

ASSEMBLY BILL NO. 141—ASSEMBLYMAN O’NEILL

FEBRUARY 9, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing industrial insurance.
(BDR 53-72)

FISCAL NOTE: Effect on Local Government: No.
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 industrial insurance; revising provisions governing the administration of a plan of insurance by certain associations of self-insured employers; eliminating assessments relating to a subsequent injury account; prohibiting certain claims against a subsequent injury account; repealing certain provisions relating to third-party administrators; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law governs industrial insurers, in general, in this State that provide benefits to employees who are injured in the course of employment. (Chapter 616B of NRS) Existing law authorizes certain groups of public or private employers to act as an association of self-insured employers if the group and each employer within the group meet certain requirements. (NRS 616B.350-616B.446) Existing law requires a board of trustees to operate any such association and to employ: (1) an administrator of the association to carry out the policies of the board; and (2) a third-party administrator to administer the plan of insurance of the association. (NRS 616B.365) Existing law prohibits: (1) the administrator of an association from performing any of the duties assigned to the third-party administrator; and (2) the administrator of the association and the third-party administrator from having a direct or indirect financial interest in each other. (NRS 616B.365, 616B.371) **Section 2** of this bill: (1) removes the requirement for such an association to employ a third-party administrator to administer the plan of insurance of the association; and (2) authorizes the administrator of the association to administer such a plan. **Section 16** of this bill repeals the prohibition on association administrators and third-party administrators having a financial interest in each other. **Sections 1, 3 and 4** of this bill make conforming changes to reflect the changes made in **sections 2 and 16**.



Existing law establishes the Fund for Workers' Compensation and Safety within the State Treasury. (NRS 616A.425) Within the Fund, existing law creates a Subsequent Injury Account for each of the following insurers: (1) self-insured employers; (2) associations of self-insured public or private employers; and (3) private carriers. (NRS 616B.554, 616B.575, 616B.584) Existing law requires that money in the Accounts be used to provide compensation or reimbursement in situations where an employee who has a preexisting permanent physical impairment incurs a subsequent disability by injury arising out of and in the course of employment which entitles the employee to compensation for the combined disability that is substantially greater than that which would have resulted from the subsequent injury alone. (NRS 616B.545-616B.590) Existing law requires a board for administration or the Administrator of the Division of Industrial Relations of the Department of Business and Industry to administer each Account. (NRS 616B.548, 616B.554, 616B.569, 616B.575, 616B.584) Existing law and regulations require self-insured employers, associations of self-insured public or private employers and private carriers to pay an annual assessment which funds the Accounts. (NRS 616B.554, 616B.575, 616B.584; chapter 616B of NAC)

Sections 5, 8 and 11 of this bill remove the authority to adopt regulations which impose such assessments from each board for administration and the Administrator of the Division, and **section 14** of this bill voids the provisions of existing regulations relating to such assessments, thus eliminating the requirement for assessments to be paid for each Account. **Sections 6, 7, 9, 10, 12 and 13** of this bill require an employee to have incurred a subsequent injury and disability on or before September 30, 2023, in order for the compensation or reimbursement provisions to apply, thus prohibiting any claims against the Accounts due to a subsequent injury and disability which is incurred on or after October 1, 2023.

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

Section 1. NRS 616B.350 is hereby amended to read as follows:

616B.350 1. A group of five or more employers may not act as an association of self-insured public employers unless the group:

(a) Is composed of employers engaged in the same or similar classifications of employment; and

(b) Has been issued a certificate to act as such an association by the Commissioner.

2. A group of five or more employers may not act as an association of self-insured private employers unless each member of the group:

(a) Is a member or associate member of a bona fide trade association, as determined by the Commissioner, which:

(1) Is incorporated in this State; and

(2) Has been in existence for at least 5 years; and

(b) Has been issued a certificate to act as such an association by the Commissioner.



3. An association of public or private employers that wishes to be issued a certificate must file with the Commissioner an application for certification.

4. The application must include:

(a) The name of the association.

(b) The address of:

(1) The principal office of the association.

(2) The location where the books and records of the association will be maintained.

