



**House
Legislative
Analysis
Section**

Manufacturer's Bank Building, 12th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

W.C. ACCIDENT FUND GUARANTEE

**House Bill 4990 (Substitute H-1)
First Analysis (11-27-90)**

**Sponsor: Rep. Richard Bandstra
Committee: Labor**

THE APPARENT PROBLEM:

Every Michigan employer must obtain worker's compensation insurance, either through a private insurer, the Michigan State Accident Fund, or by self-insurance. Only those employers who prove that they have the financial ability to pay employees' claims receive authorization from the Worker's Compensation Bureau to be self-insured. Under a provision of the Worker's Disability Compensation Act, however, the state assumes responsibility for the payment of worker's compensation claims should certain self-insured transportation authorities cease to operate without successors having been created to assume their liabilities. If one of these transportation authorities were to go into bankruptcy, the Accident Fund would determine the amount necessary to pay its claims and would be responsible for processing them. Without this guarantee, it is doubtful that these transportation authorities would have qualified for self-insurance status. To date, in fact, this provision has only been extended to the Suburban Mobility Authority Regional Transportation Authority (SMART, formerly SEMTA), and the Lansing and Flint transportation authorities (CATA and MTA), which were created under Public Act 204 of 1967 and Public Act 55 of 1963, respectively. Other transportation authorities around the state feel that the law should treat all transportation authorities equally, and that they, too, should have the opportunity to be covered by the state's guarantee.

THE CONTENT OF THE BILL:

House Bill 4990 would amend the Worker's Disability Compensation Act to extend the state guarantee of workers compensation claims for self-insured transportation authorities and require that the Accident Fund be compensated in the same manner as it is compensated for processing the claims of state employees for processing these benefit claims. Further, the bill would specify that claims be paid from the general fund. The bill would also delete the act's current reference to SEMTA and replace it with "the Suburban Mobility Authority Regional Transportation Authority" (SMART).

Under the bill, a transportation authority that delegated or contracted with a private employer to take over its function could no longer be self-insured. The provisions of the bill would apply to SMART, and to the following transportation authorities: an authority created by interlocal agreement under the Urban Cooperation Act, a public transportation authority created under the Public Transportation Authority Act, a metropolitan council created under the Metropolitan Council Act, and an authority or municipal corporation that had entered into an intergovernmental contract to provide transportation services under the intergovernmental contracts between municipalities act or the mass transportation system authorities act. The provisions of the bill could not be construed to permit the use of state funds for the payment of private obligations.

MCL 418.702

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have an indeterminate impact on state funds, depending on the number of workers compensation claims that the state would have to assume responsibility for. (11-26-90)

ARGUMENTS:

For:

Only those employers who prove that they have the financial ability to pay employees' claims receive authorization from the Worker's Compensation Bureau to be self-insured, and some transportation authorities have been turned down in the past because they have not met the financial standards required by the Bureau of Worker's Compensation. In other cases, the size of the bond that an authority has been asked to furnish has been beyond its means. A guarantee by the state that it would assume responsibility for a transportation authority's worker's compensation claims, however, would enhance the prospects of self-insurance status for many of the state's transportation authorities, including those serving Lapeer, Branch County, Cadillac/Wexford County, Marquette, and the Grand Rapids area, as well as the Eastern Upper Peninsula Transportation Authority, which serves Chippewa and Luce Counties, and the Bay Area Transportation Authority, which serves Grand Traverse and Leelanau Counties.

For:

The bill would extend to all transportation authorities the guarantee that is now given to only three, and would thereby aid those who sought self-insurance status. With self-insurance, transportation authorities would save approximately 15 percent of their worker's compensation costs, enabling them to provide cost-effective transportation services. Self-insurance would also allow them to work in closer contact with their employees in the event of employee injuries.

Against:

The bill would seem to eliminate the possibility of the state having to subsidize the worker's compensation costs of a private company by providing that a transportation authority that contracted its services out to a private company would lose its self-insurance status. However, the provision of the bill that would guarantee the worker's compensation claims of a defunct transportation authority, with payments being made from the general fund, would clearly seem to indicate that the state could be held liable for these claims. Not only would this violate the intent of the Worker's Compensation Act — to shift the burden of supporting those injured in industry upon industry, rather than the general public — it would appear to be in conflict with Article IX, Section 18 of the state constitution, which specifies that the state's credit may not be pledged as a guarantee for public or private debts.

Response: If the bill is in conflict with the constitution, then the Worker's Disability Compensation Act must also be unconstitutional, since the state has guaranteed worker's compensation claims against the Suburban Mobility Authority Regional Transportation Authority (formerly SEMTA) since 1969, and against the Capital Area Transportation Authority of Lansing and the Mass Transit Authority of Flint since 1980. In fact, the state's guarantee has never been put to the test. The reason for this is that self-insurance status is granted only to those employers who demonstrate that they have sufficient financial strength to assure that obligations will be met. In addition, the director of the Worker's Compensation Bureau may require the employer to furnish a bond, or some other security, so it is unlikely that these company would go bankrupt.

POSITIONS:

The Department of Transportation supports the bill. (11-15-90)

The Department of Labor supports the bill. (11-15-90)

The Michigan State AFL-CIO supports the bill. (11-16-90)

The Amalgamated Transit Union supports the bill. (11-15-90)

The Grand Rapids Area Transit Authority supports the bill. (11-16-90)

The Greater Lapeer Transportation Authority supports the bill. (11-20-90)

The Marquette Transportation Authority supports the bill. (11-20-90)

The Bay Area Transportation Authority supports the bill. (11-20-90)

The Eastern Upper Peninsula Transportation Authority supports the bill. (11-20-90)

The Department of Management and Budget supports the bill, but suggests that it be amended to require the establishment of a Comprehensive Transportation Fund, which would be administered by the Department of Transportation, and from which claims for which the state is responsible would be paid, rather than from the general fund. (11-19-90)

The Michigan State Accident Fund has no position on the bill. (11-16-90)

The Cadillac/Wexford Transportation Authority has no position on the bill. (11-20-90)