



**House
Legislative
Analysis
Section**

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**SELF-INSURED FEE INCREASE AND
INCREASE OF REDEMPTION FEES**

**House Bill 4910 (Substitute H-3)
First Analysis (6-13-95)**

**Sponsor: Rep. Lyn Bankes
Committee: Appropriations**

THE APPARENT PROBLEM:

In Michigan, the Bureau of Worker's Disability Compensation performs the administrative and regulatory functions needed to keep the worker's compensation system functioning. Currently, Michigan is one of only six states to pay for the administration of worker's compensation through the general fund; most other states fund worker's compensation through assessments on the employers and insurers who use the worker's compensation system, rather than with general funds. In light of this, the governor recommended a 90.2 percent reduction in the general fund appropriation for the Bureau of Worker's Disability Compensation, and suggested that the revenues be replaced by assessing a "user fee" on insurance companies and self-insured employers. The Senate did not follow the governor's recommendation, and passed an appropriations bill (SB 297[S-1]) that contains a general fund appropriation of \$9.8 million for the bureau. The House passed a substitute for SB 297 that cut the general fund appropriation to \$4.8 million. Other subdivisions of the Department of Labor involved in workers compensation (the Appellate Commission and the Board of Magistrates) would be fully funded by the House version of the appropriations bill.

Without another source of funds, the bureau will be unable to operate all of its current programs on the reduced \$4.8 million budget. Therefore, in order to stay within the fiscal year 1995-96 general fund target, the Bureau of Worker's Disability Compensation must receive at least \$5 million from a source outside the general fund. Several sources and means have been suggested to procure the additional money required to completely fund all of the bureau's programs given the provisions of SB 297(H-1). The governor's proposal included a user fee in the form of an assessment of up to one percent on the total benefits paid to Michigan workers in the prior year. It is expected that this user fee would generate at least \$9.8 million for

fiscal year 1995-96. Under the House version of the budget, a somewhat reduced user fee could suffice. Others have suggested charging self-insurers a certification fee and increasing the redemption fee, the fee charged to cover the costs associated with settling worker's compensation claims. In any event legislation is required to enact some scheme to meet this potential shortfall in funding for the Bureau of Worker's Disability Compensation.

THE CONTENT OF THE BILL:

The bill would amend the Worker's Disability Compensation Act to increase the fee paid by both plaintiff (employee) and defendant (employer's insurer) in order to redeem a worker's compensation claim from \$100 to \$200. Further, the bill would impose a non-waivable, non-refundable processing fee of \$2,500 for initial and renewal applications for self-insured status. These fees would be assessed against all employers or groups of employers applying for self-insured status. The money collected would be deposited into the Worker's Compensation Administrative Revolving Fund.

MCL 418.611 and 418.835

BACKGROUND INFORMATION:

Administration of worker's compensation. The Michigan Bureau of Worker's Disability Compensation administers the Worker's Disability Compensation Act. The bureau's responsibilities include, among other things, keeping track of accidents reported by employers and informing employees of their rights under the act, handling the more than 100,000 workers' compensation claims per year, keeping track of employer's insurance coverage history so that the appropriate insurer is notified of pending claims, and approving and renewing self-insured status for those businesses

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that request it. The bureau also sets medical fee schedules, and administers the mediation division, which mediates cases where the claimant has no attorney, only medical benefits are in dispute, or the claim involves a closed period injury (where the employee has recovered and is able to resume his or her employment at his or her prior capacity).

Redemption of worker's compensation claims.

Under the Worker's Disability Compensation Act, an injured worker is entitled to receive continued weekly benefits for work-related injuries, as well as medical benefits and other benefits (such as payment for vocational rehabilitation) until the worker is able to return to work. When a worker suffers a long-term injury, the employer's insurance carrier is required to provide these benefits for that worker until the worker is able to return to work.

However, to avoid long-term benefit payments, insurers sometimes offer to redeem the worker's claim with a lump-sum payment. Redemption agreements are lump-sum settlements of workers' compensation claims where the injured worker is paid a lump sum in return for relinquishing his or her current and future rights against his or her employer under the Worker's Disability Compensation Act. Redemption of a workers' compensation claim is a costly procedure because it must be validated through a formal hearing. In order to defray these costs, fees are charged. The fee is currently \$100 payable by the plaintiff (employee) and \$100 by the defendant (the employer's insurer).

