



# Pacific Law Journal Review of Selected Nevada Legislative

---

Volume 1983 | Issue 1

Article 105

---

1-1-1983

## Workers' Compensation; Permanent Partial Disability

University of the Pacific, McGeorge School of Law

Follow this and additional works at: <https://scholarlycommons.pacific.edu/nlr>



Part of the [Legislation Commons](#)

---

### Recommended Citation

University of the Pacific, McGeorge School of Law, *Workers' Compensation; Permanent Partial Disability*, 1983 U. PAC. L. REV. (2019).

Available at: <https://scholarlycommons.pacific.edu/nlr/vol1983/iss1/105>

This Legislative Review is brought to you for free and open access by the Journals and Law Reviews at Scholarly Commons. It has been accepted for inclusion in Pacific Law Journal Review of Selected Nevada Legislative by an authorized editor of Scholarly Commons. For more information, please contact [mgibney@pacific.edu](mailto:mgibney@pacific.edu).

# Workers' Compensation

## Workers' compensation; permanent partial disability

NEV. REV. STAT. §616.— (new); §§616.045, 616.073, 616.076, 616.086, 616.190, 616.235, 616.2533, 616.412, 616.5412, 616.5416, 616.545, 616.585, 616.605, 616.620, 616.624, 616.675 (amended).

AB 226 (Committee on Labor and Management); 1983 STAT. Ch 265  
AB 254 (Committee on Labor and Management); 1983 STAT. Ch 483

Chapter 483 substantially changes the law relating to compensation<sup>1</sup> and lump sum payments for permanent partial disability compensation.<sup>2</sup> In addition, Chapters 265 and 483 address various other provisions of the Nevada Industrial Insurance Act.<sup>3</sup>

Under prior law, a claimant with a permanent partial disability was eligible to receive benefits for five years or until reaching age sixty-five, whichever occurred later.<sup>4</sup> Chapter 483 extends the duration of these benefits by changing the age at which disability payments must terminate from age sixty-five to seventy.<sup>5</sup>

Prior law held that a claimant injured<sup>6</sup> on or after July 1, 1981, could elect to receive a lump sum payment amounting to (1) twenty-five percent of the present compensation value for the permanent partial disability,<sup>7</sup> or (2) the entire present value of compensation if this amount did not exceed \$10,000.<sup>8</sup> Chapter 483 declares that a claimant is eligible to receive compensation in a lump sum<sup>9</sup> if, as the result of an injury, that claimant sustains a disability not exceeding twenty-five percent. In addition, Chapter 483 deletes the provision of prior law that permitted a lump sum to be paid to a claimant upon a showing of

---

1. NEV. REV. STAT. §616.045 (amended by 1983 Nev. Stat. c. 483, §2, at 1291) (definition of compensation).

2. *See id.* §616.605 (amended by 1983 Nev. Stat. c. 483, §11, at 1295); 1983 Nev. Stat. c. 483, §13, at 1296.

3. *See* NEV. REV. STAT. §§616.010-.680.

4. 1981 Nev. Stat. c. 686, §1, at 1653 (amending NEV. REV. STAT. §616.605).

5. *Compare* NEV. REV. STAT. §616.605(4) (amended by 1983 Nev. Stat. c. 483, §11, at 1295) with 1981 Nev. Stat. c. 686, §1, at 1653 (amending NEV. REV. STAT. §616.605).

6. NEV. REV. STAT. §616.110 (definition of injury).

7. 1981 Nev. Stat. c. 686, §1, at 1654 (amending NEV. REV. STAT. §616.605).

8. *Id.*

9. 1983 Nev. Stat. c. 483, §13(1)(a) at 1296; *see* NEV. REV. STAT. §616.620 (amended by 1983 Nev. Stat. c. 265, §2, at 646) (lump sum payments limited by statutory provisions).

need.<sup>10</sup> The election of a lump sum payment constitutes a final settlement of all factual and legal issues. This election also operates as a waiver of all rights regarding the claim, including the right to appeal from closure of the case or from the determination of the extent of disability.<sup>11</sup>

