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Final Analysis
Legislative Service Commission

Sub. S.B. 169
123rd General Assembly
(As Passed by the General Assembly)

Sens. Wachtmann, Spada, Armbruster, Gardner, Drake

**Reps. Buehrer, Hood, Young, Cates, Terwilleger, Mottley, Grendell, Schuler,
Widener, Amstutz, Vesper, Hoops**

Effective date: *

ACT SUMMARY

- Makes the safety inspections currently mandated for public employers who are exempt from the Public Employment Risk Reduction Program optional and specifies that they can be conducted any time within the exemption period instead of requiring that they be conducted biennially.
- Requires the Superintendent of the Division of Safety and Hygiene, who conducts the optional inspections, to note hazards or unsafe conditions, recommend their abatement, and provide the resulting report and recommendations to the public employer.
- Prohibits the Administrator of the Bureau of Employment Services from issuing a citation for hazardous or unsafe conditions that are identified in an optional inspection of an exempt public employer.
- Requires the Director of Commerce and Administrator of Workers' Compensation to jointly submit a report regarding the act's effect on workplace safety to specified General Assembly leaders within four years after the act's effective date.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

CONTENT AND OPERATION

Background

Continuing law establishes a Public Employment Risk Reduction Program ("PERRP"), which is administered and enforced by the Administrator of the Bureau of Employment Services, for state and local public employers and public employees in the workplace.¹ The Program authorizes the Public Employment Risk Reduction Advisory Commission to adopt a series of employment risk reduction standards that all public employers must observe with regard to public employment. Public employers may apply for temporary or permanent variances from standards based on claims of hardship. The Administrator is empowered to inspect public workplaces and seek injunctive relief for violations of the standards.

PERRP safety inspections relative to exempt status

(secs. 4167.02 (not in the act) and 4167.19)

Under continuing law, for purposes of coverage under the Public Employment Risk Reduction Program, "public employer" includes all public employers, including the state and its instrumentalities, any political subdivisions and their instrumentalities, and any other branch of public employment. The law permits all public employers, except for state agencies, to apply to the Administrator for an order exempting that employer from compliance with the Public Employment Risk Reduction Program for a renewable, seven-year period if the public employer satisfies specified criteria. The exemption is renewable by following the same procedures that are used in granting the original exemption. As part of the application process for an exemption, a public employer must undergo an employment risk reduction inspection conducted by the Superintendent of the Division of Safety and Hygiene in the Bureau of Workers' Compensation (BWC). If no hazardous or unsafe conditions are found, the Administrator must grant the exemption if the public employer has met all other application requirements. If the Superintendent finds hazardous or unsafe conditions, and the public employer wishes to continue with the exemption application, the public employer must submit a plan for the remediation of any hazardous or unsafe conditions to the Administrator. If the Administrator approves

¹ Under Am. Sub. H.B. 471, which was concurred upon on October 20, 1999, by the 123rd General Assembly, the Bureau is abolished, effective July 1, 2000, and many of its duties transferred to the newly created Department of Job and Family Services. PERRP, however, is transferred to the Department of Commerce. The act identically amends both existing law and the law that takes effect July 1, 2000 so that existing references to the Administrator and the Bureau will be changed to the Director and Department of Commerce.

the remediation plan and grants an exemption, the public employer must certify that the plan has been implemented within one year thereafter.

Currently, an exempt public employer must continue to undergo BWC safety inspections beginning two years after the date on which the exemption is granted, and then every two years thereafter during the exemption period (sec. 4167.19(I)). Also, both exempt and non-exempt public employers are subject to a safety inspection conducted by the Administrator if an employment-related incident occurs in which a public employee is killed, or in which three or more public employees are hospitalized (sec. 4167.19(G)).

Optional safety inspections for exempt public employers

(sec. 4167.19(I))

The act eliminates the requirement that exempt public employers must apply for a mandatory safety inspection by the Superintendent every two years. Under the act, however, an exempt public employer may request an optional safety inspection at any time during the exemption period. The act requires the Superintendent to note any hazardous or unsafe conditions and recommend their abatement when conducting an optional inspection. The Superintendent must make a copy of the inspection report and recommendations available to the public employer. If the Superintendent identifies hazardous or unsafe conditions, the act prohibits the Administrator from issuing a citation to the public employer for a violation of PERRP.

The act does not change provisions that require a safety inspection upon application for the renewal of an exemption, or upon the employment-related death or hospitalization of public employees, as described above.

Report on workplace safety

(Section 6)

The act requires the Director of Commerce and Administrator of Workers' Compensation to jointly submit a report to the President of the Senate, the Speaker of the House of Representatives, and the Chairpersons of the Senate and House committees to which legislation that is the subject of the act is normally referred, on or before four years after the act's effective date. The report must indicate statistics regarding the act's effect on workplace safety in the workplaces to which PERRP applies.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	07-06-99	p. 880
Reported, S. Insurance, Commerce, & Labor	01-26-00	p. 1349
Passed Senate (30-0)	01-26-00	p. 1352
Reported, H. Commerce & Labor	05-03-00	p. 1887
Passed House (95-1)	05-16-00	p. 1957
Concurrence	05-16-00	p. 1720

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