

SHORT TITLE: Workers' compensation; modifying conditions for payment of compensation from the Special Indemnity Fund; increasing required payments into Special Indemnity Fund. Effective date.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1188

By: Maddox

AS INTRODUCED

An Act relating to workers' compensation; amending 85 O.S. 1991, Section 172, as last amended by Section 42, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (85 O.S. Supp. 1997, Section 172), which relates to the Special Indemnity Fund; modifying conditions for payment of funds from the Special Indemnity Fund; modifying language; updating language; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 85 O.S. 1991, Section 172, as last amended by Section 42, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (85 O.S. Supp. 1997, Section 172), is amended to read as follows:

Section 172. A. If an employee who is a "physically impaired person" receives an accidental personal injury compensable under the Workers' Compensation Act which results in additional permanent disability so that the degree of disability caused by the combination of both disabilities is materially greater than that which would have resulted from the subsequent injury alone, the employee shall receive compensation on the basis of ~~such~~ the combined disabilities. Only disability due to an injury to the body as a whole shall be combinable with a prior body disability, except that disability to a major member may be combined with disability to

the body as a whole. If ~~such~~ the combined disabilities constitute ~~partial permanent~~ partial disability ~~as now defined by the Workers' Compensation Act of this state,~~ then ~~such~~ the employee shall receive full compensation ~~as now provided by law~~ for the disability resulting directly and specifically from ~~such~~ the subsequent injury, and in addition thereto ~~such~~ the employee shall receive full compensation for ~~his~~ the combined disability ~~as above defined,~~ after deducting therefrom the percent of that disability that constituted the employee a "physically impaired person", ~~as defined herein,~~ all of which shall be computed ~~upon the schedule and provision of~~ pursuant to the Workers' Compensation Act ~~of this state.~~ Provided; provided, in cases where the resulting combined disabilities constitute permanent total disability, the employer shall be liable only for the degree ~~of~~ or percent of disability which would have resulted from the latter injury if there had been no preexisting impairment. After payments by the employer or ~~his~~ the employer's insurance carrier, if any, have ceased, the remainder of ~~such~~ the compensation shall be paid in periodic installments out of the Special Indemnity Fund provided for in Section 173 of this title, ~~in periodic installments.~~

B. If ~~such~~ the combined disabilities constitute permanent total disability, ~~as now defined by the Workers' Compensation Act,~~ then the employee shall receive full compensation ~~as now provided by law~~ for the disability resulting directly and specifically from ~~such~~ the subsequent injury. In addition, the employee shall receive full compensation for ~~his~~ the combined disability, ~~as above defined,~~ all of which shall be computed ~~upon the schedule and provisions of~~ pursuant to the Workers' Compensation Act. The employer shall be liable only for the degree ~~of~~ or percent of disability which would have resulted from the latter injury if there had been no preexisting impairment. After payments by the employer or ~~his~~ the employer's insurance carrier have ceased, the remainder of ~~such~~ the

compensation shall be paid in periodic installments out of the Special Indemnity Fund provided for in Section 173 of this title, ~~in periodic installments~~. In permanent total disability cases the same shall be paid in periodic payments, as set forth in Section 22 of this title, and shall not be commuted to a lump-sum payment. The compensation rate for permanent total disability awards from the Special Indemnity Fund shall be the compensation rate for permanent partial disability paid by the employer in the last combinable compensable injury. Permanent total awards from the Special Indemnity Fund shall be payable for a period of five (5) years or until the employee reaches sixty-five (65) years of age, whichever period is ~~the~~ longer.

~~C. Before a physically impaired person can proceed against the Special Indemnity Fund, the preexisting permanent partial disability and the permanent partial disability from the last injury must exceed a total amount equal to forty percent (40%) to the body.~~

~~D. Awards from the Special Indemnity Fund shall abate upon the death, from any cause, of the employee.~~

~~E. All weekly payments for permanent partial disability shall be paid before any claim for benefits against the Special Indemnity Fund may be paid. In the case of a lump-sum permanent partial disability award or settlement, such award or settlement shall be divided by seventy percent (70%) of the employee's weekly wage up to a maximum of fifty percent (50%) of the state's average weekly wage, to determine the number of weeks which must elapse before a claim against the Special Indemnity Fund may be paid.~~

SECTION 2. This act shall become effective November 1, 1998.

46-2-1971

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