



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [S.B. 176 of the 130th G.A.](#)

Date: January 28, 2014

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 may potentially decrease 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, which could lead to a decline in premium payments to the State Insurance Fund and assessment income deposited into the Workers' Compensation Fund (Fund 7023), the main source of operating revenue for 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. Although there would be few such cases, municipal or common pleas courts could incur some additional costs for any additional hearings that may result.

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. 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 bill applies only to claims arising on or after the bill's effective date.

In FY 2013, the total amount of benefits paid by BWC was approximately \$1.8 billion. About \$1.1 billion of this sum was for various lost time claims, while the remaining amount of approximately \$0.7 billion was for medical claims. The number of open lost time and medical claims in FY 2013 numbered 958,625. Presumably, some of these benefits were paid against claims made by illegal or unauthorized aliens, although this number is not tracked by BWC or other sources. According to an estimate by the Pew Hispanic Center, based on U.S. Bureau of Labor Statistics and U.S. Census Bureau survey data compiled for the Current Population Survey, there were approximately 70,000 illegal or unauthorized aliens of all nationalities in Ohio's workforce in 2010.¹

Prohibiting payment of workers' compensation benefits

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. Cost savings would be very complicated to estimate, since medical and lost time benefits vary significantly according to the nature of the injuries or occupational diseases that occur.

¹ Pew Hispanic Center, *Unauthorized Immigrant Population: National and State Trends, 2010*, <http://www.pewhispanic.org/2011/02/01/unauthorized-immigrant-population-brnational-and-state-trends-2010/>.

Attestation of eligibility

The bill requires that claimants submit a signed attestation that they are eligible to receive benefits under the Workers' Compensation Law, 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 could lead to some increase in administrative expenses for processing claims and evaluating their validity. 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

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.