

2012 -- S 2226

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LC00169
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- WORKERS' COMPENSATION
BENEFITS

Introduced By: Senators Ruggerio, P Fogarty, McCaffrey, Lanzi, and Doyle

Date Introduced: January 24, 2012

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-33-18.3 of the General Laws in Chapter 28-33 entitled
2 "Workers' Compensation - Benefits" is hereby repealed.

3 ~~28-33-18.3. Continuation of benefits -- Partial incapacity. --- (a) (1) For all injuries~~
4 ~~occurring on or after September 1, 1990, in those cases where the employee has received a notice~~
5 ~~of intention to terminate partial incapacity benefits pursuant to section 28-33-18, the employee or~~
6 ~~his or her duly authorized representative may file with the workers' compensation court a petition~~
7 ~~for continuation of benefits on forms prescribed by the workers' compensation court. In any~~
8 ~~proceeding before the workers' compensation court on a petition for continuation of partial~~
9 ~~incapacity benefits, where the employee demonstrates by a fair preponderance of the evidence~~
10 ~~that his or her partial incapacity poses a material hindrance to obtaining employment suitable to~~
11 ~~his or her limitation, partial incapacity benefits shall continue. For injuries on and after July 1,~~
12 ~~2010, "material hindrance" is defined to include only compensable injuries causing a greater than~~
13 ~~sixty five percent (65%) degree of functional impairment and/or disability. Any period of time for~~
14 ~~which the employee has received benefits for total incapacity shall not be included in the~~
15 ~~calculation of the three hundred and twelve (312) week period.~~

16 ~~(2) The provisions of this subsection apply to all injuries from Sept. 1, 1990, to July 1,~~
17 ~~2010.~~

18 ~~(b) (1) Where any employee's incapacity is partial and has extended for more than three~~

1 ~~hundred and twelve (312) weeks and the employee has proved an entitlement to continued~~
2 ~~benefits under subsection (a) of this section, payments made to these incapacitated employees~~
3 ~~shall be increased annually on the tenth (10th) day of May thereafter so long as the employee~~
4 ~~remains incapacitated. The increase shall be by an amount equal to the total percentage increase~~
5 ~~in the annual consumer price index, United States city average for urban wage earners and~~
6 ~~clerical workers, as formulated and computed by the Bureau of Labor Statistics of the United~~
7 ~~States Department of Labor for the period of March 1 to February 28 each year.~~

8 ~~(2) "Index" as used in this section refers to the consumer price index, United States city~~
9 ~~average for urban wage earners and clerical workers, as that index was formulated and computed~~
10 ~~by the Bureau of Labor Statistics of the United States Department of Labor.~~

11 ~~(3) The annual increase shall be based upon the percentage increase, if any, in the~~
12 ~~consumer price index for the month of a given year, over the index for February, the previous~~
13 ~~year. Thereafter, increases shall be made on May 10 annually, based upon the percentage~~
14 ~~increase, if any, in the consumer price index for the period of March 1 to February 28.~~

15 ~~(4) The computations in this section shall be made by the director of labor and training~~
16 ~~and promulgated to insurers and employers making payments required by this section. Increases~~
17 ~~shall be paid by insurers and employers without further order of the court. If payment payable~~
18 ~~under this section is not mailed within fourteen (14) days after the employer or insurer has been~~
19 ~~notified by publication in a newspaper of general circulation in the state it becomes due, there~~
20 ~~shall be added to the unpaid payment an amount equal to twenty percent (20%) of it, to be paid at~~
21 ~~the same time as but in addition to the payment.~~

22 ~~(5) This section applies only to payment of weekly indemnity benefits to employees as~~
23 ~~described in subdivision (1) of this subsection, and does not apply to specific compensation~~
24 ~~payments for loss of use or disfigurement or payment of dependency benefits or any other~~
25 ~~benefits payable under the Workers' Compensation Act.~~

26 ~~(c) No petitions for commutation shall be allowed or entertained in those cases where an~~
27 ~~employee is receiving benefits pursuant to this section.~~

28 SECTION 2. This act shall take effect upon passage and shall apply retroactively
29 regardless of the date of injury.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO LABOR AND LABOR RELATIONS -- WORKERS' COMPENSATION
BENEFITS

1 This act would repeal the section of the Rhode Island General Laws relating to
2 continuation of workers' compensation benefits for partial incapacity.

3 This act would take effect upon passage and would apply retroactively regardless of the
4 date of injury.

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