

# HOUSE BILL No. 5513

March 24, 2016, Introduced by Rep. Graves and referred to the Committee on Oversight and Ethics.

A bill to amend 1969 PA 317, entitled  
"Worker's disability compensation act of 1969,"  
by amending section 551 (MCL 418.551), as amended by 2014 PA 236.

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

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

7           (2) As soon as practicable after January 1 of each year, the  
8 director shall assess pursuant to subsection (3) a sum that in  
9 total is equal to 175% of the total disbursements made from the  
10 silicosis, dust disease, and logging industry compensation fund

1 during the preceding calendar year, less the amount of net assets  
2 in excess of \$200,000.00 in that fund as of December 31 of the  
3 preceding calendar year.

4 (3) The portion of the total assessment amounts under  
5 subsections (1) and (2) allocated to self-insurers shall be equal  
6 to a percentage determined as follows: The total paid losses of all  
7 self-insurers for the preceding calendar year divided by the total  
8 paid losses of all carriers during the preceding calendar year. The  
9 portion of the total assessment amounts under subsections (1) and  
10 (2) allocated to insurers shall be equal to a percentage determined  
11 as follows: The total paid losses of all insurers for the preceding  
12 calendar year divided by the total paid losses of all carriers  
13 during the preceding calendar year. The portion of the total  
14 assessments allocated to self-insurers that shall be collected from  
15 each self-insurer shall be equal to a percentage determined as  
16 follows: The total paid losses of that self-insurer divided by the  
17 total paid losses of all self-insurers during the preceding  
18 calendar year. The portion of the total assessment allocated to  
19 insurers that shall be collected from each insurer shall be equal  
20 to a percentage determined as follows: The amount of total direct  
21 premiums written as reported by that insurer divided by the amount  
22 of total direct premiums written as reported by all insurers during  
23 the preceding calendar year. As used in this subsection:

24 (a) "Direct premiums written" means standard written Michigan  
25 workers' compensation premium prior to the application of  
26 deductible credits, as reported to the designated advisory  
27 organization, through policy declarations and unit statistical

1 reports compiled pursuant to the authority ~~AS AUTHORIZED~~ in section  
2 2407 of the insurance code of 1956, 1956 PA 218, MCL 500.2407. For  
3 the purposes of determining assessments under this section, the  
4 reported data for the most recent full calendar year on file with  
5 the designated advisory organization shall be used.

6 (b) "Total paid losses" means total compensation benefits paid  
7 under this act, exclusive of payments made pursuant to sections  
8 315, 319, and 345.

9 (4) The director, upon the advice of the trustee representing  
10 the self-insurers, may make additional assessments upon private  
11 self-insurers as the trustee considers necessary to keep the self-  
12 insurers' security fund solvent. After December 31, 2019, the  
13 director shall not assess private employer group self-insurers on  
14 behalf of the self-insurers' security fund. The assessment for the  
15 2015 calendar year and each calendar year thereafter shall be  
16 calculated based exclusively on claims payments and administrative  
17 expense of the self-insurers' security fund for the immediately  
18 preceding calendar year and the estimate of future liability for  
19 the current calendar year as reported in the annual financial  
20 report required under subsection (10), and shall not exceed 3% in  
21 any calendar year exclusive of payments made pursuant to sections  
22 315, 319, and 345. Effective January 1, 2015 through December 31,  
23 2019, the assessment limit under this subsection is increased to a  
24 percentage not to exceed 3.5%, if the proceeds of any assessment  
25 above 3% are used exclusively for claims against the self-insurers'  
26 security fund by disabled employees or dependents, as described in  
27 section 331, of Delphi ~~corporation~~ **CORPORATION** or Delphi ~~automotive~~

1 ~~systems corporation~~ **AUTOMOTIVE SYSTEMS CORPORATION** that arise out  
2 of employment during the period from May 28, 1999 to October 7,  
3 2009. However, any temporary increase that raises the assessment  
4 above 3.0% shall not be assessed unless all of the following  
5 requirements are met:

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

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

13 (c) The claims the self-insurers' security fund receives that  
14 may be paid from the temporary additional assessment exceed the  
15 amount that will be raised from the current assessment plus  
16 \$8,000,000.00 of the appropriation under subdivision (a).

17 (d) Claims are first paid from the 2 sources identified in  
18 subdivision (c) before amounts attributed to the temporary  
19 assessment increase or money from the appropriation above the  
20 \$8,000,000.00 identified in subdivision (c) are used to pay claims.

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

26 (5) Notice of the assessments shall be sent by the director by  
27 first-class mail to each carrier. The notice shall state that the

1 assessment must be received by the agency at the address indicated  
2 in the notice by 90 days after the notice mailing date and that  
3 interest and penalties will accrue at the following rates:

4 (a) Subject to subdivision (c), for an assessment that is  
5 unpaid 90 days after the notice mailing date, interest accrues on  
6 the unpaid balance beginning the ninety-first day and is calculated  
7 in the same manner as interest on a money judgment in a civil  
8 action under section 6013(8) of the revised judicature act of 1961,  
9 1961 PA 236, MCL 600.6013.

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

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

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

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

26 (8) The director shall certify to the trustees the collection  
27 and receipt of all money from assessments, including interest and

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

22 (9) If, after an annual review, the trustee representing the  
23 self-insurers determines that the remaining balance, exclusive of  
24 funds derived from an appropriation from the general fund, exceeds  
25 the amount necessary to pay the known claims, the trustee  
26 representing the self-insurers shall recommend to the director that  
27 the surplus derived from the temporary assessment increase under

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

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

18 (a) A detailed statement of assets, liabilities, and net  
19 assets.

20 (b) A detailed statement of revenues and expenses.

21 (c) A detailed statement of cash flow.

22 (d) Any related information relevant to the financial  
23 accounting and operations of the self-insurers' security fund.

24 (e) An estimate of future liability of the self-insurers'  
25 security fund for payment of claims made against a private self-  
26 insurer based on computations that reflect the probable total  
27 future cost of compensation and medical benefits due, or that can

1 reasonably be expected to be due, over the life of the claim.

2 (f) A report of each liability assumed for payment of claims  
3 made against a private self-insurer.

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

9 (a) Total cost per claim.

10 (b) Cost per active claim and cost per closed claim.

11 (c) Indemnity cost per claim.

12 (d) Medical cost for indemnity claims.

13 (e) Medical costs for medical-only claims.

14 (f) Average redemption.

15 (g) Average paid claim amount.

16 (h) Average loss adjustment expense.

17 (i) Methods utilized to increase efficiency and provide  
18 quality control in claims management.

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

21 Enacting section 1. This amendatory act takes effect 90 days  
22 after the date it is enacted into law.