

HOUSE BILL NO. 5177

October 30, 2025, Introduced by Reps. Andrews, Rheingans, Arbit, Weiss, T. Carter, Pohutsky, Xiong, Brixie, MacDonell, Wilson, Conlin, Mentzer, Price, B. Carter, Miller, Dievendorf, Paiz, McFall, Longjohn, Hope, Byrnes, Young, Skaggs, Tsernoglou, Hoskins, McKinney and Myers-Phillips and referred to Committee on Economic Competitiveness.

A bill to amend 1969 PA 317, entitled
"Worker's disability compensation act of 1969,"
by amending section 161 (MCL 418.161), as amended by 2012 PA 83.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 161. (1) As used in this act, "employee" ~~means~~**includes:**
2 (a) A person in the service of ~~the~~**this** state, a county, city,
3 township, village, or school district, under any appointment, or
4 contract of hire, express or implied, oral or written. A person
5 employed by a contractor who has contracted with a county, city,
6 township, village, school district, or ~~the~~**this** state, through its

1 representatives, ~~shall-is~~ not ~~be~~ considered an employee of ~~the~~**this**
2 state, county, city, township, village, or school district that
3 made the contract, if the contractor is subject to this act.

4 (b) Nationals of foreign countries employed ~~pursuant to~~**under**
5 section 102(a)(1) of the mutual educational and cultural exchange
6 act of 1961, ~~Public Law 87-256,~~ 22 USC 2452, ~~shall~~**are** not ~~be~~
7 considered employees under this act.

8 (c) Police officers, ~~fire fighters,~~**firefighters**, or employees
9 of the police or fire departments, or their dependents, in
10 municipalities or villages of this state providing like benefits,
11 may waive the provisions of this act and accept like benefits that
12 are provided by the municipality or village but are not entitled to
13 like benefits from both the municipality or village and this act.
14 However, this waiver does not prohibit those employees or their
15 dependents from being reimbursed under section 315 for the medical
16 expenses or portion of medical expenses that are not otherwise
17 provided for by the municipality or village. This act ~~shall~~**must**
18 not be construed as limiting, changing, or repealing any of the
19 provisions of a charter of a municipality or village of this state
20 relating to benefits, compensation, pensions, or retirement
21 independent of this act, provided for employees.

22 (d) On-call members of a fire department of a county, city,
23 village, or township ~~shall be~~**are** considered to be employees of the
24 county, city, village, or township, and **are** entitled to all the
25 benefits of this act if personally injured in the performance of
26 duties as on-call members of the fire department whether the on-
27 call member of the fire department is paid or unpaid. On-call
28 members of a fire department of a county, city, village, or
29 township ~~shall be~~**are** considered to be receiving the state average

1 weekly wage at the time of injury, as last determined under section
 2 355, from the county, village, city, or township for the purpose of
 3 calculating the weekly rate of compensation provided under this act
 4 except that if the member's average weekly wage was greater than
 5 the state average weekly wage at the time of the injury, the
 6 member's weekly rate of compensation ~~shall~~**must** be determined based
 7 on the member's average weekly wage.

8 (e) ~~On-call members~~**An on-call member** of a fire department or
 9 an on-call member of a volunteer underwater diving team that
 10 contracts with or receives reimbursement from 1 or more counties,
 11 cities, villages, or townships is entitled to all the benefits of
 12 this act if personally injured in the performance of their duties
 13 as ~~an on-call members~~**member** of a fire department or as an on-call
 14 member of a volunteer underwater diving team whether the on-call
 15 member of the fire department or the on-call member of the
 16 volunteer underwater diving team is paid or unpaid. ~~On-call members~~
 17 **An on-call member** of a fire department ~~shall be~~**is** considered to be
 18 receiving the state average weekly wage at the time of injury, as
 19 last determined under section 355, from the fire department for the
 20 purpose of calculating the weekly rate of compensation provided
 21 under this act except that if the member's average weekly wage was
 22 greater than the state average weekly wage at the time of the
 23 injury, the member's weekly rate of compensation ~~shall~~**must** be
 24 determined based on the member's average weekly wage. ~~On-call~~
 25 ~~members~~**An on-call member** of a volunteer underwater diving team
 26 ~~shall be~~**is** considered to be receiving the state average weekly
 27 wage at the time of injury, as last determined under section 355,
 28 from the fire department for the purpose of calculating the weekly
 29 rate of compensation provided under this act except that if the

1 member's average weekly wage was greater than the state average
 2 weekly wage at the time of the injury, the member's weekly rate of
 3 compensation ~~shall~~**must** be determined based on the member's average
 4 weekly wage.

