

HOUSE BILL No. 5487

April 29, 2014, Introduced by Reps. Phelps, Brunner, Faris, Smiley, Kosowski, Santana and Oakes and referred to the Committee on Commerce.

A bill to amend 1969 PA 317, entitled
"Worker's disability compensation act of 1969,"
by amending section 551 (MCL 418.551), as amended by 2002 PA 25.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 551. (1) As soon as practicable after January 1 of each
2 year, the director shall assess pursuant to subsection (3) a sum
3 that in total is equal to 175% of the total disbursements made from
4 the second injury fund during the preceding calendar year, less the
5 amount of net assets in excess of \$200,000.00 in that fund as of
6 December 31 of the preceding calendar year.

7 (2) As soon as practicable after January 1 of each year, the
8 director shall assess pursuant to subsection (3) a sum that in
9 total is equal to 175% of the total disbursements made from the
10 silicosis, dust disease, and logging industry compensation fund
11 during the preceding calendar year, less the amount of net assets

1 in excess of \$200,000.00 in that fund as of December 31 of the
2 preceding calendar year.

3 (3) The portion of the total assessment amounts under
4 subsections (1) and (2) allocated to self-insurers shall be equal
5 to a percentage determined as follows: The total paid losses of all
6 self-insurers for the preceding calendar year divided by the total
7 paid losses of all carriers during the preceding calendar year. The
8 portion of the total assessment amounts under subsections (1) and
9 (2) allocated to insurers shall be equal to a percentage determined
10 as follows: The total paid losses of all insurers for the preceding
11 calendar year divided by the total paid losses of all carriers
12 during the preceding calendar year. The portion of the total
13 assessments allocated to self-insurers that shall be collected from
14 each self-insurer shall be equal to a percentage determined as
15 follows: The total paid losses of ~~each~~**THAT** self-insurer divided by
16 the total paid losses of all self-insurers during the preceding
17 calendar year. The portion of the total assessment allocated to
18 insurers that shall be collected from each insurer shall be equal
19 to a percentage determined as follows: The amount of total direct
20 premiums written as reported by ~~each~~**THAT** insurer divided by the
21 amount of total direct premiums written as reported by all insurers
22 during the preceding calendar year. As used in this subsection:

23 (a) "Direct premiums written" means standard written Michigan
24 workers' compensation premium prior to the application of
25 deductible credits, as reported to the designated advisory
26 organization, through policy declarations and unit statistical
27 reports compiled pursuant to the authority in section 2407 of the

1 insurance code of 1956, 1956 PA 218, MCL 500.2407. For the purposes
2 of determining assessments under this section, the reported data
3 for the most recent full calendar year on file with the designated
4 advisory organization shall be used.

5 (b) "Total paid losses" means total compensation benefits paid
6 under this act, exclusive of payments made pursuant to sections
7 315, 319, and 345.

8 (4) The director, upon the advice of the trustee representing
9 the self-insurers, may make additional assessments upon private
10 self-insurers as the trustee considers necessary to keep the self-
11 insurers' security fund solvent. The assessment **FOR THE 2015**
12 **CALENDAR YEAR AND EACH CALENDAR YEAR THEREAFTER SHALL BE CALCULATED**
13 **BASED EXCLUSIVELY ON CLAIMS PAYMENTS AND ADMINISTRATIVE EXPENSE OF**
14 **THE SELF-INSURERS' SECURITY FUND FOR THE IMMEDIATELY PRECEDING**
15 **CALENDAR YEAR AND THE ESTIMATE OF FUTURE LIABILITY FOR THE CURRENT**
16 **CALENDAR YEAR AS REPORTED IN THE ANNUAL FINANCIAL REPORT REQUIRED**
17 **UNDER SUBSECTION (9), AND shall not exceed 3% in any calendar year**
18 **exclusive of payments made pursuant to sections 315, 319, and 345.**
19 **EFFECTIVE JANUARY 1, 2015 THROUGH DECEMBER 31, 2018, THE ASSESSMENT**
20 **LIMIT UNDER THIS SUBSECTION IS INCREASED TO A PERCENTAGE NOT TO**
21 **EXCEED 4%, IF THE PROCEEDS OF ANY ASSESSMENT ABOVE 3% ARE USED**
22 **EXCLUSIVELY FOR CLAIMS AGAINST THE SELF-INSURERS' SECURITY FUND BY**
23 **DISABLED EMPLOYEES OR DEPENDENTS, AS DESCRIBED IN SECTION 331, OF**
24 **DELPHI CORPORATION OR DELPHI AUTOMOTIVE SYSTEMS CORPORATION THAT**
25 **ARISE OUT OF EMPLOYMENT DURING THE PERIOD FROM MAY 28, 1999 TO**
26 **OCTOBER 7, 2009. AFTER DECEMBER 31, 2018, THE DIRECTOR SHALL NOT**
27 **ASSESS PRIVATE EMPLOYER GROUP SELF-INSURERS ON BEHALF OF THE SELF-**

