Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Am. Sub. S.B. 334** DATE: **May 29, 2008**

STATUS: **As Enacted – Effective September 11, 2008** SPONSOR: **Sen. Faber**

LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost**

CONTENTS: **Modifies provisions of Workers' Compensation Law concerning interstate claims and makes other changes**

State Fiscal Highlights

STATE FUND	FY 2009 - FUTURE YEARS
State Insurance Fund	
Revenues	Potential increase or decrease
Expenditures	Potential increase or decrease
Workers' Compensation Fund (Fund 7023)	
Revenues	Potential increase or decrease
Expenditures	Potential increase or decrease

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

- The bill allows multi-state workers' compensation insurance to be sold in Ohio. It also allows the Bureau of Workers' Compensation (BWC) to offer "other-states'" insurance to employers that are located in Ohio, but that have employees who routinely work out of state. It is likely that BWC will do a feasibility study before offering such a product to determine its potential effect on the State Insurance Fund. Ultimately, it appears that employer demand would determine whether the Bureau develops its own "other-states'" insurance product or selects a vendor to provide this coverage to employers.

- The bill requires a claimant to sign a waiver stating that he or she will not file a claim for the same injury in another state when filling out the first report of injury form. The fiscal effect of this provision is unclear, because it may encourage more claimants to file in Ohio than under current law, or it could have the reverse effect of reducing the number of claims filed in Ohio.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

The bill makes changes to Workers' Compensation Law regarding "other-state" compensation claims, which include (1) claims made in Ohio by employees whose employer's primary residence is out of state, and (2) Ohio employees temporarily working out of state. The bill allows employers to purchase "other-states'" insurance from a private insurer if they choose to do so. It also allows the Bureau of Workers' Compensation (BWC) to offer such an insurance product. Finally, the bill makes changes to the procedures that must be followed for making a workers' compensation claim in Ohio.

Out-of-state claims

Other-states' waiver

The bill requires that a workers' compensation claimant sign a waiver stating that he or she will not make a claim for the same injury in any state other than Ohio. This would have uncertain fiscal effects on the State Insurance Fund. Current law allows BWC to reduce or offset benefits by amounts paid by out-of-state workers' compensation insurers. For example, if an employee has a claim that is potentially covered by Ohio and Indiana, Ohio benefits would exclude any amounts paid in Indiana. The bill keeps current offset laws intact, but the waiver would preclude these sections of law, as it would allow BWC to recoup all amounts paid (as opposed to a portion) to any claimant that has filed a claim, or received benefits, for the same injury in another state. Additionally, the waiver may encourage potential multi-state claimants, which might otherwise have received only partial benefits under current offset laws, to receive all benefits from BWC. Because BWC currently does not track the amount of benefits paid according to offset laws or the number of Ohio claims that could be covered in multiple states, there is no way to determine the number of claims or the amounts that could be affected by this provision. Also, because BWC has limited means of tracking multi-state claims, it is unsure how often it will be able to recoup costs from these types of claims.

Paid benefit collection

The bill gives BWC the authority to collect all amounts paid to claimants, along with associated court costs, from employees that receive benefits for the same injury in a state other than Ohio. This provision will generate savings for BWC as certain paid claims will be recouped. Additionally, any amounts reclaimed in such a manner would not count against an employer's experience.

Reciprocal state compensation laws

The bill places limits on an out-of-state individual's ability to make claims in Ohio if that individual's primary state of residence places similar limitations on out-of-state workers. To give this provision some context, if an out-of-state employee makes a claim in Ohio, and that employee's employer is not covered by BWC, the employer would be charged for the claim and charged penalty fees for not having coverage in Ohio. To keep this from happening, BWC allows employees to make claims in Ohio only if they have been employed here for 90 days. This provision removes that limitation if the out-of-state worker's home state does not have a similar limitation. This provision will mean that BWC will pay less in benefits to potential out-of-state claimants whose home states have similar limitations. BWC will pay more in benefits to potential out-of-state claimants whose home states do not have similar limitations. A portion, if not all, of these costs would be recouped through penalty fees charged to the employer of such a claimant.

Other-state insurance products

The bill also allows BWC to offer "other-state" insurance to employers. It is likely that before offering such a product, BWC would conduct a feasibility study to determine its effect on the State Insurance Fund. As BWC would be required to collect, record, and analyze data to set premium rates for this insurance, it might not be cost effective for BWC to offer "other-state" insurance, given its current operating capacity. Another factor to consider would be the number of employers that would be interested in this type of alternative coverage. What impact this would have in terms of developing such a product or putting such a product out for bid is unclear.

Charges to surplus

The bill gives BWC the authority to make charges "to surplus" and requires BWC to account for all charges made. Included in the State Insurance Fund is the surplus fund account. Charges to this account include, but are not limited to, disallowed claims costs and handicap reimbursements to employers. Five percent of collected premiums are designated as the surplus fund account. Amounts designated as such are not considered in the process of determining the amount of one-time dividends. Generally, the expenses of the account have exceeded its revenues and, as of April 30, 2008, the account had a deficit of $1.8 billion. Since BWC already makes an accounting of charges made to surplus, this provision would likely have no new fiscal effect.

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