(c) The date the association was organized.

(d) The name and address of each member of the association.

(e) The names of the initial members of the board of trustees and the name of the initial association's administrator.

(f) Such other information as the Commissioner may require.

5. The application must be accompanied by:

(a) A nonrefundable filing fee of \$1,000 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

(b) Proof of compliance with NRS 616B.353.

(c) Proof that the association or its third-party administrator, *if applicable*, is licensed or otherwise authorized to conduct business in this State pursuant to title 57 of NRS.

(d) ~~IA~~ *If the association's administrator does not administer the plan of insurance of the association, a* copy of ~~the~~ *any* agreements entered into with the association's administrator and a third-party administrator.

(e) A copy of the bylaws of the association.

(f) A copy of an agreement jointly and severally binding the association and each member of the association to secure the payment of all compensation due pursuant to chapters 616A to 617, inclusive, of NRS.

(g) A pro forma financial statement prepared by an independent certified public accountant in accordance with generally accepted accounting principles that shows the financial ability of the association to pay all compensation due pursuant to chapters 616A to 617, inclusive, of NRS.

(h) A reviewed financial statement prepared by an independent certified public accountant for each proposed member of the association or evidence of the ability of the association or its proposed members to provide a solvency bond pursuant to subsection 3 of NRS 616B.353.

(i) Proof that each member of the association will make the initial payment to the association required pursuant to NRS 616B.416 on a date specified by the Commissioner. The payment shall be deemed to be a part of the assessment required to be paid by



each member for the first year of self-insurance if certification is issued to the association.

6. Except as otherwise provided in NRS 239.0115, any financial information relating to a member of an association received by the Commissioner pursuant to the provisions of this section is confidential and must not be disclosed.

7. For the purposes of this section, "associate member of a bona fide trade association" means a supplier whose business, as determined by the Commissioner:

(a) Is limited to a specific industry; and

(b) Primarily involves providing a product or service that is directly used or consumed by substantially all of the members of the trade association or bears a direct relationship to the business of the members of the association.

Sec. 2. NRS 616B.365 is hereby amended to read as follows:

616B.365 1. An association of self-insured public or private employers must be operated by a board of trustees consisting of at least five members whom the members of the association elect for terms set forth in the bylaws of the association. If the association is an association of self-insured:

(a) Public employers, the members of the board of trustees must be officers or employees of the public employers who are members of the association.

(b) Private employers, at least two-thirds of the members of the board of trustees must be employees, officers or directors of the members of the association. No association's administrator or third-party administrator employed by the association, or any owner, officer, employee or other person affiliated with the association's administrator or third-party administrator, may serve as a member of the board of trustees. Each member of the board of trustees must be a resident of this State or an officer of a corporation authorized to do business in this State.

2. The board of trustees of an association shall:

(a) Ensure the prompt payment of any compensation due pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS.

(b) Take such actions as are necessary to protect the assets of the association.

(c) Employ full-time an association's administrator to carry out the policies of the board of trustees and perform such duties as the board delegates to him or her. An association's administrator shall not perform any of the duties assigned to a third-party administrator.

(d) ~~Employ~~ *If the association's administrator does not administer the plan of insurance of the association, employ a*



1 third-party administrator to carry out the duties set forth in
2 NRS 616B.503.

3 (e) Employ an independent certified public accountant to
4 prepare the statement of financial condition required by
5 NRS 616B.404.

6 (f) Maintain minutes of its meetings and make the minutes
7 available for inspection by the Commissioner.

8 3. The board of trustees of an association shall not:

9 (a) Extend credit to any member of the association for the
10 payment of that member's annual assessment, except pursuant to a
11 payment plan approved by the Commissioner.

12 (b) Borrow any money from the association or in the name of
13 the association, except in the ordinary course of its business, without
14 the prior approval of the Commissioner.

15 **Sec. 3.** NRS 616B.386 is hereby amended to read as follows:

16 616B.386 1. If an employer wishes to become a member of
17 an association of self-insured public or private employers, the
18 employer must:

19 (a) Submit an application for membership to the board of
20 trustees or third-party administrator of the association ~~H~~ , *if*
21 *applicable*; and

22 (b) Enter into an indemnity agreement as required by
23 NRS 616B.353.

