

A bill to amend 1969 PA 317, entitled "Worker's disability compensation act of 1969," by amending sections 700a, 701a, 901, 905, 911, 915, 921, and 925 (MCL 418.700a, 418.701a, 418.901, 418.905, 418.911, 418.915, 418.921, and 418.925), sections 700a and 701a as added by 1993 PA 198 and sections 921 and 925 as amended by 1985 PA 103.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 700a. To help ensure participation by minority, women,  
2 and ~~handicapper~~ PERSONS WITH DISABILITIES owned and operated  
3 businesses in state privatization efforts under this act, the  
4 state of Michigan strongly encourages businesses, when responding  
5 to privatization requests for proposals and quotations, to either  
6 joint venture with or subcontract to minority, women, and  
7 ~~handicapper~~ PERSONS WITH DISABILITIES owned and operated  
8 businesses.

1           Sec. 701a. (1) The state administrative board created  
2 pursuant to ~~Act No. 2 of the Public Acts of 1921, being~~  
3 ~~sections 17.1 to 17.11 of the Michigan Compiled Laws~~ 1921 PA 2,  
4 MCL 17.1 TO 17.3, may authorize the executive director of the  
5 state accident fund to enter into and consummate, under terms and  
6 conditions approved by the state administrative board, an agree-  
7 ment in the name of the state of Michigan for the sale of all or  
8 substantially all of the assets of the state accident fund to a  
9 permitted transferee, and assumption of all or substantially all  
10 of the liabilities of the state accident fund by the permitted  
11 transferee subject to the following conditions:

12           (a) The state administrative board shall have received  
13 before the effective date of the transfer an opinion of a nation-  
14 ally recognized investment banking firm that the consideration  
15 for the assets to be transferred is fair from a financial point  
16 of view.

17           (b) The state administrative board shall have received  
18 before the effective date of the transfer an opinion of a nation-  
19 ally recognized actuarial firm that the assets of the state acci-  
20 dent fund transferred to a permitted transferee are adequate to  
21 permit the payment of all liabilities under policies of insurance  
22 assumed by the permitted transferee based upon sound actuarial  
23 principles.

24           (c) The state administrative board shall have determined  
25 before the effective date of the transfer that the consideration  
26 for the assets to be transferred is among the highest cash offers  
27 by a qualified bidder as provided for in this section not using

1 the state accident fund assets, is fair from a financial point of  
2 view and is sufficient such that the credit of the state shall  
3 not have been granted to, nor in aid of any person, association,  
4 or corporation, public or private. A person seeking to purchase  
5 the state accident fund shall not include as part of its bid the  
6 existing assets of the state accident fund. The state adminis-  
7 trative board with the advice of the insurance commissioner shall  
8 make a determination that the bidder has adequate resources to  
9 capitalize the permitted transferee, and will operate the permit-  
10 ted transferee as a Michigan domestic insurer pursuant to chapter  
11 51 of the insurance code of 1956, ~~Act No. 218 of the Public Acts~~  
12 ~~of 1956, being sections 500.5100 to 500.5114 of the Michigan~~  
13 ~~Compiled Laws~~ 1956 PA 218, MCL 500.5100 TO 500.5114.

14 (d) The state administrative board, as it considers appro-  
15 priate from time to time, may consult with or receive information  
16 or recommendations from the insurance commissioner or any other  
17 person considered appropriate by the state administrative board,  
18 for purposes of assisting the state administrative board in  
19 making a final decision in evaluating 1 or more offers from any  
20 person seeking to become or establish a permitted transferee for  
21 purposes of acquiring the state accident fund pursuant to this  
22 section.

23 (e) The state administrative board shall give due considera-  
24 tion to minority, women, and ~~handicapper~~ PERSONS WITH  
25 DISABILITIES owned businesses and prospective bidders that have  
26 minority, women, and ~~handicapper~~ PERSONS WITH DISABILITIES  
27 owned business participation. A prospective bidder shall

1 indicate in its proposal the name, address, and amount of equity  
2 participation for each minority, women, or ~~handicapper~~ PERSONS  
3 WITH DISABILITIES owned and operated business that is included as  
4 part or all of the bidding group.

5 (2) The consideration in the transaction referred to in sub-  
6 section (1) shall be the property of the state of Michigan. The  
7 consideration shall not be subject to the assessment of fees pur-  
8 suant to section 713. The consideration shall be appropriated as  
9 follows:

10 (a) Not more than 1% of the consideration to a separate seg-  
11 regated fund to be held by the state treasurer and administered  
12 by the commissioner of insurance and the executive director of  
13 the state accident fund for the purposes of winding up the  
14 affairs of the state accident fund pursuant to section 701(4).

15 (c) The remainder to the general fund for transfer to the  
16 countercyclical budget and economic stabilization fund estab-  
17 lished pursuant to section 351 of the management and budget act,  
18 ~~Act No. 431 of the Public Acts of 1984, being section 18.1351 of~~  
19 ~~the Michigan Compiled Laws 1984 PA 431, MCL 18.1351.~~

20 (3) The state administrative board or the executive director  
21 of the state accident fund with the authorization of the state  
22 administrative board, in furtherance of the transactions permit-  
23 ted under this section, may do any of the following:

24 (a) Sell, convey, lease, exchange, transfer, or otherwise  
25 dispose of the assets and liabilities including any real or per-  
26 sonal property of the state accident fund, wherever situated.

