



Jon P. Honeck

*Bill Analysis*  
*Legislative Service Commission*

## **S.B. 211**

123rd General Assembly  
(As Introduced)

**Sens. Herington, Furney, Fingerhut, DiDonato, Mallory**

---

### **BILL SUMMARY**

- Requires all employers who apply for state economic development assistance to undergo a workplace safety inspection by the Superintendent of the Division of Safety and Hygiene of the Bureau of Workers' Compensation as a condition of receiving that assistance.
- Specifies that all agreements between a state official or entity and an employer for the purpose of the receipt of economic development assistance must include a requirement for a workplace safety inspection.
- Requires the Superintendent to notify an employer of any violations of law found in an initial workplace safety inspection, and permits the Superintendent to determine whether a subsequent inspection is necessary.
- Specifies that uncorrected violations discovered during a subsequent inspection are cause for the suspension of any further state economic development assistance by any state official, department, board, or other entity to the particular employer.

---

### **CONTENT AND OPERATION**

#### **Definition of "state economic development assistance" and related workplace safety inspections**

##### **Covered applications**

The bill enacts a new section, R.C. 122.271, that requires that any employer that applies for state economic development assistance must agree as a condition of receiving the assistance to submit the workplace that is the subject of the assistance to a safety inspection by the Superintendent of the Division of Safety and Hygiene of the Bureau of Workers' Compensation (R.C. 122.271(B)). The bill

only applies to state economic development assistance that is applied for on or after its effective date (Section 2 of the bill) and defines that assistance as any of the following (R.C. 122.271(A)):

- (1) Any grant made under Chapter 122. of the Revised Code;
- (2) Any loan or loan guarantee made under Chapter 122. or 166. of the Revised Code;
- (3) Any other grant, loan, or loan guarantee made or granted at the state level for economic development reasons (see below) under any section of the Revised Code;
- (4) Any tax credit granted under R.C. 122.17.

R.C. Chapters 122. and 166. are administered by the Department of Development, and R.C. 122.17 is administered by the Tax Credit Authority.<sup>1</sup> The third component of the definition apparently applies to any state official, department, board, or other entity that is authorized to grant state economic development assistance. The bill does not define, however, what constitutes an *economic development reason* for purposes of grants, loans, or loan guarantees made or granted by those officials or entities. (R.C. 122.271(A) and (B).)

### **Types of employers subject to inspections**

The bill appears to apply to any employer that receives state economic development assistance, including for profit entities, nonprofit entities, and public entities. As mentioned above, the employer agrees to submit the workplace that is the subject of the assistance to a workplace safety inspection as a condition of

---

<sup>1</sup> Chapter 122. of the Revised Code is the general law pertaining to the Department of Development and prescribes for it various functions, including functions related to its Office of Small Business, the Urban and Rural Initiative Grant Program, the Rural Industrial Park Loan Program, the Industrial Technology and Enterprise Development Grant Program, the Thomas Alva Edison Grant Program, the Steel Futures Program, the Small Business Innovation Research Grant Program, the Division of Economic Development, the Office of Community Services, the Minority Business Development Division, etc. Under Chapter 122. of the Revised Code some other entities also are involved in grant-making processes with the Department, e.g., the Industrial Technology and Enterprise Advisory Council, the Development Financing Advisory Council, and the Minority Development Financing Advisory Board.

Chapter 166. of the Revised Code pertains to other economic development programs under the purview of the Department of Development.

receiving the assistance. It is the duty of the state official, department, board, or other entity granting the assistance (1) to include as a condition for receiving the assistance the requirement of the workplace safety inspection and (2) to notify in writing, after executing an assistance agreement, the Superintendent of the Division of Safety and Hygiene that a workplace safety inspection is required. (R.C. 122.271(B).)

### **Inspection provisions**

#### **The initial inspection**

After notification from a state official, department, board, or other entity granting economic development assistance, the Superintendent of the Division of Safety and Hygiene must agree with the employer on an acceptable date and time for a workplace safety inspection. The inspection must be conducted at no charge to the employer, and, at the inspection, the Superintendent must notify the employer of (1) safety requirements that apply to the workplace "under the law," (2) any violations of those requirements discovered by the inspection, and (3) recommended actions to correct the violations. The Superintendent must then transmit a copy of a written inspection report to the state official or entity that granted the employer's assistance. The employer cannot be cited or penalized for any violations discovered during an initial inspection, and the state official or entity must add the inspection report to its file on the employer's assistance. (R.C. 122.271(C) and (D).)

#### **Follow-up inspection and penalty for violations**

An employer must be held accountable and subject to penalties (as provided "under the law") for any uncorrected violations that are discovered at a follow-up inspection. The Superintendent of the Division of Safety and Hygiene determines if a follow-up inspection is necessary. If a follow-up inspection is conducted and reveals uncorrected violations, the Superintendent must send a written notice of that fact to the Director of Development. It is the duty of the Director to then notify in writing *each state official, department, board, or other entity* authorized to grant state economic development assistance that the employer is not generally eligible for additional assistance until the violations are corrected (see exception below). This prohibition apparently has the effect of causing the state official or entity that granted the employer's assistance to cease to distribute that assistance. (R.C. 122.271(E)(1).)

If the Superintendent subsequently determines that the violations have been corrected, the Superintendent must send a written notice of that fact to the Director of Development. The Director then must send a written notice to the appropriate state officials, departments, boards, and other entities indicating that fact and the

employer's eligibility to again receive state economic development assistance. A state official or entity cannot grant the employer additional assistance until it receives the Director's notice to that effect. (R.C. 122.172(C) and (E)(1).)

**Exception to the imposition of the penalty**

The bill provides that a state official, department, board, or other entity that grants state economic development assistance cannot withhold assistance to which it had committed itself by contract to disburse before receiving notification of an employer's uncorrected violations from the Director of Development (R.C. 122.271(E)(2)).

---

**COMMENT**

1. Because the bill focuses on employers that "apply for state economic assistance," it is unclear whether its requirements are also intended to apply to employers that receive state economic development assistance that is channeled through another entity (e.g., recipients of subgrants).

2. Under current law, the results of inspections by the Division of Safety and Hygiene are not used to enforce workplace safety laws. The Superintendent is authorized, under the direction of the Administrator of Workers' Compensation and with the advise and consent of the Workers' Compensation Oversight Commission, to "conduct investigations and researches for the prevention of industrial accidents and diseases, conduct loss prevention programs and courses for employers, establish and administrate cooperative programs with employers for the purchase of individual safety equipment for employees, and print and distribute information as may be of benefit to employers and employees" (R.C. 4121.37, not in the bill). Private employers are subject to workplace safety inspections by the federal Occupational Safety and Health Administration, and public employers are subject to inspections under the Public Employment Risk Reduction Program. (R.C. Chapter 4167., not in the bill.)

The bill provides that an employer shall be held accountable for and subject to penalties as provided under the law for any uncorrected violations that are discovered at any follow-up inspections (R.C. 122.271(C)). It is unclear whether the phrase "under the law" in this provision includes only Ohio law or both Ohio and federal law.

---

**HISTORY**

ACTION	DATE	JOURNAL ENTRY
--------	------	---------------

Introduced

11-18-99

p. 1192

S0211-I.123/jc

