

LSC Greenbook

Analysis of the Enacted Budget

Department of Insurance

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August 2015

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ATTACHMENT:

Budget Spreadsheet By Line Item

Department of Insurance

- The agency receives no GRF funding
- Funding for Department of Insurance's operations is derived primarily from fees that accompany appointments of insurance agents by insurance companies

OVERVIEW

Agency Overview

The Ohio Department of Insurance (INS) regulates the business of insurance in Ohio. Its mission is to serve and protect Ohio consumers through fair and efficient regulations, provide assistance and education to consumers, and promote a competitive marketplace for insurers. To carry out this mission, it licenses insurance agents and agencies, investigates allegations of misconduct by insurance agents or agencies, examines claims of consumer and provider fraud, investigates consumer complaints, and monitors the financial solvency and market conduct of insurance companies. The Department reviews insurance policies and forms used by insurance companies and the premiums they charge customers in the life, accident, health, managed care, and property and casualty insurance lines. INS also administers the domestic and foreign insurance taxes, which in FY 2015 raised over \$518 million (combined) for the General Revenue Fund (GRF).

The Department of Insurance is a cabinet-level agency with 256 employees. Its activities are organized into eight key areas: Consumer Services, Ohio Senior Health Insurance Information Program (OSHIIP), Market Conduct, Licensing, Risk Assessment, Fraud and Enforcement, Product Regulation, and Program Management (executive, legal services, information technology, human resources, and fiscal services).

The Department of Insurance does not receive funding from the GRF. Funding for operations is derived primarily from the fees that accompany appointments of insurance agents by insurance companies. Beginning June 30, 2014, the Department of Insurance reduced various fees, including the insurance agent appointment fee from \$20 to \$15.¹ The Department receives up to \$11.25 of this \$15 fee with the remaining revenue deposited into the GRF. This primary revenue source is supplemented by company filing fees, various smaller fees, and federal grants. In FY 2015, the agency's actual expenditures were \$34.0 million.

¹ R.C. 3905.40.

In FY 2014, the Department licensed and regulated approximately 1,600 insurance companies operating in the state, of which approximately 240 are "domestic" insurance companies, i.e., companies based and licensed to do business in Ohio. The other 1,360 based in another state but licensed to do business in Ohio are referred to as "foreign" insurance companies. The Department also licensed and regulated over 192,000 insurance agents and about 16,000 agencies.

The following table presents the Department of Insurance staffing level in FY 2015 through FY 2017. Figures for FY 2016 and FY 2017 are estimates.

Key Area	FY 2015	FY 2016 Estimates	FY 2017 Estimates
Consumer Services	30	30	30
OSHIIP	26.75	26.75	26.75
Licensing	15.5	15.5	15.5
Market Conduct	14	14	14
Fraud and Enforcement	22.5	22.5	22.5
Product Regulation	42	48	48
Risk Assessment	53	56	61
Health Care	5	0	0
Program Management	77	80	80
TOTAL	285.75	292.75	297.75

*Data from the Department of Insurance.

Appropriation Overview

The following table provides the appropriations by fund group for INS for the FY 2016-FY 2017 biennium.

Fund Group	FY 2015*	FY 2016	% change, FY 2015-FY 2016	FY 2017	% change, FY 2016-FY 2017
Dedicated Purpose	\$30,988,083	\$35,095,684	13.3%	\$35,798,128	2.0%
Federal	\$3,055,073	\$1,970,725	-35.5%	\$1,970,725	0.0%
TOTAL	\$34,043,156	\$37,066,409	8.9%	\$37,768,853	1.9%

*FY 2015 figures represent actual expenditures.

