

So much to dislike about workers' comp reform bill

By J. Timothy Esper

On Sept. 27, Bradford Jacobsen (R-Oxford), introduced House Bill 5002 at a Commerce Committee hearing in Lansing. The bill's business backers claim it will stabilize, modernize and clarify the Workers' Disability Compensation Act. Although Jacobsen said that the bill is not intended to harm anyone, in its present form, HB 5002 will seriously harm all injured Michigan workers.

Michigan first enacted a workers comp law in 1912 when industrial injuries flooded state welfare rolls. The law required employers to promptly pay injured workers a percentage of lost wages, medical, and vocational rehabilitation. In return, workers lost the right to take their employers to court for on-the-job injuries. The law has been updated many times.

HB 5002, a wish list for its business backers, would reduce or eliminate comp benefits for most injured workers, shifting costs back to the state. A key proponent of the bill, an officer of the Michigan Self-Insurer's Association (MSIA), testified that the Act desperately needs modernization to clarify conflicting Michigan Supreme Court decisions about how disability is defined.

The real goal of the MSIA, the Michigan Manufacturers Association (MMA), Michigan Chamber of Commerce, and others, is to incorporate into the Act recent company-friendly decisions of a conservative majority at the Supreme Court. That, plus the rest of their wish list, will cut comp benefits at a time when comp costs have been steadily decreasing.

The *too big to fail* crowd has crashed the national economy, eliminating millions of jobs. After we bailed them out, that crowd quickly resumed making *their* billions. The crash left many in the *too small to bail out* crowd with no jobs. Michigan was especially hard hit. Job losses have been among the highest for union construction workers, an industry also among the highest in work injuries. Injured tradesmen have no chance to compete with able-bodied applicants for the few remaining good jobs.

HB 5002 lets employers reduce comp benefits based on *phantom wages*. All an employer has to do is to hire a vocational "expert" to say that an injured worker is capable of earning a certain wage, even if no job paying that wage is available. Weekly benefit cuts of \$300/week or more will become the norm. Many will lose their benefits altogether.

Current law already lets employers reduce benefits based on wages *actually earned*, although recent court decisions have also allowed benefit cuts based on phantom earnings. HB 5002 would permanently write this into the Act. Basic fairness demands that the law prohibit benefit reductions for non-existent wages! The law must provide that employers only get credit for post-injury wages *actually earned* as long as injured workers make a good faith effort to find work.

HB 5002 also lets employers direct injured workers' medical care for 90 days, up from 10 in today's law. This is especially dangerous in an industry fixated on recordable injuries. A construction worker with a serious head injury was recently taken directly to the hospital. The company nurse told the ER doctor to clear him for full duty so the company could avoid a recordable injury! Employers will put business interests ahead of the health of injured workers. They have no business directing medical care.

HB 5002 would allow employers to permanently terminate benefits for injured workers fired for minor attendance problems. Benefits would also be reduced for a pension an injured worker is eligible to receive. Workers who are years from drawing their pensions would lose weekly benefits--yet another reduction for *phantom income*. No

benefits would be available for “ordinary diseases of life”, even for workers with cancer or other disease clearly caused or aggravated by work exposures.

These are only a sample of what HB 5002 would permanently add to the Act. Enacting this bill would give every break to business and insurance interests at the expense of Michigan workers. Although Republicans hold the governor’s office, State Supreme Court, and majorities in both houses of the legislature, House and Senate Republicans can’t ignore an avalanche of outrage at a bill that will wreak havoc on injured workers, their families, and the state.

Unless efforts that are underway on several front succeed in modifying the worst elements of this bad bill, HB 5002 must be defeated. The bill’s backers hope to pass it this month. Immediate action is required. Send a letter, e-mail or fax to your state representative and senator telling them to vote **NO** on House Bill 5002.

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