



DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INDUSTRIAL RELATIONS  
DIVISION COUNSEL

**NOTICE OF INTENT TO ACT ON PROPOSED REGULATIONS**

**Notice of Hearing for the Amendment of Regulations  
of the Division of Industrial Relations,  
Department of Business and Industry**

**LCB File No. R059-15**

The Division of Industrial Relations, Department of Business and Industry, State of Nevada (the "Division"), will conduct a public hearing to amend NAC 616C.498, to comply with NRS 616C.495, as amended by Section 3 of Senate Bill 232, Chapter 240, Statutes of Nevada 2015, at page 1141.

**The Division will hold a public hearing on these proposed regulations by videoconference at 2:00 p.m. on Wednesday, November 16, 2016 at the following locations:**

NV OSHA  
1301 N. Green Valley Parkway  
1<sup>st</sup> Floor Training Room  
Henderson, Nevada

Workers' Compensation Section  
400 W. King Street  
4th Floor, Videoconference Room  
Carson City, Nevada

The purpose of the hearing is to receive comments from all interested persons regarding the amendment of NAC 616C.498, to comply with NRS 616C.495, as amended by Section 3 of Senate Bill 232, Chapter 240, Statutes of Nevada 2015, at page 1141.

Pursuant to NRS 233B.0603, the Division is providing the following information pertaining to the public hearing and the proposed regulations.

The need and purpose of the proposed regulations: *The Division of Industrial Relations, Workers' Compensation Section's proposed amendment to NAC 616C.498 is necessary to comply with NRS 616C.495, as amended by Section 3 of Senate Bill 232, Chapter 240, Statutes of Nevada 2015, at page 1141. This regulation allows an employee injured on or after January 1, 2016, who incurs a permanent partial disability that: (1) does not exceed 30% to elect to receive the compensation in a lump sum; and (2) exceeds 30% to elect to receive a portion of his or her compensation in a lump sum equal to the present value of an award for a disability of 30%.*

The terms and substance of the proposed regulations: *The Division will amend NAC 616C.498 to comply with the amended language of NRS 616C.495, as amended by Section 3 of Senate Bill 232,*

*Chapter 240, Statutes of Nevada 2015, at page 1141, which allows an injured employee to elect to receive a permanent partial disability award in a lump sum up to 30% for injuries incurred on or after January 1, 2016. It will also amend the existing regulation to authorize insurers to offer up to 30% on claims incurred after July 1, 1995.*

How to obtain the approved or revised text of the proposed regulation: *A copy of the most recent approved or revised text of the proposed regulation is available at: the Division's web page (<http://dir.nv.gov/uploadedFiles/dirnv.gov/content/WCS/HearingDocs/R059-15RP3%2010-5-16.pdf>); the Division's offices (400 West King Street, Suite 201, Carson City, Nevada; 1301 North Green Valley Parkway, Suite 200, Henderson, Nevada; and 4600 Kietzke Lane, Suite F-153, Reno, Nevada); and the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the internet at <http://www.leg.state.nv.us>.*

The estimated economic effect of the proposed regulations on (a) regulated businesses and (b) the public, including, stated separately: (i) both adverse and beneficial effects; and (ii) both immediate and long-term effects:

*Adverse: The Division believes that there will be no adverse effects that would negatively impact regulated businesses, either immediate or long-term. The Division also believes that there is no adverse effects anticipated that would negatively impact the general public, either immediate or long-term. This regulation merely reflects the amendment to NRS 616C.495(1)(a) and (c), increasing the maximum lump sum permanent partial disability payment from 25% to 30%.*

*Beneficial: The Division believes that there will be no beneficial effects on regulated businesses, either immediate or long-term. The Division believes that there will be no beneficial effects to the general public, either immediate or long-term.*

The methods used by the agency in determining the impact on a small business: *The Division considered the purpose and scope of the potential amendments in comparison to NRS 616C.495 as amended by the 2015 Legislature in SB 232, Sec. 3, effective January 1, 2016. Based on this review, the Division determined that this regulation will have some financial impact on insurers, self-insured employers, and employee leasing companies, will have no direct effect on small businesses, either adverse or beneficial, and will also have no indirect effect on small businesses, either adverse or beneficial. This regulation reflects the amendment to NRS 616C.495(1)(a) and (c), increasing the maximum lump sum permanent partial disability payment from 25% to 30% and authorizes an insurer to offer up to 30% in a lump sum for claims incurred between July 1, 1995 and December 31, 2015.*

The estimated cost to the Division for enforcement of the proposed regulations: *There is no additional cost to the Division for enforcement of this regulation.*

The Division believes that the proposed regulation does not overlap or duplicate any existing regulations. *The proposed regulations are not required by federal law and there is no equivalent federal regulation.*

The proposed regulation does not establish a new fee or increase an existing fee.

Persons wishing to comment upon the proposed action of the Division of Industrial Relations may appear at the scheduled hearing or may address their comments, data, views or arguments, in written form, to Donald C. Smith, Esq., Senior Division Counsel, Division of Industrial Relations, 1301 North

Green Valley Parkway, Suite 200, Henderson, Nevada 89074. Written submissions must be received by the Division by Monday, November 14, 2016. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

Persons with disabilities who require special accommodations or assistance at the public hearing must notify Alma Johnson, at the Division of Industrial Relations, Workers' Compensation Section, 1301 North Green Valley Parkway, Suite 200, Henderson, Nevada 89074, in writing or by calling (702) 486-9019 at least three (3) working days prior to the scheduled hearing date.

