



**S.B. 260**

124th General Assembly

(As Re-referred to S. Finance & Financial Institutions)

**Sens. Randy Gardner, White, Harris, Goodman, Mead**

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**BILL SUMMARY**

- Permits the Administrator of Workers' Compensation to allow a state institution of higher education, a school district, a county school financing district, an educational service center, and a community school to self-insure construction projects estimated to cost over \$25 million, whether or not those public employers are self-insuring public employers under the Workers' Compensation Law.

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**CONTENT AND OPERATION**

**Background**

Under the Workers' Compensation Law (Chapters 4121., 4123., 4127., and 4131.), employers must pay premiums into the State Insurance Fund (termed "state fund" employers) or be an employer to whom the Administrator of Workers' Compensation has granted the status of self-insuring employer. A self-insuring employer is an employer who pays the compensation and benefits for a compensable injury or occupational disease provided for in the Workers' Compensation Law directly to or on behalf of an employee instead of making premium payments to the State Insurance Fund from which, for state fund employers, compensation and medical bills are paid. As with state fund employers, self-insuring employers still must pay certain assessments, such as the administrative assessment which is imposed upon all employers for the operation of the Bureau of Workers' Compensation and the Industrial Commission. Under current law, in order for the Administrator to grant an employer self-insuring status, the employer must file an application with the Administrator who in turn must consider various factors in determining whether the employer can meet the obligations of being a self-insuring employer. The factors the Administrator assesses differ depending upon whether the employer is a private employer or public employer.

The Administrator was first permitted to allow public employers, other than the state, to become self-insuring under S.B. 266 of the 123rd General Assembly. The Administrator can consider the application of a public employer to self-insure only if the public employer satisfies statutorily specified criteria. Although the state cannot obtain self-insuring status, state institutions of higher education may opt to self-insure, except that their hospitals cannot be included.<sup>1</sup> Senate Bill 266 took effect on March 12, 2001. At the time this analysis was prepared, no public employer had become self-insuring yet, according to officials at the Bureau of Workers' Compensation. (Sec. 4123.35.)

### **The bill**

(sec. 4123.35 (O), (P), (Q), and (R))

Current law also permits the Administrator to allow a *self-insuring employer* to self-insure a construction project entered into by the self-insuring employer if the project is scheduled for completion within six years and estimated to exceed a cost of \$100 million, except that the Administrator can waive this criteria as long as the project is estimated to exceed a cost of *\$50 million*. The bill permits the Administrator to also allow the following types of public employers to self-insure a construction project estimated to exceed a cost of *\$25 million, instead of \$50 million*, irrespective of their status as *state fund employers, instead of self-insuring employers*:

- (1) A school district;
- (2) A county school financing district;
- (3) An educational service center;
- (4) A community school established under the Community Schools Law (R.C. Chapter 3314.);
- (5) Community colleges, university branches, technical colleges, and state community colleges, established under the applicable laws of this state for those types of institutions;

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<sup>1</sup> As used in this provision, "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, Youngstown State University, and community colleges, university branches, technical colleges, and state community colleges established under the applicable laws of this state for those types of institutions.

(6) The following state institutions of higher education: 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.

Under current law, self-insuring employers desiring to self-insure a construction project must submit an application containing statutorily specified information to the Administrator. The Administrator may consider all of the following when deciding whether to permit a self-insuring employer to self-insure a construction project:

(1) Whether the self-insuring employer has an organizational plan for the administration of the Workers' Compensation Law;

(2) Whether the safety program that is specifically designed for the construction project provides for the safety of employees employed on the construction project, is applicable to all contractors and subcontractors who perform labor or work or provide materials for the construction project, has a safety training program that complies with standards adopted pursuant to the federal "Occupational Safety and Health Act of 1970," and provides for continuing management and employee involvement;

(3) Whether granting the privilege to self-insure the construction project will reduce the costs of the construction project;

(4) Whether the self-insuring employer has employed an ombudsperson as required;

(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible if allowed to self-insure the construction project.

Under the bill, the Administrator may consider all of the above criteria when evaluating whether to allow the types of educational public employers describe above to self-insure a construction project.

Currently, a self-insuring employer may apply to self-insure the employees of either all contractors and subcontractors, or all contractors and, at the discretion of the Administrator, a substantial number of all the subcontractors who perform labor or work or provide materials for the construction project. Under the bill, this provision also applies to the types of educational public employers describe above.

Upon approval of an application, the self-insuring employer is responsible for the administration and payment of all workers' compensation claims for the



employees of the covered contractor and subcontractors for that construction project. Additionally, the self-insuring employer must designate a safety professional to be responsible for the administration and enforcement of the safety program that is specifically designed for the construction project. The self-insuring employer also must employ an ombudsperson, who must have experience in workers' compensation or the construction industry, to perform statutorily specified duties. The self-insuring employer must post the name of the safety professional and ombudsperson and instructions for contacting those persons in a conspicuous place at the site of the construction project. Under the bill, all of these requirements apply to the types of educational public employers described above if permitted to self-insure a construction project.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-25-02	p. 1732
Re-referred to S. Finance & Financial Institutions	05-14-02	p. 1764

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