

**ASSEMBLY BILL**

**No. 1636**

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**Introduced by Assembly Member Mendoza**

February 23, 2007

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An act to amend Section 4658.5 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1636, as introduced, Mendoza. Workers' compensation: supplemental job displacement benefits.

Existing law establishes a workers' compensation system, administered by the Administrative Director or the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires the payment of disability benefits to eligible individuals for injuries sustained in the course of employment that cause permanent disability, and specifies that the amount of those payments be computed in accordance with a prescribed formula.

Existing law, for injuries occurring on or after January 1, 2004, provides supplemental job displacement benefits in the form of a nontransferable voucher for education-related retraining or skill enhancement for an injured employee who does not return to work for the employer within 60 days of the termination of temporary disability, in accordance with a prescribed schedule based on the percentage of an injured employee's disability.

This bill would prohibit, for injuries occurring on or after January 1, 2008, the provision of such a voucher to an injured employee later than 74 days after termination of temporary disability. The bill would require the employer, if the percentage of permanent disability cannot be

determined, to provide a voucher based on the reasonable estimate of the percentage of permanent disability, as specified, and would require the employer, if the percentage of permanent disability is later determined to be higher than that estimate, to provide the additional voucher amount immediately upon determining the correct percentage of permanent disability. The bill would require an employer to notify the employee, in a manner prescribed by the administrative director, of an employee’s determination of permanent disability consistent with those provisions, and of any delay in determining the employee’s correct percentage of permanent disability benefits.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4658.5 of the Labor Code is amended to  
2 read:  
3 4658.5. (a) Except as provided in Section 4658.6, if the injury  
4 causes permanent partial disability and the injured employee does  
5 not return to work for the employer within 60 days of the  
6 termination of temporary disability, the injured employee shall be  
7 eligible for a supplemental job displacement benefit in the form  
8 of a nontransferable voucher for education-related retraining or  
9 skill enhancement, or both, at state-approved or accredited schools,  
10 as follows:  
11 (1) Up to four thousand dollars (\$4,000) for permanent partial  
12 disability-awards of less than 15 percent.  
13 (2) Up to six thousand dollars (\$6,000) for permanent partial  
14 disability-awards between 15 and 25 percent.  
15 (3) Up to eight thousand dollars (\$8,000) for permanent partial  
16 disability-awards between 26 and 49 percent.  
17 (4) Up to ten thousand dollars (\$10,000) for permanent partial  
18 disability-awards between 50 and 99 percent.  
19 (b) The voucher may be used for payment of tuition, fees, books,  
20 and other expenses required by the school for retraining or skill  
21 enhancement. No more than 10 percent of the voucher moneys  
22 may be used for vocational or return to work counseling. The  
23 administrative director shall adopt regulations governing the form  
24 of payment, direct reimbursement to the injured employee upon  
25 presentation to the employer of appropriate documentation and

1 receipts, and any other matters necessary to the proper  
2 administration of the supplemental job displacement benefit.

3 (c) Within 10 days of the last payment of temporary disability,  
4 the employer shall provide to the employee, in the form and manner  
5 prescribed by the administrative director, information that provides  
6 notice of rights under this section. This notice shall be sent by  
7 certified mail.

8 (d) (1) *For injuries occurring on or after January 1, 2008, if*  
9 *the employee has not returned to work within 60 days of the*  
10 *termination of temporary disability benefits, except as provided*  
11 *in Section 4658.6, the voucher shall be provided no later than 74*  
12 *days after the termination of temporary disability benefits. If the*  
13 *percentage of permanent disability cannot be determined, the*  
14 *employer shall provide a voucher based on the reasonable estimate*  
15 *of the percentage of permanent disability, as required in paragraph*  
16 *(b) of Section 4650. If the percentage of permanent disability is*  
17 *later determined to be higher than the estimate, the employer shall*  
18 *provide the additional voucher amount immediately upon*  
19 *determining the correct percentage of permanent disability.*

20 (2) *The employer shall notify the employee, in a manner*  
21 *prescribed by the administrative director, of the determination of*  
22 *the percentage of permanent disability consistent with this section,*  
23 *and of any delay in determining the correct percentage of*  
24 *permanent disability benefits.*

25 ~~(d)~~

26 (e) This section shall apply to injuries occurring on or after  
27 January 1, 2004.