



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383  
Fax: (517) 373-1986

Senate Bill 387 (as reported without amendment)  
Sponsor: Senator Tonya Schuitmaker  
Committee: Reforms, Restructuring and Reinventing

*(as passed by the Senate)*

Date Completed: 10-4-13

### **RATIONALE**

Under the Worker's Disability Compensation Act, an employer is generally responsible for paying wage loss and medical benefits to an employee who receives a personal injury arising out of and in the course of employment. As a rule, the employee's recovery of these benefits is the employee's exclusive remedy against the employer for a work-related personal injury or occupational disease. Unless an employer is a self-insurer (as the State is), the employer must obtain worker's compensation insurance.

It has been suggested that reserve and auxiliary police officers, who provide services to the State and communities on a voluntary or irregular basis, should be included in the Act as State employees eligible for worker's compensation.

### **CONTENT**

**The bill would amend the Worker's Disability Compensation Act to include a reserve or auxiliary police officer as an employee of the State for purposes of the Act when he or she was performing duties in that capacity.**

The bill would amend the Act's definition of "employee" to require a reserve or auxiliary officer to be considered an employee of the State when engaged in the performance of duties or services as a reserve or auxiliary officer. The State would have to exercise all the rights and obligations of an employer and carrier under the Act.

"Reserve or auxiliary officer" would mean an individual authorized on a voluntary or irregular basis by a duly authorized police agency of this State or a political subdivision of the State to act as a law enforcement officer, who is responsible for the preservation of the peace, the prevention and detection of crime, and the enforcement of the general criminal laws of this State.

For purposes of calculating a weekly rate of compensation, the bill would require a reserve or auxiliary officer to be considered to be receiving his or her average weekly wage at the time of injury or death, or the State average weekly wage at the time of injury or death, whichever was greater.

("Average weekly wage" means the weekly wage earned by the employee at the time of the employee's injury in all employment, including overtime, premium pay, and cost-of-living adjustment, and excluding any fringe or other benefits that continue during the disability. The average weekly wage must include any fringe or other benefits that do not continue during the disability to the extent that the inclusion will not result in a weekly benefit amount greater than two-thirds of the State average weekly wage at the time of injury. The average weekly wage is determined by calculating the average of the highest-paid 39 weeks of the 52 weeks immediately preceding the date of the injury. Specific provisions apply if that calculation cannot be made.

The State average weekly wage is the average weekly wage in covered employment as determined by the Michigan Employment Security Commission for the 12 months ending June 30 of the previous year.)

MCL 418.161

## **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**

Auxiliary and reserve officers provide a valuable public service, so they should be afforded protection against wage loss and medical expenses that result from injuries on the job. The risks inherent in enforcing public safety do not discriminate between full-time officers and reserve officers, so reserve officers should be compensated equally if injured.

According to the Commander of the Kalamazoo County Sheriff's Office Reserve Division (KCRD), there has been an increase in the number of reserve officers, which further necessitates coverage for these individuals under worker's compensation. As local governments face increasing budget constraints, relying on reserve and auxiliary officers is an attractive option. Reserve officers often work on a voluntary basis as a way to give back to the community, which reduces local costs.

Although providing coverage to reserve officers would increase State costs, these costs would likely be eclipsed by the savings to local governments. For example, according to the KCRD Commander, the money saved by taking on volunteer firefighters, who currently are covered under the Act, more than offsets the costs of providing worker's compensation benefits. For the last 10 years, the KCRD collectively provided roughly 12,000 hours of service per year. The KCRD officers also purchase their own equipment, which costs about \$2,500.

Providing coverage for reserve and auxiliary officers would be consistent with the spirit of the Act and its existing provisions. In addition to volunteer firefighters, the Act provides coverage for volunteer underwater diving team members, volunteer safety patrol officers, and volunteer life support agency members. The Act also extends coverage to volunteer civil defense workers, although there are no civil defense units active in the State. Arguably, reserve and auxiliary officers provide similar services.

Legislative Analyst: Glenn Steffens

## **FISCAL IMPACT**

The bill would have a minor negative fiscal impact on State government and no fiscal impact on local units of government. Under the bill, reserve or auxiliary police officers would be considered State employees making at least the State average weekly wage for purposes of determining eligibility for worker's compensation benefits. Officers making more than the State average weekly wage would have their benefits calculated based on their actual wages. By making reserve or auxiliary police officers eligible for worker's compensation benefits, the bill would increase the number of employees covered under the State's worker's compensation program, which would result in increased costs to the system. It is unknown at this time how many reserve or auxiliary police officers are employed in the State, or how many of those officers would be injured and begin collecting benefits under the bill. It would be reasonable to expect the bill to result in a relatively small number of new claims, which would have a minor, but negative fiscal impact on State government.

Fiscal Analyst: Josh Sefton

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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.