

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 900

A bill to amend 1969 PA 317, entitled
"Worker's disability compensation act of 1969,"
by amending sections 352 and 391 (MCL 418.352 and 418.391), as
amended by 2007 PA 190.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 352. (1) An employee receiving or entitled to receive
2 benefits equal to the maximum payable to that employee under
3 section 351 or the dependent of a deceased employee receiving or
4 entitled to receive benefits under section 321 whose benefits are
5 based on a date of personal injury between September 1, 1965, and
6 December 31, 1979, ~~shall be~~ **IS** entitled to a supplement to weekly
7 compensation. The supplement shall be computed using the total
8 annual percentage change in the state average weekly wage, rounded
9 to the nearest 1/10 of 1%, as determined under section 355. The

1 supplement shall be computed as a percentage of the weekly
2 compensation rate that the employee or the dependent of a deceased
3 employee is receiving or is entitled to receive on January 1, 1982
4 had the employee been receiving benefits at that time, rounded to
5 the nearest dollar. The supplement shall not exceed 5% compounded
6 for each calendar year in the adjustment period. The percentage
7 change for purposes of the adjustment shall be computed from the
8 base year through December 31, 1981. A supplement shall not be paid
9 retroactively for any period of disability before January 1, 1982.

10 (2) For personal injuries occurring from September 1, 1965,
11 through December 31, 1968, the base year shall be 1968. For
12 personal injuries occurring between January 1, 1969 and December
13 31, 1979, the base year shall be the year in which the personal
14 injury occurred.

15 (3) Pursuant to subsection (1), the director shall announce on
16 December 1, 1981, the supplement percentages payable on January 1,
17 1982.

18 (4) All personal injuries found compensable under this act
19 after January 1, 1982 with a personal injury date before January 1,
20 1980, shall be paid at a rate determined pursuant to this section.

21 (5) An employee who is eligible to receive differential
22 benefits from the second injury fund shall be paid the supplement
23 pursuant to this section as reduced by the amount of the
24 differential payments being made to the employee by the second
25 injury fund at the time of the payment of the supplement pursuant
26 to this section.

27 (6) The supplement paid pursuant to this section, when added

1 to the original benefit, shall not exceed the maximum weekly rate
2 of compensation provided in section 355 in effect on the date of
3 the adjustment.

4 (7) An employee is not entitled to supplements under this
5 section for a personal injury for which the liability has been
6 redeemed.

7 (8) The supplements under this section shall be paid by an
8 insurer or self-insurer on a weekly basis. The insurer, self-
9 insurer, the second injury fund, and the self-insurers' security
10 fund are entitled to quarterly reimbursement for these payments
11 from the compensation supplement fund in section 391, except that
12 an insurer or self-insurer subject to section 440a of the insurance
13 code of 1956, 1956 PA 218, MCL 500.440a, section 38b of ~~the single~~
14 ~~business tax act, FORMER~~ 1975 PA 228, ~~MCL 208.38b, or, FOR PERIODS~~
15 **PRIOR TO JANUARY 1, 2012,** section 423 of the Michigan business tax
16 act, 2007 PA 36, MCL 208.1423, shall take a credit under ~~either~~
17 section 440a of the insurance code of 1956, 1956 PA 218, MCL
18 500.440a, section 38b of ~~the single business tax act, FORMER~~ 1975
19 PA 228, ~~MCL 208.38b, or, FOR PERIODS PRIOR TO JANUARY 1, 2012,~~
20 section 423 of the Michigan business tax act, 2007 PA 36, MCL
21 208.1423, as applicable.

22 (9) This section does not apply to an employee receiving
23 benefits under section 361(1).

24 (10) An insurer, self-insurer, the second injury fund, or the
25 self-insurers' security fund shall make the supplemental payments
26 required by this section for each quarter of the state's fiscal
27 year that the state treasurer certifies that there are sufficient

1 funds available to meet the obligations of the fund created in
2 section 391 for that quarter. The state treasurer shall certify
3 whether there are sufficient funds in the fund created in section
4 391 to meet the obligations of that fund for each quarter of the
5 fiscal year of ~~the~~**THIS** state on or before the first day of each
6 quarter.

