

# HOUSE BILL No. 5493

November 28, 2007, Introduced by Reps. Scott, Cheeks, Leland, Johnson, Espinoza, Polidori, Gonzales, Lemmons, Coulouris, Young and Dean and referred to the Committee on Tax Policy.

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 1984 PA 46.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 352. (1) ~~Beginning January 1, 1982, an~~ **AN** employee  
2 receiving or entitled to receive benefits equal to the maximum  
3 payable to that employee under section 351 or the dependent of a  
4 deceased employee receiving or entitled to receive benefits under  
5 section 321 whose benefits are based on a date of personal injury  
6 between September 1, 1965, and December 31, 1979, shall be entitled  
7 to a supplement to weekly compensation. The supplement shall be

1 computed using the total annual percentage change in the state  
2 average weekly wage, rounded to the nearest 1/10 of 1%, as  
3 determined under section 355. The supplement shall be computed as a  
4 percentage of the weekly compensation rate ~~which~~ **THAT** the employee  
5 or the dependent of a deceased employee is receiving or is entitled  
6 to receive on January 1, 1982 had the employee been receiving  
7 benefits at that time, rounded to the nearest dollar. The  
8 supplement shall not exceed 5% compounded for each calendar year in  
9 the adjustment period. The percentage change for purposes of the  
10 adjustment shall be computed from the base year through December  
11 31, 1981. A supplement shall not be paid retroactively for any  
12 period of disability before January 1, 1982.

13 (2) For personal injuries occurring from September 1, 1965,  
14 through December 31, 1968, the base year shall be 1968. For  
15 personal injuries occurring between January 1, 1969 and December  
16 31, 1979, the base year shall be the year in which the personal  
17 injury occurred.

18 (3) Pursuant to subsection (1), the director shall announce on  
19 December 1, 1981, the supplement percentages payable on January 1,  
20 1982.

21 (4) All personal injuries found compensable under this act  
22 after ~~the effective date of this section~~ **JANUARY 1, 1982** with a  
23 personal injury date before January 1, 1980, shall be paid at a  
24 rate determined pursuant to this section.

25 (5) An employee who is eligible to receive differential  
26 benefits from the second injury fund shall be paid the supplement  
27 pursuant to this section as reduced by the amount of the

1 differential payments being made to the employee by the second  
2 injury fund at the time of the payment of the supplement pursuant  
3 to this section.

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

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

11 (8) The supplements under this section shall be paid by an  
12 insurer or self-insurer on a weekly basis. The insurer, self-  
13 insurer, the second injury fund, and the self-insurers' security  
14 fund are entitled to quarterly reimbursement for these payments  
15 from the compensation supplement fund in section 391, except that  
16 an insurer or self-insurer subject to ~~either~~ section 440a of the  
17 insurance code of 1956, ~~Act No. 218 of the Public Acts of 1956,~~  
18 ~~being section 500.440a of the Michigan Compiled Laws 1956 PA 218,~~  
19 **MCL 500.440A**, ~~or~~ section 38b of the single business tax act, ~~Act~~  
20 ~~No. 228 of the Public Acts of 1975, being section 208.38b of the~~  
21 ~~Michigan Compiled Laws 1975 PA 228, MCL 208.38B, OR SECTION 423 OF~~  
22 **THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1423**, shall take  
23 a credit under either section 440a of ~~Act No. 218 of the Public~~  
24 ~~Acts of 1956, or section 38b of Act No. 228 of the Public Acts of~~  
25 ~~1975~~ **THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.440A, SECTION**  
26 **38B OF THE SINGLE BUSINESS TAX ACT, 1975 PA 228, MCL 208.38B, OR**  
27 **SECTION 423 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL**

1 208.1423, as applicable.

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

4 (10) An insurer, self-insurer, the second injury fund, or the  
5 self-insurers' security fund shall make the supplemental payments  
6 required by this section for each quarter of the state's fiscal  
7 year that the state treasurer certifies that there are sufficient  
8 funds available to meet the obligations of the fund created in  
9 section 391 for that quarter. The state treasurer shall certify  
10 whether there are sufficient funds in the fund created in section  
11 391 to meet the obligations of that fund for each quarter of the  
12 fiscal year of the state on or before the first day of each  
13 quarter.

14 (11) An insurer, self-insurer, the second injury fund, or the  
15 self-insurers' security fund shall make the supplemental payments  
16 required by this section for the period July 1, 1982 to September  
17 30, 1982 and shall be reimbursed for those payments.

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

25 (2) The director shall promulgate rules pursuant to Act No.  
26 ~~306 of the Public Acts of 1969, as amended, being sections 24.201~~  
27 ~~to 24.315 of the Michigan Compiled Laws~~ **UNDER THE ADMINISTRATIVE**

1 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, that  
2 prescribe the conditions under which the money in the compensation  
3 supplement fund shall be expended pursuant to section 352 and this  
4 section.

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

8 (4) The director may employ the personnel the director  
9 considers necessary for the proper administration of the  
10 compensation supplement fund.

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

19 (6) Not later than April 1 of each year the director shall  
20 submit a report to the governor and the legislature summarizing the  
21 transactions of the compensation supplement fund during the  
22 preceding calendar year. The report shall identify each insurer and  
23 self-insurer that receives a reimbursement payment from the  
24 compensation supplement fund and the amount of reimbursement. When  
25 all liabilities of the compensation supplement fund for  
26 reimbursements required pursuant to section 352 are paid, the  
27 director shall recommend to the governor and the legislature that

1 the compensation supplement fund be abolished. The director shall  
2 certify to the department of treasury and the commissioner of  
3 insurance the identity of each insurer and self-insurer that claims  
4 a credit as provided for under section 352(8) and the amount of  
5 each supplemental payment under section 352 paid by that insurer or  
6 self-insurer to which the credit applies.

7 (7) Pursuant to section 352, insurers and self-insurers not  
8 subject to either section 440a of the insurance code of 1956, ~~Act~~  
9 ~~No. 218 of the Public Acts of 1956, being section 500.440a of the~~  
10 ~~Michigan Compiled Laws, or 1956 PA 218, MCL 500.440A,~~ section 38b  
11 of the single business tax act, ~~Act No. 228 of the Public Acts of~~  
12 ~~1975, being section 208.38b of the Michigan Compiled Laws 1975 PA~~  
13 **228, MCL 208.38B, OR SECTION 423 OF THE MICHIGAN BUSINESS TAX ACT,**  
14 **2007 PA 36, MCL 208.1423,** the second injury fund, and the self-  
15 insurers' security fund are entitled to reimbursement from the  
16 compensation supplement fund. An application for reimbursement  
17 shall be on the forms and contain information as required by the  
18 director. Application for a claim for reimbursement from the  
19 compensation supplement fund shall be filed with the director  
20 within 3 months after the date on which the right to reimbursement  
21 first accrues. After the insurer, self-insurer, the second injury  
22 fund, or the self-insurers' security fund has established a right  
23 to reimbursement, payment from the compensation supplement fund  
24 shall be made without interest on a proper showing every quarter. A  
25 reimbursement shall not be allowed for a period ~~which~~ **THAT** is more  
26 than 1 year before the date of the filing of the application for  
27 reimbursement pursuant to this section. A reimbursement shall not

- 1 be allowed for payments made under section 352 for which an insurer
- 2 or self-insurer takes a credit as provided for in section 352(8).