The budget appropriates a total of \$37.1 million for FY 2016. This amount is \$3.0 million higher than FY 2015 actual expenditures, an 8.9% increase. Appropriations for FY 2017 total \$37.8 million. This amount is \$0.7 million higher than total FY 2016 appropriations, a 1.9% increase. The increase in the budget is primarily due to line item 820606, Operating Expenses, which is the main source of funding for departmental

operations. A newly created line item, 820613, Captive Insurance Regulation & Supervision (Fund 5PT0), also contributes to the increase in total appropriations. Funding in the new line item will be used to pay for the Department's regulatory and enforcement responsibilities related to captive insurers established under Sub. H.B. 117 of the 130th General Assembly.

The budget provides the Department with federal funding of about \$2.0 million for FY 2016. This amount is \$1.1 million, or 35.5%, lower than actual spending from all federal funds in FY 2015, because the Department no longer will receive a federal grant for reviewing health insurance premiums. The federal appropriation for FY 2017 is the same amount as in FY 2016.

Transfer from Fund 5540 to GRF

The budget requires the Director of Budget and Management to transfer \$5 million each year of the biennium from the Department of Insurance Operating Fund (Fund 5540) to the GRF. Department officials indicate that there is sufficient cash in Fund 5540 to accommodate the transfers. The budget also allows the Director, upon a request from the Department of Insurance, to transfer funds from Fund 5540 to the Superintendent's Examination Fund (Fund 5550) to pay for expenses incurred in examining domestic fraternal benefit societies. Department officials point out that such transfers historically have ranged between \$250,000 and \$350,000 annually.

Transfer of Funds for Captive Insurance Company Regulation

The budget allows the Director of Budget and Management to transfer up to \$1 million from Fund 5540 to the Captive Insurance Regulation and Supervision Fund (Fund 5PT0) during FYs 2016 and 2017, to pay for necessary operating needs associated with regulating captive insurance companies in Ohio that will arise before receipts related to such regulation are deposited into Fund 5PT0. The budget requires the Director, in consultation with the Superintendent, to establish a schedule for repaying Fund 5540 for the transferred amounts.

Multiple Employer Welfare Arrangements

The budget expands entities eligible to form a multiple employer welfare arrangement (MEWA) to include a chamber of commerce, a tax-exempt voluntary employee beneficiary association or business league, or any other association specified in rule by the Superintendent. The budget extends from one year to five years the time frame a group must have been organized and maintained before registering as an MEWA. The budget also makes changes to several statutes governing MEWAs related to the required minimum surplus, risk-based capital requirements, the use of stop-loss insurance policies, filing actuarial certifications, and a few other regulatory requirements. Monitoring the implementation of these changes may increase the Department's administrative costs.

Any increase in such costs would be paid from Fund 5540. The requirements may also reduce GRF revenue under the insurance premium taxes (domestic and foreign); MEWAs are currently exempted from the taxes. The amount of tax revenue loss would depend on the number of employers shifting from a taxable premium-based provision of health benefits to MEWA-based provision.

Use of Genetic Information by Insurers

The budget prohibits health insurers,² including public employee benefit plans, from using genetic information in relation to reviewing applications, determining insurability, determining benefits, or setting premium rates. "Health insurers" include health insuring corporations (HICs), sickness and accident insurers, and MEWAs. The budget specifies that health insurers, including public employee benefit plans, are subject to the jurisdiction of the Superintendent of Insurance, and the Superintendent's enforcement authority, if such insurers violate these prohibitions. This provision may increase costs to some political subdivisions to provide health benefits to employees and their dependents, and may decrease costs to other political subdivisions to provide those benefits. Costs to the state to provide such benefits may increase or decrease as well. The cost of providing health benefits to state and local employees, across all employers statewide, would likely be unchanged. Genetic information may allow insurers to price risk more precisely across groups of employees, meaning premiums would likely go up for some groups and down for other groups, assuming the market for health insurance is competitive.

Innovative Waiver Regarding Health Insurance Coverage

The budget requires the Superintendent of Insurance to apply for a federal waiver authorized by the Patient Protection and Affordable Care Act (ACA) for the purpose of establishing a system that provides access to affordable health insurance coverage for the residents of this state. The required application is to include a request for waivers of the federal employer and individual mandates established by the ACA.