A copy of this notice and the regulation to be amended are available at the Division's web page (<http://dir.nv.gov/WCS/Hearings/>), the Division's offices (400 West King Street, Suite 201, Carson City, Nevada; 1301 North Green Valley Parkway, Suite 200, Henderson, Nevada; and 4600 Kietzke Lane, Suite F-153, Reno, Nevada) and at the main branch of the public library of each county. Additional copies of the notice and proposed regulations will be available at the main public library, for inspection and copying by members of the public during business hours, in all counties in which an office of the Division is not maintained. This notice and the text of the proposed regulations are also in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulations will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency (the Division), if requested to do so by an interested person, either before adoption or thirty (30) days thereafter, shall issue a concise statement or the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption, pursuant to NRS 233B.064.

This notice of hearing has been posted at the Division's offices; the Grant Sawyer Building, 555 East Washington Avenue, Las Vegas, Nevada; Director's Office, Department of Business and Industry, 555 E. Washington Avenue, #4900, Las Vegas, Nevada; the Bradley Building, 2501 West Sahara Avenue, Las Vegas, Nevada; and the Nevada State Library, Archives and Public Records, 100 Stewart Street, Carson City, Nevada. In addition, this notice has been posted on the Division's Web site at: <http://dir.nv.gov/WCS/home/>.

**THIRD REVISED PROPOSED REGULATION OF THE  
ADMINISTRATOR OF THE DIVISION OF INDUSTRIAL RELATIONS  
OF THE DEPARTMENT OF BUSINESS AND INDUSTRY**

**LCB File No. R059-15**

October 3, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §1, NRS 616A.400 and 616C.495, as amended by section 3 of Senate Bill No. 232, chapter 240, Statutes of Nevada 2015, at page 1141.

A REGULATION relating to industrial insurance; revising provisions concerning compensation of an injured employee who incurs a permanent partial disability; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law allows an injured employee who incurs a permanent partial disability to elect to receive compensation for that injury in a lump sum. A claimant injured on or after July 1, 1981, and before July 1, 1995, who incurs a disability that: (1) does not exceed 30 percent may elect to receive his or her compensation in a lump sum; and (2) exceeds 30 percent may elect to receive his or her compensation in a lump sum equal to the present value of an award for a disability of 30 percent. The Administrator of the Division of Industrial Relations of the Department of Business and Industry is required to adopt regulations for determining the eligibility of such an employee who is injured on or after July 1, 1995, to receive all or a portion of his or her compensation in a lump sum. (NRS 616C.495, as amended by section 3 of Senate Bill No. 232, chapter 240, Statutes of Nevada 2015, at page 1141) Existing regulations allow such an employee who incurs a partial disability that: (1) does not exceed 25 percent to elect to receive compensation in a lump sum; and (2) exceeds 25 percent to elect to receive a portion of his or her compensation in a lump sum equal to the present value of an award for a disability of 25 percent. (NAC 616C.498) This regulation allows such an employee who is injured on or after July 1, 2015, but before January 1, 2016, who incurs a partial disability that exceeds 25 percent to elect to receive a portion of his or her compensation in a lump sum up to the present value of an award for a disability of 30 percent if the insurer offers to provide compensation in a lump sum of that amount. This regulation also allows such an employee injured on or after January 1, 2016, who incurs a partial disability that: (1) does not exceed 30 percent to elect to receive compensation in a lump sum; and (2) exceeds 30 percent to elect to receive a portion of his or her compensation in a lump sum equal to the present value of an award for a disability of 30 percent.

**Section 1.** NAC 616C.498 is hereby amended to read as follows:

616C.498 **1.** An employee injured on or after July 1, 1995, *but before January 1, 2016*, who incurs a permanent partial disability that:

~~1.~~ (a) Does not exceed 25 percent may elect to receive compensation in a lump sum.

~~2.~~ (b) Exceeds 25 percent may ~~elect~~ :

(1) *Elect* to receive compensation in a lump sum equal to the present value of an award for a disability of 25 percent. If the injured employee elects to receive compensation in a lump sum pursuant to this ~~subsection,~~ *subparagraph*, the insurer shall pay in installments to the injured employee that portion of the injured employee's disability in excess of 25 percent.

(2) *To the extent that the insurer has offered to provide compensation in a lump sum up to the present value of an award for a disability of 30 percent, elect to receive compensation in a lump sum up to the present value of an award for a disability of 30 percent. If the injured employee elects to receive compensation in a lump sum pursuant to this subparagraph, the insurer shall pay in installments to the injured employee that portion of the injured employee's disability in excess of 30 percent.*

**2.** *An employee injured on or after January 1, 2016, who incurs a permanent partial disability that:*

(a) *Does not exceed 30 percent may elect to receive compensation in a lump sum.*

(b) *Exceeds 30 percent may elect to receive compensation in a lump sum equal to the present value of an award for a disability of 30 percent. If the injured employee elects to receive compensation in a lump sum pursuant to this paragraph, the insurer shall pay in installments to the injured employee that portion of the injured employee's disability in excess of 30 percent.*