(Reprinted with amendments adopted on April 22, 2019)
FIRST REPRINT A.B. 370

ASSEMBLY BILL NO. 370–ASSEMBLYMAN DALY

MARCH 20, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to workers' compensation. (BDR 53-6)

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

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to industrial insurance; authorizing the use of money in the Fund for Workers' Compensation and Safety in the State Treasury to make certain payments; revising provisions providing for an annual increase in death benefits; authorizing the reimbursement of insurers for the costs of increases in death benefits under certain circumstances; authorizing assessments against certain employers to defray the costs of certain increases in death benefits and other administrative costs relating thereto; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3.5 of this bill provides for an annual increase in death benefits in the amount of 2.3 percent for widows, widowers, surviving children or surviving dependent parents who are entitled to death benefits under industrial insurance on account of industrial injuries or disablements from occupational diseases, with compensation to be increased on January 1, 2020, and on January 1 of each year thereafter.

Section 3.8 of this bill provides that an insurer who pays an increase in certain death benefits to a widow, widower, surviving child or surviving dependent parent is entitled to be reimbursed annually for the amount of that increase if the insurer provides certain information relating to those death benefits to the Administrator of the Division of Industrial Relations of the Department of Business and Industry.

Existing law sets forth the uses of money and securities in the Fund for Workers' Compensation and Safety. (NRS 616A.425) **Section 1** of this bill provides that, for widows, widowers, surviving children and surviving dependent parents who are entitled to receive death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before July 1, 2019, money in the Fund may also be used to pay: (1) reimbursement to insurers for the cost of the increase in those death benefits; and (2) the salary and other expenses of administering the payment of those increased death benefits.

Section 4 of this bill provides that, for widows, widowers, surviving children and surviving dependent parents who are entitled to receive death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before July 1, 2019, assessments against employers who provide accident benefits for injured employees may be used to defray the costs of: (1) reimbursement to insurers for the cost of the increase in those death benefits; and (2) the salary and other expenses of administering the payment of those increased death benefits.

Sections 5 and 6 of this bill set forth the calculation of the base amount of the annual death benefits of a widow, widower, surviving child or surviving dependent parent who is entitled to receive future increases in those death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before January 1, 1994.

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

Section 1. NRS 616A.425 is hereby amended to read as follows:

616A.425 1. There is hereby established in the State Treasury the Fund for Workers' Compensation and Safety as an enterprise fund. All money received from assessments levied on insurers and employers by the Administrator pursuant to NRS 232.680 must be deposited in this Fund.

2. All assessments, penalties, bonds, securities and all other properties received, collected or acquired by the Division for functions supported in whole or in part from the Fund must be delivered to the custody of the State Treasurer for deposit to the credit of the Fund.

3. All money and securities in the Fund must be used to defray all costs and expenses of administering the program of workers' compensation, including the payment of:

(a) All salaries and other expenses in administering the Division of Industrial Relations, including the costs of the office and staff of the Administrator.

(b) All salaries and other expenses of administering NRS 616A.435 to 616A.460, inclusive, the offices of the Hearings Division of the Department of Administration and the programs of self-insurance and review of premium rates by the Commissioner.

(c) The salary and other expenses of a full-time employee of the Legislative Counsel Bureau whose principal duties are limited to conducting research and reviewing and evaluating data related to industrial insurance.

(d) All salaries and other expenses of the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420.

(e) Claims against uninsured employers arising from compliance with NRS 616C.220 and 617.401.

(f) That portion of the salaries and other expenses of the Office for Consumer Health Assistance of the Department of Health and Human Services established pursuant to NRS 232.458 that is related to providing assistance to consumers and injured employees concerning workers' compensation.

(g) For widows, widowers, surviving children and surviving dependent parents who are entitled to death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before July 1, 2019:

(1) Reimbursement to insurers for the cost of the increase in the death benefits pursuant to subsection 1 of section 3.5 of this act; and

(2) The salary and other expenses of administering the payment of the increase in death benefits pursuant to subsection 1 of section 3.5 of this act.

➥ The provisions of this paragraph shall cease to be of any force or effect when no widow, widower, surviving child or surviving dependent parent is entitled to receive death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before July 1, 2019.

4. The State Treasurer may disburse money from the Fund only upon written order of the Controller.

5. The State Treasurer shall invest money of the Fund in the same manner and in the same securities in which the State Treasurer is authorized to invest state general funds which are in his or her custody. Income realized from the investment of the assets of the Fund must be credited to the Fund.

