

HOUSE BILL No. 4220

February 26, 1987, Introduced by Rep. Brown and referred to the Committee on Labor.

A bill to amend section 611 of Act No. 317 of the Public Acts of 1969, entitled as amended
"Worker's disability compensation act of 1969,"
as amended by Act No. 32 of the Public Acts of 1982, being section 418.611 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 611 of Act No. 317 of the Public Acts of
2 1969, as amended by Act No. 32 of the Public Acts of 1982, being
3 section 418.611 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 611. (1) Each employer under this act, subject to the
6 approval of the director, shall secure the payment of compensa-
7 tion under this act by 1 of the following methods:

8 (a) By receiving authorization from the director to be a
9 self-insurer. The director may grant that authorization upon a

1 reasonable showing by the employer of the employer's solvency and
2 financial ability to pay the compensation and benefits provided
3 for in this act and to make payments directly to the employer's
4 employees as the employees become entitled to receive the payment
5 under the terms and conditions of this act. If the director
6 determines it to be necessary, the director shall require the
7 furnishing of a bond or other security in a reasonable form and
8 amount.

9 (b) By insuring against liability with an insurer authorized
10 to transact the business of worker's compensation insurance
11 within this state.

12 (c) By insuring against liability with the accident fund.

13 (2) Under procedures and conditions specifically determined
14 by the director, 2 or more employers in the same industry with
15 combined assets of \$1,000,000.00 or more, or 2 or more public
16 employers of the same type of unit, may be permitted by the
17 director to enter into agreements to pool their liabilities under
18 this act for the purpose of qualifying as self-insurers. For
19 purposes of this subsection, cities, townships, counties, and
20 villages; or 1 or more of the agencies, instrumentalities, or
21 other legal entities of cities, townships, counties, or villages
22 or any combination thereof; or authorities of 1 or more of
23 cities, townships, counties, or villages or any combination
24 thereof created pursuant to law shall be considered public
25 employers of the same type of unit. An employer member of the
26 approved group shall be classified as a self-insurer. For
27 purposes of this subsection, universities and colleges, community

1 colleges, and local and intermediate school districts, shall be
2 considered public employers of the same type of unit. The direc-
3 tor may grant authorization to become a member of an approved
4 group upon a reasonable showing by an employer of the employer's
5 solvency and financial stability to meet the employer's obliga-
6 tions as a member of the group. If the director determines it to
7 be necessary, the director may require the furnishing of a bond,
8 reinsurance, or other security in a reasonable form and amount.
9 An employer, except a public employer, permitted to become a
10 member of a self-insurers' group under this act shall execute a
11 written agreement in which the employer agrees to jointly and
12 severally assume and discharge, by payment, any lawful award
13 entered by the bureau against a member of the group. If the case
14 in which the award is entered is appealed by either party, then
15 the award shall first be upheld before a member of the group may
16 be liable. In the case of a public employer that is permitted to
17 become a member of a self-insurers' group, any lawful award
18 entered by the bureau against a public employer which is a member
19 of a group, if the award is upheld on appeal, shall be a liabil-
20 ity of the group jointly but not severally and, if the group is
21 unable to pay the award, the group or the bureau shall individu-
22 ally assess those public employers who were members on the date
23 of injury to the extent necessary to pay the award. An assess-
24 ment shall be a contractual obligation of the public employer.
25 As used in this subsection, "public employer" means a city, vil-
26 lage, township, county, school district, or community college; or
27 an agency, entity, or instrumentality thereof; or an authority

1 comprised of any combination of the foregoing. This subsection
2 shall not alter the obligation of either a group or an employer
3 from complying with section 862. FOR PURPOSES OF THIS SUBSEC-
4 TION, AN AUTHORIZED GROUP SELF-INSURER, IN CONJUNCTION WITH PRO-
5 VIDING SECURITY FOR THE PAYMENT OF COMPENSATION AND BENEFITS PRO-
6 VIDED FOR IN THIS ACT, MAY PROVIDE COVERAGE CUSTOMARILY KNOWN AS
7 EMPLOYER'S LIABILITY INSURANCE FOR MEMBERS OF THE GROUP.

8 (3) For the purpose of determining whether employers are in
9 the same industry under subsection (2), the following shall
10 apply:

11 (a) The forest industry shall be considered as those busi-
12 nesses engaged in the growing, harvesting, processing, or sale of
13 forest products, except at the retail level, unless more than 80%
14 of the income from the retailer comes from the growing, harvest-
15 ing, processing, or wholesale sale of forest products, and any
16 supplier or service companies that receive more than 80% of their
17 income from these businesses.

18 (b) "Forest products" include Christmas trees, firewood,
19 maple syrup, and all other products derived from wood or wood
20 fiber which are manufactured with woodworking equipment including
21 saws, planers, drills, chippers, lumber dry kilns, sanders, glue
22 presses, nailers, notchers, shapers, lathes, molders, and other
23 similar finishing processes.

24 (4) The director may permit a nonpublic, nonprofit health
25 care facility employer to become a member of a self-insurers'
26 group with public employers pursuant to subsection (2) if the
27 principal service rendered by the nonpublic, nonprofit health

1 care facility employer is the same type of service rendered by
2 the public employers. If a nonpublic, nonprofit health care
3 facility employer is permitted to become a member of the same
4 self-insurers' group with public employers, any lawful award
5 entered by the bureau against that nonpublic, nonprofit health
6 care facility employer, if the award is upheld on appeal, shall
7 be a liability of the group and, if the group is unable to pay
8 the award, the group or the bureau shall individually assess
9 those nonpublic, nonprofit health care facility employers who
10 were members on the date of injury to the extent necessary to pay
11 the award. The director may waive the requirement of the written
12 agreement required of a nonpublic, nonprofit health care facility
13 employer under subsection (2) as to any member of a group involv-
14 ing a combination of public and nonpublic, nonprofit health care
15 facility employers. Except as otherwise provided in this subsec-
16 tion, subsection (2) shall be applicable to all self-insurers'
17 groups and their individual employer members.

18 (5) The director, from time to time, may review and alter a
19 decision approving the election of an employer to adopt any 1 of
20 the methods permitted by subsection (1), (2), or (4) if, in the
21 director's judgment, that action is necessary or desirable for
22 any reason.

23 (6) Under procedures and conditions specifically determined
24 by the director, an individual, partnership, or corporation
25 desiring to engage in the business of servicing an approved
26 worker's compensation self-insurance program for an individual or
27 group of employers shall make application to the director before

1 entering into a contract with the individual or group of
2 employers and shall satisfy the director that the individual,
3 partnership, or corporation has adequate facilities, and compe-
4 tent personnel to service a self-insurance program in a manner
5 which will fulfill the employer's obligations under this act.