SENATE BILL REPORT
SB 5687

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, February 20, 2007

Title: An act relating to permanent partial disability claims.

Brief Description: Modifying provisions on permanent partial disability claims.

Sponsors: Senators Keiser, Kohl-Welles and Kline.

Brief History:
Committee Activity: Labor, Commerce, Research & Development: 2/19/07, 2/20/07 [DPS].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5687 be substituted therefor, and the substitute bill do pass.
Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Clements, Ranking Minority Member; Franklin, Holmquist, Murray and Prentice.

Staff: Jennifer Strus (786-7316)

Background: If a permanent partial disability (PPD) results from a workplace injury, a worker may be entitled to compensation in accordance with a statutory schedule. A permanent partial disability is defined in statute 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 repair is not complete, or any other injury known in surgery to be a permanent partial disability.

If permanent total disability results from a workplace 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. Pension benefits for eligible workers with a permanent total disability are payable to the worker as long as he or she remains totally disabled.

If a pension award for permanent total disability is preceded by a PPD award, there may be a related reduction 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 & Industries*, in all cases where a PPD award precedes a pension award, the Department of Labor & Industries (L&I) must use this method of deduction.

Summary of Bill: The bill as referred to committee not considered.

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.

SUMMARY OF RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Labor, Commerce, Research & Development): If the permanent total disability compensation follows PPD compensation, any portion of the PPD which exceeds what the worker would have received had he or she received permanent total disability at the start, must be deducted from the worker's monthly pension benefits as follows: (1) an amount not to exceed 25 percent of the monthly amount due from L&I or the self-insurer, or one-sixth of the total overpayment deducted, whichever is less; or (2) the amount deducted from the pension reserve and have monthly compensation payments reduced accordingly (current law).

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: The added language in the bill is the method by which L&I used to determine how much of a PPD award had to be paid back, but last year, in a Court of Appeals decision, a judge ruled that, based upon the statutory language, L&I could no longer determine the amount using the method they were using. This bill puts in statute the method L&I had been using prior to the court case.

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