

Act No. 236  
Public Acts of 2014  
Approved by the Governor  
June 21, 2014  
Filed with the Secretary of State  
June 27, 2014  
EFFECTIVE DATE: June 27, 2014

**STATE OF MICHIGAN  
97TH LEGISLATURE  
REGULAR SESSION OF 2014**

**Introduced by Reps. Phelps, Brunner, Faris, Smiley, Kosowski, Santana and Oakes**

**ENROLLED HOUSE BILL No. 5487**

AN ACT to amend 1969 PA 317, entitled "An act to revise and consolidate the laws relating to worker's disability compensation; to increase the administrative efficiency of the adjudicative processes of the worker's compensation system; to improve the qualifications of the persons having adjudicative functions within the worker's compensation system; to prescribe certain powers and duties; to create the board of worker's compensation magistrates and the worker's compensation appellate commission; to create certain other boards; to provide certain procedures for the resolution of claims, including mediation and arbitration; to prescribe certain benefits for persons suffering a personal injury under the act; to prescribe certain limitations on obtaining benefits under the act; to create, and provide for the transfer of, certain funds; to prescribe certain fees; to prescribe certain remedies and penalties; to repeal certain parts of this act on specific dates; and to repeal certain acts and parts of acts," by amending section 551 (MCL 418.551), as amended by 2002 PA 25.

*The People of the State of Michigan enact:*

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

(2) As soon as practicable after January 1 of each year, the director shall assess pursuant to subsection (3) a sum that in total is equal to 175% of the total disbursements made from the silicosis, dust disease, and logging industry compensation fund during the preceding calendar year, less the amount of net assets in excess of \$200,000.00 in that fund as of December 31 of the preceding calendar year.

(3) The portion of the total assessment amounts under subsections (1) and (2) allocated to self-insurers shall be equal to a percentage determined as follows: The total paid losses of all self-insurers for the preceding calendar year divided by the total paid losses of all carriers during the preceding calendar year. The portion of the total assessment amounts under subsections (1) and (2) allocated to insurers shall be equal to a percentage determined as follows: The total paid losses of all insurers for the preceding calendar year divided by the total paid losses of all carriers during the preceding calendar year. The portion of the total assessments allocated to self-insurers that shall be collected from each self-insurer shall be equal to a percentage determined as follows: The total paid losses of that self-insurer divided by the total paid losses of all self-insurers during the preceding calendar year. The portion of the total assessment allocated to insurers that shall be collected from each insurer shall be equal to a percentage determined as follows: The amount of total direct premiums written as reported by that insurer divided by the amount of total direct premiums written as reported by all insurers during the preceding calendar year. As used in this subsection:

(a) "Direct premiums written" means standard written Michigan workers' compensation premium prior to the application of deductible credits, as reported to the designated advisory organization, through policy declarations and unit statistical reports compiled pursuant to the authority in section 2407 of the insurance code of 1956, 1956 PA 218, MCL 500.2407. For the purposes of determining assessments under this section, the reported data for the most recent full calendar year on file with the designated advisory organization shall be used.

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

(4) The director, upon the advice of the trustee representing the self-insurers, may make additional assessments upon private self-insurers as the trustee considers necessary to keep the self-insurers' security fund solvent. After December 31, 2019, the director shall not assess private employer group self-insurers on behalf of the self-insurers' security fund. The assessment for the 2015 calendar year and each calendar year thereafter shall be calculated based exclusively on claims payments and administrative expense of the self-insurers' security fund for the immediately preceding calendar year and the estimate of future liability for the current calendar year as reported in the annual financial report required under subsection (10), and shall not exceed 3% in any calendar year exclusive of payments made pursuant to sections 315, 319, and 345. Effective January 1, 2015 through December 31, 2019, the assessment limit under this subsection is increased to a percentage not to exceed 3.5%, if the proceeds of any assessment above 3% are used exclusively for claims against the self-insurers' security fund by disabled employees or dependents, as described in section 331, of Delphi corporation or Delphi automotive systems corporation that arise out of employment during the period from May 28, 1999 to October 7, 2009. However, any temporary increase that raises the assessment above 3.0% shall not be assessed unless all of the following requirements are met:

(a) An appropriation of \$15,000,000.00 or more is made and placed in a restricted account for the sole purpose of paying claims described in this subsection, which appropriation does not lapse at the end of a fiscal year.

(b) An actuarial analysis has confirmed that the sources of funding described in subdivision (c) will be insufficient to pay the expected claims.

(c) The claims the self-insurers' security fund receives that may be paid from the temporary additional assessment exceed the amount that will be raised from the current assessment plus \$8,000,000.00 of the appropriation under subdivision (a).

(d) Claims are first paid from the 2 sources identified in subdivision (c) before amounts attributed to the temporary assessment increase or money from the appropriation above the \$8,000,000.00 identified in subdivision (c) are used to pay claims.

(e) After subtracting the \$8,000,000.00 from the appropriation for use as provided in subdivision (d), an amount equal to 20% of the balance of the appropriation under subdivision (a) is the maximum that may be expended from the remainder of the appropriation in any fiscal year.