Health Insurer Required Provision of Information

The budget requires insurers offering health benefit plans through an exchange to make available a list of the top 20% of services and an insured's expected contribution for each service to individuals seeking information on the plan. The budget also specifies that an insurer that does not provide the required information is committing an unfair and deceptive practice in the business of insurance. The

² HICs and sickness and accident insurers are already prohibited from using genetic information for some of these purposes.

provisions may increase the Department's administrative costs. Any increase in such costs would be paid from Fund 5540.

Pharmacy Benefit Managers and Maximum Allowable Cost

The budget adds pharmacy benefit managers (PBMs) to the types of third-party administrators who are required to be licensed by the Superintendent of Insurance. The bill specifies certain requirements related to contracts between pharmacies and PBMs, primarily in regard to maximum allowable cost drug reimbursements. The budget also allows the Superintendent to assess a fine against an administrator (any person who adjusts or settles insurance claims, including a PBM) for (1) committing fraud or engaging in illegal activity in connection with administering pharmacy benefit management services or (2) violating any of the requirements pertaining to PBMs. The budget provides \$225,000 in each of FY 2016 and FY 2017 in line item 820606, Operating Expenses, to pay for the Department's operating expenses related to monitoring and enforcing this provision.

ANALYSIS OF ENACTED BUDGET

Introduction

This section provides an analysis of each appropriation item in the Enacted Budget for the Department. For each category a table is provided listing the appropriation in each fiscal year of the biennium. Following the table, a narrative describes how the appropriation is used and any changes affecting the appropriation. The four categories used in this analysis are as follows:

1. Operating Expenses;
2. Consumer Services;
3. Examination; and
4. Captive Insurance.

To aid the reader in finding each item in the analysis, the following table shows the category in which each appropriation has been placed, listing the line items in order within their respective fund groups and funds. This is the same order in which the line items appear in the budget act.

Categorization of INS Appropriation Line Items for Analysis of Enacted Budget		
Fund	ALI and Name	Category
Dedicated Purpose Fund Group		
5540 820601	Operating Expenses – OSHIIP	2: Consumer Services
5540 820606	Operating Expenses	1: Operating Expenses
5550 820605	Examination	3: Examination
5PT0 820613	Captive Insurance Regulation & Supervision	4: Captive Insurance
Federal Fund Group		
3U50 820602	OSHIIP Operating Grant	2: Consumer Services

Category 1: Operating Expenses (820606)

This appropriation item provides funding for the general operating expenses for the Department of Insurance, excluding OSHIIP and the agency's Financial Examination programs. The appropriation draws on the Department of Insurance Operating Fund (Fund 5540). Fund 5540 receives funding from various fees, such as a \$15 annual fee assessed to each insurance agent licensed to provide insurance service in Ohio, appointment fees assessed to insurance agencies, and fees for certain services or transactions performed by the Department.

The Department of Insurance's regulatory and licensing responsibilities can be broken down into the following key areas: (1) consumer affairs, (2) market conduct, (3) agent licensing, (4) risk assessment, (5) fraud and enforcement, (6) product regulation, and (7) administrative support. In addition, the Department of Insurance is required under Ohio law to oversee and administer the liquidation process of an Ohio domiciled insurance company that becomes insolvent and requires liquidation. Personnel costs for the Ohio Liquidation Office, which is responsible for the administration of the liquidation, are reimbursed to the Department from the insolvent insurance companies that are being liquidated.

The Department issues licenses to insurance agents and agencies and maintains agents' continuing education requirements. The enacted budget modifies the continuing education requirements for licensed insurance agents. Under the new requirement, an agent must complete at least 24 hours of continuing education *for* each licensing period instead of 24 hours *in* each licensing period as under previous law.