1 (b) Sell, exchange, transfer, or otherwise dispose of bonds  
2 and other obligations, shares or other securities or interests  
3 issued by others, whether engaged in similar or different busi-  
4 nesses, or governmental or other activities, including banking  
5 corporations or trust companies.

6 (c) Have and exercise all powers necessary or convenient to  
7 effect or complete the transactions permitted under this  
8 section.

9 (4) A court in this state shall not have jurisdiction to  
10 enjoin or otherwise restrain the transfer of assets and liabili-  
11 ties under this section. The court of claims shall have exclu-  
12 sive jurisdiction over any claims asserted against the state of  
13 Michigan arising out of or related to this section.

14 (5) No cause of action on behalf of any holder of a policy  
15 of insurance issued by the state accident fund shall lie against  
16 the permitted transferee arising out of the sale of assets or  
17 other transactions permitted under this section, except that this  
18 subsection shall not limit the rights or remedies of the holder  
19 under a policy of insurance issued by the state accident fund and  
20 assumed by the permitted transferee to contest the insurance cov-  
21 erage arising under a policy of insurance issued by the state  
22 accident fund. No cause of action on behalf of any holder of a  
23 policy of insurance issued by the state accident fund shall lie  
24 against the state of Michigan or any political subdivision of the  
25 state arising out of the sale of assets or other transactions  
26 permitted under this section, or arising under policies of  
27 insurance issued by the state accident fund.

1           (6) Except for taxes otherwise imposed by the state of  
2 Michigan or any political subdivision of the state or any fees  
3 imposed pursuant to section 713, the sale of assets permitted  
4 under this section shall be free and clear of any liens, claims,  
5 or interests of the state of Michigan or any person claiming  
6 through or under the state of Michigan.

7           (7) The state administrative board for and on behalf of the  
8 state of Michigan and subject to the requirements of this section  
9 shall have the right in its sole and absolute discretion to  
10 establish the terms and conditions of any proposal for the sale  
11 of the state accident fund on the basis of its own criteria, to  
12 evaluate those proposals by its own criteria, and to reject any  
13 or all proposals without assigning any reasons. If 2 or more  
14 prospective bids are substantially similar in terms and condi-  
15 tions and the dollar amount of the bids are within 5% of each  
16 other, the board shall give preference to a bidder agreeing to  
17 retain, for a period of 5 years after the effective date of the  
18 transfer, not less than 75% of the employees employed by the  
19 accident fund on the effective date of the transfer. The board  
20 shall not consider a bidder who does not agree to offer health  
21 coverage without preexisting conditions or exclusions to employ-  
22 ees employed by the accident fund on the effective date of the  
23 transfer and who are retained by the bidder. The state adminis-  
24 trative board shall permit a group that is composed solely of a  
25 majority of the employees of the state accident fund the opportu-  
26 nity to meet the bid that the board determines is the most  
27 favorable for the sale of the fund. If the employees meet this

1 bid, including the standards and preferences of this section,  
2 they must do so within 60 days of the presentation to the state  
3 administrative board. The employees shall be given the opportu-  
4 nity to form an insurer for the purpose of acquiring the fund and  
5 shall be permitted a period of time not to exceed 10 years within  
6 which to consummate the sale of the state accident fund. The  
7 state administrative board for and on behalf of the state of  
8 Michigan expressly reserves the right without giving any reasons  
9 and without any liability therefor, at any time and in any  
10 respect, to amend or terminate any activities with respect to the  
11 sale of the state accident fund, commence or terminate discus-  
12 sions with any or all persons seeking to purchase the state acci-  
13 dent fund, reject any or all proposals to acquire the state acci-  
14 dent fund, and to negotiate and consummate the sale of the state  
15 accident fund with any person. If a proposal submitted by a non-  
16 profit health care corporation operating under the nonprofit  
17 health care corporation reform act, ~~Act No. 350 of the Public~~  
18 ~~Acts of 1980, being sections 550.1101 to 550.1704 of the Michigan~~  
19 ~~Compiled Laws~~ 1980 PA 350, MCL 550.1101 TO 550.1704, is accept-  
20 ed, the nonprofit health care corporation, in addition to payment  
21 of the purchase price, shall remit to the state treasurer an  
22 additional amount calculated by the state treasurer as being  
23 equal to the single business tax that a nonprofit health care  
24 corporation would have paid on the accumulated assets used to  
25 acquire the accident fund if the nonprofit health care corpora-  
26 tion were a for-profit mutual insurer.

1 (8) Nothing in this section shall require the state  
2 administrative board to approve or authorize any transaction for  
3 the sale of the state accident fund.

