

# SENATE BILL No. 900

April 22, 2014, Introduced by Senator BRANDENBURG and referred to the Committee on Reforms, Restructuring and Reinventing.

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

1 to the nearest 1/10 of 1%, as determined under section 355. The  
2 supplement shall be computed as a percentage of the weekly  
3 compensation rate that the employee or the dependent of a deceased  
4 employee is receiving or is entitled to receive on January 1, 1982  
5 had the employee been receiving benefits at that time, rounded to  
6 the nearest dollar. The supplement shall not exceed 5% compounded  
7 for each calendar year in the adjustment period. The percentage  
8 change for purposes of the adjustment shall be computed from the  
9 base year through December 31, 1981. A supplement shall not be paid  
10 retroactively for any period of disability before January 1, 1982.

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

16 (3) Pursuant to subsection (1), the director shall announce on  
17 December 1, 1981, the supplement percentages payable on January 1,  
18 1982.

19 (4) All personal injuries found compensable under this act  
20 after January 1, 1982 with a personal injury date before January 1,  
21 1980, shall be paid at a rate determined pursuant to this section.

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

1           (6) The supplement paid pursuant to this section, when added  
2 to the original benefit, shall not exceed the maximum weekly rate  
3 of compensation provided in section 355 in effect on the date of  
4 the adjustment.

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

8           (8) The supplements under this section shall be paid by an  
9 insurer or self-insurer on a weekly basis. The insurer, self-  
10 insurer, the second injury fund, and the self-insurers' security  
11 fund are entitled to quarterly reimbursement for these payments  
12 from the compensation supplement fund in section 391, except that  
13 an insurer or self-insurer subject to section 440a of the insurance  
14 code of 1956, 1956 PA 218, MCL 500.440a, section 38b of ~~the single~~  
15 ~~business tax act, FORMER~~ 1975 PA 228, ~~MCL 208.38b, or, FOR PERIODS~~  
16 **PRIOR TO JANUARY 1, 2012**, section 423 of the Michigan business tax  
17 act, 2007 PA 36, MCL 208.1423, shall take a credit under ~~either~~  
18 section 440a of the insurance code of 1956, 1956 PA 218, MCL  
19 500.440a, section 38b of ~~the single business tax act, FORMER~~ 1975  
20 PA 228, ~~MCL 208.38b, or, FOR PERIODS PRIOR TO JANUARY 1, 2012,~~  
21 section 423 of the Michigan business tax act, 2007 PA 36, MCL  
22 208.1423, as applicable.

23           (9) This section does not apply to an employee receiving  
24 benefits **FOR PARTIAL INCAPACITY FOR WORK** under **THE TERMS OF** section  
25 361(1) **BEFORE ITS AMENDMENT BY 2011 PA 266.**

26           (10) An insurer, self-insurer, the second injury fund, or the  
27 self-insurers' security fund shall make the supplemental payments

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

9 (11) An insurer, self-insurer, the second injury fund, or the  
10 self-insurers' security fund shall make the supplemental payments  
11 required by this section for the period July 1, 1982 to September  
12 30, 1982 and shall be reimbursed for those payments.

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

20 (2) The director shall promulgate rules under the  
21 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
22 24.328, that prescribe the conditions under which the money in the  
23 compensation supplement fund shall be expended pursuant to section  
24 352 and this section.

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

1           (4) The director may employ the personnel the director  
2 considers necessary for the proper administration of the  
3 compensation supplement fund.

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

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

27          (7) Pursuant to section 352, insurers and self-insurers not

1 subject to ~~either~~ section 440a of the insurance code of 1956, 1956  
2 PA 218, MCL 500.440a, section 38b of ~~the single business tax act,~~  
3 **FORMER** 1975 PA 228, ~~MCL 208.38b,~~ or, **FOR PERIODS PRIOR TO JANUARY**  
4 **1, 2012,** section 423 of the Michigan business tax act, 2007 PA 36,  
5 MCL 208.1423; ~~the second injury fund; and the self-insurers'~~  
6 security fund are entitled to reimbursement from the compensation  
7 supplement fund. An application for reimbursement shall be on the  
8 forms and contain information as required by the director.  
9 ~~Application~~ **EXCEPT AS OTHERWISE AUTHORIZED BY THE DIRECTOR,**  
10 **APPLICATION** for a claim for reimbursement from the compensation  
11 supplement fund shall be filed with the director within 3 months  
12 after the date on which the right to reimbursement first accrues.  
13 After the insurer, self-insurer, the second injury fund, or the  
14 self-insurers' security fund has established a right to  
15 reimbursement, payment from the compensation supplement fund shall  
16 be made without interest on a proper showing every quarter. A  
17 **EXCEPT AS OTHERWISE AUTHORIZED BY THE DIRECTOR, A** reimbursement  
18 shall not be allowed for a period that is more than 1 year before  
19 the date of the filing of the application for reimbursement  
20 pursuant to this section. A reimbursement shall not be allowed for  
21 payments made under section 352 for which an insurer or self-  
22 insurer takes a credit as provided for in section 352(8).