



Sub. H.B. 79

127th General Assembly

(As Reported by S. Insurance, Commerce, and Labor)

(Excluding appropriations, fund transfers, and similar provisions)

Reps. Batchelder, J. McGregor, Fessler, Latta, Stebelton, Webster, Uecker

BILL SUMMARY

- Creates the Workers' Compensation Remuneration Fund for purposes of paying benefits and compensation to employees of the Workers' Compensation Council and the Workers' Compensation Council Fund.
- Prohibits the Controlling Board from transferring funds in excess of needs from the Workers' Compensation Remuneration Fund to the General Revenue Fund.
- Requires the Director of the Workers' Compensation Council to request to and have transferred amounts from the Workers' Compensation Council Fund created by the Controlling Board to the Workers' Compensation Remuneration Fund.
- Requires the Director of the Workers' Compensation Council to request to and have transferred any remaining amount from the Workers' Compensation Council Fund created by the Controlling Board to the Workers' Compensation Council Fund created by the bill and accordingly abolishes the Workers' Compensation Council Fund created by the Controlling Board.
- Includes the budget for the Workers' Compensation Council in the Bureau of Workers' Compensation budget and excludes the Workers' Compensation Council budget from the main operating appropriations budget bill.
- Exempts the Workers' Compensation Council from sunset review, public works, supplies, and services as administered by the Department of

Administrative Services, and provides the Workers' Compensation Council all exemptions afforded to legislative entities.

- Allows the Workers' Compensation Council to enter into agreements with the Department of Administrative Services for the furnishing of work, supplies, and services.
- Requires the Workers' Compensation Council to appoint a Director who will serve at the pleasure of the Council.
- Allows the Council to authorize the Director to employ staff as necessary and employ or hire on a consulting basis, persons to provide actuarial, legal, investment, or other technical services.
- States that all employees of the Council are in the civil service.
- Requires the Council to fix the compensation of the Director and the Director to fix the compensation of all other employees of the Council.
- Requires the Director to adopt policies relating to payment for overtime, granting of compensatory time off, utilizing flexible hours, and working on holidays and compensation for holiday work.
- Prohibits the Council from taking action without the approval by at least six members.
- Requires the Administrator of Workers' Compensation to consider an employer group a single entity for purposes of group rating.
- Requires the Administrator to examine the group rating program and to make and submit a plan to address the equity and adequacy of the workers' compensation premiums for Ohio employers.
- Exempts the provisions of the bill from Council review.
- Makes an appropriation.

CONTENT AND OPERATION

Background

The Workers' Compensation Council was created by Am. Sub. H.B. 100 of the 127th General Assembly. The purpose of the Council is to review the soundness of the workers' compensation system and legislation involving or affecting the workers' compensation system. The Council cannot be involved in the daily operations and oversight of the Bureau of Workers' Compensation or Industrial Commission.

Funds and accounts

The bill creates the Workers' Compensation Council Fund, which is in the custody of the Treasurer of State but is not to be a part of the state treasury. The fund consists of all moneys transferred into it by the Administrator of Workers' Compensation. The bill requires the Council to use the fund to pay the expenses incurred by the Council. The bill requires the Treasurer of State to disburse moneys from the fund upon instruments authorized by the Council and signed by the Director. (R.C. 4121.79(C).)

Under the bill, the Council is the trustee of the Workers' Compensation Council Fund. At the request of the Director of the Council, the bill requires the Treasurer of State to select and contract with one or more investment managers to invest all money credited to the fund that is not currently needed for carrying out the functions of the Council. The Treasurer of State must contract with an investment manager for whom the Administrator requested a criminal records check and who has not been convicted of or pleaded guilty to a financial or investment crime as defined in that section. The bill states that the eligible list of investments is the same as those specified in the investment policy for the State Insurance Fund approved by the Bureau of Workers' Compensation Board of Directors. All investments are subject to the same limitations and requirements as specified for the State Insurance Fund. The bill requires all investment earnings of the fund to be credited to the fund. (R.C. 4121.79(C).)

The bill creates the Workers' Compensation Remuneration Fund in the state treasury. The bill requires the Treasurer of State to periodically pay into that fund, from the Workers' Compensation Council Fund amounts requested by the Director of the Council to pay the compensation and benefits of the employees of the Council. The bill requires that amounts credited to the Remuneration Fund be used by the Director of the Council solely to pay the compensation and benefits of all employees of the Council. The bill requires all investment earnings of the Remuneration Fund to be credited to that fund. (R.C. 4121.79(D).)

Within the limits set by the bill, the Director of Budget and Management must establish accounts indicating the source and amount of funds for each appropriation made in the bill, and must determine the form and manner in which appropriation accounts must be maintained. Expenditures from appropriations contained in the bill must be accounted for as though made in the main operating appropriations bill (Section 5).

The appropriations made in the bill are subject to all provisions of the main operating appropriations bill that are generally applicable to such appropriations (Section 5).

The bill prohibits the Controlling Board from authorizing transfers of all or part of cash balances in excess of needs from the Workers' Compensation Council Remuneration Fund to the General Revenue Fund or to another fund of the state to which the money would have been credited in the absence of the Workers' Compensation Council Remuneration Fund (R.C. 127.14(D)).