6. The Commissioner shall assign an actuary to review the establishment of assessment rates. The rates must be filed with the Commissioner 30 days before their effective date. Any insurer or employer who wishes to appeal the rate so filed must do so pursuant to NRS 679B.310.

7. If the Division refunds any part of an assessment, the Division shall include in that refund any interest earned by the Division from the refunded part of the assessment.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 3.2. Chapter 616C of NRS is hereby amended by adding thereto the provisions set forth as sections 3.5 and 3.8 of this act.

Sec. 3.5. ***1. Any widow, widower, surviving child or surviving dependent parent who is receiving death benefits pursuant to chapters 616A to 617, inclusive, of NRS on account of an industrial injury or a disablement from an occupational disease***

is entitled to an annual increase in those death benefits in the amount of 2.3 percent. The benefits must be increased pursuant to this section:

(a) On January 1, 2020; and

(b) On January 1 of each year thereafter.

2. Any increase in death benefits provided pursuant to this section is in addition to any increase in death benefits to which a widow, widower, surviving child or surviving dependent parent is otherwise entitled by law.

3. Any increase in death benefits pursuant to this section on account of an industrial injury or a disablement from an occupational disease that occurred on or after July 1, 2019, must be paid by insurers, including, without limitation, employers who provide accident benefits for injured employees pursuant to NRS 616C.265, without reimbursement from the Fund for Workers' Compensation and Safety pursuant to section 3.8 of this act.

Sec. 3.8. ***1. An insurer, including, without limitation, an employer who provides accident benefits for injured employees pursuant to NRS 616C.265, who pays an increase in death benefits to a widow, widower, surviving child or surviving dependent parent pursuant to section 3.5 of this act is entitled to be reimbursed for the amount of that increase from the Fund for Workers' Compensation and Safety if the insurer provides to the Administrator all of the following:***

(a) The name of the widow, widower, surviving child or surviving dependent parent to whom the insurer paid the increase in death benefits.

(b) The claim number under which death benefits were paid to the widow, widower, surviving child or surviving dependent parent.

(c) The date of the industrial injury or disablement from an occupational disease which resulted in the eligibility of the widow, widower, surviving child or surviving dependent parent for death benefits.

(d) The date of the death of the injured employee who is the:

(1) Spouse of the widow or widower;

(2) Parent of the surviving child; or

(3) Child of the surviving dependent parent.

(e) The amount of the death benefit to which the widow, widower, surviving child or surviving dependent parent was entitled as of December 31, 2019.

(f) Proof of the insurer's payment of the increase in death benefits.

(g) The amount of reimbursement requested by the insurer.

2. An insurer must provide the Administrator with the information required pursuant to subsection 1 not later than March 31 of each year to be eligible for reimbursement pursuant to this section for payments of increases in death benefits which were made in the immediately preceding calendar year.

3. An insurer may not be reimbursed pursuant to this section unless the insurer's request for reimbursement is approved by the Administrator.

4. An insurer may elect to apply any approved reimbursement made pursuant to this section towards any current or future assessment levied by the Administrator pursuant to NRS 232.680.

Sec. 4. NRS 232.680 is hereby amended to read as follows:

232.680 1. The cost of carrying out the provisions of NRS 232.550 to 232.700, inclusive, and of supporting the Division, a full-time employee of the Legislative Counsel Bureau and the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420, and that portion of the cost of the Office for Consumer Health Assistance established pursuant to NRS 232.458 that is related to providing assistance to consumers and injured employees concerning workers' compensation, must be paid from assessments payable by each insurer, including each employer who provides accident benefits for injured employees pursuant to NRS 616C.265.

2. The Administrator shall assess each insurer, including each employer who provides accident benefits for injured employees pursuant to NRS 616C.265. To establish the amount of the assessment, the Administrator shall determine the amount of money necessary for each of the expenses set forth in subsections 1 and 4 of this section and subsection 3 of NRS 616A.425 and determine the amount that is payable by the private carriers, the self-insured employers, the associations of self-insured public or private employers and the employers who provide accident benefits pursuant to NRS 616C.265 for each of the programs. For the expenses from which more than one group of insurers receives benefit, the Administrator shall allocate a portion of the amount necessary for that expense to be payable by each of the relevant group of insurers, based upon the expected annual expenditures for claims of each group of insurers. After allocating the amounts payable among each group of insurers for all the expenses from which each group receives benefit, the Administrator shall apply an assessment rate to the:

(a) Private carriers that reflects the relative hazard of the employments covered by the private carriers, results in an equitable distribution of costs among the private carriers and is based upon expected annual premiums to be received;

(b) Self-insured employers that results in an equitable distribution of costs among the self-insured employers and is based upon expected annual expenditures for claims;

(c) Associations of self-insured public or private employers that results in an equitable distribution of costs among the associations of self-insured public or private employers and is based upon expected annual expenditures for claims; and

(d) Employers who provide accident benefits pursuant to NRS 616C.265 that reflect the relative hazard of the employments covered by those employers, results in an equitable distribution of costs among the employers and is based upon expected annual expenditures for claims.

