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Senate Bill 900 (as introduced 4-22-14)
Sponsor: Senator Jack Brandenburg
Committee: Reforms, Restructuring and Reinventing

Date Completed: 4-29-14

CONTENT

The bill would amend the Worker's Disability Compensation Act to enable the Director of the Worker's Compensation Agency to authorize claims for reimbursement from the Compensation Supplement Fund to be filed for periods of time different from those prescribed in the Act.

Section 352 of the Act allows a supplement to worker's compensation for an employee who is receiving or is entitled to receive benefits equal to the maximum payable under Section 351 or the dependent of a deceased employee receiving or entitled to receive benefits under Section 321 whose benefits are based on a date of personal injury between September 1, 1965, and December 31, 1979. (Section 351 provides for benefits to an injured employee who is totally incapacitated for work. Section 321 provides for benefits to the dependents of an employee whose personal injury resulted in death, who were totally wholly dependent on the employee's earnings for support at the time of the injury.)

The supplemental payments must be paid by an insurer or self-insurer on a weekly basis. An insurer, self-insurer, the Second Injury Fund, and the Self-Insurers' Security Fund are entitled to quarterly reimbursement for the payments from the Compensation Supplement Fund, except that an insurer or self-insurer is required to take a credit under the Insurance Code, the former Single Business Tax Act, or the Michigan Business Tax Act, as applicable.

An application for a claim for reimbursement must be filed with the Director of the Worker's Compensation Agency within three months after the date in which the right to reimbursement first accrues. A reimbursement may not be allowed for a period that is more than one year before the date the application is filed. Under the bill, both of these provisions would apply except as otherwise authorized by the Director.

Section 352 does not apply to an employee receiving benefits under Section 361(1). The bill, instead, states that Section 352 would not apply to an employee receiving benefits for partial incapacity for work under the terms of Section 361(1) before its amendment by Public Act 266 of 2011. (Section 361(1) currently provides that an employer is not liable for worker's compensation for periods of time that the employee is unable to obtain or perform work because of imprisonment or commission of a crime. The section contained that provision before the 2011 amendment, but also provided for the payment of compensation to an employee while incapacity for work was partial.)

In addition, with respect to the credit allowed under the Michigan Business Tax Act, the bill would add, "for periods prior to January 1, 2012" (which is the date on which the credit was discontinued).

FISCAL IMPACT

The bill would have no fiscal impact on the operations of the Department of Licensing and Regulatory Affairs (LARA) and no fiscal impact on local units of government. The bill would allow the Director of the Worker's Compensation Agency (within LARA) to make reimbursements from the Compensation Supplement Fund for supplemental payments that occurred more than one year before the application for reimbursement was made. This change would allow the Director to authorize reimbursements to several companies that are paying supplemental payments eligible for reimbursement from the Compensation Supplement Fund. These companies had been receiving reimbursement via credits under the former Single Business Tax (SBT) and the Michigan Business Tax (MBT); however the Corporate Income Tax enacted in 2011 does not have the relevant credit structure that would allow a credit to be claimed. An additional \$1.0 million was included in the Senate-passed fiscal year 2014-15 LARA budget so eligible claimants that are no longer able to claim the SBT or MBT credits could receive reimbursement directly from the Compensation Supplement Fund.

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