

AMENDED IN SENATE APRIL 25, 2007

SENATE BILL

No. 936

Introduced by Senator Perata

February 23, 2007

An act to amend Section 4658 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 936, as amended, Perata. Workers' compensation: permanent disability schedule.

Existing law establishes a workers' compensation system, administered by the Administrative Director of 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.

~~This bill would make a technical, nonsubstantive change to those provisions.~~

This bill would revise the formula for computing those payments for injuries causing permanent disability, which occur on or after January 1, 2008, as specified.

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

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

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) In enacting Assembly Bill 227 (Chapter 635 of the Statutes*
4 *of 2003), Senate Bill 228 (Chapter 639 of the Statutes of 2003),*
5 *and Senate Bill 899 (Chapter 34 of the Statutes of 2004), it was*
6 *the intent of the Legislature to create a workers' compensation*
7 *system that is fair to all parties involved.*

8 *(b) Ensuring that permanently disabled workers receive fair*
9 *compensation is a high priority of the Legislature.*

10 *(c) Until we know the full effect workers' compensation reform*
11 *has had on the workers' compensation system in general, and*
12 *permanently disabled workers in particular, we should ensure that*
13 *permanently disabled workers receive adequate benefits.*

14 *(d) In ensuring adequate benefit levels to permanently disabled*
15 *workers, it is not the intent of the Legislature to undermine the*
16 *positive effect workers' compensation reform has had on*
17 *California's employers and workers.*

18 **SECTION 1.**

19 **SEC. 2.** Section 4658 of the Labor Code is amended to read:

20 4658. (a) For injuries occurring prior to January 1, 1992, if
21 the injury causes permanent disability, the percentage of disability
22 to total disability shall be determined, and the disability payment
23 computed and allowed, according to paragraph (1). However, in
24 no case event shall the disability payment allowed be less than the
25 disability payment computed according to paragraph (2).

26 (1)

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Column 1—Range
of percentage
of permanent
disability incurred:

Under 10.....
10–19.75.....
20–29.75.....
30–49.75.....
50–69.75.....

Column 2—Number of weeks
for which two-thirds of
average weekly earnings
allowed for each 1 percent
of permanent disability
within percentage range:

3
4
5
6
7

Column 1—Range of percentage of permanent disability incurred:	Column 2—Number of weeks for which two-thirds of average weekly earnings allowed for each 1 percent of permanent disability within percentage range:
70–99.75.....	8

The number of weeks for which payments shall be allowed set forth in column 2 above based upon the percentage of permanent disability set forth in column 1 above shall be cumulative, and the number of benefit weeks shall increase with the severity of the disability. The following schedule is illustrative of the computation of the number of benefit weeks:

Column 1— Percentage of permanent disability incurred:	Column 2— Cumulative number of benefit weeks:
5.....	15.00
10.....	30.25
15.....	50.25
20.....	70.50
25.....	95.50
30.....	120.75
35.....	150.75
40.....	180.75
45.....	210.75
50.....	241.00
55.....	276.00
60.....	311.00
65.....	346.00
70.....	381.25
75.....	421.25
80.....	461.25
85.....	501.25
90.....	541.25
95.....	581.25
100.....	for life

(2) Two-thirds of the average weekly earnings for four weeks for each 1 percent of disability, where, for the purposes of this subdivision, the average weekly earnings shall be taken at not more than seventy-eight dollars and seventy-five cents (\$78.75).

(b) This subdivision shall apply to injuries occurring on or after January 1, 1992. If the injury causes permanent disability, the percentage of disability to total disability shall be determined, and the disability payment computed and allowed, according to paragraph (1). However, in no event shall the disability payment allowed be less than the disability payment computed according to paragraph (2).

(1)

Column 1—Range of percentage of permanent disability incurred:	Column 2—Number of weeks for which two-thirds of average weekly earnings allowed for each 1 percent of permanent disability within percentage range:
Under 10.....	3
10–19.75.....	4
20–24.75.....	5
25–29.75.....	6
30–49.75.....	7
50–69.75.....	8
70–99.75.....	9

The numbers set forth in column 2 above are based upon the percentage of permanent disability set forth in column 1 above and shall be cumulative, and shall increase with the severity of the disability in the manner illustrated in subdivision (a).

(2) Two-thirds of the average weekly earnings for four weeks for each 1 percent of disability, where, for the purposes of this subdivision, the average weekly earnings shall be taken at not more than seventy-eight dollars and seventy-five cents (\$78.75).

(c) This subdivision shall apply to injuries occurring on or after January 1, 2004. If the injury causes permanent disability, the percentage of disability to total disability shall be determined, and the disability payment computed and allowed as follows:

1		Column 2—Number of weeks
2		for which two-thirds of
3	Column 1—Range	average weekly earnings
4	of percentage	allowed for each 1 percent
5	of permanent	of permanent disability
6	disability incurred:	within percentage range:
7	Under 10.....	4
8	10–19.75.....	5
9	20–24.75.....	5
10	25–29.75.....	6
11	30–49.75.....	7
12	50–69.75.....	8
13	70–99.75.....	9

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15 The numbers set forth in column 2 above are based upon the
16 percentage of permanent disability set forth in column 1 above
17 and shall be cumulative, and shall increase with the severity of the
18 disability in the manner illustrated in subdivision (a).