The enacted budget replaces the surplus lines affidavit, required under continuing law to be completed for every insurance policy placed in the surplus lines market, with a signed statement serving a similar purpose, that does not need to be notarized.

The budget also makes changes to the process for collecting the domestic insurance tax. Specifically, it (1) requires the Treasurer of State to bill domestic insurance companies for taxes due by May 15 each year, (2) allows the Treasurer to delay such billing in case of exigency, and (3) imposes a due date of June 15³ for paying taxes. The budget makes changes to the current penalties for failure to pay the tax on time, requiring the Treasurer to impose a penalty of \$500 per month for each month that a taxpayer fails to pay all taxes and interest that is owed. The Treasurer may impose an additional penalty up to 10% of taxes and interest owed if the taxpayer is judged not to be making a good faith effort to pay the amounts due on time.

³ If June 15 is not a business day, the due date becomes the next business day following June 15.

The budget appropriates a total of \$26.2 million in FY 2016 in this line item. This amount represents an increase of 12.9% from the actual expenditures for FY 2015. The budget appropriates a total of \$26.2 million in FY 2017, which is the same as the FY 2016 appropriation.

Appropriations for Operating Expenses				
Fund		ALI and Name	FY 2016	FY 2017
Dedicated Purpose Fund Group				
5540	820606	Operating Expenses	\$26,235,367	\$26,235,367
<i>Dedicated Purpose Fund Group Subtotal</i>			\$26,235,367	\$26, 235,367
Total Funding: Operating Expenses			\$26,235,367	\$26, 235,367

Category 2: Consumer Services (820602 and 820601)

The appropriation line items, OSHIIP Operating Grant (820602) and Operating Expenses – OSHIIP (820601), provide funding for the administration of the Consumer Services Program. This program assists and educates Ohioans on insurance issues, including health insurance for seniors. Over 90% of the funding for the program comes from a federal grant, with the remainder coming from the Department of Insurance Operating Fund (Fund 5540). Fund 5540 receives funding primarily from fees paid by insurance agents and by insurance companies.

The budget appropriates \$180,000 from Fund 5540 for FY 2016, \$10,000 or 5.9% more than actual expenditures for FY 2015. The appropriation for FY 2017 is \$180,000, which is the same as the FY 2016 appropriation. Appropriations for the FY 2016-FY 2017 biennium total \$360,000. State funding for FYs 2014 and 2015 was \$236,113. The appropriations for FYs 2016 and 2017 are \$123,887, or 52.5%, higher than state funding for FYs 2014 and 2015.

The federal grant that provides most of the funding for this program was about \$1.9 million in both FY 2014 and FY 2015. Department officials expect the grant amount to be about \$2.0 million for each year of the upcoming biennium.

The sum of the two appropriations for the program for FY 2016 is \$2.2 million, which is \$63,904 or 3.1% higher than actual expenditures for FY 2015. The sum of the appropriations for FY 2017 is \$2.2 million, which is the same as the sum in FY 2016.

Appropriations for Consumer Services				
Fund	ALI and Name		FY 2016	FY 2017
Federal Fund Group				
3U50	820602	OSHIIP Operating Grant	\$1,970,725	\$1,970,725
Federal Fund Group Subtotal			\$1,970,725	\$1,970,725
Dedicated Purpose Fund Group				
5540	820601	Operating Expenses – OSHIIP	\$180,000	\$180,000
Dedicated Purpose Fund Group Subtotal			\$180,000	\$180,000
Total Funding: Consumer Services			\$2,150,725	\$2,150,725

Category 3: Examination (820605)

This appropriation line item funds departmental oversight of licensed insurance companies. Ohio law requires a financial examination be conducted at least once every five years. The Department monitors the financial solvency of insurance companies by reviewing financial statements and other records, and by conducting regular onsite examinations. In FY 2014, the Department conducted 70 onsite examinations and more than 7,500 audits. Funding for this oversight comes from the Superintendent's Examination Fund (Fund 5550). The Department's expenses from conducting an examination of a company are paid by the company to the Superintendent and deposited into Fund 5550.

