

HOUSE BILL REPORT

SHB 1500

As Passed Legislature

Title: An act relating to permanent partial disability claims.

Brief Description: Modifying provisions on permanent partial disability claims.

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Williams, Chase, Kenney, Wood and Moeller).

Brief History:

Committee Activity:

Commerce & Labor: 2/15/07, 2/16/07 [DPS].

Floor Activity:

Passed House: 2/28/07, 97-0.

Passed Senate: 4/9/07, 47-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Creates options for deducting a prior permanent partial disability award from a subsequent pension award.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Green, Moeller and Williams.

Staff: Sarah Beznoska (786-7109).

Background:

Workers injured in the course of employment may receive various benefits under the Industrial Insurance Act (Act).

Permanent Partial Disability

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

If permanent partial disability results from an injury, a worker may be entitled to compensation in accordance with a statutory schedule. Maximum permanent partial disability awards (PPD awards) are adjusted annually using the U.S. Consumer Price Index (CPI). A permanent partial disability is defined under the Act as the loss of either one foot, one leg, one hand, one arm, one eye, one or more fingers, one or more toes, any dislocation where ligaments were severed where repair is not complete, or any other injury known in surgery to be a permanent partial disability.

Permanent Total Disability

If permanent total disability results from an injury, a worker may be entitled to compensatory benefits based on the monthly wages that the worker was receiving from all employment at the time of injury. A permanent total disability is defined under the Act as loss of both legs, or arms, or one leg and one arm, total loss of eyesight, paralysis, or other condition permanently incapacitating the worker from performing any work at any gainful occupation.

Pension benefits for eligible workers with a permanent total disability are payable to the worker as long as he or she remains totally disabled. A cost of living adjustment is made to the monthly pension amount each July 1 based upon changes in the state average monthly wage. The state average monthly wage is derived from the Employment Security Department's calculation of the state average annual wage.

Related Reductions

If a pension award for permanent total disability is preceded by a PPD award, there may be a related deduction in the pension award to account for the prior PPD award. That deduction is taken from the pension reserve and monthly pension payments are then reduced accordingly. Under *Stuckey v. Department of Labor and Industries*, in all cases where a PPD award precedes a pension award, the Department of Labor and Industries (Department) must use this method of deduction.

Summary of Substitute Bill:

The worker has a choice when a PPD precedes a pension award and a related deduction is made. The worker may choose:

- to have the amount deducted from monthly pension benefits in an amount that does not exceed 25 percent of the monthly amount or one-sixth of the total overpayment, whichever is less; or
- to have the amount deducted from the pension reserve and have monthly compensation payments reduced accordingly.

These options apply to all pension orders issued on or after the effective date of the act.

Appropriation: None.

Fiscal Note: Requested on February 16, 2007.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support of substitute bill) The substitute addresses concerns with the underlying bill. Deducting the PPD award from a monthly pension payment is the way the Department of Labor and Industries (Department) used to do this, but a court case required the Department to deduct from the pension reserve.

(Information on substitute bill) The Department has no concerns with the substitute bill. Costs related to the substitute bill would start sooner than the underlying bill because of the different effective date.

(Opposed) None.

Persons Testifying: (In support of substitute bill) Dave Kaplan, Washington Self-Insurers Association; and Terri Herring, Washington State Trial Lawyers Association.

(Information on substitute bill) Vickie Kennedy, Department of Labor and Industries.

Persons Signed In To Testify But Not Testifying: None.