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BILL ANALYSIS



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Senate Bill 894 (Substitute S-1)
Sponsor: Senator Mike Rogers
Committee: Human Resources, Labor and Veterans Affairs

Date Completed: 4-25-96

CONTENT

The bill would amend the Worker's Disability Compensation Act's provision for apportionment of liability for weekly benefits payable to an injured worker employed by multiple employers. (Under this provision, if an employee worked for more than one employer at the time of injury or death, the employer in whose employment the injury or injury resulting in death occurred is liable for all medical, rehabilitation, and burial benefits. If that employment provided more than 80% of the employee's average weekly wages at the time of the injury or death, the insurer or self-insurer is liable for all of the weekly benefits. If the employment that caused the injury or death provided 80% or less of the employee's average weekly wages, liability for weekly benefits is apportioned between the insurer or self-insurer and the Second Injury Fund.)

The bill specifies that the multiple-employment benefit apportionment provision would apply only to employees engaged in more than one employment "covered by" the Act and that weekly benefits could be apportioned only in those employments in which the employee suffered a limitation of wage earning capacity. Also, currently, for purposes of benefit apportionment under the multiple-employment provision, only wages that are reported to the Internal Revenue Service (IRS) may be considered. The bill specifies that only those wages reported to the IRS by the employer or the employee before April 16 of the year following the injury could be considered.

The bill also provides that the apportionment provision would not apply to on-call members of a fire department entitled to benefits as on-call members of a fire department. (Under the Act's definition of "employee", on-call members of a fire department of a county, city, village, or township are considered to be employees of the county, city, village, or township, and are entitled to all benefits of the Act when personally injured in the performance of duties as on-call members of the fire department, regardless of whether that service is paid or unpaid (MCL 418.161(1)).)

In addition, under the bill, weekly wage loss benefits paid to an employee for all employments covered under the apportionment provision would have to be reduced, if applicable, pursuant to the Act's provision for coordination of workers' compensation benefits with old-age Social Security benefits; payments under a self-insurance plan, a wage continuation plan, or a disability insurance policy provided by the employer; or pension or retirement payments under a plan or program established or maintained by the employer. Also, weekly wage loss benefits available under the Act's apportionment provision would have to be reduced by 100% of the amount of unemployment insurance benefits received for identical periods and chargeable to the same employer.

Further, the current apportionment system would not apply if an injury or illness caused death; a specific loss of certain body parts outlined in the Act; or total and permanent disability due to loss of certain body parts, incurable insanity, or loss of the use of certain body parts, as outlined in the Act. In those cases, the employer at the place of injury would have to pay at least the applicable weekly benefit rate established for those claims, and the Second Injury Fund would have to reimburse any additional weekly wage benefits owed above the minimum, if the average weekly wage at the second employer would result in a higher weekly benefit rate. (Losses covered under this provision would be the loss of a thumb, finger, toe, hand, foot, arm, leg, or eye; or total and permanent disability due to loss of both eyes, both legs or feet, both arms or hands, permanent and complete paralysis of both legs, both arms, or one arm and one leg, incurable insanity or imbecility, or permanent and total loss of industrial use of both legs, both hands, both arms, or one leg and one arm (MCL 418.361(2) & 418.361(3)).)

MCL 418.372

Legislative Analyst: P. Affholter

FISCAL IMPACT

This bill would make it clear that the apportionment provision would apply only to employers covered under the Worker's Compensation Disability Act. Currently, the Second Injury Fund has been litigating cases in which the second employer is not covered under the act. Therefore, the employee is not eligible for benefits from the Second Injury Fund. This clarification would reduce the number of cases litigated, which would save the Department of Labor approximately \$100,000 annually. Second, the bill would require the Second Injury Fund to coordinate benefits, which is currently prohibited under the act, enabling the Fund to reduce the amount of benefits based on other supplemental income the employee was receiving.

Finally, the bill would reduce the amount of benefits paid by the Fund, to compensate those employees who were injured at a low or no wage job. Currently these individuals' employers pay no or little benefits, which places all of the burden on the Second Injury Fund. This bill would require these employers to pay the required 50% of State average weekly wage upon death and 25% upon amputation consistent with other single employers.

Costs to local units would increase as a result of higher insurance premiums and an increased local portion of employee benefits.

Fiscal Analyst: M. Barsch
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