



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 15

128th General Assembly

(As Re-referred to H. Finance & Appropriations)

(Excluding appropriations, fund transfers, and similar provisions)

Reps. Sykes, Dodd

BILL SUMMARY

- Creates in the state treasury the "Deputy Inspector General for the Bureau of Workers' Compensation and the Industrial Commission Fund" and requires the Inspector General to use the Fund to pay the costs incurred by the Deputy Inspector General for the Bureau of Workers' Compensation and the Industrial Commission in the performance of the Deputy Inspector General's duties.
- Specifies that the Fund consists of moneys deposited into it from the Administrator of Workers' Compensation and the Industrial Commission in accordance with the bill's requirements.
- Makes the existing law Surplus Fund an account within the State Insurance Fund.
- Eliminates the requirement that 10% of the money paid into the State Insurance Fund be set aside to create the Surplus Fund and the other limits specified for the amount of money that must be allocated to the Surplus Fund.
- Allows the Administrator to transfer the portion of the State Insurance Fund to the Surplus Fund Account as the Administrator determines is necessary to satisfy the needs of the Surplus Fund Account and to guarantee the solvency of the Fund and the Account.
- Changes the date by which the Bureau of Workers' Compensation Board of Directors Nominating Committee must submit an initial list of names to fill a vacancy due to term expiration on the Bureau of Worker's Compensation (BWC) Board of Directors to the Governor to at least 30 days prior to the term expiration, rather than within 60 days after the term expires as under current law.

- Specifies that if the Governor appoints an individual to fill a vacancy resulting from the expiration of a term, the individual appointed begins serving as a Board member when that term expires or, if the term already has expired, immediately upon appointment by the Governor, whichever occurs later.
- Changes the date by which the Board of Directors must submit to specified entities the annual actuarial report required under continuing law to a point in time that is on or before the first day of November following the year for which the valuation was made, rather than not later than the first day of September as under current law.
- Requires the Board to submit a report annually on the performance and value of each investment class to the Workers' Compensation Council in addition to other entities already specified in continuing law.
- Removes the authority of the Administrator to establish, under the supervision of the Director of Rehabilitation who is appointed by and responsible to the Administrator, the BWC Division of Rehabilitation.
- Eliminates the requirement that the Labor-Management Council submit a list of names of individuals to the Administrator from which the Administrator must appoint an individual to serve as the Director of Rehabilitation.

CONTENT AND OPERATION

Deputy Inspector General for the Bureau of Workers' Compensation and Industrial Commission Fund

Under continuing law, the Office of the Deputy Inspector General for the Bureau of Workers' Compensation and Industrial Commission exists in the Office of the Inspector General. The Deputy Inspector General must investigate wrongful acts or omissions that have been committed by or are being committed by officers or employees of the Bureau of Workers' Compensation (BWC) and the Industrial Commission. The Deputy Inspector General has the same powers and duties regarding matters concerning BWC and the Commission as those specified in continuing law for the Inspector General. The Inspector General appoints the Deputy Inspector General, and the Inspector General must provide professional and clerical assistance to the Deputy Inspector General. (Sec. 121.52.)

The bill creates, in the state treasury, the "Deputy Inspector General for the Bureau of Workers' Compensation and Industrial Commission Fund," which consists of moneys deposited into it that the Inspector General receives from the Administrator of Workers' Compensation and receives from the Industrial Commission. The Inspector

General must use the Fund to pay the costs incurred by the Deputy Inspector General in performing the Deputy Inspector General's duties as required under continuing law. (Sec. 121.52.)

Starting with the fiscal year quarter that begins October 1, 2009, and at the beginning of each quarter of each fiscal year thereafter, the Inspector General must submit a billing to the Administrator and to the Chairperson of the Industrial Commission that reflects the costs incurred by the Deputy Inspector General during the fiscal year quarter immediately preceding the quarter that the Inspector General submits the billing. The billing submitted to the Administrator and the Chairperson must reflect each agency's respective share of the costs incurred by the Deputy Inspector General for work performed regarding the respective agency. At the beginning of the fiscal year quarter that starts October 1, 2009, and at the beginning of each quarter of each fiscal year thereafter, upon the receipt of the billings the Administrator and the Chairperson must process intrastate transfer vouchers to pay for those billings. (Sec. 121.52.)

Surplus Fund Account within the State Insurance Fund

Under continuing law, the BWC Board of Directors and the Administrator have the duty to safeguard and maintain the solvency of the State Insurance Fund and all other funds specified in Ohio's Workers' Compensation Law. (R.C. Chapters 4121., 4123., 4127., and 4131.) (Sec. 4123.34.) Current law requires the Administrator, in fixing the rates of premium for the various occupations or industries, to set aside 10% of the money paid into the State Insurance Fund for the creation of a surplus until the surplus amounts to the sum of \$100,000, after which time, whenever necessary in the Administrator's judgment to guarantee a solvent State Insurance Fund, a sum not exceeding 5% of all the money paid into the State Insurance Fund must be credited to the Surplus Fund. In addition to all statutory authority under the Workers' Compensation Law, the Administrator has discretionary and contingency authority to make charges to Surplus. The Administrator must account for all charges, whether statutory, discretionary, or contingency, that the Administrator may make to Surplus. (Sec. 4123.34(B).)