24 2. The membership of the applicant becomes effective when
25 each member of the association approves the application or on a
26 later date specified by the association. The application for
27 membership and the action taken on the application must be
28 maintained as permanent records of the board of trustees.

29 3. Each member who is a member of an association during the
30 12 months immediately following the formation of the association
31 must:

32 (a) Have a tangible net worth of at least \$500,000; or

33 (b) Have had a reported payroll for the previous 12 months
34 which would have resulted in a manual premium of at least \$15,000,
35 calculated in accordance with a manual prepared pursuant to
36 subsection 4 of NRS 686B.1765.

37 4. An employer who seeks to become a member of the
38 association after the 12 months immediately following the formation
39 of the association must meet the requirement set forth in paragraph
40 (a) or (b) of subsection 3 unless the Commissioner adjusts the
41 requirement for membership in the association after conducting an
42 annual review of the actuarial solvency of the association pursuant
43 to subsection 1 of NRS 616B.353.

44 5. An association of self-insured private employers may apply
45 to the Commissioner for authority to determine the amount of



1 tangible net worth and manual premium that an employer must have
2 to become a member of the association. The Commissioner shall
3 approve the application if the association:

4 (a) Has been certified to act as an association for at least the 3
5 consecutive years immediately preceding the date on which the
6 association filed the application with the Commissioner;

7 (b) Has, as determined by the Commissioner, either:

8 (1) A combined tangible net worth of all members in the
9 association of at least \$5,000,000; or

10 (2) Combined net cash flows from operating activities plus
11 net cash flows from financing activities of all members in the
12 association of five times the average of claims paid for each of the
13 last 3 years or \$7,500,000, whichever is less;

14 (c) Has at least 15 members; and

15 (d) Has not been required to meet informally with the
16 Commissioner pursuant to subsection 1 of NRS 616B.431 during
17 the 18-month period immediately preceding the date on which the
18 association filed the application with the Commissioner or, if the
19 association has been required to attend such a meeting during that
20 period, has not had its certificate withdrawn before the date on
21 which the association filed the application.

22 6. An association of self-insured private employers may apply
23 to the Commissioner for authority to determine the documentation
24 demonstrating solvency that an employer must provide to become a
25 member of the association. The Commissioner shall approve the
26 application if the association:

27 (a) Has been certified to act as an association for at least the 3
28 consecutive years immediately preceding the date on which the
29 association filed the application with the Commissioner;

30 (b) Has, as determined by the Commissioner, either:

31 (1) A combined tangible net worth of all members in the
32 association of at least \$5,000,000; or

33 (2) Combined net cash flows from operating activities plus
34 net cash flows from financing activities of all members in the
35 association of five times the average of claims paid for each of the
36 last 3 years or \$7,500,000, whichever is less; and

37 (c) Has at least 15 members.

38 7. The Commissioner may withdraw approval of an application
39 submitted pursuant to subsection 5 or 6 if the Commissioner
40 determines the association has ceased to comply with any of the
41 requirements set forth in subsection 5 or 6, as applicable.

42 8. A member of an association of self-insured public or private
43 employers may terminate his or her membership at any time. To
44 terminate his or her membership, a member must submit to the
45 association's administrator a notice of intent to withdraw from the



1 association at least 120 days before the effective date of withdrawal.
2 The notice of intent to withdraw shall be deemed rescinded if the
3 member does not provide to the association before the expiration of
4 the 120-day period proof that the member has:

5 (a) Been certified as a self-insured employer pursuant to
6 NRS 616B.312;

7 (b) Become a member of another association of self-insured
8 public or private employers; or

9 (c) Become insured by a private carrier.

10 9. The members of an association may cancel the membership
11 of any member of the association in accordance with the bylaws of
12 the association.

