

Senate, March 16, 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 WORKERS' COMPENSATION BENEFITS.

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

1 Section 1. Subdivision (2) of subsection (a)
2 of section 31-306 of the general statutes, as
3 amended by section 3 of public act 97-205, is
4 repealed and the following is substituted in lieu
5 thereof:
6 (2) To those wholly dependent upon the
7 deceased employee at the date of his injury, a
8 weekly compensation equal to [seventy-five] EIGHTY
9 per cent of the average weekly earnings of the
10 deceased calculated pursuant to section 31-310, AS
11 AMENDED BY SECTION 5 OF THIS ACT, after such
12 earnings have been reduced by any deduction for
13 federal or state taxes, or both, and for the
14 federal Insurance Contributions Act made from such
15 employee's total wages received during the period
16 of calculation of the employee's average weekly
17 wage pursuant to said section 31-310, AS AMENDED,
18 as of the date of the injury but not more than the
19 maximum weekly compensation rate set forth in
20 section 31-309 for the year in which the injury
21 occurred or less than twenty dollars weekly. (A)
22 The weekly compensation rate of each dependent
23 entitled to receive compensation under this
24 section as a result of death arising from a

25 compensable injury occurring on or after October
26 1, 1977, shall be adjusted annually as provided in
27 this subdivision as of the following October
28 first, and each subsequent October first, to
29 provide the dependent with a cost-of-living
30 adjustment in his weekly compensation rate as
31 determined as of the date of the injury under
32 section 31-309. If the maximum weekly compensation
33 rate, as determined under the provisions of said
34 section 31-309, to be effective as of any October
35 first following the date of the injury, is greater
36 than the maximum weekly compensation rate
37 prevailing at the date of the injury, the weekly
38 compensation rate which the injured employee was
39 entitled to receive at the date of the injury
40 shall be increased by the percentage of the
41 increase in the maximum weekly compensation rate
42 required by the provisions of said section 31-309
43 from the date of the injury to such October first.
44 The cost-of-living increases provided under this
45 subdivision shall be paid by the employer without
46 any order or award from the commissioner. The
47 adjustments shall apply to each payment made in
48 the next succeeding twelve-month period commencing
49 with the October first next succeeding the date of
50 the injury. With respect to any dependent
51 receiving benefits on the effective date of [this
52 act] PUBLIC ACT 97-205 with respect to any injury
53 occurring on or after July 1, 1993, and before the
54 effective date of [this act] PUBLIC ACT 97-205,
55 such benefit shall be recalculated to the
56 effective date of [this act] PUBLIC ACT 97-205 as
57 if such benefits had been subject to recalculation
58 annually under this subparagraph. The difference
59 between the amount of any benefits which would
60 have been paid to such dependent if such benefits
61 had been subject to such recalculation and the
62 actual amount of benefits paid during the period
63 between such injury and such recalculation shall
64 be paid to the dependent not later than December
65 1, 1997, in a lump-sum payment. The employer or
66 his insurer shall be reimbursed by the Second
67 Injury Fund, as provided in section 31-354, for
68 adjustments, including lump-sum payments, payable
69 under this subparagraph for deaths from
70 compensable injuries occurring on or after July 1,
71 1993, and before the effective date of [this act]
72 PUBLIC ACT 97-205, upon presentation of any

73 vouchers and information that the Treasurer shall
74 require. (B) The weekly compensation rate of each
75 dependent entitled to receive compensation under
76 this section as a result of death arising from a
77 compensable injury occurring on or before
78 September 30, 1977, shall be adjusted as of
79 October 1, 1977, and October 1, 1980, and
80 thereafter, as provided in this subdivision to
81 provide the dependent with partial cost-of-living
82 adjustments in his weekly compensation rate. As of
83 October 1, 1977, the weekly compensation rate paid
84 prior to October 1, 1977, to the dependent shall
85 be increased by twenty-five per cent. The partial
86 cost-of-living adjustment provided under this
87 subdivision shall be paid by the employer without
88 any order or award from the commissioner. In
89 addition, as of October 1, 1980, and on each
90 subsequent October first, the weekly compensation
91 rate of each dependent shall be increased to
92 provide further cost-of-living adjustments in his
93 weekly compensation rate. If the maximum weekly
94 compensation rate as determined under the
95 provisions of said section 31-309 existing on
96 October 1, 1977, to be effective as of any October
97 first following October 1, 1979, is greater than
98 the compensation rate prevailing on October 1,
99 1979, the weekly compensation rate shall be
100 increased by the percentage of the increase in the
101 maximum compensation rate over the maximum
102 compensation rate of October 1, 1979, as
103 determined under the provisions of said section
104 31-309 existing on October 1, 1977. The cost of
105 the adjustments shall be paid by the employer or
106 his insurance carrier who shall be reimbursed
107 therefor from the Second Injury Fund as provided
108 in section 31-354 upon presentation of any
109 vouchers and information that the Treasurer shall
110 require.

