

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

1 Committee/Subcommittee hearing bill: Commerce Committee
 2 Representative Burgess offered the following:

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Amendment

Remove lines 385-474 and insert:

Section 4. Paragraph (a) of subsection (2), paragraph (d) of subsection (3), paragraphs (a) and (e) of subsection (4), and subsection (6) of section 440.15, Florida Statutes, are amended, and subsection (13) is added to that section, to read:

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

(2) TEMPORARY TOTAL DISABILITY.—

(a) Subject to subparagraph (3)(d)3. and subsections (7) and (13) subsection (7), in case of disability total in character but temporary in quality, 66 2/3 or 66.67 percent of

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17 the average weekly wages shall be paid to the employee during
18 the continuance thereof, ~~not to exceed 104 weeks~~ except as
19 provided in this subsection and ~~s. 440.12(1), and s. 440.14(3).~~
20 Once the employee reaches the maximum number of weeks allowed,
21 or the employee reaches overall ~~the date of~~ maximum medical
22 improvement, whichever occurs earlier, temporary disability
23 benefits shall cease and the injured worker's permanent
24 impairment shall be determined. If the employee reaches the
25 maximum number of weeks allowed, but has not reached overall
26 maximum medical improvement, benefits shall be provided pursuant
27 to subparagraph (3) (d) 3.

28 (3) PERMANENT IMPAIRMENT BENEFITS.—

29 (d) After the employee has been certified by a doctor as
30 having reached maximum medical improvement or 6 weeks before the
31 expiration of temporary benefits, whichever occurs earlier, the
32 certifying doctor shall evaluate the condition of the employee
33 and assign an impairment rating, using the impairment schedule
34 referred to in paragraph (b). If the certification and
35 evaluation are performed by a doctor other than the employee's
36 treating doctor, the certification and evaluation must be
37 submitted to the treating doctor, the employee, and the carrier
38 within 10 days after the evaluation. The treating doctor must
39 indicate to the carrier agreement or disagreement with the other
40 doctor's certification and evaluation.

41 1. The certifying doctor shall issue a written report to

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42 the employee and the carrier certifying that maximum medical
43 improvement has been reached, stating the impairment rating to
44 the body as a whole, and providing any other information
45 required by the department by rule. The carrier shall establish
46 an overall maximum medical improvement date and permanent
47 impairment rating, based upon all such reports.

48 2. Within 14 days after the carrier's knowledge of each
49 maximum medical improvement date and impairment rating to the
50 body as a whole upon which the carrier is paying benefits, the
51 carrier shall report such maximum medical improvement date and,
52 when determined, the overall maximum medical improvement date
53 and associated impairment rating to the department in a format
54 as set forth in department rule. If the employee has not been
55 certified as having reached overall maximum medical improvement
56 before the expiration of 254 ~~98~~ weeks after the date temporary
57 disability benefits begin to accrue, the carrier shall notify
58 the treating doctor of the requirements of this section.

59 3. If an employee receiving benefits under subsection (2)
60 has not reached overall maximum medical improvement before
61 receiving the maximum number of weeks of temporary disability
62 benefits, the maximum number of weeks are extended for up to an
63 additional 26 weeks. If the employee has not reached overall
64 maximum medical improvement after receiving the additional weeks
65 allowed under this subparagraph, a judge of compensation claims,
66 upon petition, must determine the employee's current eligibility

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67 for benefits under this subsection and subsection (1).

68 4. If an employee receiving benefits under subsection (4)
69 has not reached overall maximum medical improvement before
70 receiving the maximum number of weeks of temporary disability
71 benefits, the employee shall receive benefits under this
72 subsection in accordance with the greatest single impairment
73 rating assigned to the employee. Impairment benefits received
74 under this subparagraph shall be credited against indemnity
75 benefits subsequently due to the employee.

76 (4) TEMPORARY PARTIAL DISABILITY.—

77 (a) Subject to subparagraph (3)(d)3. and subsections (7)
78 and (13) subsection (7), in case of temporary partial
79 disability, compensation shall be equal to 80 percent of the
80 difference between 80 percent of the employee's average weekly
81 wage and the salary, wages, and other remuneration the employee
82 is able to earn postinjury, as compared weekly; however, weekly
83 temporary partial disability benefits may not exceed an amount
84 equal to $66 \frac{2}{3}$ or 66.67 percent of the employee's average
85 weekly wage at the time of accident. In order to simplify the
86 comparison of the preinjury average weekly wage with the salary,
87 wages, and other remuneration the employee is able to earn
88 postinjury, the department may by rule provide for payment of
89 the initial installment of temporary partial disability benefits
90 to be paid as a partial week so that payment for remaining weeks
91 of temporary partial disability can coincide as closely as

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92 possible with the postinjury employer's work week. The amount
93 determined to be the salary, wages, and other remuneration the
94 employee is able to earn shall in no case be less than the sum
95 actually being earned by the employee, including earnings from
96 sheltered employment. Benefits shall be payable under this
97 subsection only if overall maximum medical improvement has not
98 been reached and the medical conditions resulting from the
99 accident create restrictions on the injured employee's ability
100 to return to work.

101 (e) Subject to subparagraph (3)(d)3. and subsections (7)
102 and (13), such benefits shall be paid during the continuance of
103 such disability, ~~not to exceed a period of 104 weeks,~~ as
104 provided by this subsection and subsection (2). ~~Once the injured~~
105 ~~employee reaches the maximum number of weeks, temporary~~
106 ~~disability benefits cease and the injured worker's permanent~~
107 ~~impairment must be determined.~~ If the employee is terminated
108 from postinjury employment based on the employee's misconduct,
109 temporary partial disability benefits are not payable as
110 provided for in this section. The department shall by rule
111 specify forms and procedures governing the method and time for
112 payment of temporary disability benefits for dates of accidents
113 before January 1, 1994, and for dates of accidents on or after
114 January 1, 1994.

115 (6) EMPLOYEE REFUSES EMPLOYMENT.—If an injured employee
116 refuses employment suitable to the capacity thereof, offered to

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117 or procured therefor, such employee shall not be entitled to any
118 compensation at any time during the continuance of such refusal
119 unless at any time in the opinion of the judge of compensation
120 claims such refusal is justifiable. ~~Time periods for the payment~~
121 ~~of benefits in accordance with this section shall be counted in~~
122 ~~determining the limitation of benefits as provided for in~~
123 ~~paragraphs (2) (a), (3) (c), and (4) (b).~~

124 (13) The total number of weeks of benefits received by an
125 employee for temporary total disability payable pursuant to
126 subsection (2), temporary partial disability payable pursuant to
127 subsection (4), and temporary total disability payable pursuant
128 to s. 440.491, may not exceed 260 weeks, except as provided in
129 subparagraph (3) (d) 3.

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