

**RESOLUTION 10-05-2007**

**DIGEST**

Workers' Compensation: Maximum Period For Temporary Disability Payments

Amends Labor Code section 4656 to extend the period of disability payments to which an injured employee is entitled.

**RESOLUTIONS COMMITTEE RECOMMENDATION  
DISAPPROVE**

History:

No similar resolutions found.

Reasons:

This resolution amends Labor Code section 4656 to extend the period of disability payments to which an injured employee is entitled. This resolution should be disapproved because the Legislature has recently addressed this issue and determined that the current length of disability payments is appropriate.

The Legislature evaluated and completely revamped California's Workers' Compensation scheme. When Senate Bill 899 was enacted in April 2004, one of the issues expressly addressed by the Legislature was the appropriate length of time to which an injured worker is entitled to receive temporary disability payments. As noted by the proponent, after the detailed and in depth evaluation and analysis, the legislature enacted the current language.

While the proponent asserts that the time period currently existing in the statute is not appropriate and should be extended, there is no demonstration that the currently existing time frame is inappropriate or has led to any harsh or unfair treatment. Accordingly, and the Legislature's recent action should not be tampered with absent evidence that it truly has led to inappropriate results.

**TEXT OF RESOLUTION**

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that legislation be sponsored to amend Labor Code section 4656 to read as follows:

- 1    §4656
- 2           (a) Aggregate disability payments for a single injury occurring prior to January 1,
- 3    1979, causing temporary disability shall not extend for more than 240 compensable weeks
- 4    within a period of five years from the date of the injury.
- 5           (b) Aggregate disability payments for a single injury occurring on or after January 1,
- 6    1979, and prior to the effective date of subdivision (c), causing temporary partial disability
- 7    shall not extend for more than 240 compensable weeks within a period of five years from
- 8    the date of the injury.
- 9           (c) (1) Aggregate disability payments for a single injury occurring on or after the
- 10   effective date of this subdivision, causing temporary disability shall not extend for more

11 than ~~104-208~~ compensable weeks within a period of ~~two~~ four years from the date of  
12 commencement of temporary disability payment.

13 (2) Notwithstanding paragraph (1), for an employee who suffers from the following  
14 injuries or conditions, aggregate disability payments for a single injury occurring on or after  
15 the effective date of this subdivision, causing temporary disability shall not extend for more  
16 than 240 compensable weeks within a period of five years from the date of the injury:

- 17 (A) Acute and chronic hepatitis B.
- 18 (B) Acute and chronic hepatitis C.
- 19 (C) Amputations.
- 20 (D) Severe burns.
- 21 (E) Human immunodeficiency virus (HIV).
- 22 (F) High-velocity eye injuries.
- 23 (G) Chemical burns to the eyes.
- 24 (H) Pulmonary fibrosis.
- 25 (I) Chronic lung disease.

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: Los Angeles County Bar Association

#### STATEMENT OF REASONS

Existing Law: Temporary disability indemnity is payable to injured workers while receiving medical treatment and certified by the treating physician as unable to return to work due to the medical impairments which have not stabilized to the point of maximum improvement.

This Resolution: Although only a small number of injured workers receiving temporary disability exceed 52 weeks or one year, there are a small percentage of injured workers whose treatment extends beyond that period and beyond the 104 weeks maximum under existing law. This resolution would extend the maximum period of temporary disability payments from 104 weeks to 208 weeks.

The Problem: Prior to the enactment of SB 899 in April 2004, the maximum period for temporary disability benefits was five years or 260 weeks. With the enactment of SB 899 the maximum period was reduced to 104 weeks or two years.

After expiration of the 104 weeks limitation the disabled worker is cut off from temporary disability, and is not eligible to receive permanent disability indemnity and is without any income and forced to seek welfare assistance at the taxpayer's expense. The enactment of the 104 weeks temporary disability limitation has proven to be a windfall for the workers' compensation insurance carriers at the taxpayer's expense.

#### IMPACT STATEMENT

This proposed resolution does not affect any other law, statute or rule.

AUTHOR AND/OR PERMANENT CONTACT: Gerald C. Benezra, Israel & Benezra, 1545 Wilshire Boulevard, Suite 300, Los Angeles, CA 90017-4504, voice 213-484-2247, fax 213-413-1166, gcbenezra@socal.rr.com

RESPONSIBLE FLOOR DELEGATE: Gerald C. Benezra

## **COUNTERARGUMENT**

### **SAN DIEGO COUNTY BAR ASSOCIATION**

The workers' compensation laws were recently modified after substantial research, input, and compromise. Practitioners from all areas were invited to participate. This resolution would throw away an important section without providing a shred of proof that any windfall is actually being had.