
HOUSE BILL 1043

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Fraser, Belcher and Sheldon.

Read first time January 17, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to industrial insurance compensation for temporary
2 total disability of state employees; and amending RCW 51.32.090.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 51.32.090 and 1988 c 161 s 4 are each amended to read
5 as follows:

6 (1) When the total disability is only temporary, the schedule of
7 payments contained in RCW 51.32.060 (1) and (2) shall apply, so long as
8 the total disability continues.

9 (2) Any compensation payable under this section for children not in
10 the custody of the injured worker as of the date of injury shall be
11 payable only to such person as actually is providing the support for
12 such child or children pursuant to the order of a court of record
13 providing for support of such child or children.

1 (3) As soon as recovery is so complete that the present earning
2 power of the worker, at any kind of work, is restored to that existing
3 at the time of the occurrence of the injury, the payments shall cease.
4 If and so long as the present earning power is only partially restored,
5 the payments shall continue in the proportion which the new earning
6 power shall bear to the old. No compensation shall be payable unless
7 the loss of earning power shall exceed five percent.

8 (4) Whenever an employer requests that a worker who is entitled to
9 temporary total disability under this chapter be certified by a
10 physician as able to perform available work other than his or her usual
11 work, the employer shall furnish to the physician, with a copy to the
12 worker, a statement describing the available work in terms that will
13 enable the physician to relate the physical activities of the job to
14 the worker's disability. The physician shall then determine whether
15 the worker is physically able to perform the work described. If the
16 worker is released by his or her physician for said work, and the work
17 thereafter comes to an end before the worker's recovery is sufficient
18 in the judgment of his or her physician to permit him or her to return
19 to his or her usual job, or to perform other available work, the
20 worker's temporary total disability payments shall be resumed. Should
21 the available work described, once undertaken by the worker, impede his
22 or her recovery to the extent that in the judgment of his or her
23 physician he or she should not continue to work, the worker's temporary
24 total disability payments shall be resumed when the worker ceases such
25 work.

26 Once the worker returns to work under the terms of this subsection,
27 he or she shall not be assigned by the employer to work other than the
28 available work described without the worker's written consent, or
29 without prior review and approval by the worker's physician.

1 In the event of any dispute as to the worker's ability to perform
2 the available work offered by the employer, the department shall make
3 the final determination.

4 (5) No worker, except state employees covered by chapter 41.06 RCW
5 or higher education personnel covered by chapter 28B.16 RCW, shall
6 receive compensation for or during the day on which injury was received
7 or the three days following the same, unless his or her disability
8 shall continue for a period of fourteen consecutive calendar days from
9 date of injury: PROVIDED, That attempts to return to work in the first
10 fourteen days following the injury shall not serve to break the
11 continuity of the period of disability if the disability continues
12 fourteen days after the injury occurs.

13 (6) Should a worker suffer a temporary total disability and should
14 his or her employer at the time of the injury continue to pay him or
15 her the wages which he or she was earning at the time of such injury,
16 such injured worker shall not receive any payment provided in
17 subsection (1) of this section during the period his or her employer
18 shall so pay such wages.

19 (7) In no event shall the monthly payments provided in this section
20 exceed one hundred percent of the average monthly wage in the state as
21 computed under the provisions of RCW 51.08.018.

22 (8) If the supervisor of industrial insurance determines that the
23 worker is voluntarily retired and is no longer attached to the work
24 force, benefits shall not be paid under this section.