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Origin of the Benefit Amount for Permanent Partial Impairment in Workers' Compensation Claims

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You asked about the origin of the previous maximum benefit amount of \$135,000, used as the basis for compensation of permanent partial impairments in workers' compensation claims.

In 1988, Alaska lawmakers, as part of a comprehensive revision of Alaska's workers' compensation laws, established \$135,000 as the maximum compensation allowed for a permanent partial impairment (ch 79 SLA 1988). The changes to AS 23.30.190(a) made in 1988, not only increased the maximum compensation available to \$135,000, but also adopted the current method used to determine compensation, which ties the worker's percentage of permanent impairment of the whole person to criteria published in the *American Medical Association Guides to the Evaluation of Permanent Impairment*.¹

The vehicle for the rewrite of workers' compensation law in 1988, became SB 322, which originally proposed to amend AS 23.30.190(a) to establish the maximum compensation at \$240,000, to be "multiplied by the employee's percentage of net permanent impairment of the whole person." To determine the net permanent impairment, the bill included a table setting out actual degrees of impairment with corresponding adjustment factors.² The intent of this provision was to redistribute benefits so that workers with more serious injuries would receive awards commensurate with their injuries, while those with minor injuries would receive proportionately less compensation.³ The Senate passed SB 322 with \$240,000 as the maximum compensation, however, an actuarial firm hired by the Alaska Division of Insurance to analyze SB 322 had expressed concern that the new law may actually increase major permanent partial costs. The analysis found that specifically, "the new higher maximum on permanent partial benefits and the proposal for benefits to become payable in a lump sum appear to make these benefits more attractive to claimants."⁴

In hearings before the House Judiciary Committee, David Gottstein, a member of the Labor Management Task Force that had been working on SB 322 testified as follows on the issue:

The goals outlined by the task force when crafting that section was to break even on the cost of permanent partial disability payments by shifting the payments somewhat from the least to the most injured workers, while not affecting the lower levels too negatively. They thought they had accomplished those goals, but discovered they went too far and it was out of balance. It became obvious that an adjustment would be required and they were trying to come to terms on a new

¹ In 1983, compensation had been set at 80 percent of the injured employee's spendable weekly wages. The number of weeks compensated and the maximum amount allowed was listed by the body part lost. For example, for a lost arm, an employee was entitled to 80 percent of 280 weeks of compensation, not to exceed \$59,000 (ch 70 SLA 1983).

² SB 322 as originally drafted was based on recommendations by the Management-Labor Workers' Compensation Task Force.

³ "Sectional Analysis of Workers' Compensation Task Force SB 322 and HB 352," located in Senate Labor and Commerce Committee Bill File #3, Legislative Reference Library.

⁴ Letter from Michael McMurray, Milliman and Robertson, to John George, Division of Insurance, January 29, 1988, and Milliman and Robertson, "Cost Analysis of the Alaska Workers' Compensation Program," House Judiciary Bill File for SB 322, 1987-1988, Legislative Reference Library.

formula. He noted that Milliman & Robertson has been retained to develop and cost out a new formula and hope to have the problems fixed within a few days.⁵

In a subsequent hearing in the House Judiciary Committee, Dick Cattnach, a member of the Management-Labor Task Force, recommended decreasing the maximum compensation from \$240,000 to \$135,000. Mr. Cattnach explained that the Task Force had worked with the actuaries and concluded that \$135,000 represented a “break-even” point for permanent partial impairment claims.⁶ In response, the House Judiciary Committee adopted a committee substitute, which among other things, set \$135,000 as the maximum compensation for a permanent partial impairment. This provision passed the House and was ultimately enacted by the Legislature as part of the free conference committee’s version of SB 322 in 1988.

Currently, under AS 23.30.190(a), the compensation for a permanent partial impairment claim is \$177,000 multiplied by the “employee’s percentage of permanent impairment of the whole person” as set out in the *American Medical Association Guides to the Evaluation of Permanent Impairment*.⁷

We hope this is helpful. If you have questions or need additional information, please let us know.

⁵ House Judiciary Committee Minutes, April 12, 1988, Infobases, <http://www.akleg.gov/basis/folio.asp>.

⁶ House Judiciary Committee Minutes, April 15, 1988, Infobases, <http://www.akleg.gov/basis/folio.asp>.

⁷ The \$177,000 amount was enacted in 2000 (ch105 SLA 2000).