A claimant may reopen the claim, however, (1) by applying for an increase or rearrangement of compensation due to a change in circumstances,<sup>12</sup> or (2) if the insurer changes the services, training, or rehabilitation provided the claimant.<sup>13</sup> Chapter 483 requires that claimants electing lump sum payments be notified of the consequences of an election of a lump sum payment and procedures to reopen a claim in writing. The claimants must also be given twenty days from the mailing or personal delivery of this notice to affirm or retract the demand before election is deemed final and payment is made.<sup>14</sup>

Under Chapter 483, a claimant who elects to receive a lump sum payment for a permanent partial disability forfeits all further compensation for that injury.<sup>15</sup> Chapter 265 states, however, that an employee who has received a lump sum payment for a permanent partial disability remains eligible to receive compensation if a subsequent injury causes a temporary total disability.<sup>16</sup> Moreover, pursuant to Chapter 265, compensation for a subsequent injury may not be reduced due to the receipt of a lump sum payment if that subsequent injury is distinct from the previous injury.<sup>17</sup> Chapter 483, however, prohibits these provisions from applying retroactively to individuals who have received their full benefits prior to July 1, 1983.<sup>18</sup>

Under existing law, volunteer officers of a regularly organized and recognized police department or sheriff's unit are eligible for workers' compensation if injuries are received in the course of this employment.<sup>19</sup> For compensation purposes, prior law recognized the volunteers at a wage of \$250 per month.<sup>20</sup> Chapter 483 extends workers' compensation benefits to volunteer officers of the Nevada State High-

---

10. Compare NEV. REV. STAT. §616.605 (amended by 1983 c. 483, §13, at 1296) with 1981 Nev. Stat. c. 686, §1, at 1653. (amending NEV. REV. STAT. §616.605).

11. 1983 Nev. Stat. c. 483, §13(2), at 1296.

12. *Id.* c. 483, §13(2)(a), at 1296; see NEV. REV. STAT. §616.545 (amended by 1983 Nev. Stat. c. 483, §10, at 1294) (requiring the application to be made in writing).

13. 1983 Nev. Stat. c. 483, §13(2)(b), at 1296.

14. *Id.* c. 483, §13(2), at 1296.

15. *Id.*

16. *Id.* c. 265, §5, at 647.

17. *Id.*

18. *Id.* c. 483, §14, at 1297.

19. NEV. REV. STAT. §616.073 (amended by 1983 Nev. Stat. c. 483, §3, at 1291).

20. 1973 Nev. Stat. c. 568, §46, at 926 (amending NEV. REV. STAT. §616.073).

way Patrol and increases recognized wages to \$900 per month.<sup>21</sup>

Furthermore, prior law computed the wages of a vendor of newspapers, magazines, or periodicals at fifty dollars per month.<sup>22</sup> Chapter 483 provides that these vendors are deemed to receive a wage of fifty dollars per month or the employee's actual remuneration, whichever is greater.<sup>23</sup>

Existing law provides benefits to apprentices<sup>24</sup> who attend classes for vocational training or who receive apprenticeship instruction, if they are not employed elsewhere.<sup>25</sup> Chapter 483 clarifies these provisions of existing law by deeming an injury to have occurred in the course of employment if sustained by the apprentice during the required course of instruction.<sup>26</sup>

Existing law provides that all charges and fees for accident benefits are subject to regulation by the department. These fees cannot exceed the prevailing rates in the community for similar treatment of injured persons of a like standard of living.<sup>27</sup> Chapter 483 adds a new provision that prohibits discrimination between persons who are legally qualified to provide the service for which the fees are requested.<sup>28</sup> Any fee schedule for accident benefits must establish maximum fees that are less than the statistical mode of the fees billed in the same community<sup>29</sup>.

Prior law stated that when an injured employee was referred to a panel to resolve disability questions, the administrator or the self-insured employer was to select a three person medical review board to determine the extent of the injury.<sup>30</sup> Chapter 483 removes this authority from the administrator and the self-insured employer by providing that the insurer is to determine the composition of the review board.<sup>31</sup>

Existing law provides that any witness who appears in an industrial insurance hearing, as ordered by subpoena, is entitled to receive the same compensation received by a witness in a civil case.<sup>32</sup> Chapter 483

---

21. Compare NEV. REV. STAT. §616.073 (amended by 1983 Nev. Stat. c. 483, §3, at 1294) with 1973 Nev. Stat. c. 568, §46, at 926 (amending NEV. REV. STAT. §616.073).

