

SENATE BILL No. 549

June 26, 2001, Introduced by Senator GAST and referred to the Committee on Appropriations.

A bill to amend 1969 PA 317, entitled "Worker's disability compensation act of 1969," by amending sections 391, 625, 645, and 835 (MCL 418.391, 418.625, 418.645, and 418.835), section 391 as amended by 1984 PA 46, section 625 as amended by 1995 PA 271, section 645 as amended by 1993 PA 118, and section 835 as amended by 1996 PA 357, and by adding section 216; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 216. (1) THE WORKER'S DISABILITY COMPENSATION ADMINIS-
2 TRATIVE FUND IS CREATED. THE STATE TREASURER SHALL BE CUSTODIAN
3 OF THE FUND AND MAY INVEST THE SURPLUS OF THE FUND IN INVESTMENTS
4 AS IN THE STATE TREASURER'S JUDGMENT ARE IN THE BEST INTEREST OF
5 THE STATE. EARNINGS FROM THOSE INVESTMENTS SHALL BE CREDITED TO
6 THE FUND. THE STATE TREASURER SHALL NOTIFY THE DIRECTOR OF THE

1 BUREAU AND THE LEGISLATURE OF INTEREST CREDITED AND THE BALANCE
2 OF THE WORKER'S DISABILITY COMPENSATION ADMINISTRATIVE FUND AS OF
3 SEPTEMBER 30 OF EACH YEAR. THE DIRECTOR SHALL MAKE AN ACCOUNTING
4 FOR THE FUND, WHICH SHALL BE INCLUDED IN THE ANNUAL REPORT OF THE
5 BUREAU.

6 (2) THE DIRECTOR OF THE BUREAU SHALL SUPERVISE AND ADMINIS-
7 TER THE FUND. THE DIRECTOR SHALL MAKE AN ANNUAL ASSESSMENT BASED
8 ON THE TOTAL ANNUAL WORKER'S DISABILITY COMPENSATION LOSSES,
9 EXCLUDING PAYMENTS MADE UNDER SECTIONS 315, 319, AND 345, PAID IN
10 THE PREVIOUS CALENDAR YEAR BY CARRIERS UNDER THIS ACT. AS SOON
11 AS PRACTICAL AFTER THE EFFECTIVE DATE OF THIS SECTION AND EACH
12 YEAR THEREAFTER, THE DIRECTOR SHALL ASSESS UPON AND COLLECT FROM
13 EACH CARRIER A SUM EQUAL TO THAT AMOUNT NECESSARY FOR THE PAYMENT
14 OF ALL EXPENSES WITH RESPECT TO THE ADMINISTRATION OF THE BUREAU,
15 THE BOARD OF MAGISTRATES, COMPENSATION SUPPLEMENT FUND, AND THE
16 APPELLATE COMMISSION. THE ASSESSMENT SHALL BEAR THE SAME RELA-
17 TIONSHIP THAT THE LOSSES, EXCLUDING PAYMENTS MADE UNDER
18 SECTIONS 315, 319, AND 345, PAID BY EACH CARRIER IN THE STATE FOR
19 THE PRECEDING CALENDAR YEAR BEAR TO THE TOTAL LOSSES, EXCLUDING
20 PAYMENTS MADE UNDER SECTIONS 315, 319, AND 345, FOR THE PRECEDING
21 CALENDAR YEAR BY ALL CARRIERS IN THE STATE.

