

HOUSE BILL REPORT

HB 3134

As Passed Legislature

Title: An act relating to compensation for temporary or permanent total disability.

Brief Description: Determining the amount of compensation for temporary or permanent total disability.

Sponsors: By Representatives Conway, Wood, Chase and Kenney.

Brief History:

Committee Activity:

Commerce & Labor: 1/30/06 [DP].

Floor Activity:

Passed House: 2/14/06, 96-0.

Passed Senate: 3/2/06, 44-0.

Passed Legislature.

Brief Summary of Bill

- Requires the Department of Labor and Industries to calculate the reduction in industrial insurance benefits for federal Social Security retirement benefits using a formula in federal law and guidelines in state law.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Crouse, Holmquist, Hudgins, Kenney and McCoy.

Staff: Sarah Dylag (786-7109).

Background:

The federal Social Security Act contains provisions to coordinate benefits received under more than one disability program. Social Security disability benefits for persons under age 65 are reduced by the full amount of state or federal workers' compensation benefits also being paid to the individual. The federal provisions include a "reverse offset" that permits the disability benefit reduction to be taken by a state's workers' compensation program rather than by the federal program. Federal law provides a formula for computing this reverse offset.

State law also allows the Department of Labor and Industries (Department) to reduce workers' compensation benefits for Social Security retirement benefits. Unlike the reverse offset for

Social Security disability benefits, there is not a corresponding federal law for the retirement benefit reduction. Under state law, the procedures for the retirement benefit reduction must comply with the procedures for the offset for Social Security disability benefits, except for procedures that relate to computation.

Summary of Bill:

For a worker whose entitlement to Social Security retirement benefits is immediately preceded by an entitlement to Social Security disability benefits, the reduction for Social Security retirement benefits must be computed consistent with the formula set forth in federal law for computing the reverse offset for Social Security disability benefits.

For all other workers, the reduction for Social Security retirement benefits must be calculated "to most closely follow the intent" of the state law that sets forth the reverse offset for Social Security disability payments.

Appropriation: None.

Fiscal Note: Requested on January 27, 2006.

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

Testimony For: This bill fixes a problem that has arisen due to a court decision. Essentially, the Department interprets the offset provisions related to Social Security retirement so the offset is calculated in the same way as the offset provisions for Social Security disability. This allows a worker who transitions from Social Security disability to Social Security retirement payments to do so smoothly without any reduction in benefits. The court decision, however, could result in workers seeing reduced benefits.

For a worker receiving Social Security payments and workers' compensation, the total combined benefits are capped using a number representing "average current earnings" or the timeloss rate, whichever is higher. The recent court decision provides that the offset for Social Security retirement payments must be made using a dollar-for-dollar offset. This bill allows the Department to continue calculating as they have always calculated.

Testimony Against: None.

Persons Testifying: David Lauman, Washington State Trial Lawyers' Association.

Persons Signed In To Testify But Not Testifying: None.