

Senate Fiscal Agency  
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**SFA****BILL ANALYSIS**

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Senate Bill 1308 (as passed by the Senate)  
Sponsor: Senator Glenn D. Steil  
Committee: Human Resources and Labor

Date Completed: 7-29-02

### **RATIONALE**

Chapter 8 of the Worker's Disability Compensation Act provides for the procedures and processes that must be followed in determining workers' compensation claims. Currently, the director of the Bureau of Worker's and Unemployment Compensation, workers' compensation magistrates, and arbitrators have the power to administer oaths, subpoena witnesses, and examine the parts of the books and records of the parties to a proceeding that relate to questions in dispute. It has been pointed out that the Act does not specifically allow attorneys to sign subpoenas, even though this is allowed in civil cases in court. As a result, documents relevant to a workers' compensation dispute, such as medical records, must be delivered to the Bureau, rather than to the attorney representing a party to the dispute. In order to address the inconvenience this can cause to the Bureau and the parties, some people believe that attorneys should be allowed to sign subpoenas in workers' compensation cases.

### **CONTENT**

The bill would amend the Worker's Disability Compensation Act to allow a subpoena to be signed by an attorney of record for either party to a contested claim. The attorney would have to be licensed by the State Bar of Michigan. The subpoena would have to comply with the format of the Bureau of Worker's and Unemployment Compensation.

The bill specifies that if a subpoena were signed by an attorney, it would have the same force and effect as an order signed by the Bureau director or a workers' compensation magistrate. Records subpoenaed could be sent to the attorney of record issuing the subpoena

unless directed otherwise by the director or the workers' compensation magistrate assigned to the contested claim. (An authorized signature would include signatures written by hand, printed, stamped, typewritten, engraved, photographed, or lithographed.)

MCL 418.853

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

As they are able to do in other areas of the law, attorneys should be allowed to sign subpoenas in workers' compensation disputes. Under the Michigan Court Rules governing civil procedure, "A subpoena signed by an attorney of record in the action...has the force and effect of an order signed by the judge of that court" (Rule 2.506). Allowing attorneys to sign subpoenas in workers' compensation disputes would increase the efficiency of the dispute resolution process and ease the administrative burden on the Bureau. Voluminous medical records could be sent to the attorney representing a party, instead of to the Bureau, which would reduce the demand for staff time and storage space. Furthermore, the law states, "Process and procedure under this act shall be as summary as reasonably may be." By authorizing attorneys to issue subpoenas, the bill would help make the process and procedures simpler and more expeditious.

Legislative Analyst: George Towne

## **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Maria Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.