Self-insured employers. Self-insured employers provide their own worker's compensation insurance, rather than buying insurance coverage from one of Michigan's approximately 200 worker's compensation insurance carriers. Self-insured employers can either provide their own individual coverage, or groups of employers within the same industry can provide group coverage for their businesses. In order to become self-insured the employer or group must petition the bureau and be able to show that it is capable of providing sufficient coverage for its employees. The bureau regulates self-insured employers, investigating their ability to meet the demands of potential claims, and performs other regulatory actions which are carried out by the Insurance Bureau with regard to other insurance carriers.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill will increase revenues to the Worker's Compensation Administrative Revolving Fund by approximately \$4.9 million. (6-9-95)

ARGUMENTS:

For:

The Bureau of Worker's Disability Compensation performs a necessary function, providing administration of Michigan's worker's compensation act. Both businesses and employees benefit from the worker's compensation system, and the bill provides for both to help defray some of the costs of administration. The claimants and the employers or employers' insurers will each have to pay \$200 towards the cost of redemption hearings, while self-insured businesses would have to pay \$2,500 to apply for or renew their self-insured status.

Because the House-passed appropriations bill will not provide full funding for the bureau through the general fund, other sources must be used. The bill would raise money to cover the bureau's expenses by increasing fees for redemptions and charging a processing fee to self-insured employers. Both require a large amount of paperwork and employee time and effort to administer.

The bureau devotes approximately one third of the staff time of its insurance division to process and administer self-insured applications. There are currently about 650 single company self-insureds, and 37 group self-insureds, representing approximately 9,000 employers. It is entirely reasonable to defray much of the bureau's costs through fees charged directly to those entities applying for self-insured status or renewal of their self-insured status.

Against:

In this state almost all businesses are required by the state of Michigan to provide workers' compensation insurance and take part in the workers' compensation system. Because of this complete lack of discretion as to whether a business will use the services of the bureau, any fees charged for use of bureau services are in essence taxes

rather than user fees or assessments. The concept of a fee or assessment is dependent on the user's ability to choose whether or not to take advantage of the service.

Since workers' compensation is beneficial for both workers and businesses, administration of the system should continue to be supported by the general fund as it has been since 1913. That way, workers help to support the bureau through their income tax dollars and businesses help to support it through single business taxes paid. Furthermore, since workers' compensation is a state-mandated program, it should continue to undergo the type of legislative oversight expected for programs fully funded from the general fund; the more general fund appropriations are reduced, the less likely that type of scrutiny becomes.

The argument that most other states fund their workers' compensation programs through fees or assessments is an inappropriate distinction. Michigan, unlike other states, has already instituted a tax (the Michigan single business tax) which, according to the business community, was specifically intended to provide funding for workers' compensation. Because the state has diverted those funds accumulated through the single business tax to other areas, this proposal would require businesses to pay further taxes, thinly disguised as fees, to provide the money to keep the bureau functioning, when the necessary funds should have already been raised by the single business tax.

Raising funds to support the bureau by imposing taxes, fees, or assessments on the employers and/or insurers using the workers' compensation system is a dangerous and slippery path upon which to begin to tread. In the coming years, the bureau's general fund funding could be increasingly cut back and the taxes, fees, or assessments increased until the bureau eventually becomes fully self-funded. Unfortunately, the problem with self funding is that there is less likelihood of legislative oversight, which is necessary to help run an efficient system. Allowing the bureau to be fully self-funded essentially creates a government-sponsored monopoly; no other businesses could set up their own bureau to compete with it. There is no alternative for the businesses using the workers' compensation system; if they have the requisite number of employees they must use the system and therefore must pay whatever fees are demanded. As a result, many self-funded bureaus in other

states are able to over-charge those who use the system, increasing their own profits and salaries at the expense of those whom the state requires to use the system.

Against:

There are several other ways to raise the funds necessary to fully fund the bureau's activities. The bill unfairly singles out self-insureds for significant fees which are not in proportion to their use of the bureau's staff time. A far better and fairer method would be to charge all users of the worker's compensation system an assessment, as recommended by the governor; a fee of 5/8 of 1 percent of the worker's compensation paid by each business or insurer would be sufficient to provide the necessary funds. This would require those who actually use the system to pay for it, rather than merely taxing companies for trying to provide self-insured coverage for their employees rather than paying an insurance carrier to provide coverage for them. Rather than spreading the tax, fee, or assessment to all businesses who make use of the workers' compensation system, the bill's self-insured fee would narrow the base or source from which the taxes, fees, or assessments would be collected. This is, quite simply, an unfair means of funding something which is used by almost all businesses in Michigan. It does not make sense to have a small segment of those who use the system pay the bulk of the costs involved in maintaining that system.

POSITIONS:

The Department of Labor supports the bill. (5-8-95)

General Motors Corporation, the largest self-insured business in Michigan, tentatively supports the bill. (5-8-95)

The Michigan Insurance Federation has no official position on the bill at this time. (5-8-95)

The Michigan Chamber of Commerce opposes the bill. (5-9-95)

The Michigan Self-Insureds Association opposes the bill. (5-12-95)