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Analysis of Enrolled Senate Bill 1596

Topic: Worker's Compensation Coverage for Out of State Injuries

Sponsor: Senator Jason Allen

Committee: Senate Commerce and Tourism
House Labor (discharged)

Date Introduced: November 6, 2008

Date of Analysis: December 18, 2008

Position: The Department supports the bill.

Problem/Background: Recently, the Michigan Supreme Court reversed longstanding case law in its decision of *Karaczewski v Farbman Stein & Company*, 478 Mich 28 (2007). The Court decided that the Workers' Disability Compensation Act does not cover injuries suffered outside Michigan by workers employed by a Michigan company unless the worker is a resident of Michigan at the time of the injury and the contract of hire was made in Michigan. Previously, the courts had held in various cases that Michigan had jurisdiction over an out-of-state injury as long as the contract for hire was entered into in Michigan, regardless of actual residency. These cases included *Boyd v WG Wade Shows*, 443 Mich 515 (1993) and *Roberts v IXL Glass Corp*, 259 Mich 644 (1932).

Description of Bill: The bill amends Section 845 of the Worker's Disability Compensation Act to specify that the Workers' Compensation Agency has jurisdiction when a worker is employed by a Michigan employer and is injured outside of Michigan if the employee either resides in Michigan at the time of the injury or the contract of hire was made in Michigan.

Summary of Arguments

Pro: The bill codifies what had been case law for 70 years up until a recent Supreme Court decision. For all these years, the agreed upon practice within the industry has been to provide workers' compensation benefits to workers injured out of state, if they either resided in Michigan or the contract of hire was made in Michigan. Because virtually all interested parties have been satisfied with this practice, the court decision creates significant problems in worker's compensation practice.

Con: Worker's compensation coverage for a person injured outside the state should be determined by that state's worker's compensation system. While this was not the way the courts interpreted the law for 70 years, there is some logic to it.

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Fiscal/Economic Impact: The bill restores the Agency's jurisdiction prior to the recent Michigan Supreme Court case and would have an indeterminate impact on the number of cases under the Agency's jurisdiction.

Any Other Pertinent Information: The bill is supported by the Michigan Association of Insurance Agents. The department is not aware of any opposition to the bill.

Administrative Rule Impact: No new or revised administrative rules will be required as a result of this bill.