



**House  
Legislative  
Analysis  
Section**

Olds Plaza Building, 10th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

**PTA SELF-INSURANCE: CLARIFY**

**House Bill 4831 as enrolled  
Second Analysis (1-10-94)**

**Sponsor: Rep. Richard Bandstra  
House Committee: Transportation  
Senate Committee: Commerce**

***THE APPARENT PROBLEM:***

Under the Worker's Disability Compensation Act, the state guarantees the payment of worker's disability compensation claims arising against certain public bodies (in this case, public transportation authorities, or PTAs) if those entities are self-insured under the act and if they cease to operate or are dissolved without a successor agency being created. The act specifies that this provision shall not be construed to permit the use of state funds for the payment of private obligations. When PTAs were allowed to be self-insured under the act in 1990 (under Public Act 282), apparently there was concern that private companies who contracted for certain services from PTAs might become eligible for self-insurance under the act through their contractual ties with the authorities. The act, however, goes on to say that if an authority delegates or contracts with a private employer for the performance of "any" of its functions, then the authority may no longer hold self-insured status. According to a Department of Labor spokesman, this provision apparently was meant not only to ensure that a PTA that contracts out all of its functions to a private company could not obtain self-insurance under the act, but also that a private company that performs under contract a function for a PTA could not obtain self-insurance under the act. As most PTAs contract out some functions (for instance, snowplowing) to private companies, this provision effectively prevents those that are not self-insured under the act from qualifying for it, and jeopardizes the status of others that currently are self-insured under the act. To correct this problem, legislation is needed to clarify this provision in the act.

In a related matter, Public Act 198 of 1993 (Senate Bill 51) authorizes the state to transfer to a qualified private insurer all of the assets and liabilities of the State Accident Fund, which was created by statute in 1912 to increase the availability of worker's compensation insurance to employers

operating in the state. As this act amended the same section of the Worker's Disability Compensation Act that House Bill 4831 proposes to amend, House Bill 4831 needs to include similar language to ensure it wouldn't undo the changes made by Public Act 198.

***THE CONTENT OF THE BILL:***

The bill would amend the Worker's Disability Compensation Act to specify that a private entity performing services for a public authority could not self-insure under the authority's right to self-insure. The bill also would provide for the designation of an insurer to determine the state's worker's disability compensation obligations if the State Accident Fund were transferred to a private entity.

Specifically, the bill provides that if a public transportation authority, a metropolitan council, or a legal or administrative entity created by an interlocal agreement delegated to a private employer or contracted with a private employer for the performance of any permitted functions of the authority, council or entity, the private employer could not be included under the authorization to self-insure granted by the director of the Bureau of Worker's Disability Compensation to the authority or other agency. This would replace the current provision under which such an authority or agency delegating or contracting out its functions to a private employer cannot be self-insured.

Further, the bill would require the Michigan Worker's Compensation Placement Facility to assign randomly a carrier licensed to write worker's disability compensation insurance to determine in detail, as the director of the Department of Management and Budget required, the amount necessary to pay the claims for worker's compensation benefits for which the state is responsible. The carrier would be responsible for

House Bill 4831 (1-10-94)

the processing of the claims and would have to be compensated for its services in the same manner as a carrier is compensated for processing the claims of state employees. These provisions would not take effect, however, unless the state administrative board certified in writing to the secretary of state by December 31, 1994, that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the State Accident Fund had been consummated with a permitted transferee. (Currently, the State Accident Fund determines the amount necessary to pay worker's disability compensation claims for which the state is responsible. If the fund were not transferred to a permitted transferee by December 31, 1994, the fund would continue to make the determination.)

MCL 418.702

### ***FISCAL IMPLICATIONS:***

The Department of Labor says the bill would not affect state or local budget expenditures. (1-7-94)

### ***ARGUMENTS:***

#### ***For:***

The bill simply would clarify what the legislature apparently had intended when PTAs were allowed to become self-insured under the Worker's Disability Compensation Act via Public Act 282 of 1990: First, that if a PTA delegates to or contracts with a private company to perform any function for it, that the company cannot be self-insured through the PTA under the act; and second, that as long as a PTA did not contract out all of its functions to a private company it would qualify for self-insurance under the act. Generally, all employers currently are required to obtain worker's compensation insurance, either through a private insurer, the Michigan State Accident Fund or by self-insurance. Not only would the bill clarify that a private company contracting for one or more functions from a PTA is not eligible for self-insured status under the act, but also would ensure that PTAs that have contracted out some, but not all, services to private companies either would not be at risk of losing their self-insured status or could qualify for it if they currently are not self-insured. By becoming self-insured under the act, a PTA can reduce what a local government must pay to meet the statutory requirement of carrying worker's compensation insurance.

#### ***For:***

The bill includes language similar, though not identical, to language added to the Worker's Disability Compensation Act by Public Act 198 of 1993 (Senate Bill 51) regarding worker's disability insurance claims which the state owes via the accident fund. The act is one of several acts adopted in 1993 that authorize the state to sell the accident fund to a private insurer or to Blue Cross and Blue Shield. Although the language proposed in House Bill 4831 differs somewhat from that enacted under Public Act 198, the difference--according to a spokesperson with the Legislative Service Bureau--is merely technical.