



Ohio Legislative Service Commission

Bill Analysis

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H.B. 516*

129th General Assembly
(As Introduced)

Reps. Henne and Hottinger, Sears, Butler, Conditt, Boose, Buchy, Amstutz, J. Adams, Rosenberger, Brenner, Sprague, Roegner, Stebelton, Hackett, Beck, Kozlowski, McGregor

BILL SUMMARY

- Permits eligible state institutions of higher education to include, rather than exclude, its hospitals when self-insuring against claims for workers' compensation.
- Permits the Administrator of Workers' Compensation to develop alternative premium, rate, or discount plans to encourage employers to participate in safety or compliance programs.
- Permits public employers to participate in the Bureau of Workers' Compensation (BWC) One Claim Program.
- Eliminates the statutory minimum assessment amount for the Disabled Worker Relief Fund for claims arising before January 1, 1987.
- Expands the current law procedures regarding a notice of assessment of a workers' compensation premium to include any assessment made under Ohio's Workers' Compensation Law except assessments for payments relating to a claim involving a noncompliant employer.
- Allows a complying employer to appeal to an adjudicating committee any assessment described in the dot point immediately above, rather than only premium assessments under current law.

* This analysis was prepared before the bill was introduced in the House Journal. Note that the list of sponsors and co-sponsors and the legislative history may be incomplete.

- Reduces the amount of bond an employer must file with a court if the employer appeals the assessment to the court to the amount of the assessment due rather than double that amount as under current law.
- Eliminates the requirement that the Bureau of Workers' Compensation send the notice of the date and time of a hearing to object to the assessment and the notice of the finding made at the hearing through certified mail.
- Requires the Administrator to make available electronically the joint rules governing the operating procedures of BWC and the Industrial Commission and all rules adopted by BWC and the Commission rather than making those rules available in two separate printed publications as under current law.
- Requires the Administrator to make available electronically upon request the classifications, rates, rules, and rules of procedure of BWC rather than making those rules available in pamphlet form.
- Eliminates the requirement that the Administrator maintain a mailing list of persons who have requested copies of the BWC and Commission rules.

CONTENT AND OPERATION

University hospitals and self-insurance

The bill allows a state institution of higher education, *including* its hospitals, to self-insure (that is, pay compensation and benefits under the Workers' Compensation Law directly to a claimant instead of paying premiums to the State Insurance Fund) if the institution satisfies the continuing law requirements applicable to most local public employers that wish to self-insure. Currently, a state institution of higher education may self-insure *excluding* its hospitals if it satisfies those requirements.

Under continuing law, "state institution of higher education" means the University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, and Youngstown State University; community colleges; university branches; technical colleges; and state community colleges.¹

¹ R.C. 4123.35(B)(1) and (S).

Alternative premium, rate, or discount plans

The bill specifically permits the Administrator of Workers' Compensation to make available alternative premium, rate, or discount premium plans for employers paying premiums into the State Insurance Fund (a "state fund" employer) that the Administrator determines are necessary to encourage employers to participate in safety or compliance programs, including drug-free workplace, workplace wellness, safety, job development, or claims management, and to establish any other alternative premium, rate, or discounts the Administrator otherwise considers necessary. Continuing law requires the Administrator to develop and make available to employers alternative premium plans, which must include retrospective rating plans and may include plans under which an advanced deposit may be applied against a specified deductible amount per claim.² Current programs offered by the Bureau of Workers' Compensation (BWC) include a drug-free workplace program, industry specific safety program, and a safety council rebate.³

Public employers and the One Claim Program

The bill permits a state fund, taxing district employer to participate in the One Claim Program, under which the employer may mitigate the impact of a significant claim that comes into the employer's experience and that is a contributing factor in the employer being excluded from a group-rated plan under the BWC's group rating program. Currently, only private sector state fund employers may participate in the One Claim Program.⁴

Workers' compensation assessments

In addition to paying premiums to the State Insurance Fund to cover workers' compensation claims, an employer pays assessments to BWC for other specialized funds and to cover administrative costs. These assessments include assessments to fund the Disabled Worker Relief Fund (DWRF), which is a fund that used to make essentially cost-of-living payments to recipients of permanent and total disability compensation. With respect to the DWRF assessment made for claims that occurred before January 1, 1987, the bill eliminates the requirement that the Administrator annually charge a minimum assessment of 5¢ per \$100 of payroll. The bill retains the requirement that the assessment cannot exceed 10¢ per \$100 of payroll and retains the

² R.C. 4123.29(A)(3) and (B).

³ See Ohio Administrative Code (O.A.C.) 4123-17-58 and Ohio Bureau of Workers' Compensation, Employer Programs, <http://www.ohiobwc.com/employer/programs/default.asp> (accessed April 15, 2012).

⁴ R.C. 4123.29(A)(4)(e).

current law requirements with respect to DWRF assessments for claims occurring on or after January 1, 1987.⁵

The bill also expands current law procedures regarding a notice of assessment of a workers' compensation premium to include any assessment made under the Workers' Compensation Law except assessments for the payment of compensation or benefits in a claim involving a noncompliant employer. This expansion includes the ability to object to the assessment and the ability to obtain a lien for failing to pay the assessment. Under the bill, the Administrator must include in the continuing law notice of assessment a demand for payment. Under continuing law, within 20 days after receipt of the notice and demand for payment (as added by the bill), an employer may file with BWC a petition in writing, verified under oath by the employer, or the employer's authorized agent having knowledge of the facts, setting forth with particularity the items of the assessment to which the employer objects, together with the reasons for the objections. If the employer does not file a petition, the assessment becomes conclusive and the amount is due and payable from the employer.

When a petition objecting to an assessment is filed, under continuing law BWC must assign a time and place for the hearing of the same and must notify the petitioner, although under the bill BWC is no longer required to send that notice via certified mail. The assessment becomes due and payable ten days after BWC sends notice of the finding made at the hearing (the bill also eliminates the requirement that this notice be sent via certified mail). Under the bill an employer may first appeal an adverse decision to the Administrator or the Administrator's designee through the adjudicating committee process under continuing law. Only after an appeal is taken through the adjudicating committee may the employer appeal to the Franklin County Court of Common Pleas in accordance with current law. If the party appeals to the court, the party must execute a bond to the state in the amount found due, reduced from double that amount as under current law, and ordered paid by BWC conditioned that the party will pay any judgment and costs rendered against it for the assessment.⁶

Publication of rules and orders by the Administrator

The bill requires the Administrator to make available electronically the joint rules governing the operating procedures of BWC and the Industrial Commission, all rules adopted by BWC and the Commission, and the BWC classifications, rates, and rules of procedure. The bill eliminates the requirements that the Administrator must publish the joint rules in a single printed publication, all rules adopted by BWC and the

⁵ R.C. 4123.411.

⁶ R.C. 4123.291 and 4123.37.

Commission in a single publication, and print BWC's classifications, rates, and rules of procedure in pamphlet form to be furnished on demand. Additionally, under the bill, BWC can no longer charge the cost of providing the publication of all the BWC and Commission rules. The bill also eliminates the current law requirement that the Administrator keep a mailing list of all persons who have requested copies of the rules adopted by BWC and the Commission.⁷

HISTORY

ACTION	DATE
Introduced	--

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⁷ R.C. 4121.18 (repealed by the bill), 4121.30, and 4123.20.

