

SENATE BILL NO. 55—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE DIVISION OF INDUSTRIAL RELATIONS
OF THE DEPARTMENT OF BUSINESS AND INDUSTRY)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing the licensing and regulation of employee leasing companies. (BDR 53-317)

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 employee leasing companies; transferring the duties for the licensing and certain regulation of employee leasing companies from the Administrator of the Division of Industrial Relations of the Department of Business and Industry to the Commissioner of Insurance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from operating an employee leasing company in this State without obtaining a certificate of registration issued by the Administrator of the Division. (NRS 616B.673) **Section 2** of this bill transfers the duty to issue a certificate of registration from the Administrator to the Commissioner of Insurance.

Existing law requires an applicant for the issuance or renewal of a certificate of registration to operate an employee leasing company to submit to the Administrator a written application upon a form provided by the Administrator. (NRS 616B.676) **Section 3** of this bill requires an applicant instead to submit an application to the Commissioner upon a form provided by the Commissioner.

Existing law: (1) requires each application for a certificate of registration to operate an employee leasing company to include any information the Administrator requires; (2) requires an applicant to submit to the Administrator any change in the required application information; and (3) authorizes the Administrator to revoke the certificate of registration of an employee leasing company that fails to comply with certain requirements in existing law. (NRS 616B.679) **Section 4** of this bill: (1) requires each application for a certificate of registration to operate an employee leasing company to include any information the Commissioner requires; (2) requires an applicant to submit to the Commissioner any change in the required



19 application information; and (3) transfers the authority to revoke the certificate of
20 registration of an employee leasing company that fails to comply with the
21 requirements in existing law to the Commissioner.

22 **Section 5** of this bill transfers the authority to adopt regulations setting forth
23 qualifications for an assurance organization to act on behalf of an employee leasing
24 company in complying with certain requirements in existing law from the
25 Administrator to the Commissioner. (NRS 616B.693)

26 **Section 6** of this bill transfers the authority to adopt regulations governing
27 employee leasing companies from the Administrator to the Commissioner.
28 (NRS 616B.694)

29 Existing law requires the Division of Industrial Relations of the Department of
30 Business and Industry to determine whether an employee leasing company is
31 entitled to a certificate of registration. (NRS 616A.465) **Section 1** of this bill
32 eliminates that requirement. However, the Division retains its authority in existing
33 law relating to the enforcement of the obligation of employee leasing companies to
34 provide workers' compensation coverage for the employees they lease.
35 (NRS 616B.692)

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

1 **Section 1.** NRS 616A.465 is hereby amended to read as
2 follows:

3 616A.465 1. Except as otherwise provided in this section, the
4 Division shall:

5 (a) Regulate insurers pursuant to chapters 616A to 617,
6 inclusive, of NRS;

7 (b) Investigate insurers regarding compliance with statutes and
8 the Division's regulations; *and*

9 (c) ~~[Determine whether an employee leasing company is entitled~~
10 ~~to a certificate of registration pursuant to NRS 616B.673; and~~

11 ~~—(d)]~~ Regulate employee leasing companies pursuant to the
12 provisions of NRS ~~[616B.670 to 616B.697, inclusive.]~~ **616B.692.**

13 2. The Commissioner is responsible for reviewing rates,
14 investigating the solvency of insurers, authorizing private carriers
15 pursuant to chapter 680A of NRS and certifying:

16 (a) Self-insured employers pursuant to NRS 616B.300 to
17 616B.330, inclusive, and 616B.336;

18 (b) Associations of self-insured public or private employers
19 pursuant to NRS 616B.350 to 616B.446, inclusive; and

20 (c) Third-party administrators pursuant to chapter 683A of NRS.

21 3. The Department of Administration is responsible for
22 contested claims relating to industrial insurance pursuant to NRS
23 616C.310 to 616C.385, inclusive. The Administrator is responsible
24 for administrative appeals pursuant to NRS 616B.215.



4. The Nevada Attorney for Injured Workers is responsible for legal representation of claimants pursuant to NRS 616A.435 to 616A.460, inclusive, and 616D.120.

5. The Division is responsible for the investigation of complaints. If a complaint is filed with the Division, the Administrator shall cause to be conducted an investigation which includes a review of relevant records and interviews of affected persons. If the Administrator determines that a violation may have occurred, the Administrator shall proceed in accordance with the provisions of NRS 616D.120 and 616D.130.

6. As used in this section, "employee leasing company" has the meaning ascribed to it in NRS 616B.670.

Sec. 2. NRS 616B.673 is hereby amended to read as follows:

616B.673 1. A person shall not operate an employee leasing company in this State unless the person has complied with the provisions of NRS 616B.670 to 616B.697, inclusive. The ~~Administrator~~ **Commissioner** shall issue a certificate of registration to each applicant who complies with the provisions of NRS 616B.670 to 616B.697, inclusive.

2. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

3. Each certificate of registration issued by the ~~Administrator~~ **Commissioner** pursuant to NRS 616B.670 to 616B.697, inclusive, expires 1 year after it is issued unless renewed before that date.

Sec. 3. NRS 616B.676 is hereby amended to read as follows:

616B.676 An applicant for the issuance or renewal of a certificate of registration must submit to the ~~Administrator~~ **Commissioner** a written application upon a form provided by the ~~Administrator~~ **Commissioner**.

Sec. 4. NRS 616B.679 is hereby amended to read as follows:

616B.679 1. Each application must include:

(a) The applicant's name and title of his or her position with the employee leasing company.