22. 1963 Nev. Stat. c. 287, §1, at 519 (enacting NEV. REV. STAT. §616.076).

23. NEV. REV. STAT. §616.076 (amended by 1983 Nev. Stat. c. 483, §4, at 1292).

24. *Id.* §610.010 (definition of apprentice).

25. *Id.* §616.686 (amended by 1983 Nev. Stat. c. 483, §4.5, at 1292).

26. *Id.*

27. *Id.* §616.412 (amended by 1983 Nev. Stat. c. 483, §8, at 1293).

28. Compare *id.* §616.412 (amended by 1983 Nev. Stat. c. 483, §8, at 1293) with 1981 Nev. Stat. c. 642, §97, at 1454 (amending NEV. REV. STAT. §616.412).

29. NEV. REV. STAT. §616.412(2) (amended by 1983 Nev. Stat. c. 483, §8, at 1294).

30. 1981 Nev. Stat. c. 391, §9, at 711 (amending NEV. REV. STAT. §616.190).

31. Compare NEV. REV. STAT. §616.190(1) (amended by 1983 Nev. Stat. c. 483, §5, at 1292) with 1981 Nev. Stat. c. 391, §9, at 711 (amending NEV. REV. STAT. §616.190).

32. NEV. REV. STAT. §616.235(2) (amended by 1983 Nev. Stat. c. 483, §6, at 1293).

specifies, in addition, that the hearing officer, appeals officer, administrator, or manager presiding over the particular hearing may (1) direct the party who insisted that the witness be subpoenaed to pay the costs,<sup>33</sup> or (2) impose the costs on any other party upon a showing of good cause.<sup>34</sup>

Existing law establishes procedural requirements for hearings on contested claims.<sup>35</sup> To resolve medical questions, Chapter 265 permits the hearing officer to refer the injured employee to a physician selected by the hearing officer.<sup>36</sup> If the medical question concerns the rating of a permanent disability, however, the administrator has the authority to select the physician.<sup>37</sup>

Furthermore, Chapter 483 mandates that a provider of health care who treats an employee for an industrial injury or an occupational disease on a referral basis must charge the insurer, rather than the patient.<sup>38</sup> The insurer also is liable for all approved expenses not exceeding (1) the lower of the standards provided by law or the usual fee charged,<sup>39</sup> and (2) charges in the contract between the provider of the treatment and the insurer.<sup>40</sup> Each violation of these provisions is punishable by an administrative fine not to exceed \$250.<sup>41</sup>

Under existing law, claimants who willfully make false statements or representations to obtain benefits are guilty of a gross misdemeanor.<sup>42</sup> Furthermore, all rights to compensation under the Industrial Insurance Act will be forfeited.<sup>43</sup> Chapter 265 adds that the offending party also will be liable for the reasonable costs incurred by the insurer as a result of investigating and acting upon the false claim.<sup>44</sup>

---

33. *Id.* §616.235(4)(a) (amended by 1983 Nev. Stat. c. 483, §6, at 1293).

34. *Id.* §616.235(4)(b) (amended by 1983 Nev. Stat. c. 483, §6, at 1293).

35. *Id.* §616.5416 (amended by 1983 Nev. Stat. c. 265, §1, at 645).

36. *Id.* (the insurer must pay the cost of examination). The final decision of the hearing officer is due within 15 days of the hearing or receipt of a copy of the report from the requested medical examination. *Id.* §616.5416 (amended by 1983 Nev. Stat. c. 265, §1(4), at 645).

37. *Id.* §616.5416(4) (amended by 1983 Nev. Stat. c. 265, §1(4), at 645).

38. 1983 Nev. Stat. c. 483, §1(1), at 1291.

39. *Id.* c. 483, §1(2)(a), at 1291.

40. *Id.* c. 483, §1(2)(b), at 1291.

41. *Id.* c. 483, §1(3), at 1291.

42. NEV. REV. STAT. §616.675 (amended by 1983 Nev. Stat. c. 265, §3, at 646).

43. *Id.*

44. Compare *id.* §616.675 (amended by 1983 Nev. Stat. c. 265, §3, at 646) with 1957 Nev. Stat. c. 28, §1, at 29 (enacting NEV. REV. STAT. §616.675).