



State or Federal Issues Contacts: Please refer to the list of State Relations Executives at the end of this report.

## LEGISLATIVE ACTIVITY—LEGISLATIVE SESSION UPDATES

*This report contains descriptions and/or excerpts of relevant bills that passed the first chamber, passed the second chamber, or were enacted during the specific periods. In addition, a recap of significant legislative and judicial activity impacting the workers compensation system will be included in the first report published each month. This report is issued on a weekly basis throughout the legislative season, and it provides updates on the content of these bills if and when they progress through the legislative process. This report includes bills from states where NCCI provides ratemaking services (see state list under Contact Information) and the US Congress.*

### BILLS ENACTED

The following workers compensation-related bills were enacted within the one-week period ending June 16, 2017.

#### Alaska

**HB 132** was:

- Passed by the first chamber on May 15, 2017
- Passed by the second chamber on May 17, 2017
- Included in NCCI's May 26, 2017 **Legislative Activity Report** (RLA-2017-20)
- Enacted on June 15, 2017, with an effective date of June 16, 2017

**HB 132**, in part, amends **section 23.30.230 Persons Not Covered** of the Alaska Statutes, Workers Compensation Act, as follows:  
**Sec. 23.30.230 Persons Not Covered.**

(a) The following persons are not covered by this chapter:

...

(11) a transportation network company driver who provides a prearranged ride or is otherwise logged onto the digital network of a transportation network company as a driver.

...

(c) In this section,

...

(4) "digital network" has the meaning given in AS 28.23.180;

(5) "prearranged ride" has the meaning given in AS 28.23.180;

(6) "transportation network company" has the meaning given in AS 28.23.180;

(7) "transportation network company driver" has the meaning given in AS 28.23.180.

#### Nevada

**AB 267** was:

- Passed by the first chamber on April 25, 2017
- Included in NCCI's May 5, 2017 **Legislative Activity Report** (RLA-2017-17)
- Amended and passed by the second chamber on May 31, 2017
- Included in NCCI's June 9, 2017 **Legislative Activity Report** (RLA-2017-22)
- Enacted on June 12, 2017, with an effective date of October 1, 2017

**AB 267** amends **section 1. 616C.400 Minimum duration of incapacity** of the Nevada Industrial Insurance Act as follows:  
**Section 1. 616C.400 Minimum duration of incapacity.**

1. Temporary compensation benefits must not be paid under chapters 616A to 616D, inclusive, of NRS for an injury which does not incapacitate the employee for at least 5 consecutive days, or 5 cumulative days within a 20-day period, from earning full wages, but if the incapacity extends for 5 or more consecutive days, or 5 cumulative days within a 20-day period, compensation must then be computed from the date of the injury.
2. The period prescribed in this section does not apply to:
  - (a) Accident benefits, whether they are furnished pursuant to NRS 616C.255 or 616C.265, if the injured employee is otherwise covered by the provisions of chapters 616A to 616D, inclusive, of NRS and entitled to those benefits.
  - (b) Compensation paid to the injured employee pursuant to subsection 1 of NRS 616C.477.
  - (c) A claim which is filed pursuant to NRS 617.453, 617.455 or 617.457.

In addition, **AB 267** also amends the following sections of the Nevada Occupational Diseases Act:

**Section 2. 617.420 Minimum duration of incapacity; payment of medical benefits.**

1. No compensation may be paid under this chapter for temporary total disability which does not incapacitate the employee for at least 5 cumulative days within a 20-day period from earning full wages, but if the incapacity extends for 5 or more days within a 20-day period, the compensation must then be computed from the date of disability.
2. The limitations in this section do not apply to medical benefits, including, without limitation, medical benefits pursuant to NRS 617.453, 617.455 or 617.457, which must be paid from the date of application for payment of medical benefits.

