

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

**Offered By**

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1 AMEND House Bill No. 2855, Page 1, Section A, Line 2, by inserting after all of said section  
2 and line the following:  
3

4 "287.200. 1. Compensation for permanent total disability shall be paid during the  
5 continuance of such disability from the date of maximum medical improvement for the lifetime  
6 of the employee at the weekly rate of compensation in effect under this subsection on the date of  
7 the injury for which compensation is being made. The word "employee" as used in this section  
8 shall not include the injured worker's dependents, estate, or other persons to whom compensation  
9 may be payable as provided in subsection 1 of section 287.020. The amount of such  
10 compensation shall be computed as follows:

11 (1) For all injuries occurring on or after September 28, 1983, but before September 28,  
12 1986, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of  
13 the injured employee's average weekly earnings during the year immediately preceding the  
14 injury, as of the date of the injury; provided that the weekly compensation paid under this  
15 subdivision shall not exceed an amount equal to seventy percent of the state average weekly  
16 wage, as such wage is determined by the division of employment security, as of the July first  
17 immediately preceding the date of injury;

18 (2) For all injuries occurring on or after September 28, 1986, but before August 28,  
19 1990, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of  
20 the injured employee's average weekly earnings during the year immediately preceding the  
21 injury, as of the date of the injury; provided that the weekly compensation paid under this  
22 subdivision shall not exceed an amount equal to seventy-five percent of the state average weekly  
23 wage, as such wage is determined by the division of employment security, as of the July first  
24 immediately preceding the date of injury;

25 (3) For all injuries occurring on or after August 28, 1990, but before August 28, 1991,  
26 the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the  
27 injured employee's average weekly earnings as of the date of the injury; provided that the weekly  
28 compensation paid under this subdivision shall not exceed an amount equal to one hundred  
29 percent of the state average weekly wage;

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1 (4) For all injuries occurring on or after August 28, 1991, the weekly compensation shall  
2 be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly  
3 earnings as of the date of the injury; provided that the weekly compensation paid under this  
4 subdivision shall not exceed an amount equal to one hundred five percent of the state average  
5 weekly wage;

6 (5) For all injuries occurring on or after September 28, 1981, the weekly compensation  
7 shall in no event be less than forty dollars per week.

8 2. Permanent total disability benefits that have accrued through the date of the injured  
9 employee's death are the only permanent total disability benefits that are to be paid in accordance  
10 with section 287.230. The right to unaccrued compensation for permanent total disability of an  
11 injured employee terminates on the date of the injured employee's death in accordance with  
12 section 287.230, and does not survive to the injured employee's dependents, estate, or other  
13 persons to whom compensation might otherwise be payable.

14 3. (1) All claims for permanent total disability shall be determined in accordance with  
15 the facts. When an injured employee receives an award for permanent total disability but by the  
16 use of glasses, prosthetic appliances, or physical rehabilitation the employee is restored to his or  
17 her regular work or its equivalent, the life payment mentioned in subsection 1 of this section  
18 shall be suspended during the time in which the employee is restored to his or her regular work  
19 or its equivalent. The employer and the division shall keep the file open in the case during the  
20 lifetime of any injured employee who has received an award of permanent total disability. In  
21 any case where the life payment is suspended under this subsection, the commission may at  
22 reasonable times review the case and either the employee or the employer may request an  
23 informal conference with the commission relative to the resumption of the employee's weekly  
24 life payment in the case.

25 (2) Upon the filing of a written agreement signed by the claimant and his or her attorney,  
26 the commission shall change the name, information, or fee arrangement of the attorney or law  
27 firm associated with the claimant's case.

28 4. For all claims filed on or after January 1, 2014, for occupational diseases due to toxic  
29 exposure which result in a permanent total disability or death, benefits in this chapter shall be  
30 provided as follows:

31 (1) Notwithstanding any provision of law to the contrary, such amount as due to the  
32 employee during said employee's life as provided for under this chapter for an award of  
33 permanent total disability and death, except such amount shall only be paid when benefits under  
34 subdivisions (2) and (3) of this subsection have been exhausted;

35 (2) For occupational diseases due to toxic exposure, but not including mesothelioma, an  
36 amount equal to two hundred percent of the state's average weekly wage as of the date of  
37 diagnosis for one hundred weeks paid by the employer; and

1 (3) In cases where occupational diseases due to toxic exposure are diagnosed to be  
2 mesothelioma:

3 (a) For employers that have elected to accept mesothelioma liability under this  
4 subsection, an additional amount of three hundred percent of the state's average weekly wage for  
5 two hundred twelve weeks shall be paid by the employer or group of employers such employer is  
6 a member of. Employers that elect to accept mesothelioma liability under this subsection may  
7 do so by either insuring their liability, by qualifying as a self-insurer, or by becoming a member  
8 of a group insurance pool. A group of employers may enter into an agreement to pool their  
9 liabilities under this subsection. If such group is joined, individual members shall not be  
10 required to qualify as individual self-insurers. Such group shall comply with section 287.223. In  
11 order for an employer to make such an election, the employer shall provide the department with  
12 notice of such an election in a manner established by the department. The provisions of this  
13 paragraph shall expire on December 31, 2038; or

14 (b) For employers who reject mesothelioma under this subsection, then the exclusive  
15 remedy provisions under section 287.120 shall not apply to such liability. The provisions of this  
16 paragraph shall expire on December 31, 2038; and

17 (4) The provisions of subdivision (2) and paragraph (a) of subdivision (3) of this  
18 subsection shall not be subject to suspension of benefits as provided in subsection 3 of this  
19 section; and

20 (5) Notwithstanding any other provision of this chapter to the contrary, should the  
21 employee die before the additional benefits provided for in subdivision (2) and paragraph (a) of  
22 subdivision (3) of this subsection are paid, the additional benefits are payable to the employee's  
23 spouse or children, natural or adopted, legitimate or illegitimate, in addition to benefits provided  
24 under section 287.240. If there is no surviving spouse or children and the employee has received  
25 less than the additional benefits provided for in subdivision (2) and paragraph (a) of subdivision  
26 (3) of this subsection the remainder of such additional benefits shall be paid as a single payment  
27 to the estate of the employee;

28 (6) The provisions of subdivision (1) of this subsection shall not be construed to affect  
29 the employee's ability to obtain medical treatment at the employer's expense or any other  
30 benefits otherwise available under this chapter.

31 5. Any employee who obtains benefits under subdivision (2) of subsection 4 of this  
32 section for acquiring asbestosis who later obtains an award for mesothelioma shall not receive  
33 more benefits than such employee would receive having only obtained benefits for mesothelioma  
34 under this section.

35 287.470. 1. Upon its own motion or upon the application of any party in interest on the  
36 ground of a change in condition, the commission may at any time upon a rehearing after due  
37 notice to the parties interested review any award and on such review may make an award ending,  
38 diminishing or increasing the compensation previously awarded, subject to the maximum or

1 minimum provided in this chapter, and shall immediately send to the parties and the employer's  
2 insurer a copy of the award. No such review shall affect such award as regards any moneys paid.

3 2. Upon the filing of a written agreement signed by the claimant and his or her attorney  
4 and the new attorney, the commission shall change the name, information, or fee arrangement of  
5 the attorney or law firm associated with the claimant's case."; and

6  
7 Further amend said bill by amending the title, enacting clause, and intersectional references  
8 accordingly.