

# HOUSE BILL No. 4094

February 7, 1989, Introduced by Reps. DeLange, Watkins, Sparks, VanRegenmorter, Allen, Runco, Stacey, Gnodtke, Bandstra, London, Nye, Middaugh, Krause, Crandall, Hillegonds, Barns and Dolan and referred to the Committee on Labor.

A bill to amend the title and sections 251, 261, and 266 of Act No. 317 of the Public Acts of 1969, entitled as amended "Worker's disability compensation act of 1969," sections 251 and 261 as amended and section 266 as added by Act No. 103 of the Public Acts of 1985, being sections 418.251, 418.261, and 418.266 of the Michigan Compiled Laws; and to repeal certain parts of the act on specific dates.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. The title and sections 251, 261, and 266 of Act  
2 No. 317 of the Public Acts of 1969, sections 251 and 261 as  
3 amended and section 266 as added by Act No. 103 of the Public  
4 Acts of 1985, being sections 418.251, 418.261, and 418.266 of the  
5 Michigan Compiled Laws, are amended to read as follows:

## TITLE

1  
2 An act to revise and consolidate the laws relating to  
3 worker's disability compensation; to increase the administrative  
4 efficiency of the adjudicative processes of the worker's compen-  
5 sation system; to improve the qualifications of the persons  
6 having adjudicative functions within the worker's compensation  
7 system; to prescribe certain powers and duties; to create the  
8 board of worker's compensation magistrates and the worker's com-  
9 pensation appellate commission; to provide certain procedures for  
10 the resolution of claims, including mediation and arbitration; to  
11 prescribe certain benefits for persons suffering a personal  
12 injury under the act; to prescribe certain limitations on obtain-  
13 ing benefits under the act; TO REPEAL CERTAIN PARTS OF THIS ACT  
14 ON SPECIFIC DATES; and to repeal certain acts and parts of acts.

15 Sec. 251. (1) A worker's compensation appeal board is cre-  
16 ated, referred to in this act as the board. Except as provided  
17 for in subsection (2), the board shall consist of 15 members, a  
18 majority of whom shall be attorneys at law who are members in  
19 good standing of the state bar of Michigan. Except as provided  
20 for in subsection (2), of the board members, 5 shall be represen-  
21 tative of employee interests in the state, 5 members shall be  
22 representative of employer interests of the state, and 5 members  
23 shall be representative of the general public. A member of the  
24 board shall devote his or her entire time to and personally per-  
25 form the duties of the office and shall not engage in other busi-  
26 ness or professional activity. The governor, with the advice and  
27 consent of the senate, shall appoint the members for a term of 4

1 years, and until their successors are appointed and qualified. A  
2 vacancy shall be filled for an unexpired term in the same manner  
3 as the original appointment. The governor shall designate the  
4 chairperson of the board from among the members to serve at the  
5 pleasure of the governor. A member of the appeal board may be  
6 removed by the governor for good cause. Good cause for removal  
7 shall include, but not be limited to, lack of productivity or  
8 other neglect of duties.

9 (2) Until July 1, ~~1989~~ 1991, the governor, with the advice  
10 and consent of the senate, may appoint senior worker's compensa-  
11 tion magistrates, senior hearing referees, former hearing refer-  
12 ees, former worker's compensation magistrates, and other quali-  
13 fied individuals to the appeal board in order to fill a vacancy  
14 or to temporarily increase the number of members on the appeal  
15 board to expedite decisions in cases before the board. All per-  
16 sons appointed under this subsection shall be representatives of  
17 the general public.

18 (3) This section is repealed as provided for in  
19 section 266.

20 Sec. 261. (1) The chairperson of the board shall employ a  
21 chief administrative officer for the board. The chairperson  
22 shall have general supervisory control of and be in charge of the  
23 assignment and reassignment of the work of the board and the  
24 board's employees, including the scheduling of the docket; estab-  
25 lishing office hours and procedures; setting productivity stan-  
26 dards; and encouraging the use of arbitration, if appropriate.

1 The board may promulgate rules on administrative appellate  
2 procedure.

3       (2) Except as otherwise provided for in this act, a matter  
4 pending review before the appeal board shall be assigned to a  
5 panel of 2 members of the board for disposition, with each panel  
6 comprised of 1 member each from the employee and employer repre-  
7 sentatives, the employee and general public representatives, the  
8 employer and general public representatives, or 2 members repre-  
9 sentative of the general public. The decision reached by the  
10 assigned members of a panel shall be the final decision of the  
11 board. If the members of a panel cannot reach a decision, the  
12 chairperson of the board shall assign a third panel member to  
13 review the matter. The third member shall be from a designated  
14 representative group that is not already represented on the  
15 panel, except for a panel of 2 members representative of the gen-  
16 eral public in which case the third member shall be a representa-  
17 tive of the general public. The decision of the third member  
18 shall be controlling and shall be considered to be the final  
19 decision of the board.

20       (3) In addition to other duties of the chairperson pre-  
21 scribed in this section, he or she shall preliminarily review  
22 matters before the appeal board to determine if those matters may  
23 be disposed of by arbitration or in some expeditious manner by  
24 the appeal board.

25       (4) The chairperson shall exercise his or her powers and  
26 duties under this section for the purpose of disposing of the  
27 cases to be heard by the appeal board not later than July 1,

1 ~~1989~~ 1991 and shall annually report to the governor and the  
2 legislature regarding the disposition or lack thereof of these  
3 cases.

4 (5) This section is repealed as provided for in section  
5 266.

6 Sec. 266. (1) Sections 251, 255, 261, 265, 851a, and 859  
7 are repealed as of July 1, ~~1989~~ 1991 or when there are no more  
8 cases to be decided by the appeal board, whichever occurs first.

9 (2) If any cases are to be remanded to the appeal board by a  
10 court after the board no longer exists, those cases shall be  
11 remanded to and decided by the appellate commission established  
12 under section 274.

13 (3) If any cases remain to be decided by the board on the  
14 date that section 251 is repealed as provided for in subsection  
15 (1), those cases shall be reviewed and decided by the appellate  
16 commission.

17 (4) Any review of cases by the appellate commission pursuant  
18 to subsection (2) or (3) shall be according to the law applicable  
19 to reviews conducted by the appeal board.