



# HOUSE BILL No. 5960

November 29 1994 Introduced by Rep Llewellyn and referred to the Committee on Labor

A bill to amend section 161 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 271 of the Public Acts of 1994, being  
section 418 161 of the Michigan Compiled Laws

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Section 161 of Act No 317 of the Public Acts of  
2 1969 as amended by Act No 271 of the Public Acts of 1994, being  
3 section 418 161 of the Michigan Compiled Laws is amended to read  
4 as follows

5 Sec 161 (1) As used in this act, employee means ALL OF  
6 THE FOLLOWING, SUBJECT TO SUBSECTION (5)

7 (a) A person in the service of the state a county, city,  
8 township, village or school district, under any appointment, or  
9 contract of hire, express or implied, oral or written A person

1 employed by a contractor who has contracted with a county city  
2 township village school district or the state through its  
3 representatives, shall not be considered an employee of the  
4 state, county, city, township village, or school district which  
5 made the contract when the contractor is subject to this act

6 (b) Nationals of foreign countries employed pursuant to sec-  
7 tion 102(a)(1) of the mutual educational and cultural exchange  
8 act of 1961 22 U S C 2452, shall not be considered employees  
9 under this act

10 (c) Police officers fire fighters, or employees of the  
11 police or fire departments, or their dependents in municipali-  
12 ties or villages of this state providing like benefits may waive  
13 the provisions of this act and accept like benefits that are pro-  
14 vided by the municipality or village but shall not be entitled to  
15 like benefits from both the municipality or village and this act  
16 however, this waiver shall not prohibit such employees or their  
17 dependents from being reimbursed under section 315 for the medi-  
18 cal expenses or portion of medical expenses that are not other-  
19 wise provided for by the municipality or village This act shall  
20 not be construed as limiting changing or repealing any of the  
21 provisions of a charter of a municipality or village of this  
22 state relating to benefits, compensation pensions, or retirement  
23 independent of this act provided for employees

24 (d) On-call members of a fire department of a county city  
25 village, or township shall be considered to be employees of the  
26 county, city, village, or township and entitled to all the  
27 benefits of this act when personally injured in the performance

1 of duties as on-call members of the fire department whether the  
2 on-call member of the fire department is paid or unpaid On-call  
3 members of a fire department of a county, city, village, or town-  
4 ship shall be considered to be receiving the state average weekly  
5 wage at the time of injury, as last determined under section 355,  
6 from the county, village, city, or township for the purpose of  
7 calculating the weekly rate of compensation provided under this  
8 act except that if the member s average weekly wage was greater  
9 than the state average weekly wage at the time of the injury, the  
10 member's weekly rate of compensation shall be determined based on  
11 the member's average weekly wage

12 (e) On-call members of a fire department that contracts with  
13 or receives reimbursement from 1 or more counties cities vil-  
14 lages, or townships shall be entitled to all the benefits of this  
15 act when personally injured in the performance of their duties as  
16 on-call members of a fire department whether the on-call member  
17 of the fire department is paid or unpaid On-call members of a  
18 fire department shall be considered to be receiving the state  
19 average weekly wage at the time of injury as last determined  
20 under section 355, from the fire department for the purpose of  
21 calculating the weekly rate of compensation provided under this  
22 act except that if the member s average weekly wage was greater  
23 than the state average weekly wage at the time of the injury, the  
24 member's weekly rate of compensation shall be determined based on  
25 the member s average weekly wage

26 (f) The benefits of this act shall be available to a safety  
27 patrol officer who is engaged in traffic regulation and

1 management for and by authority of a county city village or  
2 township whether the officer is paid or unpaid in the same  
3 manner as benefits are available to volunteer fire fighters under  
4 subdivision (d), upon the adoption by the legislative body of the  
5 county, city, village, or township of a resolution to that  
6 effect A safety patrol officer or safety patrol force when used  
7 in this act includes all persons who volunteer and are registered  
8 with a school and assigned to patrol a public thoroughfare used  
9 by students of a school

10 (g) A volunteer civil defense worker who is a member of the  
11 civil defense forces as provided by law and is registered on the  
12 permanent roster of the civil defense organization of the state  
13 or a political subdivision of the state shall be considered to be  
14 an employee of the state or the political subdivision on whose  
15 permanent roster the employee is enrolled when engaged in the  
16 performance of duty and shall be considered to be receiving the  
17 state average weekly wage at the time of injury, as last deter-  
18 mined under section 355 from the state or political subdivision  
19 for purposes of calculating the weekly rate of compensation pro-  
20 vided under this act

21 (h) A volunteer licensed under section 20950 or 20952 of the  
22 public health code, Act No 368 of the Public Acts of 1978, being  
23 sections 333 20950 and 333 20952 of the Michigan Compiled Laws,  
24 who is an on-call member of a life support agency as defined  
25 under section 20906 of Act No 368 of the Public Acts of 1978  
26 being section 333 20906 of the Michigan Compiled Laws shall be  
27 considered to be an employee of the county, city, village or

1 township and entitled to the benefits of this act when personally  
2 injured in the performance of duties as an on-call member of a  
3 life support agency whether the on-call member of the life sup-  
4 port agency is paid or unpaid An on-call member of a life sup-  
5 port agency shall be considered to be receiving the state average  
6 weekly wage at the time of injury, as last determined under sec-  
7 tion 355, from the county, city, village, or township for pur-  
8 poses of calculating the weekly rate of compensation provided  
9 under this act except that if the member's average weekly wage  
10 was greater than the state average weekly wage at the time of the  
11 injury, the member's weekly rate of compensation shall be deter-  
12 mined based on the member's average weekly wage