22 (3) AS SOON AS PRACTICAL AFTER JULY 1 OF EACH YEAR, THE
23 DIRECTOR SHALL DETERMINE THE EXPENSES OF THE ADMINISTRATION OF
24 THE BUREAU, THE BOARD OF MAGISTRATES, COMPENSATION SUPPLEMENT
25 FUND, AND THE APPELLATE COMMISSION FOR THE CURRENT FISCAL YEAR.
26 THE EXPENSES OF THE ADMINISTRATION FOR THE CURRENT FISCAL YEAR
27 SHALL BE USED AS THE BASE BUDGET ALONG WITH ECONOMIC FACTOR

1 ADJUSTMENTS AND PROGRAM REVISIONS FOR DETERMINING THE AMOUNT TO
2 BE ASSESSED AGAINST EACH CARRIER IN ORDER TO PROVIDE FOR THE
3 EXPENSES OF THE SUBSEQUENT FISCAL YEAR. THE ASSESSMENT SHALL
4 BEAR THE SAME RELATIONSHIP THAT EACH CARRIER'S ANNUAL WORKER'S
5 COMPENSATION LOSSES, EXCLUDING PAYMENTS MADE UNDER SECTIONS 315,
6 319, AND 345, FOR THE PRECEDING CALENDAR YEAR BEAR TO THE TOTAL
7 ANNUAL WORKER'S COMPENSATION LOSSES, EXCLUDING PAYMENTS MADE
8 UNDER SECTIONS 315, 319, AND 345, FOR THE PRECEDING CALENDAR YEAR
9 PAID BY ALL CARRIERS.

10 (4) NOTICE OF THE ASSESSMENT SHALL BE SENT BY THE DIRECTOR
11 BY FIRST-CLASS MAIL TO EACH CARRIER. PAYMENT OF THE ASSESSMENTS
12 SHALL BE MADE SO AS TO BE RECEIVED IN THE LANSING OFFICE OF THE
13 BUREAU ON OR BEFORE A DATE SPECIFIED UNIFORMLY ON THE NOTICE, BUT
14 NOT LESS THAN 90 DAYS AFTER THE DATE OF THE MAILING.

15 (5) ALL ASSESSMENTS CONSTITUTE ELEMENTS OF LOSS FOR THE PUR-
16 POSE OF ESTABLISHING RATES FOR WORKER'S COMPENSATION INSURANCE.
17 FUNDS DERIVED FROM THE ASSESSMENT SHALL BE DEPOSITED IN THE
18 WORKER'S DISABILITY COMPENSATION ADMINISTRATIVE FUND AND SHALL BE
19 APPROPRIATED BY THE LEGISLATURE FOR THE ADMINISTRATION OF THIS
20 ACT.

21 (6) AN EMPLOYER WHO HAS CEASED TO BE A SELF-INSURED OR AN
22 INSURANCE COMPANY WHICH HAS CEASED TO WRITE WORKER'S COMPENSATION
23 INSURANCE IN THIS STATE DURING THE FISCAL YEAR SHALL CONTINUE TO
24 BE LIABLE FOR THE WORKER'S DISABILITY COMPENSATION ADMINISTRATIVE
25 FUND ASSESSMENT BASED ON ANY COMPENSATION BENEFITS, EXCLUSIVE OF
26 PAYMENTS MADE UNDER SECTIONS 315, 319, AND 345, PAID BY THE
27 EMPLOYER OR INSURANCE CARRIER DURING THE PREVIOUS CALENDAR YEAR.

1 (7) THE DIRECTOR SHALL CERTIFY TO THE LEGISLATURE THE
 2 COLLECTION AND RECEIPT OF ALL MONEY FROM ASSESSMENTS, NOTING ANY
 3 DELINQUENCIES. THE DIRECTOR SHALL IMMEDIATELY NOTIFY DELINQUENT
 4 CARRIERS OF THEIR DELINQUENCY IN WRITING BY CERTIFIED MAIL,
 5 RETURN RECEIPT REQUESTED. INTEREST AT THE RATE OF 10% PER ANNUM
 6 SHALL BE ASSESSED ON ANY DELINQUENT PAYMENTS FROM THE DATE THE
 7 PAYMENT WAS DUE UNTIL PAID. THE DIRECTOR SHALL TAKE ACTION AS IN
 8 HIS OR HER JUDGMENT IS PROPER TO EFFECT COLLECTION OF ANY DELIN-
 9 QUENT ASSESSMENT. ALL MONEY RECEIVED FROM COLLECTION OF DELIN-
 10 QUENT ASSESSMENTS UNDER THIS SUBSECTION SHALL BE TURNED OVER TO
 11 THE STATE TREASURER FOR CREDIT TO THE FUND.

