

SFA

BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

• (517) 373-5383

RECEIVED
APR 17 1989

Mich. State Law Library

Senate Bill 86 (as reported without amendment)
Sponsor: Senator Dick Posthumus
Committee: Human Resources and Senior Citizens

Date Completed: 2-22-89

RATIONALE

Subcontractors are required to carry workers' compensation insurance coverage on all their workers. If, however, a subcontractor does not have coverage or has inadequate coverage and one of his or her employees is injured on a construction project, the employee may file a claim against the general contractor for the project. For their own protection, then, general contractors usually require subcontractors to produce certificates of insurance before they bid for work on a project, and frequently check to ensure that the subcontractors continue to carry the proper type and amount of insurance for the duration of the project. On large construction projects with dozens of subcontractors, there may be dozens of insurers covering workers at the site. The general contractor, therefore, may have to monitor dozens of different insurance policies to ensure that all the workers on the project are adequately covered. Further, the general contractor, subcontractors, and workers may have to cope with frequent visits from the myriad loss control managers or safety inspectors employed by the insurance companies to ensure that adequate safety precautions are being taken at the worksite.

One way a general contractor reportedly can reduce the apparent problems inherent in having the subcontractors cover their workers is to provide a blanket or "wrap-up" insurance policy for all the workers on a construction project. General contractors, some contend, can save costs because they can purchase a master plan for less than several smaller, more

specialized plans and the subcontractors can omit the cost of purchasing workers' compensation insurance from their bid proposals. Further, the general contractors can cease worrying about whether the subcontractor has adequate coverage. The subcontractors, they argue, do not have to be concerned about maintaining perhaps several types of insurance policies for all their workers or purchasing extra coverage in order to bid on projects. And since they do not have to purchase workers' compensation insurance, smaller subcontractors may find it more feasible to bid on the projects. Finally, they claim, the workers can be assured that they are covered by the proper type and amount of insurance and that adequate safety precautions are taken as a result of the coordinated efforts of a single team of loss control managers. Nevertheless, although wrap-up policies would seem to be advantageous to all concerned, they apparently are used infrequently since by law wrap-up policies are limited to covering workers on projects costing over \$100 million to build. It has been suggested, therefore, that the law be changed to allow wrap-up policies to be issued for workers on smaller scale projects.

CONTENT

The bill would amend the Worker's Disability Compensation Act to lower the amount that construction at a site must cost if a separate policy is to be issued to cover employers at the site. Although the Act generally requires that a workers' compensation insurer cover all

businesses, employees, enterprises, and activities of an employer in the same policy, a separate policy may be issued to cover employers performing work at a specified construction site if:

- The liability of each employer to all of his or her employees would be fully secured.
- The construction is expected to be completed in 10 years or less.
- The cost of construction at the site will exceed \$100,000,000.

The bill would lower that amount to \$20,000,000.

MCL 418.621

FISCAL IMPACT

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

ARGUMENTS

Supporting Argument

Lowering the minimum cost criteria so that general contractors could purchase wrap-up insurance policies for smaller construction projects would extend the cost and safety benefits of such policies to many more worthwhile projects and help make economic development more cost-efficient.

Opposing Argument

Because the nature of a wrap-up insurance policy means that there is only one insurer or group of insurers for a construction project and, therefore, far fewer safety inspectors at the site than there would be if many insurers were involved, a wrap-up policy is most appropriate for only very large costly projects that usually receive particular attention from the insurer. If contractors were allowed to purchase wrap-up policies for smaller projects that are not policed by the insurers or the Insurance Bureau to ensure that adequate safety measures have been taken, the chances of accidents and injuries on the job would increase significantly. It is better to require subcontractors to provide workers' compensation insurance on smaller projects and cope with visits from the numerous loss control managers representing the dozens of insurance companies involved,

than to have only one insurer cover the construction project and risk having no one inspect the project because it is small, or having someone inspect the project who is not versed on all the construction trades and related safety problems.

Response: The bill is permissive, not mandatory. Not all general contractors would elect to provide wrap-up policies for projects even if they qualified, and the policies still would have to be approved by the Insurance Bureau. Further, insurers are very particular about which projects they will cover with wrap-up policies and they pay close attention to the safety measures taken for a project regardless of how large or small it is. Finally, the Insurance Bureau already polices general land subcontractors to ensure that they have adequate workers' compensation insurance, and will continue to police wrap-up policies.

Legislative Analyst: L. Burghardt
Fiscal Analyst: K. Lindquist

A8990S86A

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.