

AMENDED IN ASSEMBLY JANUARY 4, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1145**

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**Introduced by Assembly Member Cedillo**

February 18, 2011

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An act to amend ~~Section 150 of the Labor Code, relating to labor. Sections 4658.5 and 4658.6 of, and to add Section 4658.7 to, the Labor Code, relating to workers' compensation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1145, as amended, Cedillo. ~~Division of Labor Statistics and Research.~~ *Workers' compensation: permanent disability benefits.*

*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, for injuries that cause permanent partial disability and occur 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. Existing law provides an exception for employers who meet specified criteria.*

*This bill would provide that the above provisions shall apply to injuries occurring on or after January 1, 2004, and before January 1, 2013. The bill would require that within 10 days of the last payment of temporary disability, the employer provide to the employee information that provides notice of rights pursuant to these provisions.*

*This bill would provide, for injuries that cause permanent partial disability and occur on or after January 1, 2013, for a supplemental job displacement benefit in the form of a voucher for up to \$6,000 to cover various reeducation and skill enhancement expenses, as specified, which would expire 2 years after the date the voucher is furnished to the employee or 5 years after the date of injury, whichever is later. The bill would exempt employers who make an offer of reemployment or continued employment, as specified, from providing vouchers.*

*The bill would require the administrative director to adopt regulations implementing the program.*

~~Existing law requires the Division of Labor Statistics and Research, which is in the Department of Industrial Relations, to collect, compile, and present facts and statistics relating to the condition of labor in the state.~~

~~This bill would make a nonsubstantive change to the above provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ 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

1 enhancement. No more than 10 percent of the voucher moneys  
2 may be used for vocational or return-to-work counseling. The  
3 administrative director shall adopt regulations governing the form  
4 of payment, direct reimbursement to the injured employee upon  
5 presentation to the employer of appropriate documentation and  
6 receipts, and other matters necessary to the proper administration  
7 of the supplemental job displacement benefit.

8 *(c) Within 10 days of the last payment of temporary disability,*  
9 *the employer shall provide to the employee, in the form and manner*  
10 *prescribed by the administrative director, information that provides*  
11 *notice of rights under this section.*

12 *(e)*

13 *(d) This section shall apply to injuries occurring on or after*  
14 *January 1, 2004, and before January 1, 2013.*

15 *SEC. 2. Section 4658.6 of the Labor Code is amended to read:*

16 4658.6. The employer shall not be liable for the supplemental  
17 job displacement benefit *pursuant to Section 4658.5* if the employer  
18 meets either of the following conditions:

19 (a) Within 30 days of the termination of temporary disability  
20 indemnity payments, the employer offers, and the employee rejects,  
21 or fails to accept, in the form and manner prescribed by the  
22 administrative director, modified work, accommodating the  
23 employee's work restrictions, lasting at least 12 months.

24 (b) Within 30 days of the termination of temporary disability  
25 indemnity payments, the employer offers, and the employee rejects,  
26 or fails to accept, in the form and manner prescribed by the  
27 administrative director, alternative work meeting all of the  
28 following conditions:

29 (1) The employee has the ability to perform the essential  
30 functions of the job provided.

31 (2) The job provided is in a regular position lasting at least 12  
32 months.

33 (3) The job provided offers wages and compensation that are  
34 within 15 percent of those paid to the employee at the time of  
35 injury.

36 (4) The job is located within reasonable commuting distance of  
37 the employee's residence at the time of injury.

38 *SEC. 3. Section 4658.7 is added to the Labor Code, to read:*

39 4658.7. *(a) This section shall apply to injuries occurring on*  
40 *or after January 1, 2013.*

1     (b) If the injury causes permanent partial disability, the injured  
2     employee shall be entitled to a supplemental job displacement  
3     benefit as provided in this section unless the employer makes an  
4     offer of reemployment or continued employment meeting both of  
5     the following criteria:

6     (1) The offer of reemployment or continued employment is made  
7     no later than 60 days after the receipt by the claims administrator  
8     of the first admissible report received from either the primary  
9     treating physician, an agreed medical evaluator, or a qualified  
10    medical evaluator, in the form prescribed by the administrative  
11    director, finding that the disability from all conditions for which  
12    compensation is claimed has become permanent and stationary  
13    and that the injury has caused permanent partial disability.

