



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4848 (Substitute H-1 as reported without amendment)
Sponsor: Representative Walter J. DeLange
House Committee: Human Resources and Labor
Senate Committee: Human Resources, Labor and Veterans Affairs

CONTENT

The bill would amend the Worker's Disability Compensation Act to allow certain employee-owners of small limited liability companies (LLCs) to exclude themselves from the Act's disability insurance requirements, and to specify that the manager-members of LLCs and the partners in a limited liability partnership (LLP) would be liable for any part of a judgment against the LLC or LLP left unpaid by the company or partnership.

The bill would allow an employee of an LLC with not more than 10 members to elect to be individually excluded from the Act if the employee were a manager and member of the LLC and owned at least a 10% interest in the LLC; a majority of the members approved, or, if the LLC had more than one manager, all of the manager-members of the LLC approved; the employee gave to the insurance carrier a written notice of his or her decision to elect to be excluded from the Act; and the consent of the LLC were endorsed on the notice to the carrier. The exclusion from the Act would remain in effect until the employee revoked it in writing. While the exclusion was in effect, the Act's prohibition against the use of certain defenses would not apply to an action brought by the employee against the LLC to recover damages for personal injury or wrongful death. (The Act specifies that, in these suits, it cannot be a defense that the employee was negligent, that the injury was caused by a fellow employee's negligence, or that the employee had assumed the risks of the employment conditions.)

Under the Worker's Disability Compensation Act, the officers and directors of a corporation that has not complied with the Act's insurance requirements, are individually and jointly and severally liable for any portion of a judgment that is unsatisfied after execution against the corporation. The bill would impose similar conditions for the manager-members of LLCs and the partners of LLPs, by specifying that they would be individually and jointly and severally liable for any unpaid portion of a judgment executed against the company or partnership.

MCL 418.151 et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would not have a fiscal impact on the Department of Commerce, the State of Michigan, or local governmental units.

Date Completed: 10-19-95

Fiscal Analyst: K. Lindquist

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.