7 (11) An insurer, self-insurer, the second injury fund, or the
8 self-insurers' security fund shall make the supplemental payments
9 required by this section for the period July 1, 1982 to September
10 30, 1982 and shall be reimbursed for those payments.

11 Sec. 391. (1) The compensation supplement fund is created as a
12 separate fund in the state treasury. The fund shall be administered
13 by the state treasurer pursuant to this section. The legislature
14 shall appropriate to the compensation supplement fund from the
15 general fund the amounts necessary to meet the obligations of the
16 compensation supplement fund under section 352, and the
17 administrative costs incurred by the bureau under this section.

18 (2) The director shall promulgate rules under the
19 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
20 24.328, that prescribe the conditions under which the money in the
21 compensation supplement fund shall be expended pursuant to section
22 352 and this section.

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

26 (4) The director may employ the personnel the director
27 considers necessary for the proper administration of the

1 compensation supplement fund.

2 (5) The director shall annually recommend to the governor and
3 the chairpersons of the senate and house appropriations committees
4 the amount of money the director considers necessary to implement
5 and enforce this section and section 352 during the ensuing fiscal
6 year. The compensation supplement fund may carry forward into a
7 subsequent fiscal year any unexpended funds, and reduce the
8 necessary appropriation by the amount of the unobligated balance in
9 the fund.

10 (6) Not later than April 1 of each year the director shall
11 submit a report to the governor and the legislature summarizing the
12 transactions of the compensation supplement fund during the
13 preceding calendar year. The report shall identify each insurer and
14 self-insurer that receives a reimbursement payment from the
15 compensation supplement fund and the amount of reimbursement. When
16 all liabilities of the compensation supplement fund for
17 reimbursements required pursuant to section 352 are paid, the
18 director shall recommend to the governor and the legislature that
19 the compensation supplement fund be abolished. The director shall
20 certify to the department of treasury and the commissioner of
21 insurance the identity of each insurer and self-insurer that claims
22 a credit as provided for under section 352(8) and the amount of
23 each supplemental payment under section 352 paid by that insurer or
24 self-insurer to which the credit applies.

25 (7) Pursuant to section 352, insurers and self-insurers not
26 subject to ~~either~~ section 440a of the insurance code of 1956, 1956
27 PA 218, MCL 500.440a, section 38b of ~~the single business tax act,~~

1 **FORMER** 1975 PA 228, ~~MCL 208.38b~~, or, **FOR PERIODS PRIOR TO JANUARY**
2 **1, 2012**, section 423 of the Michigan business tax act, 2007 PA 36,
3 MCL 208.1423; ~~the second injury fund; and the self-insurers'~~
4 ~~security fund;~~ **AND THE PRIVATE EMPLOYER GROUP SELF-INSURERS**
5 **SECURITY FUND** are entitled to reimbursement from the compensation
6 supplement fund. An application for reimbursement shall be on the
7 forms and contain information as required by the director.
8 ~~Application~~ **EXCEPT AS OTHERWISE AUTHORIZED BY THE DIRECTOR,**
9 **APPLICATION** for a claim for reimbursement from the compensation
10 supplement fund shall be filed with the director within 3 months
11 after the date on which the right to reimbursement first accrues.
12 After the insurer, self-insurer, the second injury fund, ~~or the~~
13 self-insurers' security fund, **OR THE PRIVATE EMPLOYER GROUP SELF-**
14 **INSURERS SECURITY FUND** has established a right to reimbursement,
15 payment from the compensation supplement fund shall be made without
16 interest on a proper showing every quarter. ~~A~~ **EXCEPT AS OTHERWISE**
17 **AUTHORIZED BY THE DIRECTOR, A** reimbursement shall not be allowed
18 for a period that is more than 1 year before the date of the filing
19 of the application for reimbursement pursuant to this section. A
20 reimbursement shall not be allowed for payments made under section
21 352 for which an insurer or self-insurer takes a credit as provided
22 for in section 352(8).