



# Senate

General Assembly

**File No. 262**

February Session, 2006

Substitute Senate Bill No. 217

*Senate, March 31, 2006*

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING DISCRETIONARY BENEFITS UNDER THE WORKERS' COMPENSATION ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-308a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 (a) In addition to the compensation benefits provided by section 31-  
4 308 for specific loss of a member or use of the function of a member of  
5 the body, or any personal injury covered by this chapter, the  
6 commissioner, after such payments provided by said section 31-308  
7 have been paid for the period set forth in said section, may award  
8 additional compensation benefits for such partial permanent disability  
9 equal to seventy-five per cent of the difference between the wages  
10 currently earned by an employee in a position comparable to the  
11 position held by such injured employee prior to his injury, after such  
12 wages have been reduced by any deduction for federal or state taxes,  
13 or both, and for the federal Insurance Contributions Act in accordance  
14 with section 31-310, as amended, and the weekly amount which such

15 employee will probably be able to earn thereafter, after such amount  
 16 has been reduced by any deduction for federal or state taxes, or both,  
 17 and for the federal Insurance Contributions Act in accordance with  
 18 section 31-310, as amended, to be determined by the commissioner  
 19 based upon the nature and extent of the injury, the training, education  
 20 and experience of the employee, the availability of work for persons  
 21 with such physical condition and at the employee's age, but not more  
 22 than one hundred per cent, raised to the next even dollar, of the  
 23 average weekly earnings of production and related workers in  
 24 manufacturing in the state, as determined in accordance with the  
 25 provisions of section 31-309. If evidence of exact loss of earnings is not  
 26 available, such loss may be computed from the proportionate loss of  
 27 physical ability or earning power caused by the injury. The duration of  
 28 such additional compensation shall be determined upon a similar basis  
 29 by the commissioner, but in no event shall the duration of such  
 30 additional compensation exceed [the lesser of (1) the duration of the  
 31 employee's permanent partial disability benefits, or (2)] five hundred  
 32 twenty weeks. Additional benefits provided under this section shall be  
 33 available only to employees who are willing and able to perform work  
 34 in this state.

35 (b) (1) Notwithstanding the provisions of subsection (a) of this  
 36 section, additional benefits provided under this section shall be  
 37 available only when the nature of the injury and its effect on the  
 38 earning capacity of an employee warrant additional compensation.

39 (2) If additional compensation is awarded under subsection (a) of  
 40 this section, the commissioner shall state the basis for such award, and  
 41 such statement shall include an evaluation of the nature and extent of  
 42 the injury, the training, education and experience of the employee and  
 43 the availability of work for persons of the employee's age with the  
 44 employee's physical condition.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2006	31-308a

**LAB**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Dept. of Administrative Services - Workers' Comp. Claims; Various State Agencies	GF - Cost	Potential	Significant
Treasurer	SIF - Cost	Potential	500,000

Note: GF=General Fund; SIF=Second Injury Fund

**Municipal Impact:**

Municipalities	Effect	FY 07 \$	FY 08 \$
All Municipalities	STATE MANDATE - Cost	Potential	Significant

**Explanation**

The bill extends the maximum number of weeks of discretionary workers' compensation benefits for partial permanent disabilities (PPD) that may be awarded. Under current law, these discretionary benefits (CGS 31-308a) are limited to the statutory duration of the claimant's PPD benefits (CGS 31-308) or 520 weeks, whichever is less. The bill removes a workers' compensation commissioner's obligation to choose the lesser of the two options, thus authorizing a commissioner to award up to 520 weeks of discretionary workers' compensation benefits.

The bill would result in significant additional costs to the state and municipalities. For example, if a claimant with a lumbar injury and 25% PPD obtains a medical opinion that the injury prohibits him from returning to his job, that claimant would be entitled to 31-308a discretionary benefits.

Under current law, the employee would receive 93.5 weeks of 31-

308 PPD benefits (based on 25% of the statutory schedule for a lumbar injury), and would also be eligible for a maximum of 93.5 weeks of 31-308a discretionary benefits.

The cost of the 31-308 PPD benefits is \$56,100 (employee compensation rate of \$600 per week x 93.5 weeks). The maximum cost of the 31-308a discretionary benefits would also be \$56,100.

Under the bill, a claimant receiving 93.5 weeks of 31-308 PPD benefits would also be eligible to receive a maximum of 520 weeks of 31-308a discretionary benefits. The cost of the 31-308 PPD benefits is still \$56,100. However, the maximum cost of the 31-308a discretionary benefits would be \$312,000 (\$600 per week x 520 weeks).

In this example, the bill would increase 31-308a discretionary benefits costs by \$259,900. It should be noted that the State provides 31-308a discretionary benefits to approximately 200 claims annually.

It is anticipated that the fiscal impact of this bill will begin in FY 08 as the bill's effective date is October 1, 2006 and pertains to injuries on or after that date. Since 31-308a discretionary benefits can only be awarded after 31-308 PPD benefits have been paid it is unlikely that the bill's increased costs will be incurred in FY 07.

It is estimated that the bill will increase costs to the Second Injury Fund by \$500,000 in FY 08 as a result of increases in concurrent employment claims and the indemnity portion of uninsured employer claims.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sSB 217*****AN ACT CONCERNING DISCRETIONARY BENEFITS UNDER THE WORKERS' COMPENSATION ACT.*****SUMMARY:**

This bill extends the maximum number of weeks of additional workers' compensation benefits for partial permanent disabilities that may be awarded after a claimant has exhausted his regular benefits under the statutory schedule. Under current law, a workers' compensation commissioner can give additional weeks of discretionary benefits for a period covering the lesser of (1) the statutory duration for the particular partial permanent disability or (2) 520 weeks (10 years). The bill removes the obligation to choose the lesser of the two options, thus authorizing a commissioner, at his discretion, to provide up to 10 years of additional benefits regardless of the type of partial permanent disability.

EFFECTIVE DATE: October 1, 2006

**BACKGROUND*****Partial Permanent Disability***

The weekly duration of the partial permanent disability is determined by the statutory schedule of benefits for specific body parts.

***Discretionary Benefits***

A commissioner may grant additional benefits to a claimant after he has been paid all of his partial permanent disability benefits if the injury resulted in his inability to find work, or the new job pays less than his original job. The discretionary benefits are equal to 75% of the employee's after-tax loss in earnings due to the injury.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 4 (03/14/2006)