

# SENATE BILL No. 422

May 3, 1989, Introduced by Senators DILLINGHAM, CRUCE,  
CROPSEY, SCHWARZ and DI NELLO and referred to the  
Committee on Human Resources and Senior Citizens.

A bill to amend the title of Act No. 317 of the Public Acts  
of 1969, entitled as amended  
"Worker's disability compensation act of 1969,"  
as amended, being sections 418.101 to 418.941 of the Michigan  
Compiled Laws; to add section 253; and to repeal certain parts of  
the act on specific dates.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. The title of Act No. 317 of the Public Acts of  
2 1969, as amended, being sections 418.101 to 418.941 of the  
3 Michigan Compiled Laws, is amended and section 253 is added to  
4 read as follows:

### TITLE

5  
6       An act to revise and consolidate the laws relating to  
7 worker's disability compensation; to increase the administrative  
8 efficiency of the adjudicative processes of the worker's

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

11        SEC. 253. (1) BEGINNING OCTOBER 1, 1991, A WORKER'S COMPEN-  
12 SATION APPEAL BOARD IS CREATED, REFERRED TO IN THIS ACT AS THE  
13 BOARD, WHICH SHALL CONSIST OF 5 PERMANENT MEMBERS APPOINTED BY  
14 THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE REPRESENT-  
15 ING THE GENERAL PUBLIC AND QUALIFIED ADJUNCT MEMBERS AS DETER-  
16 MINED PURSUANT TO SECTION 253. A MEMBER OF THE BOARD SHALL  
17 DEVOTE HIS OR HER ENTIRE TIME TO AND PERSONALLY PERFORM THE  
18 DUTIES OF THE OFFICE AND SHALL NOT ENGAGE IN OTHER BUSINESS OR  
19 PROFESSIONAL ACTIVITY. A VACANCY SHALL BE FILLED FOR AN UNEX-  
20 PIRE TERM IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT.

21        (2) THE CHAIRPERSON OF THE APPEAL BOARD SHALL BE DESIGNATED  
22 BY THE GOVERNOR AND SHALL ESTABLISH AND MAINTAIN A LIST OF QUALI-  
23 FIED ADJUNCT MEMBERS. EACH MEMBER OF THE APPEAL BOARD UNDER  
24 FORMER SECTION 252 AS OF SEPTEMBER 30, 1991 WHO HAD MET THE PRO-  
25 DUCTIVITY STANDARDS ESTABLISHED FOR THE PREVIOUS 2 YEARS UNDER  
26 THAT SECTION SHALL BE QUALIFIED AS AN ADJUNCT MEMBER.

1 (3) IN ADDITION, THE CHAIRPERSON MAY SELECT 1 OR MORE  
2 ADDITIONAL PERSONS TO THE LIST OF QUALIFIED ADJUNCT MEMBERS WHO  
3 MEET 1 OF THE FOLLOWING REQUIREMENTS:

4 (A) BE AN ATTORNEY LICENSED TO PRACTICE IN THE STATE OF  
5 MICHIGAN.

6 (B) BE A FORMER OR RETIRED WORKER'S DISABILITY COMPENSATION  
7 MAGISTRATE.

8 (C) BE A FORMER OR RETIRED WORKER'S DISABILITY COMPENSATION  
9 ADMINISTRATIVE LAW JUDGE.

10 (4) UPON APPLICATION FOR QUALIFICATION AS AN ADJUNCT MEMBER  
11 OF THE APPEAL BOARD, AN INDIVIDUAL SHALL INDICATE A DESIGNATION  
12 AS AN EMPLOYER REPRESENTATIVE OR AN EMPLOYEE REPRESENTATIVE. ANY  
13 QUESTIONS CONCERNING THE QUALIFICATIONS OF ADJUNCT MEMBERS OR  
14 WHETHER THE DESIGNATION TAKEN BY AN ADJUNCT MEMBER IS APPROPRIATE  
15 SHALL BE RESOLVED BY THE DEPARTMENT OF LABOR.