(5) Notice of the assessments shall be sent by the director by first-class mail to each carrier. The notice shall state that the assessment must be received by the agency at the address indicated in the notice by 90 days after the notice mailing date and that interest and penalties will accrue at the following rates:

(a) Subject to subdivision (c), for an assessment that is unpaid 90 days after the notice mailing date, interest accrues on the unpaid balance beginning the ninety-first day and is calculated in the same manner as interest on a money judgment in a civil action under section 6013(8) of the revised judicature act of 1961, 1961 PA 236, MCL 600.6013.

(b) Subject to subdivision (c), in addition to the interest under subdivision (a), a penalty of 1% per month for each month an assessment is unpaid beginning 181 days after the notice mailing date.

(c) If a carrier's delinquent assessments and any applicable interest and penalties total \$25.00 or less for all funds in a single assessment year, the director may waive the assessments, interest, and penalties.

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

(7) An employer who has stopped being a self-insurer shall continue to be liable for a second injury fund; silicosis, dust disease, and logging industry compensation fund; or self-insurers' security fund assessment on account of any compensation benefits, exclusive of payments made pursuant to sections 315, 319, and 345, paid by the employer during the previous calendar year.

(8) The director shall certify to the trustees the collection and receipt of all money from assessments, including interest and penalties, noting any delinquencies. The trustees shall immediately notify delinquent carriers, including private self-insurers, of their delinquency in writing by certified mail, return receipt requested. The trustees shall take action as in their judgment is proper to effect collection of any delinquent assessment. All money received from assessments, including interest and penalties, under this section shall be turned over to the state treasurer who shall be the custodian of the self-insurers' security fund; the private employer group self-insurers security fund; the second injury fund; and the silicosis, dust disease, and logging industry compensation fund. The treasurer may make those investments as in the treasurer's judgment are in the best interest of the funds. The earnings from the investment of the money from the funds shall be credited to the funds. The state treasurer, at the end of each fiscal year, shall determine the amount that represents a pro rata earnings share due to each fund, shall credit the pro rata earning share to each fund, and shall notify the trustee of the amount credited and the balance of the respective fund as of September 30. The trustees shall make separate annual reports and accountings for each fund, which reports shall be included in the annual report of the agency.

(9) If, after an annual review, the trustee representing the self-insurers determines that the remaining balance, exclusive of funds derived from an appropriation from the general fund, exceeds the amount necessary to pay the known claims, the trustee representing the self-insurers shall recommend to the director that the surplus derived from the

temporary assessment increase under subsection (4) be returned, pro rata, to the self-insurers that paid the assessment increase.

(10) Not later than March 31, 2015 and each year thereafter, the director shall make available to the public and include in the agency's annual report an annual financial report of the accounts and records of the self-insurers' security fund covering the immediately preceding calendar year. The annual financial report shall be prepared in accordance with generally accepted accounting principles and shall contain certificates of examination by an independent auditor based on generally accepted accounting principles and generally accepted auditing standards, and supported by actuarial review and opinion of the future contingent liabilities. The director may require a special audit to be made at other times if the financial stability of the fund or the adequacy of its monetary reserves is in question. An audited financial statement included in the annual financial report shall include, but is not limited to, all of the following:

- (a) A detailed statement of assets, liabilities, and net assets.
- (b) A detailed statement of revenues and expenses.
- (c) A detailed statement of cash flow.
- (d) Any related information relevant to the financial accounting and operations of the self-insurers' security fund.
- (e) An estimate of future liability of the self-insurers' security fund for payment of claims made against a private self-insurer based on computations that reflect the probable total future cost of compensation and medical benefits due, or that can reasonably be expected to be due, over the life of the claim.
- (f) A report of each liability assumed for payment of claims made against a private self-insurer.

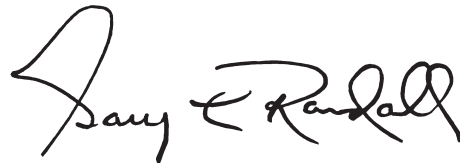
(11) Not later than March 31, 2015 and each year thereafter, the director shall make available to the public and include in the agency's annual report a report detailing information regarding the self-insurers' security fund's management of claims. The report shall include, but is not limited to, all of the following:

- (a) Total cost per claim.
- (b) Cost per active claim and cost per closed claim.
- (c) Indemnity cost per claim.
- (d) Medical cost for indemnity claims.
- (e) Medical costs for medical-only claims.
- (f) Average redemption.
- (g) Average paid claim amount.
- (h) Average loss adjustment expense.
- (i) Methods utilized to increase efficiency and provide quality control in claims management.

(12) A report prepared under subsection (10) or (11) shall not include any personally identifiable information.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5489 of the 97th Legislature is enacted into law.

This act is ordered to take immediate effect.



-----  
Clerk of the House of Representatives



-----  
Secretary of the Senate

Approved .....

-----  
Governor