

Legislative Analysis



WORKERS COMPENSATION: EACH MEMBER OF SELF-INSURED GROUP KEEPS OWN SURPLUS

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House Bill 4362 (reported from committee as H-1)

Sponsor: Rep. Jason M. Sheppard

Committee: Commerce and Trade

Complete to 5-6-15

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

The Worker's Disability Compensation Act allows multiple employers in the same industry with combined assets of \$1 million or more, and multiple public employers of the same type of unit, to form self-insured groups for workers compensation coverage. The groups must apply to the Workers' Compensation Agency, within the Department of Licensing and Regulatory Affairs to form a group.

House Bill 4362 would say that each of the employer members participating in a self-insurer group possesses ownership of its proportional share of the assets of the group in excess of group obligations (that is, of the surplus). The trustees of a self-insured group, acting in their fiduciary capacity, would have to establish processes and procedures for the distribution of excess assets with the approval of the director of the Workers' Compensation Agency.

The substitute version of the bill differs from the "as introduced" version by adding an enacting section that expresses the intent of the legislature. It says, in part, that the bill "clarifies and expresses the original intent of the legislature that employer members own their proportional share of the assets of self-insurer groups . . . in excess of the self-insurer group obligations." It also says the bill is intended to apply to any claim made or action taken on or after the bill's effective date to enforce the ownership rights of employer members, and to any claim or action taken to enforce those ownership rights pending on the bill's effective date.

FISCAL IMPACT:

The bill would have no significant fiscal impact on the state or local units of government.

POSITIONS:

Representatives of the Workers' Compensation Agency, within the Department of Licensing and Regulatory Affairs, testified in support of the bill, which they described as consistent with the historical practice of the agency towards excess assets. They said the bill would clarify an ambiguity found in statute and agency rules in a recent court action. (4-21-15)

Among those supporting the bill, according to minutes of the committee, were: the SETSEG Workmen's Compensation Fund; the Michigan McDonald's Operations Association; the MARO Workmen's Compensation Self-Insurance Fund; the Michigan Council of Self-Insured Group Administrators; the Michigan Association of Ambulance Service Workers' Compensation Fund; the Michigan Bankers Association; the Michigan Restaurant Association; the Home Builders Association; the Michigan Retail Hardware Association; the Associated Builders and Contractors of Michigan; the Apartment Building Maintenance Workers' Compensation Self-Insured Fund; CAM-Comp; the Michigan Association of Timbermen Self-Insured Fund; the Metal Working Industries; Michigan Assisted Living; and the Lumber and Building Material Funds.

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