

Amendment No. 759

Assembly Amendment to Senate Bill No. 194 First Reprint (BDR 53-991)

Proposed by: Assembly 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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

RAE/JRS



Date: 5/15/2015

S.B. No. 194—Revises provisions relating to industrial insurance. (BDR 53-991)



SENATE BILL NO. 194—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

FEBRUARY 25, 2015

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to industrial insurance. (BDR 53-991)

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 the threshold cost of a construction project at which a private company, public entity or utility may establish a consolidated insurance program; requiring the owner or principal contractor of a construction project that is covered by a consolidated insurance program to provide access to the site of the construction project and to documents relating to claims under certain circumstances; revising certain requirements for the issuance of a policy or contract of insurance providing coverage for a consolidated insurance program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a private company, public entity or utility to establish and administer or to require participation in a consolidated insurance program for industrial insurance on a construction project which meets a minimum threshold amount established by the Commissioner of Insurance, which must initially be set at \$150,000,000. (NRS 616B.710) **Section 1** of this bill fixes this threshold cost for a construction project or series of projects at \$50,000,000.

~~Existing law requires a private company, public entity or utility that enters into a contract with a private carrier for the provision of industrial insurance coverage for a consolidated insurance program to file a copy of the contract with the Commissioner. Section 2 of this bill deletes that requirement for a private company.~~

Existing law requires that each consolidated insurance program have a designated administrator of claims. Existing law also prohibits the administrator from serving as administrator for more than one consolidated insurance program. (NRS 616B.727) **Section 3** of this bill removes this prohibition, allowing an administrator of claims to serve as the administrator of claims for the consolidated insurance program of more than one construction project. **Section 3** also requires that any policy or contract of insurance required by a consolidated insurance program be issued by an insurer meeting certain requirements.

Section 2.5 of this bill requires the owner or primary contractor of a construction project to allow the contractor, employer or subcontractor who employs an employee who is engaged in the construction project to have access to the site of the construction project and to any documents relating to claims filed by or on behalf of their injured workers.

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

Section 1. NRS 616B.710 is hereby amended to read as follows:

616B.710 1. A private company, public entity or utility may:

(a) Establish and administer a consolidated insurance program to provide industrial insurance coverage for employees of contractors and subcontractors who are engaged in a construction project *or series of projects* of which the private company, public entity or utility is the owner or principal contractor, if the estimated total cost of the construction project *or series of projects* is equal to or greater than ~~the threshold amount established by the Commissioner pursuant to subsection 3;~~ *\$50,000,000*; and

(b) As a condition precedent to the award of a contract to perform work on the construction project ~~or any project that is part of the series of projects~~, require that contractors and subcontractors who will be engaged in the construction of the project *or series of projects* participate in the consolidated insurance program.

2. If a private company, public entity or utility:

(a) Establishes and administers a consolidated insurance program; and

(b) Pursuant to the contract for the construction of the project ~~or series of projects~~, owes a periodic payment to a contractor or subcontractor whose employees are covered under the consolidated insurance program,
↳ the private company, public entity or utility shall not withhold such a periodic payment on the basis that the contractor or subcontractor has not signed an employer's report of industrial injury or occupational disease as required pursuant to NRS 616C.045.

3. ~~The Commissioner shall establish the threshold amount that the estimated total cost of a construction project must be equal to or greater than before a consolidated insurance program may be established and administered for that project pursuant to this section. The base amount for the threshold must initially be \$150,000,000 and thereafter must be an amount equal to \$150,000,000 as adjusted by the Commissioner on June 30 of each year to reflect the present value of that amount with respect to the construction cost index.~~

~~4.~~ As used in this section:

(a) ~~"Construction cost index" means the construction cost index published by the Engineering News-Record as a measure of inflation.~~

~~(b)~~ "Estimated total cost" means the estimated cost to complete all parts of a construction project *or series of projects*, including, without limitation, the cost of:

- (1) Designing the project *or series of projects*;
- (2) Acquiring the real property on which the project *or series of projects* will be constructed;
- (3) Connecting the project *or series of projects* to utilities;
- (4) Excavating and carrying out underground improvements for the project *or series of projects*; and
- (5) Acquiring equipment and furnishings for the project *or series of projects*.

↳ The term does not include the cost of any fees or charges associated with acquiring the money necessary to complete the project *or series of projects*.

(b) *"Series of projects" means two or more projects of which the same private company, public entity or utility is the owner or principal contractor and which are specifically identifiable at the time it acts as the sponsor under which a consolidated insurance program is established.*

1 **Sec. 2.** ~~NRS 616B.712 is hereby amended to read as follows:~~

2 ~~616B.712 1. A private carrier who is authorized to transact industrial~~
3 ~~insurance in this State may contract with a private company, public entity or utility~~
4 ~~to provide industrial insurance coverage for a consolidated insurance program.~~

5 ~~2. A [private company,] public entity or utility that enters into a contract with~~
6 ~~a private carrier for the provision of industrial insurance coverage for a~~
7 ~~consolidated insurance program shall file a copy of the contract with the~~
8 ~~Commissioner at least 60 days before the date on which the construction project is~~
9 ~~scheduled to begin.~~

10 ~~3. The Commissioner shall, within 60 days after receiving a copy of a~~
11 ~~contract pursuant to subsection 2, review and approve or disapprove the contract. If~~
12 ~~the Commissioner does not disapprove the contract within 60 days after receiving~~
13 ~~it, the contract shall be deemed approved. (Deleted by amendment.)~~

14 **Sec. 2.5.** NRS 616B.725 is hereby amended to read as follows:

15 616B.725 1. A consolidated insurance program that a private company,
16 public entity or utility is authorized to establish and administer pursuant to NRS
17 616B.710 must, in the manner set forth in this section, provide for the safety of an
18 employee of a contractor or subcontractor who is engaged in the construction
19 project when such an employee works at the site of the construction project.

