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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2894

03/15/2012 Authored by Bills and Kriesel

The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform

1.1 A bill for an act
1.2 relating to workers' compensation; modifying payment provisions; amending
1.3 Minnesota Statutes 2010, sections 176.101, subdivision 4; 353.656, subdivision
1.4 2.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2010, section 176.101, subdivision 4, is amended to read:

1.7 Subd. 4. **Permanent total disability.** (a) For permanent total disability, as defined
1.8 in subdivision 5, the compensation shall be 66-2/3 percent of the daily wage at the time of
1.9 the injury, subject to a maximum weekly compensation equal to the maximum weekly
1.10 compensation for a temporary total disability and a minimum weekly compensation
1.11 equal to 65 percent of the statewide average weekly wage. This compensation shall be
1.12 paid during the permanent total disability of the injured employee but after a total of
1.13 \$25,000 of weekly compensation has been paid, the amount of the weekly compensation
1.14 benefits being paid by the employer shall be reduced by the amount of any disability
1.15 benefits being paid by any government disability benefit program if the disability benefits
1.16 are occasioned by the same injury or injuries which give rise to payments under this
1.17 subdivision. This reduction shall also apply to any old age and survivor insurance benefits.
1.18 Payments shall be made at the intervals when the wage was payable, as nearly as may
1.19 be. In case an employee who is permanently and totally disabled becomes an inmate of
1.20 a public institution, no compensation shall be payable during the period of confinement
1.21 in the institution, unless there is wholly dependent on the employee for support some
1.22 person named in section 176.111, subdivision 1, 2 or 3, in which case the compensation
1.23 provided for in section 176.111, during the period of confinement, shall be paid for the
1.24 benefit of the dependent person during dependency. The dependency of this person shall

2.1 be determined as though the employee were deceased. Permanent total disability shall
2.2 cease at age 67 because the employee is presumed retired from the labor market. This
2.3 presumption is rebuttable by the employee. The subjective statement the employee is not
2.4 retired is not sufficient in itself to rebut the presumptive evidence of retirement but may
2.5 be considered along with other evidence.

2.6 (b) Notwithstanding the reduction for government disability benefits under
2.7 paragraph (a), the permanent total disability benefit shall not be reduced by any total and
2.8 permanent duty disability received by a member of the Public Employees Retirement
2.9 Association police and fire plan under section 353.656, subdivision 1a.

2.10 Sec. 2. Minnesota Statutes 2010, section 353.656, subdivision 2, is amended to read:

2.11 Subd. 2. **Benefits paid under workers' compensation law.** (a) If a member, as
2.12 described in subdivision 1, is injured under circumstances which entitle the member to
2.13 receive benefits under the workers' compensation law, the member shall receive the same
2.14 benefits as provided in subdivision 1, with disability benefits paid reimbursed and future
2.15 benefits reduced by all periodic or lump-sum amounts, other than those amounts excluded
2.16 under paragraph (b), paid to the member under the workers' compensation law, after
2.17 deduction of amount of attorney fees, authorized under applicable workers' compensation
2.18 laws, paid by a disabilitant if the total of the single life annuity actuarial equivalent
2.19 disability benefit and the workers' compensation benefit exceeds: (1) the salary the
2.20 disabled member received as of the date of the disability or (2) the salary currently payable
2.21 for the same employment position or an employment position substantially similar to the
2.22 one the person held as of the date of the disability, whichever is greater. The disability
2.23 benefit must be reduced to that amount which, when added to the workers' compensation
2.24 benefits, does not exceed the greater of the salaries described in clauses (1) and (2).

2.25 (b) Permanent partial disability payments provided for in section 176.101,
2.26 subdivision 2a, and retraining payments provided for in section 176.102, subdivision 11,
2.27 must not be offset from disability payments due under paragraph (a) if the amounts of
2.28 the permanent partial or retraining payments are reported to the executive director in a
2.29 manner specified by the executive director.

2.30 (c) The reduction in paragraph (a) does not apply to a member who receives a total
2.31 and permanent duty disability under subdivision 1a.

2.32 Sec. 3. **PROVISIONS NOT SEVERABLE.**

2.33 The provisions of this act are not severable.