

# SENATE BILL REPORT

## SHB 1500

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As Reported By Senate Committee On:  
Labor, Commerce, Research & Development, March 27, 2007

**Title:** An act relating to permanent partial disability claims.

**Brief Description:** Modifying provisions on permanent partial disability claims.

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

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

**Committee Activity:** Labor, Commerce, Research & Development: 3/27/07 [DP].

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### SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

**Majority Report:** Do pass.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Clements, Ranking Minority Member; Franklin, Hewitt, Holmquist, Murray and Prentice.

**Staff:** Jennifer Strus (786-7316)

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

Permanent Partial Disability: 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 and 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

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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 (L&I) 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:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: L&I used to use the two methods in the bill to recoup an overpayment until the court in the *Stuckey* case indicated it could not use one of the two methods. The bill returns to L&I the ability to use both methods, at the employee's option, to recoup overpayments.

**Persons Testifying:** PRO: Michael Temple, Washington State Trial Lawyers Association.