➥ The Administrator shall adopt regulations that establish the formula for the assessment and for the administration of payment, and any penalties that the Administrator determines are necessary to carry out the provisions of this subsection. The formula may use actual expenditures for claims. As used in this subsection, the term "group of insurers" includes the group of employers who provide accident benefits for injured employees pursuant to NRS 616C.265.

3. Federal grants may partially defray the costs of the Division.

4. Assessments made against insurers by the Division after the adoption of regulations must be used to defray all costs and expenses of administering the program of workers' compensation, including the payment of:

(a) All salaries and other expenses in administering the Division, including the costs of the office and staff of the Administrator.

(b) All salaries and other expenses of administering NRS 616A.435 to 616A.460, inclusive, the offices of the Hearings Division of the Department of Administration and the programs of self-insurance and review of premium rates by the Commissioner of Insurance.

(c) The salary and other expenses of a full-time employee of the Legislative Counsel Bureau whose principal duties are limited to conducting research and reviewing and evaluating data related to industrial insurance.

(d) All salaries and other expenses of the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420.

(e) Claims against uninsured employers arising from compliance with NRS 616C.220 and 617.401.

(f) That portion of the salaries and other expenses of the Office for Consumer Health Assistance established pursuant to NRS 232.458 that is related to providing assistance to consumers and injured employees concerning workers' compensation.

~~[5. If the Division refunds any part of an assessment, the Division shall include in that refund any interest earned by the Division from the refunded part of the assessment.]~~

(g) For widows, widowers, surviving children and surviving dependent parents who are entitled to death benefits on account of an industrial injury or a disablement from an occupational disease pursuant to section 3.5 of this act that occurred before July 1, 2019:

(1) Reimbursement to insurers for the cost of the increase in the death benefits pursuant to subsection 1 of section 3.5 of this act; and

(2) The salary and other expenses of administering the payment of the increase in death benefits pursuant to subsection 1 of section 3.5 of this act.

➥ The provisions of this paragraph shall cease to be of any force or effect when no widow, widower, surviving child or surviving dependent parent is entitled to receive death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before July 1, 2019.

Sec. 5. For the purposes of subsection 1 of section 3.5 of this act, the amount of death benefits which is to be increased by 2.3 percent on January 1, 2020, for a widow, widower, surviving child or surviving dependent parent who is entitled to receive death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before January 1, 1989, shall be deemed to be the amount of annual death benefits the widow, widower, surviving child or surviving dependent parent was entitled to receive before the effective date of this act, compounded 3 times at 2.3 percent. The intent of this section is to put the widow, widower, surviving child or surviving dependent parent in the same position on January 1, 2020, with regard to the amount of death benefits to be increased by 2.3 percent pursuant to paragraph (a) of subsection 1 of section 3.5 of this act, as if the widow, widower, surviving child or surviving dependent parent had been receiving an annual increase of 2.3 percent of his or her annual death benefits on January 1 of each year beginning on January 1, 2017.

Sec. 6. For the purposes of subsection 1 of section 3.5 of this act, the amount of death benefits which is to be increased by 2.3 percent on January 1, 2020, for a widow, widower, surviving child or surviving dependent parent who is entitled to receive death benefits on account of an industrial injury or a disablement from an occupational disease that occurred on or after January 1, 1989, and before January 1, 1994, shall be deemed to be the amount of annual death benefits the widow, widower, surviving child or surviving dependent parent was entitled to receive before the effective date of this act, compounded 2 times at 2.3 percent. The intent of this section is to put the widow, widower, surviving child or surviving dependent parent in the same position on January 1, 2020, with regard to the amount of death benefits to be increased by 2.3 percent pursuant to paragraph (a) of subsection 1 of section 3.5 of this act, as if the widow, widower, surviving child or surviving dependent parent had been receiving an annual increase of 2.3 percent of his or her annual death benefits on January 1 of each year beginning on January 1, 2018.

Sec. 7. (Deleted by amendment.)

Sec. 8. This act becomes effective on July 1, 2019.

㉚