5 (f) The benefits of this act are available to a safety patrol
 6 officer who is engaged in traffic regulation and management for and
 7 by authority of a county, city, village, or township, whether the
 8 officer is paid or unpaid, in the same manner as benefits are
 9 available to **an** on-call ~~members~~**member** of a fire department under
 10 subdivision (d), upon the adoption by the legislative body of the
 11 county, city, village, or township of a resolution to that effect.
 12 A safety patrol officer or safety patrol force when used in this
 13 act includes all persons who volunteer and are registered with a
 14 school and assigned to patrol a public thoroughfare used by
 15 students of a school.

16 (g) A volunteer civil defense worker who is a member of the
 17 civil defense forces as provided by law and is registered on the
 18 permanent roster of the civil defense organization of ~~the~~**this**
 19 state or a political subdivision of ~~the~~**this** state ~~shall be~~**is**
 20 considered to be an employee of ~~the~~**this** state or the political
 21 subdivision **of this state** on whose permanent roster the employee is
 22 enrolled if engaged in the performance of duty and ~~shall be~~**is**
 23 considered to be receiving the state average weekly wage at the
 24 time of injury, as last determined under section 355, from the
 25 state or political subdivision for purposes of calculating the
 26 weekly rate of compensation provided under this act.

27 (h) A volunteer licensed under section 20950 or 20952 of the
 28 public health code, 1978 PA 368, MCL 333.20950 and 333.20952, who
 29 is an on-call member of a life support agency as defined under

1 section 20906 of the public health code, 1978 PA 368, MCL
 2 333.20906, ~~shall be~~ **is** considered to be an employee of the county,
 3 city, village, or township and **is** entitled to the benefits of this
 4 act if personally injured in the performance of duties as an on-
 5 call member of a life support agency whether the on-call member of
 6 the life support agency is paid or unpaid. An on-call member of a
 7 life support agency ~~shall be~~ **is** considered to be receiving the
 8 state average weekly wage at the time of injury, as last determined
 9 under section 355, from the county, city, village, or township for
 10 purposes of calculating the weekly rate of compensation provided
 11 under this act except that if the member's average weekly wage was
 12 greater than the state average weekly wage at the time of the
 13 injury, the member's weekly rate of compensation ~~shall~~ **must** be
 14 determined based on the member's average weekly wage.

15 (i) A volunteer licensed under section 20950 or 20952 of the
 16 public health code, 1978 PA 368, MCL 333.20950 and 333.20952, who
 17 is an on-call member of a life support agency as defined under
 18 section 20906 of the public health code, 1978 PA 368, MCL
 19 333.20906, that contracts with or receives reimbursement from 1 or
 20 more counties, cities, villages, or townships is entitled to all
 21 the benefits of this act if personally injured in the performance
 22 of ~~his or her~~ **the on-call member's** duties as an on-call member of a
 23 life support agency whether the on-call member of the life support
 24 agency is paid or unpaid. An on-call member of a life support
 25 agency ~~shall be~~ **is** considered to be receiving the state average
 26 weekly wage at the time of injury, as last determined under section
 27 355, from the life support agency for the purpose of calculating
 28 the weekly rate of compensation provided under this act except that
 29 if the member's average weekly wage was greater than the state

1 average weekly wage at the time of the injury, the member's weekly
 2 rate of compensation ~~shall~~**must** be determined based on the member's
 3 average weekly wage.