111 Sec. 2. Subsection (a) of section 31-307 of
112 the general statutes is repealed and the following
113 is substituted in lieu thereof:

114 (a) If any injury for which compensation is
115 provided under the provisions of this chapter
116 results in total incapacity to work, the injured
117 employee shall be paid a weekly compensation equal
118 to [seventy-five] EIGHTY per cent of his average
119 weekly earnings as of the date of the injury,
120 calculated pursuant to section 31-310, AS AMENDED

121 BY SECTION 5 OF THIS ACT, after such earnings have
122 been reduced by any deduction for federal or state
123 taxes, or both, and for the federal Insurance
124 Contributions Act made from such employee's total
125 wages received during the period of calculation of
126 the employee's average weekly wage pursuant to
127 said section 31-310, AS AMENDED; but the
128 compensation shall not be more than the maximum
129 weekly benefit rate set forth in section 31-309
130 for the year in which the injury occurred. No
131 employee entitled to compensation under this
132 section shall receive less than twenty per cent of
133 the maximum weekly compensation rate, as provided
134 in section 31-309, provided the minimum payment
135 shall not exceed seventy-five per cent of the
136 employee's average weekly wage, as determined
137 under section 31-310, AS AMENDED, and the
138 compensation shall not continue longer than the
139 period of total incapacity.

140 Sec. 3. Section 31-307b of the general
141 statutes is repealed and the following is
142 substituted in lieu thereof:

143 If any employee who receives compensation
144 under section 31-307, AS AMENDED BY SECTION 2 OF
145 THIS ACT, returns to work after recovery from his
146 injury and subsequently suffers total or partial
147 incapacity caused by a relapse from the recovery
148 from, or a recurrence of, the injury, the employee
149 shall be paid a weekly compensation equal to
150 [seventy-five] EIGHTY per cent of his average
151 weekly earnings as of the date of the original
152 injury or at the time of his relapse or at the
153 time of the recurrence of the injury, whichever is
154 the greater sum, calculated pursuant to section
155 31-310, AS AMENDED BY SECTION 5 OF THIS ACT, after
156 such earnings have been reduced by any deduction
157 for federal or state taxes, or both, and for the
158 federal Insurance Contributions Act made from such
159 employee's total wages received during the period
160 of calculation of the employee's average weekly
161 wage pursuant to said section 31-310, AS AMENDED,
162 but not more than (1) the maximum compensation
163 rate set pursuant to section 31-309 if the
164 employee suffers total incapacity, or (2) one
165 hundred per cent, raised to the next even dollar,
166 of the average weekly earnings of production and
167 related workers in manufacturing in the state, as
168 determined in accordance with the provisions of

169 section 31-309, if the employee suffers partial
170 incapacity, for the year in which the employee
171 suffered the relapse or recurrent injury and the
172 minimum rate under this chapter for that year, and
173 provided (A) the compensation shall not continue
174 longer than the period of total or partial
175 incapacity following the relapse or recurrent
176 injury and (B) no employee eligible for
177 compensation for specific injuries set forth in
178 section 31-308, AS AMENDED BY SECTION 4 OF THIS
179 ACT, shall receive compensation under this
180 section. The employee shall also be entitled to
181 receive the cost-of-living adjustment provided in
182 accordance with the provisions of section 31-307a
183 commencing on October first following the relapse
184 or recurrent injury which disables him. If the
185 injury occurred originally prior to October 1,
186 1969, the difference between the employee's
187 original weekly compensation rate and the rate
188 required by this section and the cost-of-living
189 adjustment, if any, thereafter due shall be paid
190 initially by the employer or his insurance carrier
191 who shall be reimbursed for such payment from the
192 Second Injury Fund as provided by section 31-354
193 upon presentation of any vouchers and information
194 that the Treasurer shall require. In no event
195 shall the employee receive more than the
196 prevailing maximum compensation.

