

Therefore, it is the opinion of the Attorney General that school districts except as provided in Sec. 4(a) which operate kindergarten through twelve grades are subject to reorganization under Act 289, P.A. 1964.

FRANK J. KELLEY,
Attorney General.

651004.2

WORKMEN'S COMPENSATION: Employees required to be covered.

A private non-agricultural employer whose only employee is a person hired for one day a week is not subject to the provisions of the Workmen's Compensation Act even though the employee works 4 other days a week for other employers for a period of 13 weeks or longer during the preceding 52 weeks.

No. 4473

October 4, 1965.

Honorable Sander M. Levin
State Senator
Honorable James Bradley
State Representative
The Capitol
Lansing, Michigan

You have asked whether Section 2a of Part 1 of the Workmen's Compensation Act, Act 10, Public Acts of 1912, First Extra Session, as amended by Act 44, Public Acts of 1965, effective September 1, 1965¹ requires insurance by an employer who hires a single employee for one day a week if that person works 4 other days a week for other employers for a period of 13 weeks or longer during the preceding 52 weeks.

Sec. 2a (1)(b) of Part 1 provides:

"(1) This act shall apply to: * * *

"(b) All private employers, other than agricultural employers, who regularly employ less than 3 employees if at least one of them has been regularly employed for 35 or more hours per week for a period of 13 weeks or longer during the preceding 52 weeks."

From a reading of Section 2a of the act, a private non-agricultural employer who employs only one employee is subject to the provisions of the Workmen's Compensation Act only if that employee is regularly employed for 35 or more hours per week for a period of 13 weeks or longer during the preceding 52 weeks.

Your letter of inquiry indicated that it has been suggested by others than yourselves that this section should be read with Sec. 1, Fourth, (d) of Part 4 of the Workmen's Compensation Act to require insurance if employment by a number of employers totaled at least 35 hours. That section provides:

¹ M.S.A. Cur. Mat. § 17.142(1).

"Sec. 1. Every employer subject to the provisions of this act shall adopt, subject to the approval of the workmen's compensation commission, 1 of the following methods for the payment of compensation under this act.

"Fourth, * * *

"Every insurance company or organization mentioned in this section issuing an insurance policy to cover any employer not permitted to carry his own risk under subdivision 'first' of this section, shall in one and the same insurance policy, insure, cover and protect all the businesses, employees, enterprises and activities of such employer, and each and every policy of insurance covering workmen's compensation in this state shall contain the following provisions:

"Notwithstanding any language elsewhere contained in this contract or policy of insurance, the insurance company or organization issuing this policy hereby contracts and agrees with the insured employer: * * *

"Scope of contract. (d) That this insurance contract or policy shall for all purposes be held and deemed to cover all the businesses the said employer is engaged in at the time of the issuance of this contract or policy and all other businesses, if any, said employer may engage in during the life thereof, and all employees the said employer may employ in any of his businesses during the period covered by this policy;"²

The foregoing section refers only to the method of payment of workmen's compensation by those employers who are subject to the provisions of the Workmen's Compensation Act.

Sec. 11 of Part 2 of Act 44, P.A. 1965, being M.S.A. Cur. Mat. § 17.161, which provides:

"* * * When the department finds that the employee was employed specifically and not temporarily on a part-time basis, the average weekly wage shall be determined by multiplying the hourly rate or earning by the average number of hours worked in the part-time employment. When it is found that the employee has worked an average of 25 hours or more per week in all of his current employments, he shall not be considered a part-time employee, * * *"

refers to computation of average weekly wage of the employees of employers subject to the provisions of the Workmen's Compensation Act.

Therefore, your question is answered "no."

FRANK J. KELLEY,
Attorney General.

² C.L.S. 1961 § 414.1; M.S.A. 1960 Rev. Vol. § 17.195.