



# Senate

General Assembly

**File No. 6**

*January Session, 2007*

Senate Bill No. 847

*Senate, March 1, 2007*

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 bill ought to pass.

***AN ACT CONCERNING ADDITIONAL BENEFITS FOR WAGE LOSS 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 Section 31-308a of the general statutes is repealed and the  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, 2007*):

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, and the weekly amount which such employee will

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2007	31-308a

**LAB**      *Joint Favorable*

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 chamber thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Dept. of Administrative Services - Workers' Comp. Claims; Various State Agencies	GF - Cost	Potential	Significant
Treasurer	SIF - Cost	Potential	400,000

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

**Municipal Impact:**

Municipalities	Effect	FY 08 \$	FY 09 \$
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, at his discretion, to award up to 520 weeks of discretionary workers' compensation benefits.

The bill will result a significant cost to the state and municipalities. The following example illustrates the high range of costs associated with this bill. 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 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 \$255,900. It should be noted that the State provides 31-308a discretionary benefits to approximately 200 claims annually. It is not known how many claimants will receive increased benefits under the bill.

It is anticipated that the fiscal impact of this bill will begin in FY 09 as the bill's effective date is October 1, 2007 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 there will be any costs associated with this bill in FY 08.

It is estimated that the bill will increase costs to the Second Injury Fund by \$400,000 in FY 09 based on the assumption that concurrent employment payments and the indemnity portion of uninsured employer payments would increase by 8%.

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

The costs to the state identified above would increase in future years as the claim costs add cumulatively year after year.

**OLR Bill Analysis****SB 847*****AN ACT CONCERNING ADDITIONAL BENEFITS FOR WAGE LOSS UNDER THE WORKERS' COMPENSATION ACT.*****SUMMARY:**

This bill extends the maximum number of weeks of additional workers' compensation benefits for partial permanent disabilities a workers' compensation commissioner may award after a claimant has exhausted the statutory schedule for regular benefits. Under current law, a commissioner can give additional weeks of discretionary benefits for 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 or her discretion, to provide up to 10 years of additional benefits for any type of partial permanent disability.

It also requires the commissioner to state the basis for any benefit extension, including (1) an evaluation of the injury; (2) the employee's training, education, and experience; and (3) the availability of work for people with such physical conditions at the employee's age.

EFFECTIVE DATE: October 1, 2007

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

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

***Discretionary Benefits***

A commissioner may grant additional benefits to a claimant after

the claimant has received all of his partial permanent disability benefits under the statutory schedule if the injury results in the claimant's inability to find work, or the new job pays less than the 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

Yea 8 Nay 2 (02/13/2007)