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**Commerce & Labor Committee**

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**SSB 5676**

**Brief Description:** Revising provision for receipt of temporary total disability.

**Sponsors:** Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Keiser, Kohl-Welles, Murray, Prentice, Hatfield and Kline).

**Brief Summary of Substitute Bill**

- Provides that the prior closure of a claim or the receipt of permanent partial disability benefits does not affect the rate at which loss of earning power benefits are calculated upon re-opening of a claim.
- Provides that holiday pay, vacation pay, sick leave, or other similar benefits are not payments by the employer for the purposes of the employer continuing to pay the worker wages during a period of temporary total disability.

**Hearing Date:** 3/22/07

**Staff:** Sarah Beznoska (786-7109).

**Background:**

Loss of Earning Power

The Industrial Insurance Act allows an employer to provide a light or modified job to an injured worker while the worker is recovering from his or her injury. The light duty job must be approved by the worker's physician. If the worker returns to a job paying less than 95 percent of the worker's earning power, the worker is entitled to partial benefits paid in proportion to the worker's loss of earning power.

The loss of earning power calculation is different in situations when a claim has been closed and then reopened. If a claim is reopened, the worker is not entitled to loss of earning power benefits in the reopening unless the worker shows that he or she has suffered a decrease in earning power proximately resulting from the injury's aggravation. If the worker is entitled to loss of earning

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power in a reopening, loss of earning power benefits are determined by comparing the worker's current earning power to the worker's earning power at the time the claim was last closed.

#### Kept-on-Salary

If a worker suffers a temporary total disability, an employer may choose to continue paying the worker wages that he or she was earning at the time of injury. In these situations, the worker is not entitled to temporary total disability benefits (time-loss benefits) during the period in which the employer continues to pay wages.

#### **Summary of Bill:**

The prior closure of the claim or the receipt of permanent partial disability benefits does not affect the rate at which loss of earning power benefits are calculated upon re-opening of a claim.

If an employer continues to pay a worker, during a period of temporary total disability, wages that the worker was earning at the time of injury, holiday pay, vacation pay, sick leave, or other similar benefits are not considered payments by the employer.

**Rules Authority:** The bill does not address the rule-making powers of an agency.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.