197 Sec. 4. Section 31-308 of the general
198 statutes is repealed and the following is
199 substituted in lieu thereof:

200 (a) If any injury for which compensation is
201 provided under the provisions of this chapter
202 results in partial incapacity, the injured
203 employee shall be paid a weekly compensation equal
204 to [seventy-five] EIGHTY per cent of the
205 difference between the wages currently earned by
206 an employee in a position comparable to the
207 position held by the injured employee before his
208 injury, after such wages have been reduced by any
209 deduction for federal or state taxes, or both, and
210 for the federal Insurance Contributions Act in
211 accordance with section 31-310, AS AMENDED BY
212 SECTION 5 OF THIS ACT, and the amount he is able
213 to earn after the injury, after such amount has
214 been reduced by any deduction for federal or state
215 taxes, or both, and for the federal Insurance
216 Contributions Act in accordance with section

217 31-310, AS AMENDED, except that when (1) the
 218 physician attending an injured employee certifies
 219 that the employee is unable to perform his usual
 220 work but is able to perform other work, (2) the
 221 employee is ready and willing to perform other
 222 work in the same locality and (3) no other work is
 223 available, the employee shall be paid his full
 224 weekly compensation subject to the provisions of
 225 this section. Compensation paid under this
 226 subsection shall not be more than one hundred per
 227 cent, raised to the next even dollar, of the
 228 average weekly earnings of production and related
 229 workers in manufacturing in the state, as
 230 determined in accordance with the provisions of
 231 section 31-309, and shall continue during the
 232 period of partial incapacity, but no longer than
 233 five hundred twenty weeks. If the employer
 234 procures employment for an injured employee that
 235 is suitable to his capacity, the wages offered in
 236 such employment shall be taken as the earning
 237 capacity of the injured employee during the period
 238 of the employment.

239 (b) With respect to the following injuries,
 240 the compensation, in addition to the usual
 241 compensation for total incapacity but in lieu of
 242 all other payments for compensation, shall be
 243 [seventy-five] EIGHTY per cent of the average
 244 weekly earnings of the injured employee,
 245 calculated pursuant to section 31-310, AS AMENDED,
 246 after such earnings have been reduced by any
 247 deduction for federal or state taxes, or both, and
 248 for the federal Insurance Contributions Act made
 249 from such employee's total wages received during
 250 the period of calculation of the employee's
 251 average weekly wage pursuant to said section
 252 31-310, AS AMENDED, but in no case more than one
 253 hundred per cent, raised to the next even dollar,
 254 of the average weekly earnings of production and
 255 related workers in manufacturing in the state, as
 256 determined in accordance with the provisions of
 257 section 31-309, or less than fifty dollars weekly.
 258 All of the following injuries include the loss of
 259 the member or organ and the complete and permanent
 260 loss of use of the member or organ referred to:

261		WEEKS OF
262 MEMBER	INJURY	COMPENSATION

263	Arm		
264	Master arm	Loss at or above	
265		elbow	208
266	Other arm	Loss at or above	
267		elbow	194
268	Hand		
269	Master hand	Loss at or above	
270		wrist	168
271	Other hand	Loss at or above	
272		wrist	155
273	One leg	Loss at or above	
274		knee	155
275	One foot	Loss at or above	
276		ankle	125
277	Hearing		
278		Both ears	104
279		One ear	35
280	One eye		
281		Complete and	
282		permanent loss of	
283		sight in, or	
284		reduction of sight	
285		to one-tenth or	
286		less of normal	
287		vision	157
288	Thumb *		
289		On master hand	63
290		On other hand	54
291	Fingers **		
292		First finger	36
293		Second finger	29
294		Third finger	21
295		Fourth finger	17
296	Toes ***		
297		Great toe	28
298		Other toes	9
299	Back		
300			
301		Number of weeks	
302		which the	
303		proportion of	
304		incapacity	
305		represents to a	
306		maximum of 374	
307	Heart		520
308	Brain		520
309	Carotid artery		520
310	Pancreas		416