12 (8) ANY MONEY INCLUDING INTEREST EARNED BY THE FUND REMAIN-
 13 ING IN THE FUND AT THE END OF A FISCAL YEAR SHALL BE CARRIED OVER
 14 IN THE FUND TO THE NEXT AND SUCCEEDING FISCAL YEARS AND SHALL NOT
 15 BE CREDITED TO OR REVERT TO THE GENERAL FUND.

16 Sec. 391. (1) The compensation supplement fund is created
 17 as a separate fund in the state treasury. The fund shall be
 18 administered by the state treasurer pursuant to this section.
 19 The legislature shall appropriate to the compensation supplement
 20 fund from the ~~general~~ WORKER'S DISABILITY COMPENSATION
 21 ADMINISTRATIVE fund the amounts necessary to meet the obligations
 22 of the compensation supplement fund under section 352, and the
 23 administrative costs incurred by the bureau under this section.

24 (2) The director shall promulgate rules pursuant to ~~Act~~
 25 ~~No. 306 of the Public Acts of 1969, as amended, being sections~~
 26 ~~24.201 to 24.315 of the Michigan Compiled Laws~~ THE
 27 ADMINISTRATIVE PROCEDURE ACT OF 1969, 1969 PA 306, MCL 24.201 TO

1 24.328, that prescribe the conditions under which the money in
2 the compensation supplement fund shall be expended pursuant to
3 section 352 and this section.

4 (3) The department of treasury shall cause to be paid from
5 the compensation supplement fund those amounts and at those times
6 as are prescribed by the director pursuant to subsection (2).

7 (4) The director may employ the personnel the director con-
8 siderers necessary for the proper administration of the compensa-
9 tion supplement fund.

10 (5) The director shall annually recommend to the governor
11 and the chairpersons of the senate and house appropriations com-
12 mittees the amount of money the director considers necessary to
13 implement and enforce this section and section 352 during the
14 ensuing fiscal year. The compensation supplement fund may carry
15 forward into a subsequent fiscal year any unexpended funds, and
16 reduce the necessary appropriation by the amount of the unobli-
17 gated balance in the fund.

18 (6) Not later than April 1 of each year the director shall
19 submit a report to the governor and the legislature summarizing
20 the transactions of the compensation supplement fund during the
21 preceding calendar year. The report shall identify each insurer
22 and self-insurer that receives a reimbursement payment from the
23 compensation supplement fund and the amount of reimbursement.
24 When all liabilities of the compensation supplement fund for
25 reimbursements required pursuant to section 352 are paid, the
26 director shall recommend to the governor and the legislature that
27 the compensation supplement fund be abolished. The director

1 shall certify to the department of treasury and the commissioner
2 of insurance the identity of each insurer and self-insurer that
3 claims a credit as provided for under section 352(8) and the
4 amount of each supplemental payment under section 352 paid by
5 that insurer or self-insurer to which the credit applies.

6 (7) Pursuant to section 352, insurers and self-insurers not
7 subject to either section 440a of the insurance code of 1956,
8 ~~Act No. 218 of the Public Acts of 1956, being section 500.440a~~
9 ~~of the Michigan Compiled Laws~~ 1956 PA 218, MCL 500.440A, or
10 section 38b of the single business tax act, ~~Act No. 228 of the~~
11 ~~Public Acts of 1975, being section 208.38b of the Michigan~~
12 ~~Compiled Laws~~ 1975 PA 228, MCL 208.38B, the second injury fund,
13 and the self-insurers' security fund are entitled to reimburse-
14 ment from the compensation supplement fund. An application for
15 reimbursement shall be on the forms and contain information as
16 required by the director. Application for a claim for reimburse-
17 ment from the compensation supplement fund shall be filed with
18 the director within 3 months after the date on which the right to
19 reimbursement first accrues. After the insurer, self-insurer,
20 the second injury fund, or the self-insurers' security fund has
21 established a right to reimbursement, payment from the compensa-
22 tion supplement fund shall be made without interest on a proper
23 showing every quarter. A reimbursement shall not be allowed for
24 a period which is more than 1 year before the date of the filing
25 of the application for reimbursement pursuant to this section. A
26 reimbursement shall not be allowed for payments made under