(b) The applicant's age, place of birth and social security number.

(c) The applicant's address.

(d) The business address of the employee leasing company.

(e) The business address of the registered agent of the employee leasing company, if the applicant is not the registered agent.

(f) If the applicant is a:

(1) Partnership, the name of the partnership and the name, address, age, social security number and title of each partner.

(2) Corporation, the name of the corporation and the name, address, age, social security number and title of each officer of the corporation.



(g) Proof of:

(1) Compliance with the provisions of chapter 76 of NRS.

(2) The payment of any premiums for industrial insurance required by chapters 616A to 617, inclusive, of NRS.

(3) The payment of contributions or payments in lieu of contributions required by chapter 612 of NRS.

(4) Insurance coverage for any benefit plan from an insurer authorized pursuant to title 57 of NRS that is offered by the employee leasing company to its employees.

(h) A financial statement of the applicant setting forth the financial condition of the employee leasing company. Except as otherwise provided in subsection 5, the financial statement must include, without limitation:

(1) For an application for issuance of a certificate of registration, the most recent audited financial statement that includes the applicant, which must have been completed not more than 13 months before the date of application; or

(2) For an application for renewal of a certificate of registration, an audited financial statement that includes the applicant and which must have been completed not more than 180 days after the end of the applicant's fiscal year.

(i) A registration or renewal fee of \$500.

(j) Any other information the ~~Administrator~~ *Commissioner* requires.

2. Each application must be notarized and signed under penalty of perjury:

(a) If the applicant is a sole proprietorship, by the sole proprietor.

(b) If the applicant is a partnership, by each partner.

(c) If the applicant is a corporation, by each officer of the corporation.

3. An applicant shall submit to the ~~Administrator~~ *Commissioner* any change in the information required by this section within 30 days after the change occurs. The ~~Administrator~~ *Commissioner* may revoke the certificate of registration of an employee leasing company which fails to comply with the provisions of NRS 616B.670 to 616B.697, inclusive.

4. If an insurer cancels an employee leasing company's policy, the insurer shall immediately notify the ~~Administrator~~ *Commissioner* in writing. The notice must comply with the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served personally on or sent by first-class mail or electronic transmission to the ~~Administrator~~ *Commissioner*.

5. A financial statement submitted with an application pursuant to this section must be prepared in accordance with generally



accepted accounting principles, must be audited by an independent certified public accountant certified or licensed to practice in the jurisdiction in which the accountant is located and must be without qualification as to the status of the employee leasing company as a going concern. Except as otherwise provided in subsection 6, an employee leasing company that has not had sufficient operating history to have an audited financial statement based upon at least 12 months of operating history must present financial statements reviewed by a certified public accountant covering its entire operating history. The financial statements must be prepared not more than 13 months before the submission of an application and must:

(a) Demonstrate, in the statement, positive working capital, as defined by generally accepted accounting principles, for the period covered by the financial statements; or

(b) Be accompanied by a bond, irrevocable letter of credit or securities with a minimum market value equaling the maximum deficiency in working capital for the period covered by the financial statements plus \$100,000. The bond, irrevocable letter of credit or securities must be held by a depository institution designated by the ~~Administrator~~ Commissioner to secure payment by the applicant of all taxes, wages, benefits or other entitlements payable by the applicant.

6. An applicant required to submit a financial statement pursuant to this section may submit a consolidated or combined audited financial statement that includes, but is not exclusive to, the applicant.

Sec. 5. NRS 616B.693 is hereby amended to read as follows:

616B.693 1. The ~~Administrator~~ Commissioner may adopt regulations authorizing and setting forth qualifications for an assurance organization selected by an employee leasing company to act on behalf of the employee leasing company in complying with the requirements of NRS 616B.670 to 616B.697, inclusive, and any regulations adopted pursuant thereto, including, without limitation, any requirements regarding obtaining or renewing a certificate of registration. Such an assurance organization must be independent of the employee leasing company and approved by the ~~Administrator~~ Commissioner.

2. Nothing in this section or any regulations adopted pursuant thereto:

(a) Limits or otherwise affects the authority of the ~~Administrator~~ Commissioner to issue or revoke a certificate of registration of an employee leasing company subject to the appeals process;



(b) Limits or otherwise affects the authority of the ~~Administrator~~ Commissioner to investigate compliance with or enforce any provision of NRS 616B.670 to 616B.697, inclusive, and any regulations adopted pursuant thereto; or

(c) Requires an employee leasing company to authorize an assurance organization to act on its behalf.

3. As used in this section, “assurance organization” means a person who meets the qualifications set forth by the ~~Administrator~~ Commissioner pursuant to regulations adopted pursuant to subsection 1.

Sec. 6. NRS 616B.694 is hereby amended to read as follows:

616B.694 The ~~Administrator~~ Commissioner may adopt regulations to carry out the provisions of NRS 616B.670 to 616B.697, inclusive.

Sec. 7. 1. Any administrative regulations adopted by an officer or an agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remain in force until amended by the officer or agency to which the responsibility for the adoption of the regulations has been transferred.

2. Any contracts or other agreements entered into by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency are binding upon the officer or agency to which the responsibility for the administration of the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer or agency to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.

3. Any action taken by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remains in effect as if taken by the officer or agency to which the responsibility for the enforcement of such actions has been transferred.

Sec. 8. The Legislative Counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

2. In preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are



1 transferred pursuant to the provisions of this act to refer to the
2 appropriate officer, agency or other entity.

3 **Sec. 9.** This act becomes effective upon passage and approval.

