

By the Committee on Banking and Insurance and Senator Latvala

311-1954-98

1 A bill to be entitled
2 An act relating to workers' compensation;
3 amending s. 440.15, F.S.; revising eligibility
4 requirements for supplemental payments;
5 providing a method for calculating workers'
6 compensation benefits based on the aggregate
7 amount of those benefits and other specified
8 benefits payable to the employee; providing
9 that certain supplemental payments are not
10 workers' compensation benefits; providing an
11 effective date.

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13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Paragraph (f) of subsection (1) of section
16 440.15, Florida Statutes is amended, and subsection (14) is
17 added to that section, to read:

18 440.15 Compensation for disability.--Compensation for
19 disability shall be paid to the employee, subject to the
20 limits provided in s. 440.12(2), as follows:

21 (1) PERMANENT TOTAL DISABILITY.--

22 (f)1. If permanent total disability results from
23 injuries that occurred subsequent to June 30, 1955, and for
24 which the liability of the employer for compensation has not
25 been discharged under s. 440.20(12), the injured employee
26 shall receive additional weekly compensation benefits equal to
27 5 percent of her or his weekly compensation rate, as
28 established pursuant to the law in effect on the date of her
29 or his injury, multiplied by the number of calendar years
30 since the date of injury. The weekly compensation payable and
31 the additional benefits payable under this paragraph, when

1 combined, may not exceed the maximum weekly compensation rate
2 in effect at the time of payment as determined pursuant to s.
3 440.12(2). Entitlement to these supplemental payments shall
4 cease at age 62 if the employee is eligible for social
5 security benefits under s. 402 or s. 423 of 42 U.S.C. ~~ss. 402~~
6 ~~and 423~~, whether or not the employee has applied for such
7 benefits. These supplemental benefits shall be paid by the
8 division out of the Workers' Compensation Administration Trust
9 Fund when the injury occurred subsequent to June 30, 1955, and
10 before July 1, 1984. These supplemental benefits shall be paid
11 by the employer when the injury occurred on or after July 1,
12 1984. Supplemental benefits are not payable for any period
13 prior to October 1, 1974.

14 2.a. The division shall provide by rule for the
15 periodic reporting to the division of all earnings of any
16 nature and social security income by the injured employee
17 entitled to or claiming additional compensation under
18 subparagraph 1. Neither the division nor the employer or
19 carrier shall make any payment of those additional benefits
20 provided by subparagraph 1. for any period during which the
21 employee willfully fails or refuses to report upon request by
22 the division in the manner prescribed by such rules.

23 b. The division shall provide by rule for the periodic
24 reporting to the employer or carrier of all earnings of any
25 nature and social security income by the injured employee
26 entitled to or claiming benefits for permanent total
27 disability. The employer or carrier is not required to make
28 any payment of benefits for permanent total disability for any
29 period during which the employee willfully fails or refuses to
30 report upon request by the employer or carrier in the manner
31 prescribed by such rules or if any employee who is receiving

1 permanent total disability benefits refuses to apply for or
2 cooperate with the employer or carrier in applying for social
3 security benefits.

4 3. When an injured employee receives a full or partial
5 lump-sum advance of the employee's permanent total disability
6 compensation benefits, the employee's benefits under this
7 paragraph shall be computed on the employee's weekly
8 compensation rate as reduced by the lump-sum advance.

9 (14) COORDINATION OF BENEFITS.--

10 (a) Workers' compensation benefits that are otherwise
11 payable under this chapter must be reduced to the extent that
12 the combination of workers' compensation benefits, social
13 security benefits under s. 402 or s. 423 of 42 U.S.C., and
14 employer-funded benefits provided to the employee and his or
15 her dependents exceeds 100 percent of the employee's average
16 weekly wages at the time of injury.

17 (b) As used in this subsection, the term:

18 1. "Employer-funded benefits" includes those benefits
19 for which the employer has contributed more than 50 percent of
20 the cost of the benefits, and includes retirement benefits,
21 disability benefits, and any other payment of wages by the
22 employer during the period of disability; and

23 2. "Workers' compensation benefits" excludes
24 supplemental payments for permanent total disability pursuant
25 to s. 440.15(1)(f).

26 Section 2. This act shall take effect October 1, 1998.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1092

The committee substitute revises the eligibility requirements for supplemental payments to require supplemental benefits to cease once an employee reaches age 62 and is eligible for social security retirement benefits or social security disability benefits.

Medical expenses are excluded for purposes of determining if the combination of workers' compensation benefits and employer-funded benefits exceed 100 percent of the average weekly wages.