Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **S.B. 334** DATE: **May 21, 2008**

STATUS: **As Introduced** SPONSOR: **Sen. Faber**

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

CONTENTS: **Modifies provisions of Workers' Compensation Law concerning interstate claims**

State Fiscal Highlights

STATE FUND	FY 2009	FY 2010	FUTURE YEARS
State Insurance Fund			
Revenues	Potential increase or decrease	Potential increase or decrease	Potential increase or decrease
Expenditures	Potential increase or decrease	Potential increase or decrease	Potential increase or decrease
Workers' Compensation Fund (Fund 7023)			
Revenues	Potential increase or decrease	Potential increase or decrease	Potential increase or decrease
Expenditures	Potential increase or decrease	Potential increase or decrease	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 requires the Bureau of Workers' Compensation (BWC) to offer "interterritorial" insurance to employers that are located in Ohio, but that have employees who routinely work out of state. Depending upon how the insurance is offered and the number of purchasers, BWC could incur significant costs and be required to expand its current capacity for data collection in order to administer the program. It is assumed that premium rates for this product would be set in such a way to cover these costs over time.

- The bill requires BWC to determine whether an Ohio claim could be covered in multiple states. If a claim is determined to be "interterritorial" the claimant is required to sign a waiver indicating that he or she will not seek compensation in any state other than Ohio. The fiscal effect of this provision is unclear, as claimants that might have sought a partial claim in Ohio would be required to file the entire claim either in or out of Ohio.

- Both of these provisions will affect premium rates that BWC sets and collects in the State Insurance Fund. Both provisions will also create some new administrative costs. These are calculated and added to employer bills as assessments, which are deposited in the Workers' Compensation Fund (Fund 7023).

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

The bill makes changes to Workers' Compensation Law regarding interstate or interterritorial claims. The bill allows employers to purchase interterritorial insurance from a private insurer if they choose to do so. It also requires the Bureau of Workers' Compensation (BWC) to offer such an insurance product to those employers that would require it. Finally, the bill makes changes to the procedures that must be followed for making a claim that could be covered in multiple states.

Out-of-state claims

Interterritorial waiver

The bill makes changes to the procedures for filing workers' compensation claims that could potentially be filed in more than one state. If an employee makes a claim for an injury with BWC that could potentially also be made in another state, that person must sign a waiver, within 21 days of filing the claim, stating that they will not file in any state other than Ohio. BWC, and not the claimant, is responsible for determining whether or not a claim can be made in multiple states. There will likely be some administrative costs associated with this.

The fiscal effect of this provision is uncertain. Current law allows BWC to reduce or offset benefits by amounts paid by out-of-state institutions. 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 effect of such a waiver will be the requirement of claimants to make claims in only one state or the other. As such, if a claimant chooses to file in Ohio, BWC will bear the entire cost of the claim, as opposed to only a portion.

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 will 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.

Interterritorial insurance

State employers

The bill would allow employers to purchase interterritorial workers' compensation insurance for those employees that either work or routinely travel out of state. Under current law, employers are able to obtain coverage for their employees working out of state in the state where that employee is stationed. Employers are also legally allowed to purchase blanket coverage for all states other than Ohio; however, LSC is not aware of any company that sells such a product. This provision would most likely have little to no fiscal effect on the state. By and large, state employees, at any level, are not routinely required to travel out of state for their jobs. Those employees that are sporadically required to cross state lines would most likely be covered by BWC, depending upon the circumstances of any claims made. Therefore, state agencies would probably not purchase this interterritorial insurance.

Bureau of Workers' Compensation (BWC)

The bill also requires BWC to offer interterritorial insurance to employers by contracting with a company, subject to competitive bid procedures, that would supply interterritorial insurance through BWC. Accordingly, BWC would be required to collect, record, and analyze data to set premium rates for this insurance. There is likely to be a cost associated with this requirement, depending on how many employers might require such a product and who exactly (BWC or the contracted insurance supplier) would be responsible for the data. Depending upon the terms of the contract, the insurance provider, and not BWC, might be responsible for all data collection and analysis.

If BWC is solely responsible for all data collection and analysis, the cost to BWC could be significant; it is assumed, however, that interterritorial premium rates would take these costs into account. As BWC only has oversight over claims made in Ohio, it would have to determine how many employers might be interested in purchasing this sort of product. The cost for collecting and analyzing interterritorial premium data will be directly related to the number of employers who choose to purchase the product. As BWC is currently not set up to collect this data, a significant number of participants would require BWC to expand its operations and capacity.

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