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## Workers' Compensation; Appeals, Hearings, Penalties

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uisite to obtaining public representation.<sup>3</sup>

Under prior law, the appeals officer could appoint a state industrial attorney if (1) the claimant was financially unable to employ private counsel<sup>4</sup> and (2) the claimant would be better served by legal representation.<sup>5</sup> Chapter 208 eliminates indigency of the claimant as a consideration in this decision-making process,<sup>6</sup> and requires an attorney to be appointed if the claimant would be better served by legal representation.<sup>7</sup>

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3. Compare NEV. REV. STAT. §616.2535(1) (amended by 1983 Nev. Stat. c. 208, §1, at 478) with 1977 Nev. Stat. c. 443, §5, at 886 (enacting NEV. REV. STAT. §616.2535).
  4. 1977 Nev. Stat. c. 443, §5, at 886 (enacting NEV. REV. STAT. §616.2535).
  5. NEV. REV. STAT. §616.2535(2) (amended by 1983 Nev. Stat. c. 208, §1, at 478).
  6. Compare *id.* with 1977 Nev. Stat. c. 443, §5, at 886 (enacting NEV. REV. STAT. §616.2535).
  7. NEV. REV. STAT. §616.2535(2) (amended by 1983 Nev. Stat. c. 208, §1, at 478).

### Workers' Compensation; appeals, hearings, penalties

NEV. REV. STAT. §616.— (new); §§616.182, 616.226, 616.230, 616.245, 616.400, 616.542, 616.5422, 616.5424, 616.544 (amended).

AB 255 (Committee on Labor and Management);  
1983 STAT. Ch 156

AB 555 (Committee on Labor and Management); 1983 STAT.  
Ch 406

Under existing law, the Manager<sup>1</sup> of the State Industrial Insurance System<sup>2</sup> (hereinafter referred to as System) is authorized to fix the premiums paid to the state insurance fund<sup>3</sup> based upon premium rates and classifications of employment filed with the Commissioner of Insurance.<sup>4</sup> Existing law limits judicial review of administrative determinations to situations in which a party is aggrieved by a final decision in a contested case.<sup>5</sup> Under prior law, decisions made by employees of the System<sup>6</sup> regarding an employer's<sup>7</sup> account did not constitute a con-

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1. See NEV. REV. STAT. §616.1713 (qualifications and function of manager).
  2. See *id.* §616.1701 (creation of State Industrial Insurance System).
  3. *Id.* §616.395(1); see *id.* §616.425 (creation of state insurance fund).
  4. *Id.* §616.380(c) (amended by 1983 Nev. Stat. c. 485, §4, at 1306).
  5. *Id.* §233B.130(1); see *id.* §616.335 (to facilitate this process the system is authorized to inspect the books, records and payrolls of the employer); see also *Private Investigator's Licensing Board v. Atherley*, 98 Nev. Adv. Op. 152, 654 P.2d 1019, 1019 (1982)(district court has jurisdiction to review only "contested cases"). A contested case is a proceeding (1) to determine the legal rights, duties or privileges of a party after an opportunity for a hearing, or (2) in which an administrative penalty may be imposed. NEV. REV. STAT. §233B.032.
  6. See *id.* §616.1721 (an administrative staff is appointed by the manager).

tested case.<sup>8</sup> With the enactment of Chapter 156, an employer may appeal this type of decision to the Manager of the System within thirty days after the decision is made.<sup>9</sup> Furthermore, Chapter 156 explicitly authorizes the Manager to conduct hearings pursuant to the provisions and regulations of the Industrial Insurance Act.<sup>10</sup> The Manager's decision is a final and binding administrative determination of the appeal.<sup>11</sup>

Under existing law, every employer governed by the provisions of the Industrial Insurance Act, except self-insured employers,<sup>12</sup> must deliver to the system an accurate payroll showing (1) the total amount paid to employees for services performed during the month, (2) a segregation of employment, and (3) the premium that is due.<sup>13</sup> An employer misrepresenting the amount of payroll may be liable in a civil action brought on behalf of the System.<sup>14</sup> Chapter 156 authorizes the System to impose a penalty for an employer's failure to submit payroll information within the time allowed, unless the employer is granted an extension by the Manager.<sup>15</sup>

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7. *Id.* §616.090 (definition of employer).

8. *See id.* §§616.395 (process of fixing premium by order of the manager apparently does not allow the employer an opportunity to be heard), 616.629-680 (no administrative penalties are imposed as a result of system decisions).

9. 1983 Nev. Stat. c. 156, §1, at 355; *see also* NEV. REV. STAT. §616.182(3) (amended by 1983 Nev. Stat. c. 156, §2, at 355) (the system is now responsible for administrative appeals regarding decisions by its employees relating to employers' accounts).

10. 1983 Nev. Stat. c. 156, §1, at 356; *see also* NEV. REV. STAT. §§616.226 (amended by 1983 Nev. Stat. c. 156, §3, at 355), 616.230 (amended by 1983 Nev. Stat. c. 156, §4, at 356), 616.235 (amended by 1983 Nev. Stat. c. 483, §6, at 1293), 616.245 (amended by 1983 Nev. Stat. c. 156, §6, at 356), 616.5424 (amended by 1983 Nev. Stat. c. 156, §10, at 358) (provisions and regulations in conducting hearings under the Industrial Insurance Act).

11. 1983 Nev. Stat. c. 156, §1(2) at 356; *see also* NEV. REV. STAT. §616.542(4) (amended by 1983 Nev. Stat. c. 406, §1, at 1010) (appeals officer is also given final and binding determination). The whole record consists of all the evidence taken at the hearing, and any findings of fact and conclusions of law determined by the manager. 1983 Nev. Stat. c. 156, §1(2), at 1010. *See also* Nevada Industrial Insurance Commission v. Reese, 93 Nev. 115, 120, 560 P.2d 1352, 1354 (1977) (administrative officials can exercise administrative powers that are quasi-judicial in nature without violating the separation of powers doctrine).

12. NEV. REV. STAT. §616.112 (definition of self-insured employer).

13. *Id.* §616.400(1).

14. *Id.* §616.635.

15. *Id.* §616.400(7) (amended by 1983 Nev. Stat. c. 156, §7, at 357) (the penalty may not exceed four percent of the premiums that are due or fifteen dollars, whichever is greater).

## **Workers' Compensation; confidentiality of medical records**

NEV. REV. STAT. §616.360 (amended).

AB 433 (Banner); 1983 STAT. Ch 209

Existing law sets forth a comprehensive workers' compensation system for the purpose of insuring employers against liability for em-