13 10. The association shall:

14 (a) Within 30 days after the addition of an employer to the
15 membership of the association, notify the Commissioner of the
16 addition and:

17 (1) If the association has not received authority from the
18 Commissioner pursuant to subsection 5 or 6, as applicable, provide
19 to the Commissioner all information and assurances for the new
20 member that were required from each of the original members of the
21 association upon its organization; or

22 (2) If the association has received authority from the
23 Commissioner pursuant to subsection 5 or 6, as applicable, provide
24 to the Commissioner evidence that is satisfactory to the
25 Commissioner that the new member is a member or associate
26 member of the bona fide trade association as required pursuant to
27 paragraph (a) of subsection 2 of NRS 616B.350, a copy of the
28 indemnity agreement that jointly and severally binds the new
29 member, the other members of the association and the association
30 that is required to be executed pursuant to paragraph (a) of
31 subsection 1 of NRS 616B.353 and any other information the
32 Commissioner may reasonably require to determine whether the
33 amount of security deposited with the Commissioner pursuant to
34 paragraph (d) or (e) of subsection 1 of NRS 616B.353 is sufficient,
35 but such information must not exceed the information required to be
36 provided to the Commissioner pursuant to subparagraph (1);

37 (b) Notify the Commissioner and the Administrator of the
38 termination or cancellation of the membership of any member of the
39 association within 10 days after the termination or cancellation; and

40 (c) At the expense of the member whose membership is
41 terminated or cancelled, maintain coverage for that member for 60
42 days after notice is given pursuant to paragraph (b), unless the
43 association first receives notice from the Administrator that the
44 member has:



(1) Been certified as a self-insured employer pursuant to NRS 616B.312;

(2) Become a member of another association of self-insured public or private employers; or

(3) Become insured by a private carrier.

11. If a member of an association changes his or her name or form of organization, the member remains liable for any obligations incurred or any responsibilities imposed pursuant to chapters 616A to 617, inclusive, of NRS under the member's former name or form of organization.

12. An association is liable for the payment of any compensation required to be paid by a member of the association pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS during the member's period of membership. The insolvency or bankruptcy of a member does not relieve the association of liability for the payment of the compensation.

Sec. 4. NRS 616B.440 is hereby amended to read as follows:

616B.440 1. For the purposes of NRS 616B.350 to 616B.446, inclusive, an association of self-insured public or private employers is insolvent if it is unable to pay its outstanding obligations as they mature in the regular course of its business.

2. If an association of self-insured public or private employers becomes insolvent, institutes any voluntary proceeding pursuant to the Bankruptcy Act or is named in any voluntary proceeding thereunder, makes a general or special assignment for the benefit of creditors or fails to pay compensation pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS after an order for the payment of any claim becomes final, the Commissioner may, after giving at least 10 days' notice to the association and any insurer or guarantor, use money or interest on securities, sell securities or institute legal proceedings on surety bonds deposited with the Commissioner pursuant to NRS 679B.175 to the extent necessary to make those payments.

3. A licensed surety providing a surety bond pursuant to NRS 616B.353 may terminate liability on its surety bond by giving the Commissioner and the association, association's administrator or third-party administrator, **if applicable**, 90 days' written notice. The termination does not limit liability that was incurred under the surety bond before the termination.

Sec. 5. NRS 616B.554 is hereby amended to read as follows:

616B.554 1. There is hereby created in the Fund for Workers' Compensation and Safety in the State Treasury the Subsequent Injury Account for Self-Insured Employers, which may be used only to make payments in accordance with the provisions of NRS 616B.557 and 616B.560. The Board shall administer the



Account based upon recommendations made by the Administrator pursuant to subsection ~~{8.}~~ 7.

2. All ~~{assessments,}~~ penalties, bonds, securities and all other properties received, collected or acquired by the Board for the Subsequent Injury Account for Self-Insured Employers must be delivered to the custody of the State Treasurer.

3. All money and securities in the Account must be held by the State Treasurer as custodian thereof to be used solely for workers' compensation for employees of self-insured employers.

4. The State Treasurer may disburse money from the Account only upon written order of the Board.

5. The State Treasurer shall invest money of the Account in the same manner and in the same securities in which the State Treasurer is authorized to invest State General Funds which are in the custody of the State Treasurer. Income realized from the investment of the assets of the Account must be credited to the Fund.