**Section 3. 617.454 Physical examinations: required tests.**

1. Any physical examination administered pursuant to NRS 617.455 or 617.457 must include:
  - (a) A thorough test of the functioning of the hearing of the employee; and
  - (b) A purified protein derivative skin test to screen for exposure to tuberculosis.
2. Except as otherwise provided in subsection 8 of NRS 617.457, the tests required by this section must be paid for by the employer.
3. Except as otherwise provided by the provisions governing privacy in the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and applicable regulations, or an employee's collective bargaining agreement, whichever is more restrictive:
  - (a) The results of a physical examination administered pursuant to NRS 617.455 or 617.457 may only be provided to:
    - (1) The examining physician;
    - (2) The employee;
    - (3) The employer's officer who is responsible for risk management or human resources or his or her designee; and
    - (4) If the employee has filed a claim pursuant to NRS 617.455 or 617.457, the insurer.
  - (b) A person who receives the results of a physical examination pursuant to paragraph (a) may only use the results for the purposes of:
    - (1) Complying with the requirements of NRS 617.455 or 617.457, as applicable; or
    - (2) Creating a report pursuant to paragraph (c).
  - (c) The employer's officer who is responsible for risk management or human resources or his or her designee may create and release a report that is based on the results of a physical examination administered pursuant to NRS 617.455 or 617.457 to any person whom the employer's officer determines has a need to know the information in the report. The report must only contain the following information:
    - (1) The name of the employee who was the subject of the physical examination; and
    - (2) A statement that the employee, as applicable:
      - (I) Satisfies the physical qualifications required for his or her employment; or
      - (II) Does not satisfy the physical qualifications required for his or her employment.

**Section 4. 617.455 Lung diseases as occupational diseases of firefighters, police officers and arson investigators.**

...

10. The Administrator shall review a claim filed by a claimant pursuant to this section that has been in the appeals process for longer than 6 months to determine the circumstances causing the delay in processing the claim. As used in this subsection, "appeals process" means the period of time that:
  - (a) Begins on the date on which the claimant first files or submits a request for a hearing or an appeal of a determination regarding the claim; and
  - (b) Continues until the date on which the claim is adjudicated to a final decision.
11. Except as otherwise provided in this subsection, if an employer, insurer or third-party administrator denies a claim that was filed pursuant to this section and the claimant ultimately prevails, the Administrator may order the employer, insurer or third-party administrator, as applicable, to pay to the claimant a benefit penalty of not more than \$200 for each day from that date on which an appeal is filed until the date on which the claim is adjudicated to a final decision. Such benefit penalty is payable in addition to

any benefits to which the claimant is entitled under the claim and any fines and penalties imposed by the Administrator pursuant to NRS 616D.120. If a hearing before a hearing officer is requested pursuant to NRS 616C.315 and held pursuant to NRS 616C.330, the employer, insurer, or third-party administrator, as applicable, shall pay to the claimant all medical costs which are associated with the occupational disease and are incurred from the date on which the hearing is requested until the date on which the claim is adjudicated to a final decision. If the employer, insurer or third-party administrator, as applicable, ultimately prevails, the employer, insurer or third-party administrator, as applicable, is entitled to recover the amount paid pursuant to this subsection in accordance with the provisions of NRS 616C.138.

**Section 5. 617.457 Heart diseases as occupational diseases of firefighters, arson investigators and police officers.**

...

15. The Administrator shall review a claim filed by a claimant pursuant to this section that has been in the appeals process for longer than 6 months to determine the circumstances causing the delay in processing the claim. As used in this subsection, "appeals process" means the period of time that:

(a) Begins on the date on which the claimant first files or submits a request for a hearing or an appeal of a determination regarding the claim; and

(b) Continues until the date on which the claim is adjudicated to a final decision.