4 (j) If a member of an organization recognized by 1 or more
 5 counties, cities, villages, or townships within this state as an
 6 emergency rescue team is employed by a state ~~, or a~~ county, city,
 7 village, or township within this state as a police officer, ~~fire~~
 8 ~~fighter,~~**firefighter**, emergency medical technician, or ambulance
 9 driver and is injured in the normal scope of duties including
 10 training, but excluding activation, as a member of the emergency
 11 rescue team, ~~he or she shall be~~**the member is** considered to be
 12 engaged in the performance of ~~his or her~~**the member's** normal duties
 13 for the state, county, city, village, or township. If the member of
 14 the emergency rescue team is not employed by a state ~~, or a~~ county,
 15 city, village, or township within this state as a police officer,
 16 ~~fire fighter,~~**firefighter**, emergency medical technician, or
 17 ambulance driver, and is injured in the normal scope of duties,
 18 including training, as a member of the emergency rescue team, ~~he or~~
 19 ~~she shall be~~**the member is** considered to be an employee of the
 20 team. For the purpose of securing the payment of compensation under
 21 this act, on activation, each member of the team ~~shall be~~**is**
 22 considered to be covered by a policy obtained by the team unless
 23 the employer of a member of the team agrees in writing to provide
 24 coverage for that member under its policy. ~~Members~~**A member** of an
 25 emergency rescue team ~~shall be~~**is** considered to be receiving the
 26 state average weekly wage at the time of injury, as last determined
 27 under section 355, from the team for the purpose of calculating the
 28 weekly rate of compensation provided under this act except that if
 29 the member's average weekly wage was greater than the state average

1 weekly wage at the time of the injury, the member's weekly rate of
2 compensation ~~shall~~**must** be determined based on the member's average
3 weekly wage. As used in this subdivision, "activation" means a
4 request by the emergency management coordinator appointed pursuant
5 to section 8 or 9 of the emergency management act, 1976 PA 390, MCL
6 30.408 and 30.409, made of and accepted by an emergency rescue
7 team.

8 (k) A political subdivision of this state is not required to
9 provide compensation insurance for a peace officer of the political
10 subdivision with respect to the protection and compensation
11 provided by 1937 PA 329, MCL 419.101 to 419.104.

12 (l) Every person in the service of another, under any contract
13 of hire, express or implied, including aliens **whether lawfully or**
14 **unlawfully employed;** a person regularly employed on a full-time
15 basis by ~~his or her~~**the person's** spouse having specified hours of
16 employment at a specified rate of pay; working members of
17 partnerships receiving wages from the partnership irrespective of
18 profits; a person insured for whom and to the extent premiums are
19 paid based on wages, earnings, or profits; and minors, who shall be
20 considered the same as and have the same power to contract as adult
21 employees. Any minor under 18 years of age whose employment at the
22 time of injury is shown to be illegal, in the absence of fraudulent
23 use of permits or certificates of age in which case only single
24 compensation shall be paid, shall receive compensation double that
25 provided in this act.

26 (m) Every person engaged in a federally funded training
27 program or work experience program that mandates the provision of
28 appropriate worker's compensation for participants and that is
29 sponsored by ~~the~~**this** state, a county, city, township, village, or

1 school district, or an incorporated public board or public
 2 commission in ~~the~~**this** state authorized by law to hold property and
 3 to sue or be sued generally, or any consortium thereof, ~~shall be~~**is**
 4 considered, for the purposes of this act, to be an employee of the
 5 sponsor and **is** entitled to the benefits of this act. The sponsor is
 6 responsible for the provision of worker's compensation and shall
 7 secure the payment of compensation by a method permitted under
 8 section 611. If a sponsor contracts with a public or private
 9 organization to operate a program, the sponsor may require the
 10 organization to secure the payment of compensation by a method
 11 permitted under section 611.

12 (n) ~~Every~~**For a service performed before the effective date of**
 13 **the amendatory act that added subdivision (p), every** person
 14 performing service in the course of the trade, business,
 15 profession, or occupation of an employer at the time of the injury,
 16 if the person in relation to this service does not maintain a
 17 separate business, does not hold ~~himself or herself~~**themselves** out to
 18 and render service to the public, and is not an employer subject to
 19 this act. On and after January 1, 2013, **but before the effective**
 20 **date of the amendatory act that added subdivision (p),** services are
 21 employment if the services are performed by an individual whom the
 22 Michigan administrative hearing system determines to be in an
 23 employer-employee relationship using the 20-factor test announced
 24 by the internal revenue service of the United States ~~department of~~
 25 ~~treasury~~**Department of Treasury** in revenue ruling 87-41, 1 C.B.
 26 296. ~~An individual for whom an employer is required to withhold~~
 27 ~~federal income tax is prima facie considered to perform service in~~
 28 ~~employment under this act. If a business entity requests the~~
 29 ~~Michigan administrative hearing system to determine whether 1 or~~