311	Liver		347
312	Stomach		260
313	Loss of bladder		233
314	Speech		163
315	Lung		117
316	Cervical spine		117
317	Kidney		117
318	Rib cage	Bilateral	69
319	Testis		35
320	Mammary		35
321	Nose	Sense and	
322		respiratory	
323		function	35
324	Jaw	Mastication	35
325	Penis		35-104
326	Coccyx	Actual	
327		removal	35
328	Sense of smell		17
329	Sense of taste		17
330	Spleen	In addition	
331		to scar	13
332	Gall bladder		13
333	Tooth	Minimum	1
334	Loss of drainage		
335	duct of eye		
336	(If corrected		
337	by prosthesis)	17 for each	
338	Loss of drainage		
339	duct of eye		
340	(If uncorrected		
341	by prosthesis)	33 for each	
342	Pelvis	percentage	
343		of back	

344 *The loss or loss of use of one phalanx of a
 345 thumb shall be construed as seventy-five per cent
 346 of the loss of the thumb.

347 **The loss or loss of use of one phalanx of a
 348 finger shall be construed as fifty per cent of the
 349 loss of the finger. The loss of or loss of use of
 350 two phalanges of a finger shall be construed as
 351 ninety per cent of the loss of the finger.

352 ***The loss or loss of use of one phalanx of
 353 a great toe shall be construed as sixty-six and
 354 two-thirds per cent of the loss of the great toe.
 355 The loss of the greater part of any phalanx shall
 356 be construed as the loss of a phalanx and shall be
 357 compensated accordingly.

358 If the injury consists of the loss of a
359 substantial part of a member resulting in a
360 permanent partial loss of the use of a member, or
361 if the injury results in a permanent partial loss
362 of function, the commissioner may, in his
363 discretion, in lieu of other compensation, award
364 to the injured employee the proportion of the sum
365 provided in this subsection for the total loss of,
366 or the loss of the use of, the member or for
367 incapacity or both that represents the proportion
368 of total loss or loss of use found to exist, and
369 any voluntary agreement submitted in which the
370 basis of settlement is such proportionate payment
371 may, if otherwise conformable to the provisions of
372 this chapter, be approved by the commissioner in
373 his discretion. Notwithstanding the provisions of
374 this subsection, the complete loss or loss of use
375 of an organ which results in the death of an
376 employee shall be compensable pursuant only to
377 section 31-306, AS AMENDED BY SECTION 1 OF THIS
378 ACT.

379 (c) In addition to compensation for total or
380 partial incapacity or for a specific loss of a
381 member or use of the function of a member of the
382 body, the commissioner, not earlier than one year
383 from the date of the injury and not later than two
384 years from the date of the injury or the surgery
385 date of the injury, may award compensation equal
386 to [seventy-five] EIGHTY per cent of the average
387 weekly earnings of the injured employee,
388 calculated pursuant to section 31-310, AS AMENDED
389 BY SECTION 5 OF THIS ACT, after such earnings have
390 been reduced by any deduction for federal or state
391 taxes, or both, and for the federal Insurance
392 Contributions Act made from such employee's total
393 wages received during the period of calculation of
394 the employee's average weekly wage pursuant to
395 said section 31-310, AS AMENDED, but not more than
396 one hundred per cent, raised to the next even
397 dollar, of the average weekly earnings of
398 production and related workers in manufacturing in
399 the state, as determined in accordance with the
400 provisions of section 31-309, for up to two
401 hundred eight weeks, for any permanent significant
402 disfigurement of, or permanent significant scar
403 on, (A) the face, head or neck, or (B) on any
404 other area of the body which handicaps the
405 employee in obtaining or continuing to work. The