16. Except as otherwise provided in this subsection, if an employer, insurer or third-party administrator denies a claim that was filed pursuant to this section and the claimant ultimately prevails, the Administrator may order the employer, insurer or third-party administrator, as applicable, to pay to the claimant a benefit penalty of not more than \$200 for each day from that date on which an appeal is filed until the date on which the claim is adjudicated to a final decision. Such benefit penalty is payable in addition to any benefits to which the claimant is entitled under the claim and any fines and penalties imposed by the Administrator pursuant to NRS 616D.120. If a hearing before a hearing officer is requested pursuant to NRS 616C.315 and held pursuant to NRS 616C.330, the employer, insurer, or third-party administrator, as applicable, shall pay to the claimant all medical costs which are associated with the occupational disease and are incurred from the date on which the hearing is requested until the date on which the claim is adjudicated to a final decision. If the employer, insurer or third-party administrator, as applicable, ultimately prevails, the employer, insurer or third-party administrator, as applicable, is entitled to recover the amount paid pursuant to this subsection in accordance with the provisions of NRS 616C.138.

**AB 267** also includes the following language:

The amendatory provisions of sections 1, 2, 4 and 5 of this act apply only to claims filed on or after October 1, 2017.

## Texas

**HB 451** was:

- Passed by the first chamber on April 20, 2017
- Included in NCCI's April 28, 2017 *Legislative Activity Report* (RLA-2017-16)
- Passed by the second chamber on May 24, 2017
- Included in NCCI's June 2, 2017 *Legislative Activity Report* (RLA-2017-21)
- Enacted on June 15, 2017, with an effective date of September 1, 2017

**HB 451** adds *section 451.0025. Waiver of Immunity; Permission for First Responders to Sue* to the Texas Labor Code, Workers Compensation Title, as follows:

**Sec. 451.0025. Waiver of Immunity; Permission for First Responder to Sue.**

(a) In this section, "first responder" has the meaning assigned by Section 421.095, Government Code.

(b) A first responder who alleges a violation of Section 451.001 by a state or local governmental entity that employs the first responder may sue the governmental entity for the relief provided by this chapter. Sovereign or governmental immunity from suit is waived and abolished to the extent of liability created by this chapter.

(c) To the extent a person has official or individual immunity from a claim for damages, this section does not affect that immunity.

**HB 451** also amends *section 504.002. Application of General Workers' Compensation Laws; Limit on Actions and Damages* of the Texas Labor Code as follows:

**Sec. 504.002. Application of General Workers' Compensation Laws; Limit on Actions and Damages.**

(a) The following provisions of Subtitles A and B apply to and are included in this chapter except to the extent that they are inconsistent with this chapter:

- (1) Chapter 401, other than Section 401.011(18) defining "employer" and Section 401.012 defining "employee";
- (2) Chapter 402;
- (3) Chapter 403, other than Sections 403.001–403.005;
- (4) Chapters 404 and 405;

- (5) Sections 406.006–406.009 and Subchapters B and D–G, Chapter 406, other than Sections 406.033, 406.034, 406.035, 406.091, and 406.096;
- (6) Chapter 408, other than Sections 408.001(b) and (c);
- (7) Chapters 409–412;
- (8) Chapter 413, except as provided by Section 504.053;
- (9) Chapters 414–417; and
- (10) Chapter 451, subject to the limitations of Subsection (a-1).

(a-1) The liability of a political subdivision under Chapter 451 is limited to money damages in a maximum amount of \$100,000 for each person aggrieved by and \$300,000 for each single occurrence of a violation of that chapter. For purposes of this subsection, a single occurrence is considered to be a single employment policy or employment action that results in discrimination against or discharge of one or more employees concurrently.

**HB 451** also states the following:

The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect on the date the cause of action accrued, and the former law is continued in effect for that purpose.

This Act takes effect September 1, 2017.

