

Legislative Analysis



CENTRALIZED REASONABLE ACCOMMODATIONS ACT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5150 (proposed substitute H-2)
Sponsor: Rep. Jon Hoadley

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5151 (proposed substitute H-1)
Sponsor: Rep. Steve Marino

Committee: Commerce and Tourism
Complete to 1-15-20

SUMMARY:

Taken together, House Bills 5150 and 5151 would create the Centralized Reasonable Accommodations Act to provide for monetary aid to employers trying to make their establishments compatible with federal and state worker's disability regulations. The bills would allow employers to submit requests to the Reasonable Accommodations Request Committee, within the Department of Labor and Economic Opportunity (LEO), which would transmit those meeting its criteria to the Board of Trustees of the Second Injury Fund under the Worker's Disability Compensation Act. That act would allow the Board of Trustees to authorize certain payments from that fund for those requests.

House Bill 5150 would create the Centralized Reasonable Accommodations Act. Under the new act, the director of LEO would have to establish a Reasonable Accommodations Request Committee within the department and appoint its members, who would serve at the pleasure of the director. The newly created committee could then promulgate rules to implement the new act, pursuant to the Administrative Procedures Act.

Beginning January 1, 2021, an employer could request from the committee, on a form prescribed by the committee, funding to do either of the following:

- Assist the employer to achieve compliance with the federal Americans with Disabilities Act with respect to an accommodation that is specific to a particular employee.
- Assist the employer to achieve compliance with the Persons with Disabilities Civil Rights Act with respect to an accommodation that is specific to a particular employee.

An employer could submit only one reasonable accommodations request per employee per calendar year. An employer could not disclose any confidential information in a request. To be eligible to receive funding under the act, an employer would have to agree, under penalty of perjury, that any funding awarded would be used only for the purposes described above.

The bill would also require the committee to establish criteria for reviewing reasonable accommodations requests, and LEO would have to make the criteria available on its

website. If the committee determined that a request met its criteria, it would have to notify the employer and transmit its determination, with a recommendation that payment be authorized for the request, to the trustees of the Second Injury Fund created under the Worker's Disability Compensation Act. If the committee determined that a request did not meet its criteria, it would have to notify the employer and explain the specific reasons why the request did not meet its criteria.

In addition, the bill states that the new act would not limit or affect a right guaranteed to an employee under any law.

The bill would take effect 90 days after being enacted.

House Bill 5151 would amend the Worker's Disability Compensation Act. Under the bill, the Board of Trustees of the Second Injury Fund could authorize payments from the fund for reasonable accommodations request recommendations made by the Reasonable Accommodations Request Committee under the Centralized Reasonable Accommodations Act proposed by House Bill 5150. However, the trustees could not authorize the following:

- A payment of more than \$1,000 for each request.
- More than \$1,000 in payments for a single employee in a calendar year.
- More than the lesser of the following in a calendar year:
 - \$500,000.
 - An amount equal to 10% of the balance of the Second Injury Fund on the last day of the immediately preceding calendar year.

The bill would take effect 90 days after being enacted.

Proposed MCL 418.539

Tie-bars

House Bills 5150 and 5151 are tie-barred to one another, which means that neither could take effect unless both were enacted.

FISCAL IMPACT:

House Bills 5150 and 5151, examined jointly, would have a significant fiscal impact on the Department of Labor and Economic Opportunity (LEO), namely by necessitating additional expenditures for implementation and administration.

House Bill 5150 would require the establishment of a reasonable accommodations request committee within LEO, which would review accommodations requests and render a determination. LEO initially estimated that 5.5 additional FTE positions would be required for implementation and administration, including three specialists, one technician, one administrative assistant, and management. However, that estimate was made when it was assumed that staff would be solely responsible for determining whether accommodations were appropriate and monitoring accommodation implementation. The cost estimate for these FTEs totaled approximately \$609,000, based on average fringe benefit costs and

salary data contained in the FY 2017-18 and FY 2018-19 Annual Workforce Reports, respectively. With the inclusion of the committee, it is unclear what level of department staffing would be necessary to support the committee in executing the provisions of these bills. The initial estimate can be interpreted as a cost ceiling, with the possibility of lower staffing and expenditures being required. LEO also anticipates that collaboration may be required with other state departments, including the Michigan Department of Civil Rights.

House Bill 5151 would limit expenditures from the Second Injury Fund for payments related to reasonable accommodations. The bill would limit payments to \$1,000 for a single employee in a calendar year and would cap all payments for reasonable accommodations in a calendar year at the lesser of \$500,000 or 10% of the balance in the Second Injury Fund in the preceding calendar year.

Legislative Analyst: Emily S. Smith
Fiscal Analyst: Marcus Coffin

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.