16 (5) THE CHAIRPERSON OF THE BOARD SHALL EMPLOY A CHIEF ADMIN-  
17 ISTRATIVE OFFICER FOR THE BOARD. THE CHAIRPERSON SHALL HAVE GEN-  
18 ERAL SUPERVISORY CONTROL OF AND BE IN CHARGE OF THE ASSIGNMENT  
19 AND REASSIGNMENT OF THE WORK OF THE BOARD AND THE BOARD'S EMPLOY-  
20 EES, INCLUDING THE SCHEDULING OF THE DOCKET; ESTABLISHING OFFICE  
21 HOURS AND PROCEDURES; SETTING PRODUCTIVITY STANDARDS; AND ENCOUR-  
22 AGING THE USE OF ARBITRATION, IF APPROPRIATE. THE BOARD MAY  
23 PROMULGATE RULES ON ADMINISTRATIVE APPELLATE PROCEDURE.

24 (6) IN ADDITION TO OTHER DUTIES OF THE CHAIRPERSON PRE-  
25 SCRIBED IN THIS SECTION, HE OR SHE SHALL PRELIMINARILY REVIEW  
26 MATTERS BEFORE THE APPEAL BOARD TO DETERMINE IF THOSE MATTERS MAY

1 BE DISPOSED OF BY ARBITRATION OR IN SOME EXPEDITIOUS MANNER BY  
2 THE APPEAL BOARD.

3 (7) BEGINNING ON OCTOBER 1, 1991, ALL CASES PENDING BEFORE  
4 THE APPEAL BOARD SHALL BE ASSIGNED TO A PANEL OF 2 ADJUNCT MEM-  
5 BERS OF THE BOARD FOR DISPOSITION. EXCEPT AS OTHERWISE PROVIDED  
6 IN THIS SECTION, ALL ASSIGNMENTS SHALL BE ON A RANDOM BASIS. AT  
7 LEAST 1 MEMBER OF EACH PANEL SHALL BE AN ATTORNEY. EACH PANEL  
8 SHALL BE COMPOSED OF 1 MEMBER DESIGNATED AS AN EMPLOYEE REPRESENTATIVE AND 1 MEMBER DESIGNATED AS AN EMPLOYER REPRESENTATIVE.  
9  
10 THE CHAIRPERSON MAY REFUSE TO ASSIGN CASES TO AN ADJUNCT MEMBER  
11 IF HE OR SHE DETERMINES THAT THE MEMBER HAS TOO MANY UNDECIDED  
12 CASES ALREADY ASSIGNED.

13 (8) THE DECISION REACHED BY THE ASSIGNED MEMBERS OF A PANEL  
14 SHALL BE THE FINAL DECISION OF THE BOARD. IF THE MEMBERS OF A  
15 PANEL CANNOT REACH A DECISION, THE CHAIRPERSON OF THE BOARD SHALL  
16 ASSIGN 1 OF THE GENERAL PUBLIC PERMANENT MEMBERS OF THE BOARD AS  
17 THE THIRD PANEL MEMBER TO REVIEW THE MATTER. THE THIRD PANEL  
18 MEMBER SHALL CHOOSE BETWEEN THE 2 DECISIONS OF THE ASSIGNED PANEL  
19 MEMBERS. THE DECISION OF THE THIRD PANEL MEMBER SHALL BE THE  
20 DECISION OF THE BOARD. IF A PANEL MEMBER DOES NOT DECIDE AN  
21 ASSIGNED CASE WITHIN 30 DAYS AFTER RECEIPT OF THE ASSIGNMENT, THE  
22 CASE SHALL BE REASSIGNED TO ANOTHER ADJUNCT MEMBER. IF THE  
23 SECOND MEMBER DOES NOT DECIDE THE CASE WITHIN 30 DAYS AFTER  
24 RECEIPT OF THE ASSIGNMENT, THE CASE SHALL BE REASSIGNED TO A  
25 THIRD ADJUNCT MEMBER. IF THE THIRD ADJUNCT MEMBER DOES NOT  
26 DECIDE AN ASSIGNED CASE WITHIN 30 DAYS AFTER RECEIPT OF THE