1 section 352 for which an insurer or self-insurer takes a credit
2 as provided for in section 352(8).

3 Sec. 625. ~~-(1)-~~ Each insurer mentioned in section 611 issu-
4 ing an insurance policy covering ~~workmen's~~ WORKER'S compensa-
5 tion in this state shall file with the director, within 30 days
6 after the effective date of the policy, a notice of the issuance
7 of the policy and its effective date. A NOTICE OF ISSUANCE OF
8 INSURANCE, A NOTICE OF TERMINATION OF INSURANCE, OR A NOTICE OF
9 EMPLOYER NAME CHANGE MAY BE SUBMITTED IN WRITING OR BY USING
10 BUREAU APPROVED ELECTRONIC RECORD LAYOUT AND TRANSACTION STAN-
11 DARDS AND MAY BE FILED FOR THE INSURER BY A DESIGNATED AGENT. A
12 NOTICE OF TERMINATION OF INSURANCE COVERAGE IS NOT EFFECTIVE
13 UNTIL AT LEAST 20 DAYS AFTER THE NOTICE IS RECEIVED BY THE BUREAU
14 WHETHER FILED BY THE INSURER OR THE DESIGNATED AGENT. If the
15 policy covers persons who would otherwise be exempted from ~~the~~
16 ~~provisions of~~ this act by section 115, the notice shall contain
17 a specific statement to that effect. ~~A notice shall not be~~
18 ~~required of any insurer where the policy issued is a renewal of~~
19 ~~the preceding policy. The~~ AN insurer ~~, if it~~ THAT refuses to
20 accept any coverage under this act ~~, shall do so in writing.~~

21 ~~-(2) If, following a hearing held by the director under this~~
22 ~~act, the director determines that an insurer has engaged in a~~
23 ~~pattern and practice of numerous intentional violations of this~~
24 ~~section, the director may assess against that insurer a civil~~
25 ~~fine of up to \$750.00. This subsection and subsection (3) do not~~
26 ~~apply after the director certifies that an electronic data~~

1 ~~reporting system for reporting of this information is~~
2 ~~operational.~~

3 ~~(3) The director may alternatively proceed under~~
4 ~~section 631.~~

5 Sec. 645. (1) The director may file a complaint in the cir-
6 cuit court for the county in which the employer is located, or in
7 the circuit court for Ingham county, requesting the relief per-
8 mitted by this section against an employer that has failed, at
9 any time within the immediately preceding 3 years, to comply with
10 section 611.

11 (2) If the director's complaint alleges that the employer's
12 liability is currently uninsured, there shall immediately be
13 served on the employer an order to show cause why the employer
14 should not be restrained from employing any person in his or her
15 business pending the proceedings or until the employer shall have
16 satisfied the court that the employer has complied with the pro-
17 visions of section 171 or 611. The order to show cause shall be
18 returnable before the court at a time to be fixed in the order
19 not less than 24 hours nor more than 7 days after its issuance.

20 (3) Upon a complaint filed pursuant to subsection (1), an
21 injunction shall be issued unless the employer proves that he or
22 she is not subject to the provisions of this act or furnishes a
23 surety company bond in an amount to secure all of the liability
24 of the employer under this act. An injunction issued against an
25 employer under this subsection shall perpetually enjoin the
26 employer from employing any person in his or her business at any
27 time the employer is not complying with section 171 or 611.

