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State Senate alters limits on workers' comp

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SACRAMENTO – The state Senate approved legislation yesterday that would prohibit doctors from considering age, race or genetic factors in determining the size of workers' compensation benefits for employees who suffer job-related disabilities.

The bill by Sen. Carole Migden, D-San Francisco, would alter a key provision of the sweeping workers' compensation changes promoted by Gov. Arnold Schwarzenegger and employers in 2004.

Among other things, the reforms require doctors to determine what “other factors” besides a job-related injury contributed to a worker's disability. Benefits can be cut if the physician decides that an earlier injury or a medical problem contributed to the disability.

Critics say the 2004 legislation has led to awards that discriminate based on a worker's age, race, gender, national origin or genetic predispositions.

In one case, a physician in San Diego concluded that the workers' comp benefits for a cook should be cut in half because he was black and therefore had a genetic

predisposition to have high blood pressure or hypertension.

In several other cases, women have had their benefits slashed because physicians have decided women are more likely than men to develop carpal tunnel syndrome, supporters of the Migden bill say.

They say the measure would require doctors to base their assessments on medical evidence, not risk factors.

Opponents say it could result in employers being unfairly charged for that portion of a disability not caused by a job-related injury.

A 23-13 vote sent the measure to the Assembly.

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