



Ohio Legislative Service Commission

Bill Analysis

Aida S. Montano

H.B. 249

128th General Assembly
(As Introduced)

Reps. Heard and Letson, Lundy, Boyd, Hagan, Goyal, Murray

BILL SUMMARY

- Eliminates the prohibition in the Workers Compensation Law against directly or indirectly soliciting authority from a claimant or employer to take charge of, or represent the claimant or employer in respect of, any claim or appeal that is or may be filed with the Bureau of Workers' Compensation (BWC) or the Industrial Commission.
- Removes the provision in the Workers Compensation Law that provides that, generally, information kept by the Industrial Commission or the BWC concerning claimant files is for the exclusive use of the Commission and BWC in the discharge of their official duties.
- Provides that an individual whose primary occupation is as a journalist is permitted to request the address or addresses and telephone number or numbers of workers' compensation claimants, for *any lists of* multiple workers or dependents in one written request.
- Redefines "journalist" for purposes of the provisions for a journalist exception to the confidentiality of workers' compensation claimants' names and addresses.

CONTENT AND OPERATION

Background

Under the Workers' Compensation Law (R.C. Chapter 4123.),¹ generally, every employee who is injured or who contracts an occupational disease, and the dependents

¹ The Ohio Workers' Compensation Law is also found in R.C. Chapters 4121. (Industrial Commission; Bureau of Workers' Compensation), 4127. (Public Works Relief Compensation), and 4131. (Separate Compensation Funds).

of each employee who is killed or dies as the result of an occupational disease contracted in the course of employment, wherever such injury has occurred or occupational disease has been contracted, is entitled to receive, either directly from the employee's self-insuring employer or from the State Insurance Fund, the following: (1) compensation for the loss sustained on account of the injury, occupational disease, or death, (2) medical, nurse, and hospital services and medicines that are necessary for the treatment of that injury or occupational disease, and (3) the amount of funeral expenses in case of death, as are provided by the Workers' Compensation Law. An employee or the employee's dependents are not entitled to receive compensation and benefits if the injury, occupational disease, or death was (1) purposely self-inflicted or (2) caused by the employee being intoxicated or under the influence of a controlled substance not prescribed by a physician if the intoxication or being under the influence of the controlled substance not prescribed by a physician was the proximate cause of the injury. (R.C. 4123.54(A), not in the bill.)

False representation or solicitation of authority

The current Workers' Compensation Law prohibits any person from doing the following: (1) orally or in writing, directly or indirectly, or through any agent or other person fraudulently holding the person's self out or representing the person's self or any of the person's partners or associates as authorized by a claimant or employer to take charge of, or represent the claimant or employer in respect of, any claim or matter in connection therewith before the Bureau of Workers' Compensation (BWC) or the Industrial Commission or its district or staff hearing officers, or (2) *directly or indirectly soliciting authority*, or paying or giving anything of value to another person to solicit authority, or accepting or receiving pay or anything of value from another person for soliciting authority, from a claimant or employer to take charge of, or represent the claimant or employer in respect of, any claim or appeal that is or may be filed with the Bureau or Commission. A violation of either prohibition is a misdemeanor of the second degree. (R.C. 4123.88(A) and R.C. 4123.99(D), not in the bill.)

The bill eliminates the prohibition in (2), above, against any person directly or indirectly soliciting authority from a claimant or employer to take charge of, or represent the claimant or employer in respect of, any claim or appeal that is or may be filed with the Bureau or Commission (R.C. 4123.88(A)).

Confidentiality of claimant files

The current Workers' Compensation Law specifies that claimant files, in addition to being confidential under that Law, are not public records under the Public Records Law (R.C. 149.43) and that any information directly or indirectly identifying the address or telephone number of a claimant, regardless of whether the claimant's claim is active or closed, is not a public record. Further, that Law specifies that, except as described in

the next paragraph, information kept by the Industrial Commission or the BWC concerning claimant files is for the *exclusive use and* information of the Commission and the BWC in the discharge of their official duties, and are not open to the public and cannot be used in any court in any pending action or proceeding, unless the Commission or BWC is a party to the action or proceeding.² The information, however, may be tabulated and published by the Commission or BWC in statistical form for the use and information of other state agencies and the public. The bill removes the provision that provides that, generally, information kept by the Industrial Commission or the BWC concerning claimant files is for the exclusive use of the Commission and BWC in the discharge of their official duties. (R.C. 4123.88(B) and (C).)

Journalist exception concerning addresses and phone numbers

Under current law, upon receiving a written request made and signed by an individual whose primary occupation is as a "journalist" (defined below), the Commission or BWC must disclose to the individual the address or addresses and telephone number or numbers of claimants, regardless of whether their claims are active or closed, and the dependents of those claimants. An individual whose primary occupation is as a journalist is permitted to request this information for multiple workers or dependents in one written request. Such an individual must include all of the following in the written request: (1) the individual's name, title, and signature, (2) the name and title of the individual's employer, and (3) a statement that the disclosure of the information sought is in the public interest. Current law prohibits the Commission and BWC from inquiring as to the specific public interest served by the disclosure of information requested by an individual whose primary occupation is as a journalist. (R.C. 4123.88(D).) The bill provides that an individual whose primary occupation is as a journalist is permitted to request the above information for *any lists of* (added by the bill) multiple workers or dependents in one written request (R.C. 4123.88(D)(2)).

Current law defines "journalist" as used in the above provisions as having "the same meaning as in division (B)(9) of section 149.43 of the Revised Code" (R.C. 4123.88(E)). R.C. 149.43(B)(9), not in the bill, defines "journalist" as a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public. Instead of defining "journalist" by reference to R.C. 149.43(B)(9), the bill states that "journalist," "[c]onsistent with division (B)(9) of section 149.43 of the Revised Code," means a person engaged in, connected with, or employed by any news medium including a newspaper, magazine, press

² A record of the proceedings of the Commission is a matter of public record, except that the provisions pertaining to the confidentiality of claimant files also apply to that record (R.C. 4121.10, not in the bill).

association, *trade and business association newsletters* (added by the bill), news agency or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public (R.C. 4123.88(D)(1)).

HISTORY

ACTION	DATE
Introduced	07-07-09

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