**HB 919** was:

- Passed by the first chamber on April 28, 2017
- Included in NCCI’s May 5, 2017 **Legislative Activity Report** (RLA-2017-17)
- Passed by the second chamber on May 24, 2017
- Included in NCCI’s June 2, 2017 **Legislative Activity Report** (RLA-2017-21)
- Enacted on June 15, 2017, with an effective date of September 1, 2017

**HB 919** adds **section 88.126. Workers’ Compensation Insurance Coverage: Intrastate Fire Mutual Aid System and Regional Incident Management Teams** of the Texas Education Code to read as follows:

**Section 88.126. Workers’ Compensation Insurance Coverage: Intrastate Fire Mutual Aid System and Regional Incident Management Teams.**

(a) In this section:

(1) “Intrastate fire mutual aid system team” means an intrastate fire mutual aid system team established under the state emergency management plan under Section 418.042, Government Code, or the statewide mutual aid program for fire emergencies under Section 418.110, Government Code, and coordinated by the Texas A&M Forest Service to assist the state with fire suppression and all-hazard emergency response activities before and following a natural or man-made disaster.

(2) “Local government employee member” means a member employed by a local government, as defined by Section 102.001, Civil Practice and Remedies Code.

(3) “Member” means an individual, other than an employee of The Texas A&M University System, who has been officially designated as a member of an intrastate fire mutual aid system team or a regional incident management team.

(4) “Nongovernment member” means a member who is not a state employee member, a local government employee member, or an employee of The Texas A&M University System.

(5) “Regional incident management team” means a regional incident management team established under Section 88.122 or under the state emergency management plan under Section 418.042, Government Code, and coordinated by the Texas A&M Forest Service to assist the state with managing incident response activities before and following a natural or man-made disaster.

(6) “State employee member” means a member employed by an agency of the state other than a component of The Texas A&M University System.

(b) Notwithstanding any other law, during any period in which an intrastate fire mutual aid system team or a regional incident management team is activated by the Texas Division of Emergency Management, or during any training session sponsored or sanctioned by the Texas Division of Emergency Management for an intrastate fire mutual aid system team or a regional incident management team, a participating nongovernment member or local government employee member is included in the coverage provided under Chapter 501, Labor Code, in the same manner as an employee, as defined by Section 501.001, Labor Code.

(c) Service with an intrastate fire mutual aid system team or a regional incident management team by a state employee member who is activated is considered to be in the course and scope of the employee’s regular employment with the state.

(d) Service with an intrastate fire mutual aid system team or a regional incident management team by an employee of The Texas A&M University System is considered to be in the course and scope of the employee’s regular employment with The Texas A&M University System.

**HB 919** also amends *Section 408.0445. Average Weekly Wage for Members of State Military Forces and Texas Task Force 1, Section 501.001 Definitions, and Section 501.002 Application of General Workers™ Compensation Laws; Limit on Actions and Damages* of the Texas Labor Code as follows:

**Sec. 408.0445. Average Weekly Wage For Members of State Military Forces, ~~And~~ Texas Task Force 1, Intrastate Fire Mutual Aid System Teams, and Regional Incident Management Teams.**

...

(c) For purposes of computing income benefits or death benefits under Section 88.126, Education Code, the average weekly wage of an intrastate fire mutual aid system team member or a regional incident management team member, as defined by Section 88.126, Education Code, who is engaged in authorized training or duty is an amount equal to the sum of the member's regular weekly wage at any employment, including self-employment, that the member holds in addition to serving as a member of an intrastate fire mutual aid system team or a regional incident management team, as applicable, except that the amount may not exceed 100 percent of the state average weekly wage as determined under Section 408.047. A member for whom an average weekly wage cannot be computed shall be paid the minimum weekly benefit established by the division.

**Section 501.001 Definitions**

...

(5) "Employee" means a person who is:

(A) in the service of the state pursuant to an election, appointment, or express oral or written contract of hire;

(B) paid from state funds but whose duties require that the person work and frequently receive supervision in a political subdivision of the state;

(C) a peace officer employed by a political subdivision, while the peace officer is exercising authority granted under:

(i) Article 2.12, Code of Criminal Procedure; or

(ii) Articles 14.03(d) and (g), Code of Criminal Procedure;

(D) a member of the state military forces, as defined by Section 437.001, Government Code, who is engaged in authorized training or duty; ~~or~~

(E) a Texas Task Force 1 member, as defined by Section 88.301, Education Code, who is activated by the Texas Division of Emergency Management or is injured during training sponsored or sanctioned by Texas Task Force 1; or

(F) an intrastate fire mutual aid system team member or a regional incident management team member, as defined by Section 88.126, Education Code, who is activated by the Texas Division of Emergency Management or is injured during training sponsored or sanctioned by the Texas Division of Emergency Management on behalf of an intrastate fire mutual aid system team or a regional incident management team, as applicable.

