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University of the Pacific, McGeorge School of Law

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Workers' Compensation; incentive dividends—rating system

NEV. REV. STAT. §§616.—, 617.— (new); §§616.380, 617.310 (amended).

AB 253 (Committee on Labor and Management); 1983 STAT. Ch 485 (Effective November 1, 1983)

As an incentive for employers¹ to reduce industrial injuries² and occupational diseases,³ Chapter 485 authorizes the Manager⁴ of the State Industrial Insurance System to declare and distribute dividends⁵ to employers based upon a computation relating the amount of the dividend to the employer's experience in controlling employee injuries⁶ and occupational diseases.⁷ The Manager may distribute dividends to an employer, however, only when the balance in the state insurance fund⁸ or the occupational diseases fund⁹ exceeds \$1,000,000, plus the amount necessary to (1) pay obligations and administrative expenses, (2) carry reasonable reserves, and (3) provide for contingencies.¹⁰ Furthermore, Chapter 485 authorizes the Manager to adopt regulations to facilitate distribution of the dividends.¹¹ Any employer who objects to the amount of the distributed dividend must request a review by the Commissioner of Insurance¹² (hereinafter referred to as Commissioner) within thirty days after the dividend determination has been made, or the employer's right to object is waived.¹³ The Commissioner, however, may not substitute his or her judgment for that of the Manager

1. NEV. REV. STAT. §616.090(definition of employer).

2. *Id.* §616.110(definition of injury).

3. *Id.* §617.440(definition of occupational disease); see also *Smith v. Garside*, 76 Nev. 377, 382, 355 P.2d 849, 885 (1960) Exposure must be incidental to the character of the business and not from a hazard to which the worker would have been equally exposed outside the employment. *Id.*

4. See NEV. REV. STAT. §616.1713(qualifications and function of manager).

5. See 1983 Nev. Stat. c. 485, §2, at 1305 (dividends can only be distributed to an employer once every fiscal year).

6. NEV. REV. STAT. §§616.055-.087 (definition of employee).

7. 1983 Nev. Stat. c. 485, §§2, 7, at 1307.

8. See NEV. REV. STAT. §616.425 (creation of state industrial insurance fund).

9. See *id.* §617.310 (creation of occupational diseases fund).

10. 1983 Nev. Stat. c. 485, §§2, 7, at 1307.

11. *Id.* §2(3), at 1306. These regulations may provide that (1) the employer's period of experience be one, two, or three fiscal years; (2) only employers who paid earned premiums during their period of experience may participate in the distribution of dividends; (3) the employer's own experience may be used to determine the dividend; and (4) when the balance in the state insurance fund or the occupational disease fund is sufficient to authorize the distribution of dividends, a public hearing must be held to determine the aggregate amount of the dividends to be distributed. *Id.*

12. See *id.* c. 485, §3, at 1306 (the decision of the Commissioner is final).

13. *Id.*

regarding the weight of evidence on questions of fact.¹⁴

Under existing law, the Manager is authorized to revise premium rates and classifications of employment concerning payments made under the Industrial Insurance Act and the Occupational Diseases Act.¹⁵ Prior law limited the Commissioner's power to order adjustments in the Manager's revised rates by first requiring a hearing to consider objections to the rates.¹⁶ Chapter 485, however, authorizes the Commissioner, after reviewing the revised rates and classifications, to advise the Manager of changes that are inconsistent with the rate standards established by the Industrial Insurance Act.¹⁷ Finally, Chapter 485 specifies that premium rates may not be fixed at a level higher than necessary to (1) pay the obligations and administrative expenses created by the Industrial Insurance Act and the Occupational Diseases Act,¹⁸ (2) provide a reasonable reserve for claims,¹⁹ and (3) provide for contingencies including catastrophes, economic change, change in judicial interpretations of the law, deficiencies in the reserve, and other events that cannot be predicted accurately and that could endanger the solvency of the fund.²⁰

14. *Id.*

15. NEV. REV. STAT. §616.380(3)(c) (amended by 1983 Nev. Stat. c. 485, §4, at 1306); 1983 Nev. Stat. c. 485, §6, at 1307 (revisions must be filed with the commissioner and written public notice must be given to employers affected by the changes at least 30 days before the changes are to take effect).

16. 1981 Nev. Stat. c. 642, §150, at 1473 (amending NEV. REV. STAT. §616.380(3)(c)) (the employer *must* request the hearing before the rate change).

17. NEV. REV. STAT. §616.380 (amended by 1983 Nev. Stat. c. 485, §4, at 1307).

18. *Id.* §616.380(3)(d)(1) (amended by 1983 Nev. Stat. c. 485, §4, at 1307).

19. *Id.* §616.380(3)(d)(2) (amended by 1983 Nev. Stat. c. 485, §4, at 1307).

20. *Id.* §616.380(3)(d)(3) (amended by 1983 Nev. Stat. c. 485, §4, at 1307).

Workers' Compensation; indigent representation

NEV. REV. STAT. §616.2535 (amended).

AB 432 (Banner); 1983 STAT. Ch 208

Existing law permits a worker's compensation claimant to request representation by a state industrial attorney.¹ Prior law required the claimant to attach an affidavit with the request for public representation stating a financial inability to employ private counsel.² With the enactment of Chapter 208, this attached affidavit is no longer a prereq-

1. NEV. REV. STAT. §616.2535(1).

2. 1977 NEV. STAT. c. 443, §5, at 886 (enacting Nev. Rev. Stat. §616.2535).