13 (1) A volunteer licensed under section 20950 or 20952 of the  
14 public health code, Act No 368 of the Public Acts of 1978 being  
15 sections 333 20950 and 333 20952 of the Michigan Compiled Laws,  
16 who is an on-call member of a life support agency as defined  
17 under section 20906 of Act No 368 of the Public Acts of 1978,  
18 being section 333 20906 of the Michigan Compiled Laws that con-  
19 tracts with or receives reimbursement from 1 or more counties  
20 cities, villages, or townships shall be entitled to all the bene-  
21 fits of this act when personally injured in the performance of  
22 his or her duties as an on-call member of a life support agency  
23 whether the on-call member of the life support agency is paid or  
24 unpaid An on-call member of a life support agency shall be con-  
25 sidered to be receiving the state average weekly wage at the time  
26 of injury as last determined under section 355, from the life  
27 support agency for the purpose of calculating the weekly rate of

1 compensation provided under this act except that if the member s  
2 average weekly wage was greater than the state average weekly  
3 wage at the time of the injury the member s weekly rate of com-  
4 pensation shall be determined based on the member s average  
5 weekly wage

6 (j) A political subdivision of this state shall not be  
7 required to provide compensation insurance for a peace officer of  
8 the political subdivision with respect to the protection and com-  
9 pensation provided by Act No 329 of the Public Acts of 1937, as  
10 amended, being sections 419 101 to 419 104 of the Michigan  
11 Compiled Laws

12 (k) Every person in the service of another, under any con-  
13 tract of hire express or implied including aliens a person  
14 regularly employed on a full-time basis by his or her spouse  
15 having specified hours of employment at a specified rate of pay  
16 working members of partnerships receiving wages from the partner-  
17 ship irrespective of profits a person insured for whom and to  
18 the extent premiums are paid based on wages earnings or prof-  
19 its and minors who shall be considered the same as and have the  
20 same power to contract as adult employees Any minor under 18  
21 years of age whose employment at the time of injury shall be  
22 shown to be illegal in the absence of fraudulent use of permits  
23 or certificates of age in which case only single compensation  
24 shall be paid shall receive compensation double that provided in  
25 this act

26 (l) Every person engaged in a federally funded training  
27 program or work experience program which mandates the provision

1 of appropriate worker s compensation for participants and which  
2 is sponsored by the state a county city township village or  
3 school district, or an incorporated public board or public com-  
4 mission in the state authorized by law to hold property and to  
5 sue or be sued generally, or any consortium thereof shall be  
6 considered for the purposes of this act to be an employee of  
7 the sponsor and entitled to the benefits of this act The spon-  
8 sor shall be responsible for the provision of worker s compensa-  
9 tion and shall secure the payment of compensation by a method  
10 permitted under section 611 If a sponsor contracts with a  
11 public or private organization to operate a program the sponsor  
12 may require the organization to secure the payment of compensa-  
13 tion by a method permitted under section 611

14 (m) Every person performing service in the course of the  
15 trade business profession or occupation of an employer at the  
16 time of the injury if the person in relation to this service  
17 does not maintain a separate business, does not hold himself or  
18 herself out to and render service to the public and is not an  
19 employer subject to this act

20 (2) A policy or contract of worker s compensation insurance,  
21 by endorsement may exclude coverage as to any 1 or more named  
22 partners or the spouse child, or parent in the employer s  
23 family A person excluded pursuant to this subsection shall not  
24 be subject to this act and shall not be considered an employee  
25 for the purposes of section 115

26 (3) An employee who is subject to this act including an  
27 employee covered pursuant to section 121 who is an employee of a

1 corporation which has not more than 10 stockholders and who is  
2 also an officer and stockholder who owns at least 10 of the  
3 stock of that corporation with the consent of the corporation as  
4 approved by its board of directors may elect to be individually  
5 excluded from this act by giving a notice of the election in  
6 writing to the carrier with the consent of the corporation  
7 endorsed on the notice The exclusion shall remain in effect  
8 until revoked by the employee by giving a notice in writing to  
9 the carrier While the exclusion is in effect, section 141 shall  
10 not apply to any action brought by the employee against the  
11 corporation

12 (4) If the persons to be excluded from coverage under this  
13 act pursuant to subsection (2) or (3) comprise all of the employ-  
14 ees of the employer those persons may elect to be excluded from  
15 being considered employees under this act by submitting written  
16 notice of that election to the director upon a form prescribed by  
17 the director The exclusion shall remain in effect until revoked  
18 by giving written notice to the director

19 (5) AN INDIVIDUAL PROVIDING SERVICES AS A PROBATIONARY  
20 EMPLOYEE PURSUANT TO A CONTRACT DESCRIBED IN SECTION 28B OF THE  
21 MICHIGAN EMPLOYMENT SECURITY ACT, ACT NO 1 OF THE EXTRA SESSION  
22 OF 1936, BEING SECTION 421 28B OF THE MICHIGAN COMPILED LAWS, IS  
23 NOT AN EMPLOYEE SUBJECT TO THIS ACT

24 Section 2 This amendatory act shall not take effect unless  
25 Senate Bill No \_\_\_\_\_ or House Bill No 5959 (request  
26 no 06762'94) of the 87th Legislature is enacted into law