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Changes Brewing for Michigan's Workers' Disability Compensation Act

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In 1912, the Michigan legislature enacted the Michigan Workers' Disability Compensation Act. This Act prohibits employees from suing their employers in civil court for injuries incurred on the job, and essentially created a no-fault system under which an employee is entitled to recover certain benefits from his or her employer for injuries sustained at work regardless of who is at fault. Employees are entitled only to certain wage loss benefits, the cost of medical treatment and certain rehabilitation services. The Act protects employers from high jury awards that might put them out of business while at the same time gives workers benefits even if the injury was their fault.

The Act also requires all employers to arrange for the payment of workers' compensation benefits. This may be accomplished by purchasing insurance from a commercial insurance carrier or by obtaining approved self-insured status.

A controversial bill is currently pending in front of the Michigan Senate Committee concerning amendments to the Act. The proposed bill was triggered, in part, out of concern that the Michigan workers' compensation system costs employers too much and makes Michigan an unattractive place to do business.

Although the proposed House bill includes a variety of changes, one of the more controversial issues focuses upon the definition of "disability" and an employee's "wage earning capacity." The proposed bill provides that an injured employee can be denied benefits if that employee is "capable of earning" wages in another occupation or different job at a different employer. In other words, if an employee's injuries prevent him or her from performing his duties and responsibilities for the employer where he or she sustained the injury, the employee may not be considered disabled (and may be denied or exposed to reduced benefits) if he or she is qualified for a job elsewhere in the market.

Critics of the proposed amendment argue that the new law would result in reductions or denials of worker's compensation benefits on the basis of "theoretical" or "virtual" job possibilities. Moreover, critics argue that Michigan's workers' compensation insurance rates have actually *declined* over recent years.

Regardless of such concerns, changes to the Michigan Workers' Compensation Disability Act appear likely. Debate will continue regarding whether the goal of reducing worker's compensation insurance premiums justifies the increased burden on employees seeking benefits.