

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Sub. H.B. 79** DATE: **December 3, 2008**
STATUS: **As Passed by the House** SPONSOR: **Rep. Batchelder**
LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost**
CONTENTS: **Bureau of Workers' Compensation investment policy changes**

State Fiscal Highlights

STATE FUND	FY 2009 - FUTURE YEARS
Workers' Compensation Custodial Funds	
Revenues	Possible gain or loss
Expenditures	Minimal increase from State Insurance Fund for background checks
General Reimbursement Fund (Fund 106) - Attorney General	
Revenues	Minimal gain in background check revenue
Expenditures	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

- Investment returns into the surplus and reserve of the State Insurance Fund and all other workers' compensation custodial funds could increase or decrease as a result of the bill limiting investments of these funds to a "white list" of permitted investments and removing prohibitions on certain investment classes under current law, depending on the classes in which funds are invested and market conditions.
- There may be a minimal increase in expenditures from the State Insurance Fund for the costs of conducting background checks on potential outside investment consultants. Fees paid for this purpose are collected by the Bureau of Criminal Investigation and Identification and deposited into the Attorney General's General Reimbursement Fund (Fund 106).

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.



Detailed Fiscal Analysis

Permitted investments

The bill applies the entire Bureau of Workers' Compensation (BWC) investment policy to all of the workers' compensation custodial funds in addition to the State Insurance Fund (SIF). The SIF is the primary source for compensation payments to injured workers and has historically been the focus of the investment policy. However, the bill also applies the law regarding BWC investments to the other custodial funds, which include the Premium Payment Security Fund, the Self-Insuring Employer Guaranty Fund, the Disabled Worker Relief Fund, the Public Work-Relief Employees' Compensation Fund, the Coal Workers' Pneumoconiosis Fund, and the Marine Industry Fund.

The bill removes the current statutory requirement that the Administrator of Workers' Compensation make investments and manage the various workers' compensation funds in a manner that a prudent person acting in a like capacity and familiar with such matters would use in an enterprise with like character and like aims, including diversification of investments to minimize risk unless circumstances render it not prudent to do so. The removal of this requirement opens the potential for the Bureau of Workers' Compensation to invest moneys in the surplus and reserve of the State Insurance Fund and the other workers' compensation custodial funds in investments with high returns, but also high risk. However, in place of the "prudent person" standard and in order to provide some investment limitations, the bill also enumerates the classes in which the Bureau is permitted to invest and places additional restrictions on how much of the funds may be invested in certain classes, thereby serving to mitigate the effect of removing the prudent person standard from the law.

Under the bill, the Bureau (acting through the authority of the Administrator) is permitted to invest the assets of the custodial funds only in any of the 28 investment classes specifically identified in division (A) of section 4123.443 of the Revised Code. These are described in detail in the LSC bill analysis. This "white list" limits the classes the Bureau can invest in only to those specifically named. The bill also removes a list of current prohibited investments and places restrictions on the list of permitted investments in order to prevent BWC from investing in large portions of single companies or investing large fractions of the fund's surplus and reserves in a single type of asset class, such as real estate or railroad holdings.

The bill could have either a positive or negative effect on investment returns into the surplus and reserves of the workers' compensation custodial funds as a result of these changes, depending on the allocation of assets in the Bureau's investment portfolio and the state of the markets for those various assets.

Criminal records checks for investment consultants

Current law permits the Administrator to enter into contracts with outside investment managers, with the contracts paid for out of the State Insurance Fund, and to request that the superintendent of the Bureau of Criminal Investigation and Identification (BCII) conduct a

criminal records check on the employees of the investment manager who would be working on the BWC portfolio. The bill would apply the background check requirement to contracts with investment consultants as well. While investment managers perform the duties of actually facilitating the dispensation of BWC funds into various investment classes, investment consultants may be used to perform analyses and offer advice and opinions on these investments.

From a fiscal perspective, BWC must pay a fee to BCII for the execution of these criminal records checks. At this time, LSC does not have information as to what the funding source is for these fees. However, because the contracts for the investment managers and investment consultants are paid out of the State Insurance Fund, it is likely that the fees for criminal records checks on the consultants would be paid from the same funds. Since the State Insurance Fund holds assets of between \$18 billion and \$20 billion, any increase in expenditures for paying the fees for background checks would be minimal and not have a significant effect on the fund's ability to pay compensation to injured workers.

Fees are collected by BCII and deposited into the General Reimbursement Fund (Fund 106), in the General Services Fund Group and housed within the Attorney General's office. This is the fund into which all fees paid to BCII for conducting civilian criminal records checks are deposited. Revenues to this fund as a result of this bill are not expected to have more than a minimal fiscal impact on the fund.

Loans and the Issuing of Bonds

The bill authorizes BWC to borrow money at a negotiated rate of interest as needed to pay required compensation and benefits, except that the total amount of outstanding loans can be no greater than \$10 million. The loan terms can be no longer than one year, but are renewable. To obtain these loans, the bill allows BWC to issue bonds and pledge its assets as collateral. Since the amount of outstanding loans cannot be greater than \$10 million at any time, and since BWC maintains net assets currently equaling 1.158 times the amount of its total expected liabilities, the chances of default would be exceedingly low.

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