6. The Board shall adopt regulations for the establishment and administration of ~~{assessment rates,}~~ payments and penalties. ~~{Assessment rates must result in an equitable distribution of costs among the self-insured employers and must be based upon expected annual expenditures for claims for payments from the Subsequent Injury Account for Self-Insured Employers.}~~

7. ~~{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 self-insured employer who wishes to appeal the rate so filed must do so pursuant to NRS 679B.310.}~~

~~—8.}~~ The Administrator shall:

(a) Evaluate any claim submitted to the Board for payment or reimbursement from the Subsequent Injury Account for Self-Insured Employers and recommend to the Board any appropriate action to be taken concerning the claim; and

(b) Submit to the Board any other recommendations relating to the Account.

Sec. 6. 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 **, on or before September 30, 2023,** a subsequent disability by injury arising out of and in the course of his or her employment which entitles the employee 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



1 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 *incurred on or*
4 *before September 30, 2023*, results in his or her death and it is
5 determined that the death would not have occurred except for the
6 preexisting permanent physical impairment, the compensation due
7 must be charged to the Subsequent Injury Account for Self-Insured
8 Employers in accordance with regulations adopted by the Board.

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

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

27 5. A self-insured employer must submit to the Board a claim
28 for reimbursement from the Subsequent Injury Account for Self-
29 Insured Employers.

30 6. The Board shall adopt regulations establishing procedures
31 for submitting claims against the Subsequent Injury Account for
32 Self-Insured Employers. The Board shall notify the self-insured
33 employer of its decision on such a claim within 120 days after the
34 claim is received.

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

38 **Sec. 7.** NRS 616B.560 is hereby amended to read as follows:

39 616B.560 1. A self-insured employer who pays
40 compensation due to an employee who has a permanent physical
41 impairment from any cause or origin and incurs , *on or before*
42 *September 30, 2023*, a subsequent disability by injury arising out of
43 and in the course of his or her employment which entitles the
44 employee to compensation for disability that is substantially greater
45 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 is entitled to be reimbursed from the Subsequent Injury Account for Self-Insured Employers if:

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

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

(c) A causal connection existed between the false representation and the subsequent disability.

➤ If the subsequent injury of the employee **incurred on or before September 30, 2023**, results in his or her death and it is determined that the death would not have occurred except for the preexisting permanent physical impairment, any compensation paid is entitled to be reimbursed from the Subsequent Injury Account for Self-Insured Employers.

2. A self-insured employer shall notify the Board of any possible claim against the Subsequent Injury Account for Self-Insured Employers pursuant to this section no later than 60 days after the date of the subsequent injury or the date the self-insured employer learns of the employee's false representation, whichever is later.

Sec. 8. NRS 616B.575 is hereby amended to read as follows:

616B.575 1. There is hereby created in the Fund for Workers' Compensation and Safety in the State Treasury the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers, which may be used only to make payments in accordance with the provisions of NRS 616B.578 and 616B.581. The Board shall administer the Account based upon recommendations made by the Administrator pursuant to subsection ~~18.~~ 7.

2. All ~~assessments,~~ penalties, bonds, securities and all other properties received, collected or acquired by the Board for the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers must be delivered to the custody of the State Treasurer.

3. All money and securities in the Account must be held by the State Treasurer as custodian thereof to be used solely for workers' compensation for employees of members of Associations of Self-Insured Public or Private Employers.

4. The State Treasurer may disburse money from the Account only upon written order of the Board.

5. The State Treasurer shall invest money of the Account in the same manner and in the same securities in which the State Treasurer



1 is authorized to invest State General Funds which are in the custody
2 of the State Treasurer. Income realized from the investment of the
3 assets of the Account must be credited to the Account.

