STATE OF NEW YORK

4839--A

Cal. No. 1315

2017-2018 Regular Sessions

IN SENATE

March 2, 2017

Introduced by Sens. AKSHAR, FUNKE -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- recommitted to the Committee on Labor in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the workers' compensation law, in relation to reporting by the workers' compensation board and appointments to the advisory board; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 1 and 4 of section 35 of the workers' compensation law, subdivision 1 as added by chapter 6 of the laws of 2007 and subdivision 4 as amended by section 2 of subpart A of part NNN of chapter 59 of the laws of 2017, are amended and a new subdivision 5 is added to read as follows:

1. Return to work. (a) The [~~commissioner of labor will~~] **board shall** issue a report **annually in the month of March** to the governor, the speaker of the assembly, the majority leader of the senate, and the chairs of the labor, ways and means and finance committees of the assembly and senate [~~on or before December first, two thousand seven~~], making recommendations as to how to assure that workers categorized by the board as permanently partially disabled return to gainful employment to the greatest extent practicable. [~~Such commissioner~~] **The board** will consider administrative and legislative remedies, and shall include estimates of cost in the report. The report shall examine best practices and the laws of other jurisdictions, as well as any relevant programs authorized by New York law. The report shall additionally examine return to work practices as implemented by carriers, the state

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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insurance fund, employers, and the board. It shall also examine the relationship of vocational rehabilitation to ultimate return to work.

(b) The [~~commissioner of labor will~~] **board shall** be assisted by an advisory council constituted of [~~six~~] **seven** persons appointed by the governor as follows:

(i) a representative of organized labor appointed upon recommendation of the New York State American Federation of Labor-Congress of Industrial Organizations;

(ii) a representative of the business community appointed upon recommendation of the Business Council of New York State, Incorporated;

(iii) one person upon recommendation of the majority leader of the senate;

(iv) one person upon recommendation of the speaker of the assembly; [~~and~~]

(v) two other persons in the governor's discretion[~~.~~]**; and**

(vi) the commissioner of labor or his or her designee.

4. Annual safety net reporting. The board, in conjunction with the commissioner of labor and the superintendent of financial services, shall track all claimants who have been awarded permanent partial disability status and report annually [~~on~~] **in the month of** December [~~first, beginning in two thousand eight~~], to the governor, the speaker of the assembly, the majority leader of the senate, and the chairs of the labor, ways and means and finance committees of the assembly and senate:

(i) The number of said claimants who have:

(1) returned to gainful employment;

(2) been recategorized as being totally industrially disabled;

(3) remain subject to duration limitations set forth in paragraph w of subdivision three of section fifteen of this article; and

(4) not returned to work, and whose indemnity payments have expired.

(ii) The additional steps the [~~commissioner~~] **board** contemplates are necessary to minimize the number of workers who have neither returned to work nor been recategorized from permanent partial disability.

5. Failure to file. Failure to file the report required by subdivision four of this section shall require the chair and the commissioner of labor to appear before the senate and assembly committees on labor, at such committee chair's convenience, to provide information required by subdivision four of this section.

§ 2. This act shall take effect immediately and shall expire and be deemed repealed five years after such date.