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BILL ANALYSIS



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Senate Bill 895 (Substitute S-4 as reported by the Committee of the Whole)
Sponsor: Senator Mike Rogers
Committee: Human Resources, Labor and Veterans Affairs

CONTENT

The bill would amend the Worker's Disability Compensation Act to revise standards regarding claims deriving from mental disabilities, including declaring that a 1994 Michigan Supreme Court decision regarding mental disability (Gardner v Van Buren Public Schools) was rendered erroneously, and establishing separate mental disability standards for certain emergency and law enforcement workers; prohibit certain fraudulent insurance acts relative to workers' disability compensation; establish advertising standards pertaining to deceptive practices; prohibit until January 1, 2000, the employment of another person to solicit the filing of workers' compensation claims; require an employee to report his or her income to the carrier every three months, if requested by the carrier paying benefits to an injured employee; require a claimant and carrier to provide certain information to each other, and specify penalties for failure to comply; and add a legislative declaration regarding Michigan residency requirements for out-of-State injuries.

Mental disabilities would be compensable if supported by a preponderance of the evidence that the employment contributed to or aggravated or accelerated the disability in a significant manner and the disability arose out of objective and identifiable events of employment, not unfounded or subjective perceptions. An event of employment that was not reasonably expected to result in mental disability could not be considered a predominant cause of disability. Employees who received a personal injury before the effective date of the bill that resulted in a mental disability would have to have the bill's standard applied to their claims 12 months after the effective date. In the case of certain emergency and law enforcement workers, "personal injury" is construed to include respiratory and heart diseases, or illnesses resulting from those diseases, that develop during a period when the worker is in active service and result from the performance of duties. The bill would add mental disabilities to that provision. Mental disabilities for those workers would be compensable if contributed to or aggravated by the employment in a significant manner, and when arising out of actual events of employment, not unfounded perceptions.

A person who committed a fraudulent insurance act in violation of the bill (including an employer or carrier who required a health care provider to certify that an employee was free from disability despite evidence to the contrary, and an employer who failed to secure the payment of compensation) would be a felony, punishable by up to four years' imprisonment, a maximum fine of \$50,000, or both. A second or subsequent violation would be punishable by up to four years' imprisonment, and/or a maximum fine of \$50,000 or double the amount obtained as a result of the fraud, whichever was greater, and an additional term of at least two years' imprisonment for each violation. Entering into an agreement or conspiracy to commit a fraudulent insurance act in violation of the bill would be a felony, punishable by up to 10 years' imprisonment, a maximum fine of \$50,000, or both.

The bill also includes a legislative declaration that the requirements of Michigan residency and contract of hire agreed to in Michigan “constitute specific and unambiguous requirements that must be adhered to for the bureau [of Workers’ Disability Compensation] to have jurisdiction in a case involving an injury outside of this state”.

MCL 418.222 et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

As the State of Michigan is an employer, this bill could reduce the number of workers’ compensation claims by State employees and therefore reduce costs to all State departments. For the Bureau of Workers’ Disability Compensation, the initial implementation could increase its administrative costs depending on the extent to which the Bureau was required to become involved.

The introduction of a \$50 civil fine to be imposed on carriers for each day they failed to disclose information to the opposing party, could generate additional revenue for the Bureau as these funds would be deposited in the Worker’s Compensation Administrative Revolving Fund. It is difficult to predict how much revenue these fines would generate, if any; the amount would depend on the number of carriers who did not comply.

The new felony provisions included in the bill could result in an increase in annual prison commitments. Given that there currently exist a number of laws regarding fraud and submitting false claims, which have similar penalties, it is difficult to predict what effect including specific penalties in the Worker’s Disability Compensation Act would have on prosecutions and convictions. However, since repeat offenders would under the bill be required to serve at least two years for each violation, the new mandatory minimum penalties would increase the costs of incarceration. If, for example, an additional five offenders received two-year sentences annually, State costs would increase by \$150,000 per year.

Date Completed: 5-1-96

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.