



# Ohio Legislative Service Commission

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## Bill Analysis

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### **H.B. 538**

129th General Assembly  
(As Introduced)

**Reps.** Landis and DeVitis, Sprague, Derickson, Baker, Duffey, Garland

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## **BILL SUMMARY**

- Prescribes the circumstances in which an individual who is injured or contracts an occupational disease in the course of and arising out of participation in a learn to earn program receives compensation and benefits under the Workers' Compensation Law or under the Unemployment Compensation Law.
  - Exempts from liability for an injury suffered or occupational disease contracted, except with respect to intentional torts, the Department of Job and Family Services, any established learn to earn program, or any entity conducting the training under that program.
  - Permits the Department to establish a separate workers' compensation coverage policy for learn to earn participants.
  - Permits the Department to enter into a contract of indemnity for loss as a result of any workers' compensation claim arising out of participation in a learn to earn program.
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## **CONTENT AND OPERATION**

### **Workers' compensation and learn to earn program participants**

Under the bill, a participant in a learn to earn program is entitled to compensation and benefits under the Workers' Compensation Law under certain circumstances. A "learn to earn program" is any program established by the Department of Job and Family Services that is designed to increase an individual's

opportunity to move to permanent employment through a short-term work experience placement with an eligible employer.<sup>1</sup>

If a learn to earn program participant suffers an injury or contracts an occupational disease that produces a disability arising out of and in the course of participating in the program and remains eligible for unemployment compensation benefits, the participant will receive unemployment compensation benefits while otherwise eligible for those benefits. If that disability causes the participant to become ineligible for unemployment compensation benefits or the participant is unable to work after the expiration of eligibility for unemployment compensation benefits, the participant must receive compensation and benefits under the Workers' Compensation Law.<sup>2</sup>

The bill makes a participant in a learn to earn program an employee of the Department and not an employee of the entity conducting training.<sup>3</sup> The Department can either include a learn to earn participant in its own workers' compensation policy, or establish a separate policy with the Bureau of Workers' Compensation (BWC) upon the terms and conditions for insurance to be established by BWC consistent with insurance principles, as is equitable in the view of degree and hazard.<sup>4</sup> Notwithstanding the continuing law prohibition against indemnifying workers' compensation claims, the bill also permits the Department to enter into a contract to indemnify the Department against all or part of the Department's loss as a result of liability of the Department that is attributable to any claims for compensation or benefits under the Workers' Compensation Law arising from participation in any learn to earn program.<sup>5</sup>

The bill exempts from liability, except for intentional torts, the entity conducting the training, the Department, and any learn to earn program established by the Department. Accordingly, a participant in a learn to earn program is considered to have accepted the terms and conditions of the Workers' Compensation Law and waives on behalf of the participant or the participant's personal or legal representatives all rights of action on account of the participant's injury or occupational disease arising from participation in the program whether at common law, by statute, or under the laws of any other state. The bill also proscribes any direct causes of action by a

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<sup>1</sup> R.C. 4123.391(A) and (B).

<sup>2</sup> R.C. 4123.391(C).

<sup>3</sup> R.C. 4123.391(D).

<sup>4</sup> R.C. 4123.391(F).

<sup>5</sup> R.C. 4123.391(G).

participant's dependents for damages on account of the participant's personal injury or death.<sup>6</sup>

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## HISTORY

ACTION	DATE
Introduced	05-08-12

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<sup>6</sup> R.C. 4123.391(E).

