations adopted by the Board.

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

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

17 4. To qualify under this section for reimbursement from the Subsequent
18 Injury Account for Self-Insured Employers, the self-insured employer must
19 establish by written records that the self-insured employer had knowledge of the
20 "permanent physical impairment" at the time the employee was hired or that the
21 employee was retained in employment after the self-insured employer acquired
22 such knowledge.

23 5. A self-insured employer ~~[shall notify]~~ **must submit to** the Board ~~[of any~~
24 ~~possible claim against]~~ **a claim for reimbursement from** the Subsequent Injury
25 Account for Self-Insured Employers, ~~[as soon as practicable, but]~~ **as soon as practicable, but** ~~[not later than~~
26 ~~100 weeks after the]~~ ~~[injury or death.]~~ ~~[date of the subsequent injury.]~~

27 6. The Board shall adopt regulations establishing procedures for submitting
28 claims against the Subsequent Injury Account for Self-Insured Employers. The
29 Board shall notify the self-insured employer of ~~this~~ **its** decision on such a claim
30 within ~~90~~ **120** days after the claim is received.

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

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

35 ~~616B.560 1. A self-insured employer who pays compensation due [to] an~~
36 ~~employee who has a permanent physical impairment from any cause or origin and~~
37 ~~incurs a subsequent disability by injury arising out of and in the course of his~~
38 ~~employment which entitles him to compensation for disability that is substantially~~
39 ~~greater by reason of the combined effects of the preexisting impairment and the~~
40 ~~subsequent injury than that which would have resulted from the subsequent injury~~
41 ~~alone is entitled to be reimbursed from the Subsequent Injury Account for Self-~~
42 ~~Insured Employers if:~~

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

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

47 ~~(c) A causal connection existed between the false representation and the~~
48 ~~subsequent disability;~~

49 ~~→ If the subsequent injury of the employee results in his death and it is determined~~
50 ~~that the death would not have occurred except for the preexisting permanent~~
51 ~~physical impairment, any compensation paid is entitled to be reimbursed from the~~
52 ~~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.] (Deleted by amendment.)~~

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

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 Associations of Self-Insured Public or Private Employers in accordance with regulations adopted by the Board.

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 Associations of Self-Insured Public or Private Employers, the association of self-insured public or private employers 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. 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 ~~[as soon as practicable, but] [not later than 100 weeks after the] [injury or death.] [date of the subsequent injury.]~~

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.

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

2 ~~616B.581 1. An association of self-insured public or private employers that~~
3 ~~pays compensation due [to] an employee who has a permanent physical impairment~~
4 ~~from any cause or origin and incurs a subsequent disability by injury arising out of~~
5 ~~and in the course of his employment which entitles him to compensation for~~
6 ~~disability that is substantially greater by reason of the combined effects of the~~
7 ~~preexisting impairment and the subsequent injury than that which would have~~
8 ~~resulted from the subsequent injury alone is entitled to be reimbursed from the~~
9 ~~Subsequent Injury Account for Associations of Self-Insured Public or Private~~
10 ~~Employers if:~~

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

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

16 ~~(c) A causal connection existed between the false representation and the~~
17 ~~subsequent disability;~~

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

23 ~~2. An association of self-insured public or private employers [shall notify]~~
24 ~~must submit to the Board [of any possible claim against] a claim for~~
25 ~~reimbursement from the Subsequent Injury Account for Associations of Self-~~
26 ~~Insured Public or Private Employers pursuant to this section [no] not later than [60~~
27 ~~days] 50 weeks after the date of the subsequent injury or the date the employer~~
28 ~~learns of the employee's false representation, whichever is later [.] , except that~~
29 ~~under no circumstances may such a claim be filed later than 100 weeks after the~~
30 ~~date of the subsequent injury.] (Deleted by amendment.)~~

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

32 616B.587 Except as otherwise provided in NRS 616B.590:

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

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

46 3. As used in this section, "permanent physical impairment" means any
47 permanent condition, whether congenital or caused by injury or disease, of such
48 seriousness as to constitute a hindrance or obstacle to obtaining employment or to
49 obtaining reemployment if the employee is unemployed. For the purposes of this
50 section, a condition is not a "permanent physical impairment" unless it would
51 support a rating of permanent impairment of 6 percent or more of the whole man if
52 evaluated according to the American Medical Association's Guides to the

1 Evaluation of Permanent Impairment as adopted and supplemented by the Division
2 pursuant to NRS 616C.110.

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

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

12 6. The Administrator shall adopt regulations establishing procedures for
13 submitting claims against the Subsequent Injury Account for Private Carriers. The
14 Administrator shall notify the private carrier of his decision on such a claim within
15 ~~[90]~~ **120** days after the claim is received.

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

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

21 ~~— 616B.590 — 1. A private carrier who pays compensation due [to] an employee~~
22 ~~who has a permanent physical impairment from any cause or origin and incurs a~~
23 ~~subsequent disability by injury arising out of and in the course of his employment~~
24 ~~which entitles him to compensation for disability that is substantially greater by~~
25 ~~reason of the combined effects of the preexisting impairment and the subsequent~~
26 ~~injury than that which would have resulted from the subsequent injury alone is~~
27 ~~entitled to be reimbursed from the Subsequent Injury Account for Private Carriers~~
28 ~~if:~~

29 ~~— (a) The employee knowingly made a false representation as to his physical~~
30 ~~condition at the time he was hired by the employer insured by a private carrier;~~

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

33 ~~— (c) A causal connection existed between the false representation and the~~
34 ~~subsequent disability.~~

35 ~~— If the subsequent injury of the employee results in his death and it is determined~~
36 ~~that the death would not have occurred except for the preexisting permanent~~
37 ~~physical impairment, any compensation paid is entitled to be reimbursed from the~~
38 ~~Subsequent Injury Account for Private Carriers.~~

39 ~~— 2. A private carrier [shall notify] must submit to the Administrator [of any~~
40 ~~possible claim against] a claim for reimbursement from the Subsequent Injury~~
41 ~~Account for Private Carriers pursuant to this section [no] not later than [60 days] 50~~
42 ~~weeks after the date of the subsequent injury or the date the employer learns of the~~
43 ~~employee's false representation, whichever is later [.] , except that under no~~
44 ~~circumstances may such a claim be filed later than 100 weeks after the date of the~~
45 ~~subsequent injury.] (Deleted by amendment.)~~