**Section 501.002 Application of General Workers™ Compensation Laws; Limit on Actions and Damages**

...

(g) For purposes of this chapter and Section 88.126, Education Code, the Texas A&M Forest Service shall perform all duties of an employer in relation to an intrastate fire mutual aid system team member or a regional incident management team member who is injured and receives benefits under this chapter.

**HB 919** also states the following:

The change in law made by this Act applies only to a claim for workers' compensation benefits based on a compensable injury that occurs on or after the effective date of this Act. A claim based on a compensable injury that occurs before the effective date of this Act is governed by the law in effect on the date the compensable injury occurred, and the former law is continued in effect for that purpose.

This Act takes effect September 1, 2017.

**HB 1989** was:

- Passed by the first chamber on April 27, 2017
- Included in NCCI's May 5, 2017 *Legislative Activity Report* (RLA-2017-17)
- Passed by the second chamber on May 24, 2017
- Included in NCCI's June 2, 2017 *Legislative Activity Report* (RLA-2017-21)
- Enacted on June 15, 2017, with an effective date of September 1, 2017

**HB 1989** amends *section 407.045 Withdrawal from Self-Insurance* of the Texas Labor Code as follows:

**407.045 Withdrawal from Self-Insurance**

...

(a-1) For purposes of Subsection (a), an adequate program includes a program in which the certified self-insurer has insured or reinsured all workers' compensation obligations incurred by the self-insurer with an authorized insurer under an agreement that is filed with and approved in writing by the commissioner. The obligations incurred include:

- (1) all known claims and expenses associated with those claims; and
- (2) all incurred but not reported claims and expenses associated with those claims.

...

## Vermont

**HB 515** was:

- Passed by the first chamber on March 29, 2017
- Included in NCCI's April 7, 2017 **Legislative Activity Report** (RLA-2017-13)
- Amended and passed by the second chamber on April 28, 2017
- Included in NCCI's May 5, 2017 **Legislative Activity Report** (RLA-2017-17)
- Enacted on June 13, 2017, with an effective date of July 1, 2017

**HB 515**, in part, amends **Title 21, Chapter 009, section 711. Workers' Compensation Administration Fund** of the Vermont Statutes Annotated as follows:

**§ 711. Workers' Compensation Administration Fund**

(a) A Workers' Compensation Administration Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5 to be expended by the Commissioner for the administration of the workers' compensation and occupational disease programs. The Fund shall consist of contributions from employers made at a rate of ~~1.75~~ **1.4** percent of the direct calendar year premium for workers' compensation insurance, one percent of self-insured workers' compensation losses, and one percent of workers' compensation losses of corporations approved under this chapter. Disbursements from the Fund shall be on warrants drawn by the Commissioner of Finance and Management in anticipation of receipts authorized by this section.

...

### BILLS PASSING SECOND CHAMBER

There were no relevant workers compensation-related bills that passed the second chamber within the one-week period ending June 16, 2017.

### BILLS PASSING FIRST CHAMBER

The following workers compensation-related bill passed the first chamber within the one-week period ending June 16, 2017.

## North Carolina

**SB 615**, in part, amends **section 97-2 Definitions.** of the Workers Compensation Act in the North Carolina General Statutes as follows:

**§ 97-2. Definitions.**

When used in this Article, unless the context otherwise requires:

...