14    (A) The claims administrator shall forward the form prescribed  
15    by paragraph (2) of subdivision (h) to the employer for the purpose  
16    of fully informing the employer of work limitations resulting from  
17    the injury which are relevant to potential regular work, modified  
18    work, or alternative work.

19    (B) If the employer or claims administrator has provided the  
20    physician with a job description for the employee's regular work,  
21    proposed modified work, or proposed alternative work, the  
22    physician shall evaluate whether the work limitations are  
23    compatible with the physical requirements set forth in that job  
24    description.

25    (2) The offer of reemployment or continued employment is for  
26    regular work, modified work, or alternative work in a position  
27    expected to last for at least 12 months.

28    (c) The supplemental job displacement benefit shall be furnished  
29    to the employee within 20 days after the expiration of the time for  
30    determining the employee's entitlement pursuant to paragraph (1)  
31    of subdivision (b).

32    (d) The supplemental job displacement benefit shall be furnished  
33    in the form of a voucher redeemable as provided in this section  
34    up to an aggregate of six thousand dollars (\$6,000).

35    (e) The voucher may be applied to any of the following expenses  
36    at the choice of the injured employee:

37    (1) Payment for education-related retraining or skill  
38    enhancement, or both, at state-approved or accredited schools,  
39    including payment of tuition, fees, books, and other expenses  
40    required by the school for retraining or skill enhancement.

1 (2) Payment for occupational licensing or professional  
2 certification fees, related examination fees, and examination  
3 preparation course fees.

4 (3) Payment for the services of licensed placement agencies,  
5 vocational or return-to-work counseling, and résumé preparation,  
6 all up to a combined limit of 10 percent of the amount of the  
7 voucher.

8 (4) Purchase of tools required by a training or educational  
9 program in which the employee is enrolled.

10 (5) Purchase of computer equipment, up to one thousand dollars  
11 (\$1,000).

12 (6) Up to five hundred dollars (\$500) as a miscellaneous expense  
13 reimbursement or advance, payable upon request and without  
14 need for itemized documentation or accounting. The employee  
15 shall not be entitled to any other voucher payment for  
16 transportation, travel expenses, telephone or Internet access,  
17 clothing or uniforms, or incidental expenses.

18 (f) The voucher shall expire two years after the date the voucher  
19 is furnished to the employee or five years after the date of injury,  
20 whichever is later. The employee shall not be entitled to payment  
21 or reimbursement of any expenses that have not been incurred and  
22 appropriately submitted to the employer prior to the expiration  
23 date.

24 (g) An agreement to settle or release a claim for the  
25 supplemental job displacement benefit shall be valid and  
26 enforceable only if approved by a workers' compensation  
27 administrative law judge.

28 (h) The administrative director shall adopt regulations for the  
29 administration of this section, including, but not limited to:

30 (1) The time, manner, and content of notices of rights under this  
31 section.

32 (2) The form of a mandatory attachment to a medical report to  
33 be forwarded to the employer pursuant to paragraph (1) of  
34 subdivision (b) for the purpose of fully informing the employer of  
35 work limitations resulting from the injury that are relevant to  
36 potential regular work, modified work, or alternative work.

37 ~~SECTION 1. Section 150 of the Labor Code is amended to~~  
38 ~~read:~~

39 ~~150. The Division of Labor Statistics and Research, hereafter~~  
40 ~~in this chapter referred to as the division, shall collect, compile,~~

1 and present facts and statistics relating to the condition of labor in  
2 the state, including information as to cost of living, labor supply  
3 and demand, industrial relations, industrial disputes, industrial  
4 accidents and safety, labor productivity, sanitary and other  
5 conditions, prison labor, and other matters in relation to labor as  
6 the Director of Industrial Relations deems desirable. Except for  
7 statistics relating to internal administration, all statistical functions  
8 of the department shall be performed by the division.

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