

Senate, March 9, 1998. The Committee on Labor and Public Employees reported through SEN. PRAGUE, 19th DIST., Chairman of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING DISCRETIONARY WORKERS' COMPENSATION BENEFITS.

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

1 Subsection (a) of section 31-308a of the  
2 general statutes is repealed and the following is  
3 substituted in lieu thereof:

4 (a) In addition to the compensation benefits  
5 provided by section 31-308 for specific loss of a  
6 member or use of the function of a member of the  
7 body, or any personal injury covered by this  
8 chapter, the commissioner, after such payments  
9 provided by said section 31-308 have been paid,  
10 [for the period set forth in said section,] may  
11 award additional compensation benefits for such  
12 partial permanent disability equal to seventy-five  
13 per cent of the difference between the wages  
14 currently earned by an employee in a position  
15 comparable to the position held by such injured  
16 employee prior to his injury, after such wages  
17 have been reduced by any deduction for federal or  
18 state taxes, or both, and for the federal  
19 Insurance Contributions Act in accordance with  
20 section 31-310, and the weekly [amount which such  
21 employee will probably be able to earn] EARNING  
22 CAPACITY OF THE EMPLOYEE thereafter, after such  
23 amount has been reduced by any deduction for

24 federal or state taxes, or both, and for the  
25 federal Insurance Contributions Act in accordance  
26 with section 31-310, to be determined by the  
27 commissioner based upon the nature and extent of  
28 the injury, the training, education and experience  
29 of the employee, the availability of work for  
30 persons with such physical condition and at the  
31 employee's age, but not more than one hundred per  
32 cent, raised to the next even dollar, of the  
33 average weekly earnings of production and related  
34 workers in manufacturing in the state, as  
35 determined in accordance with the provisions of  
36 section 31-309. If evidence of exact loss of  
37 earnings is not available, such loss may be  
38 computed from the proportionate loss of physical  
39 ability or earning power caused by the injury. The  
40 duration of such additional compensation shall be  
41 determined upon a similar basis by the  
42 commissioner, but [in no event shall the duration  
43 of such additional compensation exceed the lesser  
44 of (1) the duration of the employee's permanent  
45 partial disability benefits, or (2)] SHALL NOT  
46 LAST MORE THAN five hundred twenty weeks.  
47 [Additional benefits provided under this section  
48 shall be available only to employees who are  
49 willing and able to perform work in this state.]

50 LAB COMMITTEE VOTE: YEA 7 NAY 3 JF

\* \* \* \* \*

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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**FISCAL IMPACT STATEMENT - BILL NUMBER SB 211**

STATE IMPACT	Potential Indeterminate Cost (Workers' Compensation Fund), Potential Minimal Cost, see explanation below
MUNICIPAL IMPACT	Potential Minimal Cost, see explanation below
STATE AGENCY(S)	Workers' Compensation Commission, Various State Agencies

EXPLANATION OF ESTIMATES:

STATE AND MUNICIPAL IMPACT: The passage of this bill could result in additional costs to the Workers' Compensation Commission (Workers' Compensation Fund) that cannot be determined at this time. It could also result in minimal additional costs to the State and municipalities as employers.

The bill gives more discretion to Workers' Compensation Commissioners in awarding extra wage differential benefits to workers who lose earning power because of job-related permanent partial disabilities. This is anticipated to result in only a minimal increase in workers' compensation costs for all employers, including the State and municipalities. However, the potential increase in the amount of extra wage differential benefits could encourage more workers to seek these benefits, resulting in an increase in the number of hearings by the Workers' Compensation Commission. The increase in the number of hearings, and therefore the increase in costs, cannot be determined at this time.

It should be noted that there is a typographical error in the reference to the section of statutes to be changed by the bill. The bill refers to CGS Section 31-208a, while the actual reference should be 31-308a.

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## OLR BILL ANALYSIS

SB 211

### **AN ACT CONCERNING DISCRETIONARY WORKERS' COMPENSATION BENEFITS**

**SUMMARY:** This bill broadens the discretion of workers' compensation commissioners in awarding extra wage differential benefits to workers who lose earning power because of permanent partial disabilities arising from job-related injuries. Instead of limiting their duration to the length of the worker's permanent partial disability award or 520 weeks, whichever is less, the bill allows commissioners to grant up to 520 weeks of such benefits. It also allows commissioners to award the benefits to injured workers who are not prepared to continue working in Connecticut. The bill also makes technical changes.

EFFECTIVE DATE: October 1, 1998

### **BACKGROUND**

#### **Discretionary Wage Differential Benefits**

These benefits equal 75% of the difference in take-home pay between what a worker currently holding a job comparable to the one the injured worker held before his injury can earn and what the injured worker can earn after the injury. The commissioner determines the latter amount based on the nature and extent of the injury; the worker's training, education, and experience; and the availability of jobs for workers of his age and physical condition. The maximum benefit is equal to the state average weekly production wage (currently \$605).

Under the bill, the commissioner is still authorized to

award the extra benefits only if he decides the nature of the permanent injury and its effect on the worker's earning power warrants it.

### **Permanent Partial Disability Awards**

By law, a worker who, because of a job-related injury, permanently loses all or some use of a part of his body is compensated according to a statutory schedule that establishes weeks of benefits payable for full, permanent loss of specified limbs, organs, and areas of the body. Partial loss is compensated proportionately. For example, the statutory compensation for permanent loss or loss of use of a master arm at or above the elbow is 208 weeks of benefits. A 10% permanent disability of the same arm would be compensated with 21 weeks of benefits (10% of 208). Scheduled compensation ranges from one week for a tooth to 520 weeks for the most vital organs: heart, brain, and carotid artery. In practice, most permanent partial disability awards are for less than 520 weeks.

### **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Report

Yea 7      Nay 3