20 2. The owner or principal contractor of the construction project shall develop
21 and carry out a safety program that includes, without limitation:

22 (a) The establishment of minimum standards of safety to be observed during
23 construction of the project;

24 (b) The holding of regular meetings to address and discuss issues related to
25 safety;

26 (c) Training of contractors and subcontractors regarding issues and procedures
27 related to safety;

28 (d) Regular inspections of the site of the construction project to identify
29 potential safety hazards and ensure that minimum standards of safety are being
30 observed;

31 (e) The notification of contractors and subcontractors of special hazards that
32 exist at the site of the construction project, including advice on ways in which the
33 contractors and subcontractors can avoid those hazards; and

34 (f) The prompt investigation of any injuries that take place at the site of the
35 construction project which result in death or serious bodily injury.

36 3. The owner or principal contractor of the construction project shall hire or
37 contract with two persons to serve as the primary and alternate coordinators for
38 safety for the construction project. The primary and alternate coordinators for safety
39 must:

40 (a) Possess credentials in the field of safety that the Administrator determines
41 to be adequate to prepare a person to act as a coordinator for safety for a
42 construction project, including, without limitation, credentials issued by : ~~the;~~

43 (1) ~~The~~ Board of Certified Safety Professionals; or

44 (2) ~~Insurance Institute of America;~~ ~~The Institutes;~~ or

45 (b) Have at least 3 years of experience in overseeing matters of occupational
46 safety and health in the field of construction that the Administrator determines to be
47 adequate to prepare a person to act as a coordinator for safety for a construction
48 project.

49 4. The primary and alternate coordinators for safety for the construction
50 project:

51 (a) Must not serve as coordinators for safety for another construction project
52 that is covered by a different consolidated insurance program;

(b) Shall oversee and enforce the safety program established pursuant to subsection 2, including, without limitation, resolving problems related to the operation of the safety program; and

(c) Shall ensure that the contractors, employers and subcontractors who are engaged in the construction of the project coordinate their efforts regarding issues of occupational safety and health to create and maintain a safe and healthful workplace.

5. The alternate coordinator for safety shall report to the primary coordinator for safety regarding activities that take place at the site of the construction project when the primary coordinator is absent.

6. The owner or principal contractor of the construction project shall ensure that the primary or alternate coordinator for safety for the construction project is physically present at the site of the construction project whenever activity related to construction is taking place at the site.

7. The owner or principal contractor of the construction project shall allow the contractor, employer or subcontractor who employs an employee who is engaged in the construction project to access:

(a) The site of the construction project for the purpose of ensuring the occupational safety and health of the employees of the contractor, employer or subcontractor; and

(b) Any documents relating to claims filed by or on behalf of an employee of the contractor, employer or subcontractor who has been injured on the construction project.

Sec. 3. NRS 616B.727 is hereby amended to read as follows:

616B.727 1. A consolidated insurance program that a private company, public entity or utility is authorized to establish and administer pursuant to NRS 616B.710 must, in the manner set forth in this section, provide for the administration of claims for industrial insurance for an employee of a contractor or subcontractor who is engaged in the construction project when such an employee works at the site of the construction project.

2. The owner or principal contractor of the construction project shall hire or contract with a person to serve as the administrator of claims for industrial insurance for the construction project. ~~{Such a person must not serve as an administrator of claims for industrial insurance for another construction project that is covered by a different consolidated insurance program.}~~

3. Any policy or contract of insurance providing coverage for a consolidated insurance program must be issued by an insurer who is rated A- or better by A.M. Best with a Financial Size Category of Class VII or larger, or the equivalent as determined by the Commissioner.

4. The administrator of claims for industrial insurance for the construction project who is hired or with whom the owner or principal contractor contracts pursuant to subsection 2 shall:

(a) Assist an employee who is covered under the consolidated insurance program or, in the event of the employee's death, one of the dependents of the employee, in filing a written notice of injury or death as required pursuant to NRS 616C.015 or a written notice of an occupational disease as required pursuant to NRS 617.342;

(b) Sign and file on behalf of a contractor or subcontractor whose employees are covered under the consolidated insurance program an employer's report of industrial injury or occupational disease as required pursuant to NRS 616C.045 or 617.354;

(c) Ensure that an employee who is covered under the consolidated insurance program and who has been injured or who has incurred an occupational disease

1 while working on the construction project is directed to a medical facility that will
2 provide treatment to the employee under the program;

3 (d) Handle all issues, to the extent reasonably practicable, relating to claims for
4 industrial insurance at the site of the construction project; and

5 (e) Hire or contract such assistant administrators as may be necessary to carry
6 out the responsibilities of the administrator of claims pursuant to this section.

7 ~~4+~~ 5. The owner or principal contractor of the construction project shall
8 ensure that the administrator of claims for industrial insurance for the construction
9 project or an assistant administrator is physically present at the site of the
10 construction project whenever activity related to construction is taking place at the
11 site.