4 (9) Not less than 30 days before the transfer is consummated  
5 with a permitted transferee, the state administrative board shall  
6 make a report to the legislature providing the name and business  
7 address of each bidder; the amount, terms, and conditions of each  
8 respective bid; and the copies of the opinions required by sub-  
9 section (1)(a) and (b).

10 Sec. 901. As used in this chapter:

11 (a) "Vocationally ~~handicapped~~ DISABLED" means a person who  
12 has a medically certifiable impairment of the back or heart, or  
13 who is subject to epilepsy, or who has diabetes, and whose  
14 impairment is a substantial obstacle to employment, considering  
15 such factors as the person's age, education, training,  
16 experience, and employment rejection.

17 (b) "Certifying agency" means the division of vocational  
18 rehabilitation of the department of education.

19 (c) "Certificate" means documentation issued by the certify-  
20 ing agency to an individual who is vocationally ~~handicapped~~  
21 DISABLED.

22 (d) "Fund" means the second injury fund created in chapter  
23 5. Payments made by the fund under this chapter shall be treated  
24 the same as all other payments made by the second injury fund.

25 Sec. 905. An unemployed person who wishes to be certified  
26 as vocationally ~~handicapped~~ DISABLED for purposes of this  
27 chapter shall apply to the certifying agency on forms furnished

1 by the agency. The certifying agency shall conduct an  
2 investigation and shall issue a certificate to a person who meets  
3 the requirements for vocationally ~~handicapped~~ DISABLED  
4 certification. The certificate is valid for 2 calendar years  
5 after the date of issuance. After expiration of a certificate an  
6 unemployed person may apply for a new certificate. A certificate  
7 is not valid with an employer by whom the person has been  
8 employed within 52 weeks before issuance of the certificate.

9       Sec. 911. Upon commencement of employment of a certified  
10 vocationally ~~handicapped~~ DISABLED person the employer shall  
11 submit to the certifying agency, on forms furnished by the  
12 agency, all pertinent information requested by the agency. The  
13 certifying agency shall acknowledge receipt of the information.  
14 Failure to file the required information with the certifying  
15 agency within 60 days after the first day of the vocationally  
16 ~~handicapped~~ DISABLED person's employment precludes the employer  
17 from the protection and benefits of this chapter unless such  
18 information is filed before an injury for which benefits are pay-  
19 able under this act.

20       Sec. 915. The director of the certifying agency shall  
21 promulgate rules of procedure for certification of vocationally  
22 ~~handicapped~~ DISABLED persons in accordance with ~~Act No. 306 of~~  
23 ~~the Public Acts of 1969, as amended, being sections 24.201 to~~  
24 ~~24.315 of the Compiled Laws of 1948~~ THE ADMINISTRATIVE PROCE-  
25 DURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.

26       Sec. 921. A person certified as vocationally ~~handicapped~~  
27 DISABLED who receives a personal injury arising out of and in the

1 course of his employment and resulting in death or disability,  
2 shall be paid compensation in the manner and to the extent pro-  
3 vided in this act, or in case of his death resulting from such  
4 injury, the compensation shall be paid to his dependents. The  
5 liability of the employer for payment of compensation, for fur-  
6 nishing medical care or for payment of expenses of the employee's  
7 last illness and burial as provided in this act shall be limited  
8 to those benefits accruing during the period of 52 weeks after  
9 the date of injury. Thereafter, all compensation and the cost of  
10 all medical care and expenses of the employee's last sickness and  
11 burial shall be the liability of the fund. The fund shall be  
12 liable, from the date of injury, for those vocational rehabilita-  
13 tion benefits provided in section 319.

14       Sec. 925. (1) When a vocationally ~~handicapped~~ DISABLED  
15 person receives a personal injury, the procedure and practice  
16 provided in this act applies to all proceedings under this chap-  
17 ter, except where specifically otherwise provided herein. Not  
18 less than 90 nor more than 150 days before the expiration of 52  
19 weeks after the date of injury, the carrier shall notify the fund  
20 whether it is likely that compensation may be payable beyond a  
21 period of 52 weeks after the date of injury. The fund, thereaf-  
22 ter, may review, at reasonable times, such information as the  
23 carrier has regarding the accident, and the nature and extent of  
24 the injury and disability.

25       (2) If the fund does not notify the carrier of its intent to  
26 dispute the payment of compensation, the carrier shall continue  
27 to make payments on behalf of the fund, and shall be reimbursed

1 by the fund for all compensation paid and pertaining to the  
2 period beyond 52 weeks after the date of injury. However at any  
3 time subsequent to 52 weeks after the date of injury, the fund  
4 may notify the carrier of a dispute as to the payment of  
5 compensation. The liability of the fund to reimburse the carrier  
6 shall be suspended 30 days thereafter until such controversy is  
7 determined.

8       (3) The obligation imposed by this section on a carrier to  
9 make payments on behalf of the fund does not impose an indepen-  
10 dent liability on the carrier. After a carrier has established  
11 the right to reimbursement, payment shall be made promptly on a  
12 proper showing every 6 months. If a carrier does not make the  
13 payments on behalf of the fund, the fund may make the payments  
14 directly to the persons entitled to such payments.