The budget appropriates \$8.2 million each for FY 2016 and FY 2017 for this line item. This amount is \$605,296 or 8.0% higher than the actual expenditures for FY 2015.

Appropriations for Examination				
Fund	ALI and Name		FY 2016	FY 2017
Dedicated Purpose Fund Group				
5550	820605	Examination	\$8,184,065	\$8,184,065
<i>Dedicated Purpose Fund Group Subtotal</i>			\$8,184,065	\$8,184,065
Total Funding: Examination			\$8,184,065	\$8,184,065

Category 4: Captive Insurance (820613)

This category consists of a single new line item that provides funding for administrative expenses related to the oversight of captive insurers. H.B. 117 allowed captive insurance companies to operate in Ohio. Enacted in June 2014, the act's effective date was in September 2014. Among other provisions, H.B. 117 provided for a \$500 fee to apply to form a captive insurer, and established other fees and revenue sources for the Captive Insurance Regulation and Supervision Fund (Fund 5PT0).

The budget allows the Director of Budget and Management to transfer up to \$1 million from Fund 5540 to Fund 5PT0 during FYs 2016 and 2017, to pay for necessary operating needs associated with regulating captive insurance companies in Ohio that will occur before receipts related to such regulation are deposited into Fund 5PT0. The budget also requires the Director, in consultation with the Superintendent, to establish a schedule for repaying Fund 5540 for the amounts previously transferred.

The budget appropriates \$0.5 million in FY 2016 and \$1.2 million in FY 2017 for this line item.

Appropriations for Captive Insurance				
Fund	ALI and Name		FY 2016	FY 2017
Dedicated Purpose Fund Group				
5PT0	820613	Captive Insurance Regulation & Supervision	\$496,252	\$1,198,696
<i>Dedicated Purpose Fund Group Subtotal</i>			\$496,252	\$1,198,696
Total Funding: Captive Insurance			\$496,252	\$1,198,696

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FY 2016 - FY 2017 Final Appropriation Amounts

All Fund Groups

Line Item Detail by Agency

			FY 2014	FY 2015	Appropriation FY 2016	FY 2015 to FY 2016 % Change	Appropriation FY 2017	FY 2016 to FY 2017 % Change
Report For Main Operating Appropriations Bill			Version: As Enacted					
INS	Department of Insurance							
5540	820601	Operating Expenses-OSHIIP	\$ 66,113	\$ 170,000	\$ 180,000	5.88%	\$ 180,000	0.00%
5540	820606	Operating Expenses	\$ 23,954,572	\$ 23,239,315	\$ 26,235,367	12.89%	\$ 26,235,367	0.00%
5550	820605	Examination	\$ 7,663,884	\$ 7,578,769	\$ 8,184,065	7.99%	\$ 8,184,065	0.00%
5PT0	820613	Captive Insurance Regulation & Supervision	\$0	\$0	\$ 496,252	N/A	\$ 1,198,696	141.55%
Dedicated Purpose Fund Group Total			\$ 31,684,569	\$ 30,988,083	\$ 35,095,684	13.26%	\$ 35,798,128	2.00%
3EVO	820610	Health Insurance Premium Review	\$ 860,047	\$ 1,138,252	\$ 0	-100.00%	\$ 0	N/A
3U50	820602	OSHIIP Operating Grant	\$ 1,924,147	\$ 1,916,821	\$ 1,970,725	2.81%	\$ 1,970,725	0.00%
Federal Fund Group Total			\$ 2,784,193	\$ 3,055,073	\$ 1,970,725	-35.49%	\$ 1,970,725	0.00%
Department of Insurance Total			\$ 34,468,762	\$ 34,043,156	\$ 37,066,409	8.88%	\$ 37,768,853	1.90%