1 INSURERS' SECURITY FUND.

2 (5) Notice of the assessments shall be sent by the director by
3 ~~first class~~ **FIRST-CLASS** mail to each carrier. ~~Payment of~~
4 ~~assessments shall be made so as to be received in the Lansing~~
5 ~~office of the bureau on or before a date specified uniformly in the~~
6 ~~notice, but not less than 90 days after the date of mailing.~~ **THE**
7 **NOTICE SHALL STATE THAT THE ASSESSMENT MUST BE RECEIVED BY THE**
8 **AGENCY AT THE ADDRESS INDICATED IN THE NOTICE BY 90 DAYS AFTER THE**
9 **NOTICE MAILING DATE AND THAT INTEREST AND PENALTIES WILL ACCRUE AT**
10 **THE FOLLOWING RATES:**

11 (A) SUBJECT TO SUBDIVISION (C), FOR AN ASSESSMENT THAT IS
12 UNPAID 90 DAYS AFTER THE NOTICE MAILING DATE, INTEREST ACCRUES ON
13 THE UNPAID BALANCE BEGINNING THE NINETY-FIRST DAY AND IS CALCULATED
14 IN THE SAME MANNER AS INTEREST ON A MONEY JUDGMENT IN A CIVIL
15 ACTION UNDER SECTION 6013(8) OF THE REVISED JUDICATURE ACT OF 1961,
16 1961 PA 236, MCL 600.6013.

17 (B) SUBJECT TO SUBDIVISION (C), IN ADDITION TO THE INTEREST
18 UNDER SUBDIVISION (A), A PENALTY OF 1% PER MONTH FOR EACH MONTH AN
19 ASSESSMENT IS UNPAID BEGINNING 181 DAYS AFTER THE NOTICE MAILING
20 DATE.

21 (C) IF A CARRIER'S DELINQUENT ASSESSMENTS AND ANY APPLICABLE
22 INTEREST AND PENALTIES TOTAL \$25.00 OR LESS FOR ALL FUNDS IN A
23 SINGLE ASSESSMENT YEAR, THE DIRECTOR MAY WAIVE THE ASSESSMENTS,
24 INTEREST, AND PENALTIES.

25 (6) All assessments constitute elements of loss for the
26 purpose of establishing rates for worker's compensation insurance.

27 (7) An employer who has stopped being a self-insurer shall

1 continue to be liable for a second injury fund; silicosis, dust
2 disease, and logging industry compensation fund; or self-insurers'
3 security fund assessment on account of any compensation benefits,
4 exclusive of payments made pursuant to sections 315, 319, and 345,
5 paid by the employer during the previous calendar year.

6 (8) The director shall certify to the trustees the collection
7 and receipt of all money from assessments, **INCLUDING INTEREST AND**
8 **PENALTIES**, noting any delinquencies. The trustees shall immediately
9 notify delinquent carriers, including private self-insurers, of
10 their delinquency in writing by certified mail, return receipt
11 requested. The trustees shall take action as in their judgment is
12 proper to effect collection of any delinquent assessment. All money
13 received from assessments, **INCLUDING INTEREST AND PENALTIES**, under
14 this section shall be turned over to the state treasurer who shall
15 be the custodian of the self-insurers' security fund; **THE PRIVATE**
16 **EMPLOYER GROUP SELF-INSURERS SECURITY FUND**; the second injury fund;
17 and the silicosis, dust disease, and logging industry compensation
18 fund. The treasurer may make those investments as in the
19 treasurer's judgment are in the best interest of the funds. The
20 earnings from the investment of the money from the funds shall be
21 credited to the funds. The state treasurer, at the end of each
22 fiscal year, shall determine ~~what~~ **THE** amount **THAT** represents a pro
23 rata earnings share due to each fund, shall credit the pro rata
24 earning share to each fund, and shall notify the trustee of the
25 amount credited and the balance of the respective fund as of
26 September 30. The trustees shall make separate annual reports and
27 accountings for each fund, which reports shall be included in the

1 annual report of the ~~bureau~~-AGENCY.