406 commissioner may not award compensation under this
407 subsection when the disfigurement was caused
408 solely by the loss of or the loss of use of a
409 member of the body for which compensation is
410 provided under subsection (b) of this section or
411 for any scar resulting from an inguinal hernia
412 operation or any spinal surgery. In making any
413 award under this subsection, the commissioner
414 shall consider (1) the location of the scar or
415 disfigurement, (2) the size of the scar or
416 disfigurement, (3) the visibility of the scar or
417 disfigurement due to hyperpigmentation or
418 depigmentation, whether hypertrophic or keloidal,
419 (4) whether the scar or disfigurement causes a
420 tonal or textural skin change, causes loss of
421 symmetry of the affected area or results in
422 noticeable bumps or depressions in the affected
423 area, and (5) other relevant factors.
424 Notwithstanding the provisions of this subsection,
425 no compensation shall be awarded for any scar or
426 disfigurement which is not located on (A) the
427 face, head or neck, or (B) any other area of the
428 body which handicaps the employee in obtaining or
429 continuing to work. In addition to the
430 requirements contained in section 31-297, the
431 commissioner shall provide written notice to the
432 employer prior to any hearing held by the
433 commissioner to consider an award for any scar or
434 disfigurement under this subsection.

435 (d) Any award or agreement for compensation
436 made pursuant to this section shall be paid to the
437 employee, or in the event of the employee's death,
438 whether or not a formal award has been made prior
439 to the death, to his surviving spouse or, if he
440 has no surviving spouse, to his dependents in
441 equal shares or, if he has no surviving spouse or
442 dependents, to his children, in equal shares,
443 regardless of their age.

444 Sec. 5. Subsection (b) of section 31-310 of
445 the general statutes is repealed and the following
446 is substituted in lieu thereof:

447 (b) Each August fifteenth, the chairman of
448 the Workers' Compensation Commission, in
449 consultation with the advisory board, shall
450 publish tables of the average weekly wage and
451 [seventy-five] EIGHTY per cent of the average
452 weekly wage after being reduced by any deduction
453 for federal or state taxes, or both, and for the

454 federal Insurance Contributions Act, to be
455 effective the following October first, except that
456 not later than June thirtieth, the chairman, in
457 consultation with the advisory board, shall
458 publish tables of the average weekly wage and
459 [seventy-five] EIGHTY per cent of the average
460 weekly wage after being reduced by any deduction
461 for federal or state taxes, or both, and for the
462 federal Insurance Contributions Act, to be
463 effective during the period July 1, 1993, to
464 October 1, 1993. Such tables shall be conclusive
465 for the purpose of determining [seventy-five]
466 EIGHTY per cent of the average weekly earnings of
467 an injured employee after such earnings have been
468 reduced by any deduction for federal or state
469 taxes, or both, and for the federal Insurance
470 Contributions Act made from such employee's total
471 wages received during the period of calculation of
472 the employee's average weekly wage for purposes of
473 sections 31-306, 31-307 and 31-308, AS AMENDED BY
474 THIS ACT.

475 LAB COMMITTEE VOTE: YEA 9 NAY 5 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 276

STATE IMPACT Cost, see explanation below
 MUNICIPAL IMPACT Cost, see explanation below
 STATE AGENCY(S) Various State Agencies

EXPLANATION OF ESTIMATES:

STATE AND MUNICIPAL IMPACT: The passage of this bill would result in additional costs to the State and municipalities as employers. The bill increases the percentage basis for calculating workers' compensation indemnity (salary) payments from 75% to 80% of the worker's average weekly earnings after deductions for taxes and Social Security (up to a maximum payment equal to the state's average weekly production wage, currently \$605). Since few injured workers receive the maximum payment, this would result in a 6.67% increase in indemnity payments. These payments account for about 60% of total workers' compensation expenditures. This results in an estimated 4% increase in total workers' compensation costs.

* * * * *

OLR BILL ANALYSIS

SB 276

AN ACT CONCERNING WORKERS' COMPENSATION BENEFITS

SUMMARY: This bill increases the percentage basis for calculating workers' compensation payments and benefits to dependents from 75% to 80% of the worker's average weekly earnings after deductions for federal and state

taxes and Social Security. The bill also makes technical changes.

EFFECTIVE DATE: October 1, 1998

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Report
Yea 9 Nay 5