



# SENATE BILL No. 51

January 26, 1993, Introduced by Senator WARTNER and referred to the Committee on Commerce.

A bill to amend section 501 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 418.501 of the Michigan Compiled Laws; and to add section 532.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 501 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 418.501 of the Michigan Compiled Laws, is amended and  
4 section 532 is added to read as follows:

5 Sec. 501. (1) A self-insurers' security fund and a second  
6 injury fund are created.

7 (2) A silicosis, dust disease, and logging industry  
8 compensation fund is created.

1 (3) AN UNINSURED EMPLOYER'S SECURITY FUND IS CREATED. THE  
2 FUND SHALL SUCCEED TO ALL OF THE ASSETS, IF ANY, OF THE FORMER  
3 UNINSURED EMPLOYER'S SECURITY ACCOUNT OF THE WORKPLACE HEALTH AND  
4 SAFETY FUND CREATED IN FORMER SECTION 723.

5 (4) ~~-(3)-~~ As used in this chapter, "employment in the log-  
6 ging industry" means employment in the logging industry as  
7 described in the section in the workmen's compensation and  
8 employers liability insurance manual, entitled, "logging or lum-  
9 bering and drivers code no. 2702," which is filed with and  
10 approved by the commissioner of insurance.

11 SEC. 532. (1) THE UNINSURED EMPLOYERS' SECURITY FUND IS THE  
12 FUND FROM WHICH BENEFITS SHALL BE PAID BY THE BOARD THAT AN  
13 EMPLOYEE OR THE DEPENDENTS OF A DECEASED EMPLOYEE ARE UNABLE TO  
14 RECEIVE FROM AN EMPLOYER BECAUSE THE EMPLOYER FAILED TO SECURE  
15 THE PAYMENT OF COMPENSATION AS REQUIRED UNDER SECTION 611.

16 (2) MONEY IN THE UNINSURED EMPLOYERS' SECURITY FUND SHALL  
17 ONLY BE USED WITH RESPECT TO INJURIES THAT OCCUR ON OR AFTER  
18 JUNE 29, 1990.

19 (3) AS USED IN THIS ACT, "UNINSURED EMPLOYER" MEANS AN  
20 EMPLOYER THAT HAS FAILED TO SECURE THE PAYMENT OF COMPENSATION AS  
21 PROVIDED IN SECTION 611.

22 (4) IF THE DIRECTOR OF THE BUREAU DETERMINES THAT A CLAIM  
23 FOR BENEFITS UNDER THIS ACT IS AGAINST AN UNINSURED EMPLOYER, THE  
24 DIRECTOR SHALL MAKE ALL REASONABLE ATTEMPTS TO NOTIFY THE  
25 EMPLOYER IN WRITING OF THE CLAIM AND OF THE EMPLOYERS' LIABILITY  
26 UNDER THIS ACT. IF THE EMPLOYER DISPUTES THIS DETERMINATION BY  
27 THE DIRECTOR, IT SHALL FILE AN APPLICATION IN ACCORDANCE WITH

1 SECTION 847 WITHIN 30 DAYS AFTER THE DATE THE DIRECTOR'S  
2 NOTIFICATION WAS MAILED.

3 (5) AN UNINSURED EMPLOYER SHALL PAY THE CLAIM AS PROVIDED IN  
4 THIS ACT OR APPEAR AND CONTEST THE CLAIM AS PROVIDED IN THIS  
5 ACT. IF AN UNINSURED EMPLOYER FAILS TO PAY THE CLAIM OR TO  
6 APPEAR AND CONTEST THE CLAIM, THE UNINSURED EMPLOYER SURRENDERS  
7 ALL RIGHTS TO CONTEST THE CLAIM. THE FAILURE TO RESPOND AS PRO-  
8 VIDED IN SECTION 222 SHALL BE CONSIDERED A FAILURE TO APPEAR AND  
9 DEFEND.

10 (6) IF AN EMPLOYER SURRENDERS ITS RIGHTS AS PROVIDED IN SUB-  
11 SECTION (5), THE DIRECTOR SHALL NOTIFY THE TRUSTEES. THE TRUST-  
12 EES SHALL THEN EXERCISE ALL THE RIGHTS AND OBLIGATIONS OF THE  
13 EMPLOYER AND CARRIER PROVIDED BY THIS ACT, AND THE TRUSTEES SHALL  
14 HAVE THE RIGHTS AND AUTHORITY OF AN EMPLOYER TO REDEEM A CLAIM AS  
15 PROVIDED IN SECTION 836. AN UNINSURED EMPLOYER SHALL PROVIDE  
16 THAT INFORMATION NECESSARY TO ASSIST THE TRUSTEES AND SHALL BE  
17 SUBJECT TO THE INSPECTION AND PENALTY PROVISIONS OF SECTION 735.  
18 THE TRUSTEES SHALL BE REIMBURSED FROM THE FUND FOR THE ACTUAL AND  
19 REASONABLE COSTS OF DEFENDING OR ADMINISTERING A CLAIM UNDER THIS  
20 SECTION.