4 6. The Board shall adopt regulations for the establishment and
5 administration of ~~{assessment rates,}~~ payments and penalties.
6 ~~{Assessment rates must result in an equitable distribution of costs~~
7 ~~among the associations of self-insured public or private employers~~
8 ~~and must be based upon expected annual expenditures for claims for~~
9 ~~payments from the Subsequent Injury Account for Associations of~~
10 ~~Self-Insured Public or Private Employers.}~~

11 7. ~~{The Commissioner shall assign an actuary to review the~~
12 ~~establishment of assessment rates. The rates must be filed with the~~
13 ~~Commissioner 30 days before their effective date. Any association~~
14 ~~of self-insured public or private employers that wishes to appeal the~~
15 ~~rate so filed must do so pursuant to NRS 679B.310.~~

16 ~~—8.}~~ The Administrator shall:

17 (a) Evaluate any claim submitted to the Board for payment or
18 reimbursement from the Subsequent Injury Account for
19 Associations of Self-Insured Public or Private Employers and
20 recommend to the Board any appropriate action to be taken
21 concerning the claim; and

22 (b) Submit to the Board any other recommendations relating to
23 the Account.

24 **Sec. 9.** NRS 616B.578 is hereby amended to read as follows:

25 616B.578 Except as otherwise provided in NRS 616B.581:

26 1. If an employee of a member of an association of self-insured
27 public or private employers has a permanent physical impairment
28 from any cause or origin and incurs *, on or before September 30,*
29 *2023,* a subsequent disability by injury arising out of and in the
30 course of his or her employment which entitles the employee to
31 compensation for disability that is substantially greater by reason of
32 the combined effects of the preexisting impairment and the
33 subsequent injury than that which would have resulted from the
34 subsequent injury alone, the compensation due must be charged to
35 the Subsequent Injury Account for Associations of Self-Insured
36 Public or Private Employers in accordance with regulations adopted
37 by the Board.

38 2. If the subsequent injury of such an employee *incurred on or*
39 *before September 30, 2023,* results in his or her death and it is
40 determined that the death would not have occurred except for the
41 preexisting permanent physical impairment, the compensation due
42 must be charged to the Subsequent Injury Account for Associations
43 of Self-Insured Public or Private Employers in accordance with
44 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 person 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 must submit to the Board a claim for reimbursement from the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers.

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 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.

Sec. 10. NRS 616B.581 is hereby amended to read as follows:

616B.581 1. An association of self-insured public or private employers that pays compensation due to an employee who has a permanent physical impairment from any cause or origin and incurs **, on or before September 30, 2023,** a subsequent disability by injury arising out of and in the course of his or her employment which entitles the employee 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 is entitled to be reimbursed from the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers if:



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

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

(c) A causal connection existed between the false representation and the subsequent disability.

➤ If the subsequent injury of the employee *incurred on or before September 30, 2023*, results in his or her death and it is determined that the death would not have occurred except for the preexisting permanent physical impairment, any compensation paid is entitled to be reimbursed from the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers.

2. An association of self-insured public or private employers shall notify the Board of any possible claim against the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers pursuant to this section no later than 60 days after the date of the subsequent injury or the date the employer learns of the employee's false representation, whichever is later.

Sec. 11. NRS 616B.584 is hereby amended to read as follows:

616B.584 1. There is hereby created in the Fund for Workers' Compensation and Safety in the State Treasury the Subsequent Injury Account for Private Carriers, which may be used only to make payments in accordance with the provisions of NRS 616B.587 and 616B.590. The Administrator shall administer the Account.

2. All ~~assessments,~~ penalties, bonds, securities and all other properties received, collected or acquired by the Administrator for the Subsequent Injury Account for Private Carriers must be delivered to the custody of the State Treasurer.

3. All money and securities in the Account must be held by the State Treasurer as custodian thereof to be used solely for workers' compensation for employees whose employers are insured by private carriers.

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

5. The State Treasurer shall invest money of the Account in the same manner and in the same securities in which the State Treasurer is authorized to invest State General Funds which are in the custody of the State Treasurer. Income realized from the investment of the assets of the Account must be credited to the Account.

