

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 introduced, 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.

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. Section 4658 of the Labor Code is amended to
2 read:
3 4658. (a) For injuries occurring prior to January 1, 1992, if
4 the injury causes permanent disability, the percentage of disability
5 to total disability shall be determined, and the disability payment
6 computed and allowed, according to paragraph (1). However, in

1 no-event case shall the disability payment allowed be less than the
 2 disability payment computed according to paragraph (2).
 3 (1)

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

17
 18 The number of weeks for which payments shall be allowed set
 19 forth in column 2 above based upon the percentage of permanent
 20 disability set forth in column 1 above shall be cumulative, and the
 21 number of benefit weeks shall increase with the severity of the
 22 disability. The following schedule is illustrative of the computation
 23 of the number of benefit weeks:

24	25	26	27	28	29
30	31	32	33	34	35
36	37	38	39	40	41
Column 1—	Percentage	Column 2—	Cumulative	number of	benefit weeks:
of permanent	disability	of permanent	disability	incurred:	
5.....	15.00	10.....	30.25	15.....	50.25
10.....	30.25	20.....	70.50	25.....	95.50
15.....	50.25	30.....	120.75	35.....	150.75
20.....	70.50	40.....	180.75	45.....	210.75
25.....	95.50	50.....	241.00	55.....	276.00
30.....	120.75				
35.....	150.75				
40.....	180.75				
45.....	210.75				
50.....	241.00				
55.....	276.00				

1	Column 1—	
2	Percentage	Column 2—
3	of permanent	Cumulative
4	disability	number of
5	incurred:	benefit weeks:
6	60.....	311.00
7	65.....	346.00
8	70.....	381.25
9	75.....	421.25
10	80.....	461.25
11	85.....	501.25
12	90.....	541.25
13	95.....	581.25
14	100.....	for life

15
 16 (2) Two-thirds of the average weekly earnings for four weeks
 17 for each 1 percent of disability, where, for the purposes of this
 18 subdivision, the average weekly earnings shall be taken at not more
 19 than seventy-eight dollars and seventy-five cents (\$78.75).

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

27 (1)

28		
29		Column 2—Number of weeks
30		for which two-thirds of
31	Column 1—Range	average weekly earnings
32	of percentage	allowed for each 1 percent
33	of permanent	of permanent disability
34	disability incurred:	within percentage range:
35	Under 10.....	3
36	10–19.75.....	4
37	20–24.75.....	5
38	25–29.75.....	6
39	30–49.75.....	7
40	50–69.75.....	8

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	70–99.75.....	9

8
9 The numbers set forth in column 2 above are based upon the
10 percentage of permanent disability set forth in column 1 above
11 and shall be cumulative, and shall increase with the severity of the
12 disability in the manner illustrated in subdivision (a).

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

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

21		
22		Column 2—Number of weeks
23		for which two-thirds of
24	Column 1—Range	average weekly earnings
25	of percentage	allowed for each 1 percent
26	of permanent	of permanent disability
27	disability incurred:	within percentage range:
28	Under 10.....	4
29	10–19.75.....	5
30	20–24.75.....	5
31	25–29.75.....	6
32	30–49.75.....	7
33	50–69.75.....	8
34	70–99.75.....	9

35
36 The numbers set forth in column 2 above are based upon the
37 percentage of permanent disability set forth in column 1 above
38 and shall be cumulative, and shall increase with the severity of the
39 disability in the manner illustrated in subdivision (a).

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

7	8	9
10	11	12
13	14	15
16	17	18
19	20	21
Column 1—Range	Column 2—Number of weeks	
of percentage	for which two-thirds of	
of permanent	average weekly earnings	
disability incurred:	allowed for each 1 percent	
0.25–9.75.....	of permanent disability	
10–14.75.....	within percentage range:	
15–24.75.....		3
25–29.75.....		4
30–49.75.....		5
50–69.75.....		6
70–99.75.....		7
		8
		16

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

26 (2) If, within 60 days of a disability becoming permanent and
 27 stationary, an employer does not offer the injured employee regular
 28 work, modified work, or alternative work, in the form and manner
 29 prescribed by the administrative director, for a period of at least
 30 12 months, each disability payment remaining to be paid to the
 31 injured employee from the date of the end of the 60-day period
 32 shall be paid in accordance with paragraph (1) and increased by
 33 15 percent. This paragraph shall not apply to an employer that
 34 employs fewer than 50 employees.

35 (3) (A) If, within 60 days of a disability becoming permanent
 36 and stationary, an employer offers the injured employee regular
 37 work, modified work, or alternative work, in the form and manner
 38 prescribed by the administrative director, for a period of at least
 39 12 months, and regardless of whether the injured employee accepts
 40 or rejects the offer, each disability payment remaining to be paid

1 to the injured employee from the date the offer was made shall be
2 paid in accordance with paragraph (1) and decreased by 15 percent.
3 (B) If the regular work, modified work, or alternative work is
4 terminated by the employer before the end of the period for which
5 disability payments are due the injured employee, the amount of
6 each of the remaining disability payments shall be paid in
7 accordance with paragraph (1) and increased by 15 percent. An
8 employee who voluntarily terminates employment shall not be
9 eligible for payment under this subparagraph. This paragraph shall
10 not apply to an employer that employs fewer than 50 employees.
11 (4) For compensable claims arising before April 30, 2004, the
12 schedule provided in this subdivision shall not apply to the
13 determination of permanent disabilities when there has been either
14 a comprehensive medical-legal report or a report by a treating
15 physician, indicating the existence of permanent disability, or when
16 the employer is required to provide the notice required by Section
17 4061 to the injured worker.