



# Ohio Legislative Service Commission

Tom Wert

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## Fiscal Note & Local Impact Statement

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**Bill:** [S.B. 323 of the 129th G.A.](#)

**Date:** May 1, 2012

**Status:** As Introduced

**Sponsor:** Sen. Seitz

**Local Impact Statement Procedure Required:** No

**Contents:** Prohibits an illegal or unauthorized alien from receiving compensation or benefits under Ohio's Workers' Compensation Law

### State Fiscal Highlights

- The bill potentially decreases costs paid from the State Insurance Fund by prohibiting the Bureau of Workers' Compensation (BWC) from providing medical or indemnity benefits to claimants who are illegal or unauthorized aliens.
- The bill prohibits employers from including illegal and unauthorized aliens in their workers' compensation plans. This could lead to a decline in premium and assessment income collected by BWC.

### Local Fiscal Highlights

- The bill permits an illegal or unauthorized alien who is injured on the job to sue his or her employer for compensation if the employer knew that the worker was an illegal or unauthorized alien, or if an injury is the result of an intentional tort. If this leads to more cases, municipal or common pleas courts could incur some additional expense for the additional hearings that may occur.

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## Detailed Fiscal Analysis

### Overview

Under current law, the Bureau of Workers' Compensation (BWC) provides benefits and compensation for compensable injuries suffered by any injured worker covered by a state fund employer's worker compensation plan. Benefits are paid without consideration to the injured worker's immigration status. In FY 2011, the total amount of benefits paid by BWC was approximately \$1.8 billion. There were approximately 1.1 million open claims during this period. Presumably, some of these benefits were paid against claims made by illegal or unauthorized aliens. According to an estimate by the Pew Hispanic Center, a nonprofit organization that tracks the impact of the Hispanic population on the country's culture and economy, there were approximately 70,000 illegal or unauthorized aliens of all nationalities in Ohio's workforce in 2010, the most recent year for which information was readily available. The bill prohibits BWC from awarding benefits or compensation to claimants who are illegal or unauthorized aliens. The bill also specifies what legal rights these workers and their employers have, and under what circumstances an injured worker who is an illegal or unauthorized alien may sue their employer for damages. The potential fiscal effects of the changes are discussed below.

### **Prohibition of workers' compensation benefits for illegal or unauthorized aliens**

The bill prohibits BWC from awarding benefits or compensation to claimants who are illegal or unauthorized aliens. The bill also prohibits employers from including illegal or unauthorized aliens in their workers' compensation coverage. Prohibiting payment of medical or indemnity benefits to injured illegal or unauthorized aliens potentially reduces costs paid from the State Insurance Fund. Conversely, prohibiting employers from providing workers' compensation coverage to illegal or unauthorized aliens potentially results in reduced premium and assessment income for the State Insurance Fund and the Workers' Compensation Fund (Fund 7023). Because BWC does not currently collect data about or currently track the immigration status of workers covered by workers' compensation, estimates of the potential cost savings or revenue loss cannot be made at this time.

### **Attestation of eligibility**

The bill requires that claimants submit a signed attestation that they are eligible employees, or if the claimant is the dependent of a worker who is deceased, that the claimant attest to the decedent's eligibility. The bill does not require BWC to request proof that an attestation is valid, but allows BWC to do so if it has reason to believe that an attestation is not valid. Overall, this may result in a minimal cost increase for BWC. Any additional expense resulting from this requirement would be paid from the

Workers' Compensation Fund (Fund 7023), which consists of assessments charged to employers in addition to their premium payments.

**Liability for injuries and occupational diseases suffered by illegal or unauthorized aliens**

The bill provides immunity from liability to employers for injuries and occupational diseases suffered by workers who are illegal or unauthorized aliens. Employers, however, are liable if they knowingly employ an illegal or unauthorized alien who suffers an injury or occupational disease, or if an injury or occupational disease is the result of an intentional tort. In either of these situations, an illegal or unauthorized alien may bring action against the employer in court. This may result in additional cases being filed and an increase in administrative costs for county courts of common pleas or municipal courts, although many illegal or unauthorized aliens might be reluctant to pursue litigation considering their immigration status.

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