19 (d) (1) This subdivision shall apply to injuries occurring on or
20 after the effective date of the revised permanent disability schedule
21 adopted by the administrative director pursuant to Section 4660.
22 If the injury causes permanent disability, the percentage of
23 disability to total disability shall be determined, and the basic
24 disability payment computed as follows:

25		Column 2—Number of weeks
26		for which two-thirds of
27		average weekly earnings
28	Column 1—Range	allowed for each 1 percent
29	of percentage	of permanent disability
30	of permanent	within percentage range:
31	disability incurred:	
32	0.25–9.75.....	3
33	10–14.75.....	4
34	15–24.75.....	5
35	25–29.75.....	6
36	30–49.75.....	7
37	50–69.75.....	8
38	70–99.75.....	16

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1 The numbers set forth in column 2 above are based upon the
2 percentage of permanent disability set forth in column 1 above
3 and shall be cumulative, and shall increase with the severity of the
4 disability in the manner illustrated in subdivision (a).

5 (2) If, within 60 days of a disability becoming permanent and
6 stationary, an employer does not offer the injured employee regular
7 work, modified work, or alternative work, in the form and manner
8 prescribed by the administrative director, for a period of at least
9 12 months, each disability payment remaining to be paid to the
10 injured employee from the date of the end of the 60-day period
11 shall be paid in accordance with paragraph (1) and increased by
12 15 percent. This paragraph shall not apply to an employer that
13 employs fewer than 50 employees.

14 (3) (A) If, within 60 days of a disability becoming permanent
15 and stationary, an employer offers the injured employee regular
16 work, modified work, or alternative work, in the form and manner
17 prescribed by the administrative director, for a period of at least
18 12 months, and regardless of whether the injured employee accepts
19 or rejects the offer, each disability payment remaining to be paid
20 to the injured employee from the date the offer was made shall be
21 paid in accordance with paragraph (1) and decreased by 15 percent.

22 (B) If the regular work, modified work, or alternative work is
23 terminated by the employer before the end of the period for which
24 disability payments are due the injured employee, the amount of
25 each of the remaining disability payments shall be paid in
26 accordance with paragraph (1) and increased by 15 percent. An
27 employee who voluntarily terminates employment shall not be
28 eligible for payment under this subparagraph. This paragraph shall
29 not apply to an employer that employs fewer than 50 employees.

30 (4) For compensable claims arising before April 30, 2004, the
31 schedule provided in this subdivision shall not apply to the
32 determination of permanent disabilities when there has been either
33 a comprehensive medical-legal report or a report by a treating
34 physician, indicating the existence of permanent disability, or when
35 the employer is required to provide the notice required by Section
36 4061 to the injured worker.

37 (e) *This subdivision shall apply to injuries occurring on or after*
38 *January 1, 2008. If the injury causes permanent disability, the*
39 *percentage of disability to total disability shall be determined, and*
40 *the disability payment computed and allowed as follows:*

1		Column 2—Number of weeks
2		for which two-thirds of
3	Column 1—Range	average weekly earnings
4	of percentage	allowed for each 1 percent
5	of permanent	of permanent disability
6	disability incurred:	within percentage range:
7	0-9.75.....	4
8	10-14.75.....	5
9	15-24.75.....	7
10	25-29.75.....	8
11	30-49.75.....	9
12	50-69.75.....	11
13	70-99.75.....	21

14
15 The numbers set forth in column 2 above are based upon the
16 percentage of permanent disability set forth in column 1 above
17 and shall be cumulative, and shall increase with the severity of
18 the disability in the manner illustrated in subdivision (a).

19 (f) This subdivision shall apply to injuries occurring on or after
20 January 1, 2009. If the injury causes permanent disability, the
21 percentage of disability to total disability shall be determined, and
22 the disability payment computed and allowed as follows:

23		Column 2—Number of weeks
24		for which two-thirds of
25		average weekly earnings
26	Column 1—Range	allowed for each 1 percent
27	of percentage	of permanent disability
28	of permanent	within percentage range:
29	disability incurred:	
30	0-9.75.....	5
31	10-14.75.....	7
32	15-24.75.....	8
33	25-29.75.....	10
34	30-49.75.....	12
35	50-69.75.....	13
36	70-99.75.....	27

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38 The numbers set forth in column 2 above are based upon the
39 percentage of permanent disability set forth in column 1 above

and shall be cumulative, and shall increase with the severity of the disability in the manner illustrated in subdivision (a).
 (g) This subdivision shall apply to injuries occurring on or after January 1, 2010. If the injury causes permanent disability, the percentage of disability to total disability shall be determined, and the disability payment computed and allowed as follows:

Column 1—Range of percentage of permanent disability incurred:	Column 2—Number of weeks for which two-thirds of average weekly earnings allowed for each 1 percent of permanent disability within percentage range:
0-9.75.....	6
10-14.75.....	8
15-24.75.....	10
25-29.75.....	12
30-49.75.....	14
50-69.75.....	16
70-99.75.....	32

The numbers set forth in column 2 above are based upon the percentage of permanent disability set forth in column 1 above and shall be cumulative, and shall increase with the severity of the disability in the manner illustrated in subdivision (a).