Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Labor & Workforce Development Committee

HB 2023

Brief Description: Achieving savings in workers' compensation but only with respect to permanent partial disability awards and awards of permanent total disability following an award of permanent partial disability.

Sponsors: Representatives Springer and Sells.

Brief Summary of Bill

- Requires permanent total disability (TPD or pension) industrial insurance awards to be offset by any prior permanent partial disability (PPD) awards for the claim or claims.

Hearing Date: 3/22/11

Staff: Joan Elgee (786-7106).

Background:

Under the state's industrial insurance laws, employers must insure through the State Fund administered by the Department of Labor and Industries (Department) or, if qualified, may self-insure. Workers injured in the course of employment or disabled from an occupational disease are entitled to benefits.

If permanent partial disability (PPD) results from an injury, a worker receives one-time compensation under a statutory schedule. The schedule explicitly addresses amputation and loss of eyesight and vision. For unspecified disabilities, the compensation is based on the the proportion which the disability bears to the closest scheduled disability. Maximum PPD awards are adjusted annually using the U.S. Consumer Price Index (CPI). If a PPD benefit awarded to a worker is more than three times the average monthly wage, payment is made monthly, and interest is paid at the rate of 8 percent on the balance. A worker (or the worker's survivor) may apply to convert the monthly payment into a lump sum. The Department has the discretion to grant or deny the conversion depending on the merits of each application.

A worker is entitled to permanent total disability (TPD or also referred to as pension) benefits if the worker has lost two major limbs, or has total loss of eyesight, paralysis, or other condition permanently incapacitating the worker from performing any work at any gainful occupation. A worker receives 60 to 75 percent of the worker's wages depending on the worker's marital status and number of children, subject to a minimum and maximum.

If a worker receives a TPD award following a PPD award, any portion of the PPD award that exceeds the amount that would have been paid if the TPD award had been paid in the first instance is deducted from the worker's TPD benefits. This provision has been interpreted to result in no deduction of PPD awards in many cases. If amounts are deducted, the worker has a choice of whether the deduction is from the worker's monthly benefit amount or from the pension reserve of the worker. The deduction from the monthly benefit amount is capped at 25 percent of the monthly amount or 1/6 the total overpayment, whichever is less.

Summary of Bill:

If TPD benefit is awarded after a PPD award, all PPD compensation paid on the claim or claims for which TPD benefits are awarded must be either deducted from the worker's monthly pension benefits or deducted from the pension reserve, at the worker's choosing. The cap under current law for deductions from the monthly pension benefit is retained. Any interest paid on the PPD award is not deducted. These changes apply to TPD determinations on or after July 1, 2011.

A worker of a self-insured employer applies to the self-insurer, rather than the Department, to convert monthly PPD payment to a lump sum. However, only the Department may deny an application of a self-insured worker to convert the payment.

Appropriation: None.

Fiscal Note: Requested on March 19, 2011.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2011.