The bill requires the Director of Budget and Management to transfer a cash amount designated by the Director of the Workers' Compensation Council from the Workers' Compensation Council Fund, created by the Controlling Board in August of 2008, to the Workers' Compensation Council Remuneration Fund, upon the request of the Director of the Workers' Compensation Council. The bill requires the Director of the Workers' Compensation Council to request on or before January 31, 2009, that the Director of Budget and Management transfer any remaining balance in the Workers' Compensation Council Fund to the Workers' Compensation Council fund, created by the bill. The bill requires the Treasurer of State, at the request of the Director of Budget and Management, to execute the transfer. After this transfer has occurred, the bill abolishes the Workers' Compensation Council Fund that was created by the Controlling Board. (Section 4.)

Budget

Under continuing law the appropriations for the Industrial Commission and the Bureau of Workers' Compensation are not part of the main operating appropriations bill. The Industrial Commission budget is enacted in one bill and the Bureau of Workers' Compensation budget is enacted in another. The bill requires the budget of the Workers' Compensation Council to be included in the Bureau of Workers' Compensation budget bill. (R.C. 101.352, 4121.03, and 4121.121.)

The bill requires the Director of the Workers' Compensation Council to prepare and submit to the Council, for its approval, a biennial budget that includes an itemized estimate of the amounts necessary to pay the expenses of the Council

during the succeeding biennium. The bill allows the Director to request and the Council to approve, anytime during that biennium, additional amounts to cover costs for audits or other necessary expenses that were not included in the budget the Director submits. The bill requires that after the budget is approved, the Director must separate from the budget the portion covering the costs of compensation and benefits for the employees of the Council and submit only that portion to the Director of Budget and Management as the Council's budget request for purposes of the Director of Budget and Management estimates submitted to the Governor. (R.C. 4121.79.)

Assessments

Under continuing law, assessments are made against each employer for purposes of paying the administrative costs of the Industrial Commission and the Bureau of Workers' Compensation. Assessments for the Industrial Commission are placed into one account and assessments for the Bureau are placed into another. The bill provides that the Administrator also must assess each employer and place any money received from such assessment into a separate account for purposes of paying the administrative costs of the Workers' Compensation Council. Assessments are to be made in the same manner as under continuing law for the Industrial Commission and the Bureau. The bill further provides that the Administrator or the Administrator's designee must transfer money from the administrative assessment account identified for the Workers' Compensation Council to the Workers' Compensation Council Fund created by the bill in the same manner funds are transferred from the administrative assessment accounts for the Commission and the Bureau. (R.C. 4123.341, 4123.342, and 4123.35.)

Exemptions

The bill exempts the Workers' Compensation Council from sunset review, as required for other agencies under continuing law (R.C. 101.82). Additionally, the bill states that the Workers' Compensation Council is part of the legislative branch of government, and therefore, the Council receives the same exemptions afforded to all entities residing in the legislative branch (R.C. 4121.75(A)).

The bill exempts the Council from the requirements of the law governing public works, supplies, and services, as administered by the Department of Administrative Services, although, the bill allows the Council to request the Department of Administrative Services, and the Department to agree, to perform for the Council any of the services relating to public works, supplies, and services. The Council may enter into agreements with the Director of Administrative Services for the performance of such services. (R.C. 4121.79(B).)

Compensation and staff

Under current law, the Workers' Compensation Council may appoint a Director who must be a person who has had training and experience in areas related to the duties of the Council. The bill requires the Council to appoint a Director and states that the Director serves at the pleasure of the Council. (R.C. 4121.77(A).)

Current law allows the Council to appoint professional, technical, and clerical employees as necessary, and employ or hire on a consulting basis persons to provide actuarial, legal, investment, or other technical services required for the performance of the Council's duties. The bill, instead, allows the Council to authorize the Director to employ professional, technical, and clerical staff as necessary, and employ or hire on a consulting basis persons to provide actuarial, legal, investment, or other technical services required for the performance of the Council's duties. The bill states that all employees of the Council are in the unclassified civil service. (R.C. 4121.77(B).)

Under current law, the Council may fix the compensation of the Director and all other employees of the Council. The bill requires the Council to fix the compensation of the Director and the Director to fix the compensation of all other employees of the Council. The Director also must adopt policies relating to payment for overtime, granting of compensatory time off, utilizing flexible hours, and working on holidays and compensation for holiday work. (R.C. 4121.77(C).)

Action by the Council

Under current law, the Council is prohibited from taking action without approval by at least five voting members. The bill increases the number of voting members required to take action to six. (R.C. 4121.76.)

Group rating

Under current law, the Administrator of Workers' Compensation must consider an employer group as a single employing entity for purposes of "retrospective" rating. The bill retains that obligation of the Administrator to consider employer groups as a single employing entity, but changes the requirement to state that it is for purposes of "group" rating. (R.C. 4123.29.)

Premium study

The bill requires the Administrator of Workers' Compensation to examine the group rating program and make a plan to address the equity and adequacy of workers' compensation premiums for Ohio employers. The Administrator must provide the report to the Speaker of the House of Representatives, the President of

the Senate, the minority leaders of the House and Senate, the chairperson of any standing committee of the General Assembly that regularly considers workers' compensation bills, and the Workers' Compensation Council by September 15, 2009. (Section 6.)

Council review

The provisions of the bill are exempt from Council review, as provided for in continuing law (Section 3).

Effective date

The bill contains an appropriation, and as a result is not subject to the referendum. The provisions of the bill take immediate effect. (Section 7.)

HISTORY

ACTION	DATE
Introduced	02-27-07
Reported, H. Commerce & Labor	10-18-07
Passed House (56-39)	12-04-07
Reported, S. Insurance, Commerce, & Labor	12-16-08

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