

By the Committee on Financial Services and Representatives
Safley, Bainter and Flanagan

1 A bill to be entitled
2 An act relating to workers' compensation;
3 amending s. 440.15, F.S.; providing an
4 exception to certain benefit repayment
5 requirements for employees; providing a
6 definition; providing application; providing a
7 method for determining workers' compensation
8 benefits when in combination with certain other
9 benefits; providing for the exclusion of
10 certain supplemental payments; 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) and
16 subsection (13) of section 440.15, Florida Statutes, are
17 amended, and subsection (14) is added to said section, to
18 read:

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

22 (1) PERMANENT TOTAL DISABILITY.--

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

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

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

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

1 prescribed by such rules or if any employee who is receiving
2 permanent total disability benefits refuses to apply for or
3 cooperate with the employer or carrier in applying for social
4 security benefits.

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

10 (13) REPAYMENT.--

11 (a) If an employee has received a sum as an indemnity
12 benefit under any classification or category of benefit under
13 this chapter to which she or he is not entitled, the employee
14 is liable to repay that sum to the employer or the carrier or
15 to have that sum deducted from future benefits, regardless of
16 the classification of benefits, payable to the employee under
17 this chapter; however, a partial payment of the total
18 repayment may not exceed 20 percent of the amount of the
19 biweekly payment.

20 (b)1. With respect to workers' compensation benefits
21 payable before October 1, 1998, to the extent liability for
22 repayment under this subsection is based on the combination of
23 workers' compensation benefits and other benefits exceeding
24 100 percent of the employee's average weekly wage at the time
25 of the injury, the employee is not required to repay the
26 difference to the employer or carrier unless otherwise
27 required by a contract that was in force at the time of the
28 injury.

29 2. As used in this paragraph, "other benefits" means
30 social security benefits under 42 U.S.C. s. 402 or s. 423 and
31 employer-funded benefits, including, but not limited to,

1 nondisability retirement or pension benefits as described in
2 subsection (14).

3 3. Nothing in this paragraph limits the applicability
4 of subsection (10).

5 (14) COORDINATION OF BENEFITS.--Unless otherwise
6 specifically provided by contract, workers' compensation
7 benefits that are otherwise payable under this chapter must be
8 reduced to the extent the combination of workers' compensation
9 benefits and social security benefits under 42 U.S.C. s. 402
10 or s. 423, and employer-funded benefits other than
11 nondisability retirement or pension benefits, provided to the
12 employee and his or her dependents exceeds 100 percent of the
13 employee's average weekly wage at the time of injury. A
14 benefit shall be considered employer funded when the employer
15 has contributed more than 50 percent of the cost of the
16 benefit. "Workers' compensation benefits" excludes
17 supplemental payments for permanent total disability pursuant
18 to paragraph (1)(f).

19 Section 2. This act shall take effect October 1 of the
20 year in which enacted.

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23 HOUSE SUMMARY

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25 With respect to workers' compensation benefits payable
26 before October 1 1998, exempts an employee from being
27 required to repay to an employer or carrier the amount by
28 which the total of any benefits exceeds 100 percent of
29 the employee's average weekly wage when injured unless
30 provided otherwise by contract. Provides for reducing the
31 total amount of benefits receivable from workers'
compensation, social security, and employer-funded
benefits to no more than 100 percent of an employee's
average weekly wage when injured. See bill for details.