The bill makes the existing law Surplus Fund an account within the State Insurance Fund. The bill also eliminates the requirement that 10% of the money paid into the State Insurance Fund be set aside to create the Surplus Fund and the limits specified for the amount of money that must be allocated to the Surplus Fund as described immediately above. Instead, under the bill, an unspecified amount of the money paid into the State Insurance Fund must be set aside to create the Surplus Fund Account, and thereafter, the Administrator may transfer such portion of the State Insurance Fund to the Surplus Fund Account as the Administrator determines is

necessary to satisfy the needs of the Surplus Fund Account and to guarantee the solvency of the State Insurance Fund and the Surplus Fund Account. The bill also deems any references in the Workers' Compensation Law to the "Surplus Fund," the "Surplus" created in this provision, the "Statutory Surplus Fund," or the "Statutory Surplus of the State Insurance Fund" as being the equivalent to references to the "Surplus Fund Account." (Sec. 4123.34(B).)

Deadline to submit names to the Governor for BWC Board of Directors appointments

The Governor, with the advice and consent of the Senate, must appoint the members of the BWC Board of Directors (sec. 4121.12(A)). In making appointments to the Board, continuing law requires the Governor to select the members from the list of names submitted by the Workers' Compensation Board of Directors Nominating Committee pursuant to requirements specified in continuing law. Continuing law requires the Governor, within 14 days after the submission of the list, to appoint individuals from the list. (Sec. 4121.12(C).)

Current law requires the Nominating Committee, within 60 days after a vacancy occurring as a result of the expiration of a term and within 30 days after other vacancies occurring on the Board, to submit an initial list containing four names for each vacancy. Continuing law specifies deadline requirements for choosing members from and resubmissions of that list. Under the bill, the Nominating Committee must submit the initial list to the Governor at least 30 days prior to the expiration of a term, rather than within 60 days after the expiration of a term as required under current law. Under the bill, if the Governor appoints an individual to fill a vacancy occurring as a result of the expiration of a term, the individual appointed must begin serving as a Board member when the current term expires or, if the term already has expired, immediately upon appointment by the Governor, whichever occurs later. The bill does not change the remaining deadlines specified in continuing law. (Sec. 4121.12(C).)

Annual actuarial report due date

Continuing law requires the Board to contract to have prepared annually by or under the supervision of an actuary a report that consists of an actuarial valuation of the assets, liabilities, and funding requirements of the funds specified in the Workers' Compensation Law (sec. 4121.125(C) and (E)). The firm or person must prepare a report of the valuation and include all of the information specified in continuing law regarding that report. Under current law, the firm or person must submit the report to the Board, and the Board must submit the report to the Workers' Compensation Council and the standing committees of the House of Representatives and the Senate with primary responsibility for workers' compensation legislation not later than the first day of

September following the year for which the valuation was made. The bill requires the Board to submit the report to the Council and the standing committees on or before the first day of November following the year for which the valuation was made, rather than not later than the first day of September as under current law. (Sec. 4121.125(C)(3).)

Copy of investment reports to the Workers' Compensation Council

Under continuing law, the Board must submit a report annually on the performance and value of each investment class to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives. The bill requires the Board also to submit that report to the Workers' Compensation Council. (Sec. 4121.12(F)(12).)

References to BWC's Division of Rehabilitation

Background--the Division of Rehabilitation

The Administrator, with the advice and consent of the Board, must adopt rules, take measures, and make expenditures as the Administrator deems necessary to aid claimants who have sustained compensable injuries or incurred compensable occupational diseases pursuant to the Workers' Compensation Law to return to work or to assist in lessening or removing any resulting handicap (sec. 4121.61, not in the bill). In exercising this authority, current law grants the Administrator the authority to establish within BWC a rehabilitation division under the supervision of a Director of Rehabilitation appointed by and responsible to the Administrator (sec. 4121.62(A)(4)). Under current law, the Labor-Management Government Advisory Council must recommend to the Administrator three candidates, who must be chosen for their ability and background in the field of rehabilitation, for the position of Director of Rehabilitation. The Administrator must select a director from the list of candidates. (Sec. 4121.70.)

Current law places the Director in the unclassified civil service and allows the appointing authority to designate up to three positions at each facility under the Division's jurisdiction and up to six positions in the Division that are part of the Director's immediate staff as being in the unclassified service as long as the Administrator determines that the positions are primarily and distinctively administrative, managerial, or professional. All other full-time employees of the Division are in the classified civil service. (Sec. 4121.62(B).)

The Administrator currently must establish fees for use of services offered by the Division, including, without limitation, the expense of providing rehabilitation services, counseling, and training. The Administrator must adopt rules, in accordance with the Administrative Procedure Act, which establish the specific services the Division offers

and the amount of the fee for those services, and that amount must be based upon the actual cost of the Division providing the services to the employer and employee. (Sec. 4121.62(C).)

Removal of authority to establish the Division of Rehabilitation

The bill specifically removes mention of the Administrator's authority to establish the BWC Division of Rehabilitation and appoint the Director of Rehabilitation and eliminates the requirement that the Labor-Management Council submit names of individuals to be appointed as the Director of Rehabilitation. The bill also removes the requirement that the Administrator adopt rules to establish the services to be offered by the Division and the amount of fees to be charged for those services as described above. The basic authority of the Administrator, however, to provide for the rendition of rehabilitation services remains in law. (Secs. 4121.62 and 4121.70.)

HISTORY

| ACTION | DATE |
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| Introduced | 02-17-09 |
| Reported, H. Insurance | 03-18-09 |
| Re-referred to H. Finance & Appropriations | 03-18-09 |

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