



June 2, 2009

A.2021-B (John) / S.2776-B (Onorato)

AN ACT to amend the workers' compensation law, in relation to the payment of compensation

The New York State Trial Lawyers Association ("NYSTLA") supports this bill, which would amend the Workers' Compensation Law ("WCL") to change the payment structure for injured workers from incremental payments to one lump sum payment.

Currently, WCL § 25 mandates that compensation for injured workers who suffer permanent functional limitations to extremities or certain other body parts should be based on a schedule loss of use awards, meaning continued incremental payments over time. Despite the law's provisions, the Workers' Compensation Board ("Board") has adopted a policy that it will pay such claims in a lump sum payment. The Court of Appeals, however, in LaCroix vs. Syracuse Executive Air Service, 8 N.Y.3d 348 (2007), concluded that the Board's policy is in direct contravention of WCL § 25 and thus the only way that the Board could pay these claims in a lump sum is if the Legislature amends the law to provide for lump sum payments.

In response to the LaCroix case, this bill would amend WCL § 25 to require that an award of compensation for permanent partial disability must be payable in one lump sum payment. In addition, the bill would amend WCL §15 to require that a total or partial loss of use of more than one member (or part of the body) or parts of members must be paid in one lump sum. Permitting the Board to pay injured workers in one lump sum would be beneficial to injured workers because it would permit the workers to invest the award to gain the best financial advantage possible. Lump sum payments would also benefit insurance carriers because it would facilitate easier and prompt payment and resolution of claims, which will ultimately reduce the carrier's administrative costs.

Because this bill would benefit injured workers by providing them with a lump sum payment for their workers' compensation claims for permanent partial disability and total or partial loss of use of one or more members, which would give the injured worker discretion to invest such award as they deem appropriate, NYSTLA supports this bill and urges the Assembly to promptly pass this bill.

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