1 ASSIGNMENT, THE MEMBER WHO INITIALLY WROTE A DECISION SHALL BE  
2 PAID 1/2 THE FEE DESIGNATED IN SUBSECTION (10).

3 (9) IN ASSIGNING CASES TO PANELS, THE CHAIRPERSON SHALL PASS  
4 OVER AN ADJUNCT MEMBER IF THERE IS ANY INDICATION OF A POTENTIAL  
5 CONFLICT OF INTEREST. UPON BEING ASSIGNED A CASE, EACH MEMBER OF  
6 A PANEL SHALL IMMEDIATELY REVIEW THE CASE TO DETERMINE IF THERE  
7 IS ANY POTENTIAL CONFLICT OF INTEREST AND IF ONE IS DISCOVERED,  
8 HE OR SHE SHALL NOTIFY THE CHAIRPERSON IMMEDIATELY. THE CHAIR-  
9 PERSON SHALL THEN REASSIGN THE CASE. CASES SHALL BE ASSIGNED TO  
10 A 2-MEMBER PANEL OF ADJUNCT MEMBERS IN PAIRS OF 2 CASES WITH 1  
11 MEMBER OF THE PANEL HAVING PRIMARY RESPONSIBILITY FOR EACH CASE.  
12 THE ADJUNCT MEMBERS MAY CONSULT WITH EACH OTHER WITH RESPECT TO  
13 CASES ASSIGNED TO THEM.

14 (10) WHEN THE BOARD HAS ISSUED A FINAL DECISION IN BOTH  
15 CASES OF A PAIR OF CASES ASSIGNED TO A PANEL OF ADJUNCT MEMBERS,  
16 EACH MEMBER OF THE PANEL SHALL BE PAID A FEE OF \$1,000.00. THE  
17 CHAIRPERSON OF THE BOARD MAY INCREASE THE FEE PAID TO PANEL MEM-  
18 BERS FOR AN INDIVIDUAL PAIR OF CASES IF, AFTER WRITTEN APPLICA-  
19 TION BY THE PANEL MEMBERS, THE CHAIR FINDS THAT 1 OR BOTH OF THE  
20 CASES IN THE PAIR WERE UNUSUAL AND REQUIRED AN EXCEPTIONAL AMOUNT  
21 OF TIME AND EFFORT BY THE PANEL MEMBERS.

22 (11) THIS SECTION AND SECTIONS 255, 265, 851A, AND 859 ARE  
23 REPEALED AS OF OCTOBER 1, 1993 OR WHEN THE GOVERNOR ADVISES THE  
24 SECRETARY OF STATE IN WRITING THAT THERE ARE NO MORE CASES TO BE  
25 DECIDED BY THE APPEAL BOARD, WHICHEVER OCCURS FIRST.

26 (12) IF ANY CASES ARE TO BE REMANDED TO THE APPEAL BOARD BY  
27 A COURT AFTER OCTOBER 1, 1993, THOSE CASES SHALL BE REMANDED TO

1 AND DECIDED BY THE APPELLATE COMMISSION ESTABLISHED UNDER SECTION  
2 274.

3 (13) IF ANY CASES REMAIN TO BE DECIDED BY THE BOARD ON THE  
4 DATE THAT THIS SECTION IS REPEALED AS PROVIDED FOR IN SUBSECTION  
5 (11), THOSE CASES SHALL BE REVIEWED AND DECIDED BY THE APPELLATE  
6 COMMISSION.

7 (14) ANY REVIEW OF CASES BY THE APPELLATE COMMISSION PURSU-  
8 ANT TO SUBSECTION (12) OR (13) SHALL BE ACCORDING TO THE LAW  
9 APPLICABLE TO REVIEWS CONDUCTED BY THE APPEAL BOARD.

10 Section 2. This amendatory act shall not take effect unless  
11 all of the following bills of the 85th Legislature are enacted  
12 into law:

13 (a) Senate Bill No. 421.

14 (b) Senate Bill No. 420.

15 (c) Senate Bill No. 419.