21 (7) IF AN UNINSURED EMPLOYER IS FOUND TO BE LIABLE TO PAY  
22 BENEFITS AND FAILS TO PAY THOSE BENEFITS, THE UNINSURED  
23 EMPLOYERS' SECURITY FUND SHALL PAY THE BENEFITS PURSUANT TO SUB-  
24 SECTION (11).

25 (8) FOR INJURIES OCCURRING ON OR AFTER JUNE 29, 1990, AN  
26 UNINSURED EMPLOYER SHALL BE LIABLE TO THE UNINSURED EMPLOYERS'  
27 SECURITY FUND FOR BOTH OF THE FOLLOWING:

1 (A) AN AMOUNT EQUAL TO 3 TIMES THE BENEFITS PAID OR TO BE  
2 PAID TO AN EMPLOYEE BY THE FUND.

3 (B) AN AMOUNT EQUAL TO 3 TIMES ANY ACTUAL AND REASONABLE  
4 EXPENSES INCURRED IN PROCESSING A CLAIM.

5 (9) AN ACTION INSTITUTED AGAINST AN UNINSURED EMPLOYER UNDER  
6 THIS SECTION SHALL ALSO REQUEST THE RELIEF PERMITTED BY CIVIL  
7 ACTION UNDER SECTIONS 641(1) AND 645.

8 (10) TO THE EXTENT THAT FUNDS ARE AVAILABLE IN THE FUND, THE  
9 TRUSTEES SHALL ANNUALLY DETERMINE THE BENEFITS TO BE PAID FROM  
10 THE FUND. IF THIS DETERMINATION IS LESS THAN THE BENEFITS TO  
11 WHICH THE EMPLOYEE WOULD OTHERWISE BE ENTITLED UNDER THIS ACT,  
12 THE DETERMINATION SHALL NOT CONSTITUTE A REDUCTION OF THE STATU-  
13 TORY BENEFITS TO WHICH THE EMPLOYEE IS OTHERWISE ENTITLED.

14 (11) THE LIABILITY OF AN UNINSURED EMPLOYER PROVIDED FOR IN  
15 SUBSECTION (8) SHALL NOT BE REDUCED AS THE RESULT OF ANY REDUC-  
16 TION IN BENEFITS PAID AS PROVIDED IN SUBSECTION (10). IF REIM-  
17 BURSEMENT IS OBTAINED FROM AN UNINSURED EMPLOYER FOR A PERIOD IN  
18 WHICH LESS THAN 100% OF THE BENEFITS WERE PAID BY THE FUND TO AN  
19 EMPLOYEE OR DEPENDENTS OF A DECEASED EMPLOYEE, THE FUND SHALL PAY  
20 TO THE EMPLOYEE OR DEPENDENTS OF A DECEASED EMPLOYEE THE DIFFER-  
21 ENCE BETWEEN THE AMOUNT PAID AND THE LEVEL OF BENEFITS TO WHICH  
22 THE EMPLOYEE OR DEPENDENTS OF THE DECEASED EMPLOYEE WOULD OTHER-  
23 WISE BE ENTITLED.

24 (12) IF AN EMPLOYEE OF AN UNINSURED EMPLOYER OBTAINS RECOV-  
25 ERY UNDER SECTION 641(2), THE UNINSURED EMPLOYERS' SECURITY FUND  
26 SHALL BE ENTITLED TO A DOLLAR-FOR-DOLLAR OFFSET AGAINST ITS  
27 OBLIGATIONS UNDER THIS ACT. HOWEVER, THE ACTUAL AND REASONABLE

1 COSTS AND ATTORNEY FEES OF THE EMPLOYEE AND INTEREST ON ANY  
2 JUDGMENT SHALL FIRST BE DEDUCTED.

3 (13) THE STATE SHALL NOT BE LIABLE FOR THE PAYMENT OF CLAIMS  
4 UNDER THIS ACT, EXCEPT TO THE EXTENT THAT FUNDS ARE AVAILABLE IN  
5 THE UNINSURED EMPLOYERS' SECURITY FUND FOR THIS PURPOSE.

6 Section 2. This amendatory act shall not take effect unless  
7 the state administrative board certifies in writing to the secre-  
8 tary of state by December 31, 1994 that an agreement for the  
9 transfer of all or substantially all of the assets and the  
10 assumption of all or substantially all of the liabilities of the  
11 state accident fund has been consummated with a permitted trans-  
12 feree pursuant to the requirements of section 701a of the  
13 worker's disability compensation act of 1969, Act No. 317 of the  
14 Public Acts of 1969, being section 418.701a of the Michigan  
15 Compiled Laws.

16 Section 3. This amendatory act shall not take effect unless  
17 all of the following bills of the 87th Legislature are enacted  
18 into law:

19 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
20 no. 00449'93).

21 (b) Senate Bill No. 48.

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23 (c) Senate Bill No. 49.

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25 (d) Senate Bill No. 50.

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1 (e) Senate Bill No. 52.

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3 (f) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
4 no. 00450'93).