1 (4) The director's complaint may seek a civil fine of not
2 more than \$1,000.00 per day against an employer who has failed,
3 at any time within the immediately preceding 3 years, to comply
4 with section 611, whether or not the employer is currently in
5 noncompliance. A civil fine shall be assessed by the court of
6 not more than \$1,000.00 for each day the court finds the employer
7 not to have been in compliance with section 611.

8 (5) A civil fine collected pursuant to this section shall be
9 paid to the worker's DISABILITY compensation administrative
10 ~~revolving~~ fund established by section ~~835a~~ 216.

11 Sec. 835. (1) After 6 months' time has elapsed from the
12 date of a personal injury, any liability resulting from the per-
13 sonal injury may be redeemed by the payment of a lump sum by
14 agreement of the parties, subject to the approval of a worker's
15 compensation magistrate. If special circumstances are found
16 which in the judgment of the worker's compensation magistrate
17 require the payment of a lump sum, the worker's compensation mag-
18 istrate may direct at any time in any case that the deferred pay-
19 ments due under this act be commuted on the present worth at 10%
20 per annum to 1 or more lump sum payments and that the lump sum
21 payments shall be made by the employer or carrier. When a pro-
22 posed redemption agreement is filed, it may be treated as a lump
23 sum application, within the discretion of a worker's compensation
24 magistrate. The filing of a proposed redemption agreement or
25 lump sum application shall not be considered an admission of
26 liability and if the worker's compensation magistrate treats a
27 proposed redemption agreement as a lump sum application under

1 this section, the employer shall be entitled to a hearing on the
2 question of liability.

3 (2) The carrier shall notify the employer in writing of the
4 proposed redemption agreement not less than 10 business days
5 before a hearing on the proposed redemption agreement is held.
6 The notice shall include all of the following:

7 (a) The amount and conditions of the proposed redemption
8 agreement.

9 (b) The procedure available for requesting a private infor-
10 mal managerial level conference.

11 (c) The name and business phone number of a representative
12 of the carrier familiar with the case.

13 (d) The time and place of the hearing on the proposed
14 redemption agreement and the right of the employer to object to
15 it.

16 (3) The worker's compensation magistrate may waive the
17 requirements of subsection (2) if the carrier provides evidence
18 that a good faith effort has been made to provide the required
19 notice or if the employer has consented in writing to the pro-
20 posed redemption.

21 (4) Except as otherwise provided in this subsection, for all
22 proposed redemption agreements filed after December 31, 1983,
23 each party to the agreement shall be liable for a fee of \$100.00
24 to be used to defray costs incurred by the bureau, the worker's
25 compensation board of magistrates, and the worker's compensation
26 appellate commission administering this act, except that in the
27 case of multiple defendants the fee for the party defendant shall

1 be \$100.00 to be paid by the carrier covering the most recent
2 date of injury. The bureau shall develop a system to provide for
3 the collection of the fee provided for by this subsection. The
4 fee provided by this subsection does not apply to proposed
5 redemption agreements in which the uninsured employer's security
6 fund is a party under section 532.

7 (5) The fees collected pursuant to subsection (4) shall be
8 placed in the worker's compensation administrative revolving fund
9 under section 835a. Money in the worker's compensation adminis-
10 trative revolving fund shall only be used to pay for costs in
11 regard to the following specific purposes of the bureau, the
12 worker's compensation board of magistrates, and the worker's com-
13 pensation appellate commission as applicable:

14 (a) Education and training.

15 (b) Case management.

16 (c) Hearings and claims for review.

17 (6) Subsections (2) to (5) only apply to proposed redemption
18 agreements filed after December 31, 1983 AND BEFORE SEPTEMBER 30,
19 2001.

20 Enacting section 1. Section 835a of 1969 PA 317,
21 MCL 418.835a, is repealed effective September 30, 2001.