



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Paul Luzzi

### **H.B. 459**

132nd General Assembly  
(As Introduced)

**Reps.** Henne, Hambley, Becker, Romanchuk, Seitz, Kick, Hood

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### **BILL SUMMARY**

- Allows the Administrator of Workers' Compensation to grant self-insuring status to a group of employers.
  - Requires the Administrator to adopt rules necessary to implement the bill.
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### **CONTENT AND OPERATION**

#### **Overview**

In Ohio, an employer may provide workers' compensation coverage for the employer's employees in two ways: paying premiums into the State Insurance Fund, or being granted the privilege of paying compensation and benefits directly, known as self-insurance. An employer who wishes to be granted self-insuring status must satisfy factors specified in continuing law and any other factors specified by the Administrator of Workers' Compensation to demonstrate sufficient financial and administrative ability to assure that all of the employer's workers' compensation obligations are promptly met.<sup>1</sup> The bill allows the Administrator to grant self-insuring status to a group of employers and requires the Administrator to adopt rules implementing the bill.

#### **Group self-insurance**

Under the bill, groups of employers who can abide by the Administrator's rules and who have sufficient financial ability to pay their obligations under the Workers' Compensation Law<sup>2</sup> may be granted self-insuring status. An employer does not need to be

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<sup>1</sup> R.C. 4123.35, not in the bill.

<sup>2</sup> R.C. Chapters 4121., 4123., 4127., and 4131.

a self-insuring employer to join a self-insuring group, and the Administrator cannot require an employer who wishes to join a self-insuring group to qualify individually for the right to self-insure.<sup>3</sup>

## Rule adoption

### Criteria for self-insurance groups

Under the bill, the Administrator must adopt rules to implement group self-insurance. In the rules the Administrator must establish criteria for determining whether a group wishing to be granted self-insuring status is financially and administratively capable of promptly meeting the obligations of a self-insuring employer. The bill also requires the Administrator to establish requirements that an employer must meet to join a self-insuring group.<sup>4</sup>

Under the bill the factors that the Administrator must consider to determine whether an individual employer demonstrates the ability to meet all of the obligations under continuing law do not apply to a group of employers who wish to self-insure under the bill.<sup>5</sup> The continuing law requirements for individual employers vary depending on the type of employer and are summarized in the following table:

<b>Factors the Administrator considers for private employers and boards of county commissioners that wish to self-insure sports facility construction projects<sup>6</sup></b>	<b>Requirements any other public employers who may self-insure must satisfy<sup>7</sup></b>
The sufficiency of the employer's or board's assets located in Ohio to insure the employer's solvency in paying compensation directly.	For the two fiscal years preceding the application, the unreserved and undesignated year-end fund balance in the public employer's general fund is equal to at least 5% of the public employer's general fund revenues.
The employer or board has operated in Ohio for at least two years (the Administrator may waive this requirement for a private sector employer if certain conditions are met).	For the two years preceding the application, the public employer has maintained an unvoted debt capacity equal to at least two times the amount of the current annual premium established by the Administrator for that public employer.
If the employer or board previously paid into	For the five years preceding the application,

<sup>3</sup> R.C. 4123.354(A) and (C), by reference to R.C. 4123.35(B) and (C), not in the bill.

<sup>4</sup> R.C. 4123.354(B)(1) and (2).

<sup>5</sup> R.C. 4123.354(A)(1) and (2).

<sup>6</sup> R.C. 4123.35(B)(1) and (C), not in the bill.

<sup>7</sup> R.C. 4123.35(B)(2), not in the bill.



<b>Factors the Administrator considers for private employers and boards of county commissioners that wish to self-insure sports facility construction projects<sup>6</sup></b>	<b>Requirements any other public employers who may self-insure must satisfy<sup>7</sup></b>
<p>the State Insurance Fund, the amount of the buyout from the Fund.</p> <p>The employer's or board's financial records from the current year and the previous four years provide full financial disclosure (the Administrator may waive this requirement for a private sector employer if certain conditions are met).</p> <p>The employer's or board's organizational plan for the administration of the Law.</p> <p>The employer's or board's proposed plan to inform employees of the change to self-insurance, the procedures the employer or board will follow as a self-insuring employer, and the employee's right to compensation and benefits.</p> <p>The employer or board has an account in an Ohio financial institution or, if the account is with an out-of-state financial institution, the employer or board ensures that workers' compensation checks are drawn from the same account as payroll checks or the employer or board clearly indicates that payment will be honored by an Ohio financial institution.</p> <p>The board provides a surety bond in an amount equal to 125% of projected losses as determined by the Administrator (does not apply to a private sector employer).</p>	<p>the public employer has complied fully with disclosure requirements established by the U.S. Securities and Exchange Commission, as applicable.</p> <p>For the five years preceding the application, the public employer has not had its Local Government Fund distribution withheld on account of the public employer being indebted or otherwise obligated to the state.</p> <p>For the five years preceding the application, the public employer has not been under a fiscal watch or fiscal emergency pursuant to state law.</p> <p>For the public employer's fiscal year preceding the application, the public employer has obtained an annual financial audit as required under continuing law that has been released by the Auditor of State within seven months after the end of the public employer's fiscal year.</p> <p>On the date of the application, the public employer holds a debt rating of Aa3 or higher according to Moody's Investors Service, Inc., or a comparable rating by an independent rating agency.</p> <p>The public employer agrees to generate an annual accumulating book reserve in its financial statements reflecting an actuarially generated reserve adequate to pay projected claims.</p> <p>For a public employer that is a hospital, the public employer submits audited financial statements showing the hospital's overall liquidity characteristics.</p> <p>The public employer satisfies any additional criteria that the Administrator adopts by rule</p>



## Transfer procedures

The bill requires the Administrator to adopt rules to establish procedures for, and determine the liability of, an employer who transfers coverage between the State Insurance Fund and a self-insuring group.<sup>8</sup> This liability might include the amount employers must pay to cover their liability for existing claims in the Fund, any administrative assessments paid by self-insuring employers under continuing law, and any payments made to the Self-Insuring Employers Guaranty Fund.<sup>9</sup>

## Multiple employer welfare arrangements

Under the bill the Multiple Employer Welfare Arrangement Law<sup>10</sup> does not apply to a group of employers that have been granted self-insuring status for purposes of the Workers' Compensation Law. Under the Multiple Employer Welfare Arrangement Law, only certain groups – such as a chamber of commerce or a business league – are permitted to establish, maintain, or operate a group self-insurance program under a multiple employer welfare arrangement.<sup>11</sup>

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## HISTORY

ACTION	DATE
Introduced	01-09-18

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<sup>8</sup> R.C. 3123.354(B)(3).

<sup>9</sup> See, e.g., R.C. 4123.35 and 4123.351, not in the bill.

<sup>10</sup> R.C. Chapter 1739.

<sup>11</sup> R.C. 1739.02.