6. The Administrator shall adopt regulations for the establishment and administration of ~~assessment rates,~~ payments and penalties. ~~Assessment rates must reflect the relative hazard of~~



~~the employments covered by private carriers, must result in an equitable distribution of costs among the private carriers and must be based upon expected annual premiums to be received.~~

~~— 7. 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 private carrier who wishes to appeal the rate so filed must do so pursuant to NRS 679B.310.]~~

Sec. 12. NRS 616B.587 is hereby amended to read as follows:
616B.587 Except as otherwise provided in NRS 616B.590:

1. If an employee of an employer who is insured by a private carrier has a permanent physical impairment from any cause or origin and incurs *, on or before September 30, 2023,* a subsequent disability by injury arising out of and in the course of his or her employment which entitles the employee 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 Private Carriers in accordance with regulations adopted by the Administrator.

2. If the subsequent injury of such an employee *incurred on or before September 30, 2023,* results in his or her 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 Private Carriers in accordance with regulations adopted by the Administrator.

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 person 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 Private Carriers, the private carrier 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. A private carrier must submit to the Administrator a claim for reimbursement from the Subsequent Injury Account for Private Carriers.

6. The Administrator shall adopt regulations establishing procedures for submitting claims against the Subsequent Injury Account for Private Carriers. The Administrator shall notify the private carrier of his or her decision on such a claim within 120 days after the claim is received.

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

Sec. 13. NRS 616B.590 is hereby amended to read as follows:

616B.590 1. A private carrier who pays compensation due to an employee who has a permanent physical impairment from any cause or origin and incurs , *on or before September 30, 2023*, a subsequent disability by injury arising out of and in the course of his or her employment which entitles the employee 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 is entitled to be reimbursed from the Subsequent Injury Account for Private Carriers if:

(a) The employee knowingly made a false representation as to his or her physical condition at the time the employee was hired by the employer insured by a private carrier;

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

(c) A causal connection existed between the false representation and the subsequent disability.

↪ If the subsequent injury of the employee *incurred on or before September 30, 2023*, results in his or her death and it is determined that the death would not have occurred except for the preexisting permanent physical impairment, any compensation paid is entitled to be reimbursed from the Subsequent Injury Account for Private Carriers.

2. A private carrier shall notify the Administrator of any possible claim against the Subsequent Injury Account for Private Carriers pursuant to this section no later than 60 days after the date of the subsequent injury or the date the employer learns of the employee's false representation, whichever is later.

Sec. 14. 1. The provisions of any administrative regulations which conflict or are inconsistent with the provisions of this act are void, including, without limitation, the provisions of any



1 administrative regulations which impose an assessment relating to a
2 subsequent injury account pursuant to NRS 616B.554, 616B.575 or
3 616B.584.

4 2. As used in this section, “subsequent injury account” means:

5 (a) The Subsequent Injury Account for Self-Insured Employers
6 created by NRS 616B.554;

7 (b) The Subsequent Injury Account for Associations of Self-
8 Insured Public or Private Employers created by NRS 616B.575; and

9 (c) The Subsequent Injury Account for Private Carriers created
10 by NRS 616B.584.

11 **Sec. 15.** The provisions of sections 5 to 14, inclusive, of this
12 act do not affect a claim, action or proceeding commenced or right
13 accrued before October 1, 2023.

14 **Sec. 16.** NRS 616B.371 is hereby repealed.

TEXT OF REPEALED SECTION

616B.371 Association’s administrator prohibited from financial interest in third-party administrator; third-party administrator prohibited from financial interest in association’s administrator; contractual requirement.

1. An association’s administrator employed by an association of self-insured public or private employers, or an employee, officer or director of an association’s administrator, may not be an employee, officer or director of a third-party administrator employed by the association or have a direct or indirect financial interest in the third-party administrator of the association.

2. The third-party administrator of an association of self-insured public or private employers, or an employee, officer or director of the third-party administrator, may not be an employee, officer or director of an association’s administrator employed by the association or have a direct or indirect financial interest in that association’s administrator.

3. Any contract entered into by an association of self-insured public or private employers and a third-party administrator must include a provision which states that, unless the Commissioner otherwise provides, the third-party administrator shall administer any claim or other obligation of the association to its conclusion during the period of the contract.

