



## Ohio Legislative Service Commission 123rd Senate Bill Analysis

### Sub. S.B. 266

123rd General Assembly  
(As Passed by the Senate)

Sen. Horn

### BILL SUMMARY

- Permits certain public employers to become self-insuring employers for purposes of the Workers' Compensation Law.
- Specifies criteria to qualify for self-insuring status as a public employer and establishes ongoing requirements for public employers granted that status.

### CONTENT AND OPERATION

#### Background

Under the Workers' Compensation Law (Chapters 4121., 4123., 4127., 4131.), employers must pay premiums into the State Insurance Fund (termed "state fund" employers) or be an employer to whom the Administrator of Workers' Compensation has granted the status of a self-insuring employer. Generally, a self-insuring employer is an employer who pays the compensation and benefits for a compensable injury or occupational disease provided for in the Workers' Compensation Law directly to or on behalf of an employee instead of making premium payments to the State Insurance Fund from which, for state fund employers, compensation and medical bills are paid. As with state fund employers, self-insuring employers still must pay certain assessments, such as the administrative assessment which is imposed upon all employers for the operation of the Bureau of Workers' Compensation and the Industrial Commission.

Under existing law, in order for the Administrator to grant an employer self-insuring status, the employer must file an application with the Administrator who must consider various factors in determining whether the employer can meet the obligations of being a self-insuring employer. Factors the Administrator must consider currently include the following:

- (1) Whether the employer employs at least 500 employees in this state;
- (2) Whether the employer has operated in this state for at least two years;
- (3) The amount of the Bureau-related buy out of certain employers;
- (4) The sufficiency of the employer's assets located in this state to insure the employer's solvency in paying compensation directly;
- (5) The employer's full financial disclosure, as certified by a certified public accountant, unless this certification requirement is waived;
- (6) The employer's organizational plan for the administration of the Workers' Compensation Law;
- (7) The employer's proposed plan to inform employees of specified information relative to the change from being a state fund employer to a self-insuring employer;
- (8) Specified considerations relative to availability of payment from financial institutions in this state.

#### The bill

##### Obtaining status as a self-insuring public employer

(secs. 4123.01 and 4123.35)

Currently, the Administrator may grant self-insuring status only to private sector employers, county hospitals, publicly owned utilities, and specified boards of county commissioners for the sole purpose of sports facility construction. The bill permits the Administrator to grant self-insuring status to public employers, other than the state generally, who meet the requirements established under the bill. Although the state is excluded from the option to self insure, state institutions of higher education (see "***Definitions***" below) may opt to self insure, except that their hospitals cannot be included. Counties, municipal corporations, townships, school districts, and publicly owned hospitals, for example, also could apply for self-insuring status.

The bill requires the Administrator, when considering the application for self-insuring status of a public employer (except for the specified boards of county commissioners described above, or board of a county hospital, or publicly owned utility), to verify that the public employer satisfies all of the following requirements as the requirements apply to that public employer:

- (1) For the two-year period preceding application under this section, 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 for the year immediately preceding the year in which the public employer makes application;
- (2) For each of the two fiscal years preceding 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 for the fiscal year computed in accordance with generally accepted accounting principles;
- (3) For the five-year period preceding application, the public employer, to the extent applicable, has complied fully with the continuing disclosure requirements established in specified rules adopted by the United States Securities and Exchange Commission;
- (4) For the five-year period preceding 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;
- (5) For the five-year period preceding application, the public employer has not been under a fiscal watch or fiscal emergency determined by the Auditor of State under the fiscal watch laws (R.C. sections 118.023, 118.04, and 3316.03);
- (6) For the public employer's fiscal year preceding application under this section, the public employer has obtained an annual financial audit as required under the laws governing the Auditor of State (R.C. Chapter 117.), which has been released by the Auditor of State within seven months after the end of the public employer's fiscal year;
- (7) On the date of 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 similar to Moody's Investors Service, Inc.;
- (8) 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 for the applicable period of time, as determined by the Administrator;
- (9) For a public employer that is a hospital, the public employer must submit audited financial statements showing the hospital's overall liquidity characteristics, and the administrator shall determine, on an individual basis, whether the public employer satisfies liquidity standards equivalent to the liquidity standards of other public employers;
- (10) Any additional criteria that the Administrator adopts by rule. The bill specifically authorizes the Administrator to add such extra criteria.

The bill specifically prohibits the Administrator from approving the application of a public employer (except for a specified board of county commissioners described above, or board of a county hospital, or publicly owned utility), who does not satisfy all of the requirements listed directly above. Public employers are required by the bill to make available the information necessary to verify whether they meet these requirements. The Bureau must review that information.

#### ***Additional requirements for self-insuring public employers***

(sec. 4123.353)

The bill requires a self-insuring public employer (except for a specified board of county commissioners described above, or a board of a county hospital, or a publicly owned utility) to do all of the following:

- (1) Reserve funds as necessary, in accordance with sound and prudent actuarial judgment, to cover the costs the public employer potentially may incur to remain in compliance with the Workers' Compensation Law;
- (2) Include all activity under the Workers' Compensation Law in a single fund on the public employer's accounting records;

(3) Within 90 days after the last day of each fiscal year, prepare and maintain a report of the reserved funds described in (1) above and disbursements made from those reserved funds;

(4) Within 90 days after the last day of each fiscal year, obtain a written report prepared by a member of the American academy of actuaries, certifying whether the reserved funds described in (1) above are sufficient to cover the costs the public employer potentially may incur to remain in compliance with the Workers' Compensation Law, are computed in accordance with accepted loss reserving standards, and are fairly stated in accordance with sound loss reserving principles.

The bill requires these self-insuring public employers to make the reports described above available for inspection by the Administrator of Workers' Compensation and any other person at all reasonable times during regular business hours.

### **Definitions**

The bill defines "unvoted debt capacity" as the amount of money in the general fund that a public employer may use to pay debts without voter approval of a tax levy. "State institution of higher education" means community colleges, university branches, technical colleges, and state community colleges created pursuant to the laws applicable to each of those types of institutions, and all of the following state universities: University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, and Youngstown State University.

### **HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	03-16-00	p. 1469
Reported, S. Insurance, Commerce & Labor	05-16-00	p. 1698
Passed Senate (20-13)	05-16-00	p. 1710

*See Later Version*

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