2 (9) NOT LATER THAN MARCH 31, 2015 AND EACH YEAR THEREAFTER,
3 THE DIRECTOR SHALL MAKE AVAILABLE TO THE PUBLIC AND INCLUDE IN THE
4 AGENCY'S ANNUAL REPORT AN ANNUAL FINANCIAL REPORT OF THE ACCOUNTS
5 AND RECORDS OF THE SELF-INSURERS' SECURITY FUND COVERING THE
6 IMMEDIATELY PRECEDING CALENDAR YEAR. THE ANNUAL FINANCIAL REPORT
7 SHALL BE PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING
8 PRINCIPLES AND SHALL CONTAIN CERTIFICATES OF EXAMINATION BY AN
9 INDEPENDENT AUDITOR BASED ON GENERALLY ACCEPTED ACCOUNTING
10 PRINCIPLES AND GENERALLY ACCEPTED AUDITING STANDARDS, AND SUPPORTED
11 BY ACTUARIAL REVIEW AND OPINION OF THE FUTURE CONTINGENT
12 LIABILITIES. THE DIRECTOR MAY REQUIRE A SPECIAL AUDIT TO BE MADE AT
13 OTHER TIMES IF THE FINANCIAL STABILITY OF THE FUND OR THE ADEQUACY
14 OF ITS MONETARY RESERVES IS IN QUESTION. AN AUDITED FINANCIAL
15 STATEMENT INCLUDED IN THE ANNUAL FINANCIAL REPORT SHALL INCLUDE,
16 BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

17 (A) A DETAILED STATEMENT OF ASSETS, LIABILITIES, AND NET
18 ASSETS.

19 (B) A DETAILED STATEMENT OF REVENUES AND EXPENSES.

20 (C) A DETAILED STATEMENT OF CASH FLOW.

21 (D) ANY RELATED INFORMATION RELEVANT TO THE FINANCIAL
22 ACCOUNTING AND OPERATIONS OF THE SELF-INSURERS' SECURITY FUND.

23 (E) AN ESTIMATE OF FUTURE LIABILITY OF THE SELF-INSURERS'
24 SECURITY FUND FOR PAYMENT OF CLAIMS MADE AGAINST A PRIVATE SELF-
25 INSURER BASED ON COMPUTATIONS THAT REFLECT THE PROBABLE TOTAL
26 FUTURE COST OF COMPENSATION AND MEDICAL BENEFITS DUE, OR THAT CAN
27 REASONABLY BE EXPECTED TO BE DUE, OVER THE LIFE OF THE CLAIM.

1 (F) A REPORT OF EACH LIABILITY ASSUMED FOR PAYMENT OF CLAIMS
2 MADE AGAINST A PRIVATE SELF-INSURER.

3 (10) NOT LATER THAN MARCH 31, 2015 AND EACH YEAR THEREAFTER,
4 THE DIRECTOR SHALL MAKE AVAILABLE TO THE PUBLIC AND INCLUDE IN THE
5 AGENCY'S ANNUAL REPORT A REPORT DETAILING INFORMATION REGARDING THE
6 SELF-INSURERS' SECURITY FUND'S MANAGEMENT OF CLAIMS. THE REPORT
7 SHALL INCLUDE, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

8 (A) TOTAL COST PER CLAIM.

9 (B) COST PER ACTIVE CLAIM AND COST PER CLOSED CLAIM.

10 (C) INDEMNITY COST PER CLAIM.

11 (D) MEDICAL COST FOR INDEMNITY CLAIMS.

12 (E) MEDICAL COSTS FOR MEDICAL-ONLY CLAIMS.

13 (F) AVERAGE REDEMPTION.

14 (G) AVERAGE PAID CLAIM AMOUNT.

15 (H) AVERAGE LOSS ADJUSTMENT EXPENSE.

16 (I) METHODS UTILIZED TO INCREASE EFFICIENCY AND PROVIDE
17 QUALITY CONTROL IN CLAIMS MANAGEMENT.

18 (11) A REPORT PREPARED UNDER SUBSECTION (9) OR (10) SHALL NOT
19 INCLUDE ANY PERSONALLY IDENTIFIABLE INFORMATION.

20 Enacting section 1. This amendatory act does not take effect
21 unless Senate Bill No. ____ or House Bill No. 5489 (request no.
22 04528'13 **) of the 97th Legislature is enacted into law.