~~more individuals performing service for the entity in this state are in covered employment, the Michigan administrative hearing system shall issue a determination of coverage of service performed by those individuals and any other individuals performing similar services under similar circumstances.~~

(o) An individual registered with ~~the state of Michigan~~ **this state's** verification system described in 42 USC 247d-7b ~~shall be~~ **is** considered an employee of ~~the~~ **this** state ~~of Michigan~~ when engaged in the performance of duties or services as a registrant, or when training to provide those duties or services, except if another employer provides coverage for that individual specifically for duties and services arising from registration with this state. That individual ~~shall be~~ **is** considered to be receiving the state average weekly wage at the time of injury or death, as last determined under section 355, from ~~the~~ **this** state ~~of Michigan~~ for purposes of calculating the weekly rate of compensation provided under this act, except that if the individual's average weekly wage was greater than the state average weekly wage at the time of injury or death the individual's weekly rate of compensation ~~shall~~ **must** be determined based upon the individual's weekly average wage. ~~The~~ **This** state ~~of Michigan~~ shall exercise all the rights and obligations of an employer and carrier as provided for under this act.

(p) For a service performed on or after the effective date of the amendatory act that added this subdivision, every person performing service in the course of the trade, business, profession, or occupation of an employer at the time of the injury. An individual for whom an employer is required to withhold federal income tax is prima facie considered to perform service in

1 employment under this act. A person that provides a service
2 described in this subdivision is not an employee if the alleged
3 employer establishes all of the following:

4 (i) The person is free from the alleged employer's control and
5 direction in performing the service.

6 (ii) The service takes place outside the usual course of
7 business of the alleged employer.

8 (iii) The person is customarily engaged in an independent trade,
9 occupation, profession, or business of providing the service that
10 the person performed for the alleged employer.

11 (2) A policy or contract of worker's compensation insurance,
12 by endorsement, may exclude coverage as to any 1 or more named
13 partners or the spouse, child, or parent in the employer's family.
14 A person excluded pursuant to this subsection is not subject to
15 this act and ~~shall is~~ not ~~be~~ considered an employee for the
16 purposes of section 115.

17 (3) An employee who is subject to this act, including an
18 employee covered pursuant to section 121, who is an employee of a
19 limited liability company of not more than 10 members and who is
20 also a manager and member, as defined in section 102 of the
21 Michigan limited liability company act, 1993 PA 23, MCL 450.4102,
22 and who owns ~~at least~~ **not less than** a 10% interest in that limited
23 liability company, with the consent of the limited liability
24 company as approved by a majority vote of the members, or if the
25 limited liability company has more than 1 manager, all of the
26 managers who are also members, except as otherwise provided in an
27 operating agreement, may elect to be individually excluded from
28 this act by giving a notice of the election in writing to the
29 carrier with the consent of the limited liability company endorsed

1 on the notice. The exclusion remains in effect until revoked by the
2 employee by giving notice in writing to the carrier. While the
3 exclusion is in effect, section 141 does not apply to any action
4 brought by the employee against the limited liability company.

5 (4) An employee who is subject to this act, including an
6 employee covered pursuant to section 121, who is an employee of a
7 corporation that has not more than 10 stockholders and who is also
8 an officer and stockholder who owns at least 10% of the stock of
9 that corporation, with the consent of the corporation as approved
10 by its board of directors, may elect to be individually excluded
11 from this act by giving a notice of the election in writing to the
12 carrier with the consent of the corporation endorsed on the notice.
13 The exclusion remains in effect until revoked by the employee by
14 giving a notice in writing to the carrier. While the exclusion is
15 in effect, section 141 does not apply to any action brought by the
16 employee against the corporation.

17 (5) If the persons to be excluded from coverage under this act
18 pursuant to subsections (2) to (4) comprise all of the employees of
19 the employer, those persons may elect to be excluded from being
20 considered employees under this act by submitting written notice of
21 that election to the director upon a form prescribed by the
22 director. The exclusion ~~shall remain~~ **remains** in effect until
23 revoked by giving written notice to the director.