(2) Employee.—The term "employee" means every person engaged in an employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also minors, whether lawfully or unlawfully employed, but excluding persons whose employment is both casual and not in the course of the trade, business, profession, or occupation of his employer, and as relating to those so employed by the State, the term "employee" shall include all officers and employees of the State, including such as are elected by the people, or by the General Assembly, or appointed by the Governor to serve on a per diem, part-time or fee basis, either with or without the confirmation of the Senate; as relating to municipal corporations and political subdivisions of the State, the term "employee" shall include all officers and employees thereof, including such as are elected by the people.

...

"Employee" shall not include any person elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation subject to Chapter 47A, 47C, 47F, 55A, or 59B of the General Statutes, or any organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, who performs only voluntary service for the nonprofit corporation, provided that the person receives no remuneration for the voluntary service other than reasonable reimbursement for expenses incurred in connection with the voluntary service. When a nonprofit corporation as described herein employs one or more persons who do receive remuneration other than reasonable reimbursement for expenses, then any volunteer officers, directors, or committee members excluded from the definition of "employee" by operation of this paragraph shall be counted as employees for the sole purpose of determining the number of persons regularly employed in the same business or establishment pursuant to G.S. 97-2(1). Other than for the limited purpose of determining the number of persons regularly employed in the same business or establishment, such volunteer nonprofit officers, directors, or committee members shall not be "employees" under the Act. Nothing herein shall prohibit a nonprofit corporation as described herein from voluntarily electing to provide for workers' compensation benefits in the manner provided in G.S. 97-93 for volunteer

officers, directors, or committee members excluded from the definition of “employee” by operation of this paragraph. This paragraph shall not apply to any volunteer firefighter, volunteer member of an organized rescue squad, an authorized ~~pickup firefighter~~ emergency worker when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service, a duly appointed and sworn member of an auxiliary police department organized pursuant to G.S. 160A-282, or a senior member of the State Civil Air Patrol functioning under Subpart C of Part 5 of Article 13 of Chapter 143B of the General Statutes, even if such person is elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation as described herein.

Any sole proprietor or partner of a business or any member of a limited liability company may elect to be included as an employee under the workers’ compensation coverage of such business if he or she is actively engaged in the operation of the business and if the insurer is notified of his election to be so included. Any such sole proprietor or partner or member of a limited liability company shall, upon such election, be entitled to employee benefits and be subject to employee responsibilities prescribed in this Article.

“Employee” shall include an authorized ~~pickup firefighter~~ emergency worker of the North Carolina Forest Service of the Department of Agriculture and Consumer Services when that individual is engaged in emergency ~~fire suppression~~ activities for the North Carolina Forest Service. As used in this section, “authorized ~~pickup firefighter~~” emergency worker” means an individual who has completed required ~~fire suppression~~ emergency response training as a ~~wildland firefighter~~ required by the North Carolina Forest Service and who is available as needed by the North Carolina Forest Service for emergency ~~fire suppression~~ activities, including immediate dispatch to ~~wildfires~~ wildfires, snow events, hurricanes, earthquakes, floods, or other emergencies, and standby for initial attack on fires during periods of high fire danger.

...

### Contact Information

If you have any questions about the legislation or proposals mentioned, please contact the appropriate NCCI state relations executive (listed below) or a representative of your local insurance trade association.

State	State Relations Executive	Phone Number
CT, ME, NH, RI, VT	Laura Backus Hall	802-454-1800
FL, ID, MT, NV, OR	Peter Burton	610-964-8852
AL, GA, KY, LA, MS	Laura Hart Bryan	225-618-8168
AK, AZ, CO, NM, UT	Maggie Karpuk	818-707-8374
DC, MD, VA, WV	David Benedict	804-380-3005
HI	Carolyn Pearl	808-524-6239
IN, NC, SC, TN	Amy Quinn	803-356-0851
AR, IL, KS, TX	Terri Robinson	501-333-2835
IA, MO, NE, OK, SD	Carla Townsend	314-843-4001
Federal Issues	Tim Tucker	202-403-8526

This report is informational and is not intended to provide an interpretation of state and federal legislation.