



Bill Analysis

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Legislative Service Commission

H.B. 75*

124th General Assembly

(As Introduced)

(excluding appropriations, fund transfers, and similar provisions)

Rep. Williams

BILL SUMMARY

- Modifies penalty provisions for a state fund employer's misrepresentation of payroll and a self-insuring employer's misrepresentation of paid compensation.
- Eliminates the statutory provision that establishes a civil penalty for employers who violate specific safety rules and specific occupational safety laws.
- Abolishes the Occupational Safety Loan Program and the Occupational Safety Loan Fund, which are partially funded by civil penalties assessed for violation of specific safety rules and laws.
- Permits the Administrator of Workers' Compensation to adopt rules identifying medical conditions that have a historical record of being allowed whenever included in a claim, and to grant immediate allowance and make immediate payment of medical bills for those medical conditions.
- Eliminates the Camera Center Fund.
- Requires an employer who wishes to file a request, protest, or petition to the Adjudicating Committee to do so on or before 180 days after the

* *This analysis was prepared before the introduction of the bill appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

Administrator sends notice of the determination about which the employer is filing the request, protest, or petition.

CONTENT AND OPERATION

Penalties for employer's misinformation

Under current law, state fund employers are prohibited from misrepresenting to the Bureau of Workers' Compensation the amount of payroll upon which the employer's premium is based.¹ An employer who violates this provision is liable for ten times the amount of the difference between the premium paid and the amount the employer should have paid. Existing law requires that this liability be enforced in a civil action.

The bill modifies this provision in four ways. First, an employer is liable only for *knowingly* misrepresenting the information, not merely for misrepresenting it. Second, an employer is liable not just for misrepresenting the amount of payroll, but also for misrepresenting classification of payroll upon which the employer's premium is based. Third, instead of the penalty amount being set at ten times the amount of the difference between the correct amount and the amount paid, it is capped at ten times that amount. Fourth, the bill permits, instead of requires, the liability to be enforced in a civil action. (Sec. 4123.25(A).)

The bill makes similar changes as those described immediately above relative to self-insuring employers. Self-insuring employers are prohibited under the bill from *knowingly* misrepresenting the amount of paid compensation paid by the employer for purposes of determining the employer's assessments, instead of merely misrepresenting that amount, as under current law. Self-insuring employers who violate this provision under current law are liable for an amount determined by the Self-insuring Employers Evaluation Board, or ten times the amount of the difference between the assessment paid and the amount of assessment that should have been paid, along with any other penalty determined by the Board. The bill specifies instead that self-insuring employers are liable in an amount determined by the Administrator for not more than ten times the amount of the difference between the amount paid and the amount that should have been paid. (Sec. 4123.25(B).)

Finally, the bill requires the Administrator, with the advice and consent of the Workers' Compensation Oversight Commission, to adopt rules establishing

¹ A "state fund" employer pays premiums into the State Insurance Fund for workers' compensation coverage, in contrast to a "self-insuring" employer, who makes payments directly for workers' compensation claims.

criteria for determining the amount of the penalty assessed for knowingly misrepresenting the required information, as described above. (Sec. 4123.25(C).)

Elimination of statutorily specified civil penalty for violation of a specific safety rule

Current law prohibits employers from violating specific safety rules adopted by the Administrator and specific laws enacted by the General Assembly to protect the lives, health, and safety of employees. If an employer violates these specific safety rules or specific occupational safety laws, a staff hearing officer may issue an order to the employer to correct the violation. For any violation occurring within 24 months of the last violation, a staff hearing officer must assess a civil penalty against the employer in an amount determined by the staff hearing officer, up to \$50,000 for each violation. The law requires the staff hearing officer to fix the penalty based upon the size of the employer, measured by the number of employees, assets, and earnings of the employer. Current law provides an appeal process for employers who are dissatisfied with the imposition of a civil penalty.

The bill abolishes the statutory authority to impose this civil penalty and correspondingly abolishes the associated appeal provisions.² (Sec. 4121.47.)

Abolition of the Occupational Safety Loan Program

Current law requires the Bureau of Workers' Compensation to operate an Occupational Safety Loan Program. The Administrator must use the Program to make loans to employers at rates the Administrator fixes. The rates must be below rates an employer would otherwise be able to obtain from any other source for the purpose of allowing the employer to improve, install, or erect equipment that reduces hazards in the employer's workplace or to purchase individual safety equipment for employees and that promotes the health and safety of employees. The law prohibits the Administrator from loaning more than \$50,000 per fiscal year to any employer. The Administrator fixes the terms of repayment of principal and interest.

² *The Ohio Constitution specifies that when it is found that an injury, disease, or death resulted from an employer's violation of a specific safety rule or specific occupational safety law, the claimant receives an amount not greater than 50% nor less than 15% of the maximum award established by law in addition to the amount of the compensation that may be awarded on account of that injury, disease, or death. The premium of the violating employer is increased to cover the amount of that award. Article II, Section 35, Ohio Constitution. This constitutional provision is independent of and not affected by the statutory change the bill is proposing.*

The Occupational Safety Loan Fund must be used solely for the Occupational Safety Loan Program. It is comprised of the civil penalties assessed against employers who violate specific safety rules and specific occupational safety laws, as described above, and funds that the Administrator, with the advice and consent of the Workers' Compensation Oversight Commission, transfers from the Safety and Hygiene Fund.

The bill abolishes the Occupational Safety Loan Program and the Occupational Safety Loan Fund and all provisions associated with that Program and Fund. (Secs. 4121.37, 4121.47, and 4121.48.)

Immediate allowance of specified medical conditions

The bill permits the Administrator, with the advice and consent of the Workers' Compensation Oversight Commission, to adopt rules that identify specified medical conditions that have a historical record of being allowed whenever included in a claim. Under the bill, the Administrator may grant immediate allowance of and make immediate payment of medical bills for any medical condition identified in those rules upon the filing of a claim involving that medical condition. If an employer contests the allowance of a claim involving any medical condition identified in those rules, and the claim is disallowed, the bill specifies that payment for the medical condition included in that claim must be charged to and paid from the Surplus Fund. (Sec. 4123.511(A).)

Elimination of the Camera Center Fund

The bill eliminates the Camera Center Fund. The Fund consists of all fees the Administrator charges persons for the use of the services of the BWC Rehab Center, formerly named the J. Leonard Camera Industrial Rehabilitation Center, and all rent the Center receives from its tenants.³ The Fund is used solely to pay for the provision of rehabilitation services and expenses of the BWC Rehab Center. (Sec. 4121.62(E).)

Hearings of the Adjudicating Committee

Under existing law, an Adjudicating Committee appointed by the Administrator of Workers' Compensation hears cases concerning specified risk premium matters and other fiscal matters when an employer files a request, protest, or petition concerning those matters. The Adjudicating Committee must hold a hearing on the matter within 60 days of the date of the employer's filing.

³ *The BWC Rehab Center is located in Columbus, Ohio. It is named the BWC "Rehab" Center and not the BWC Rehabilitation Center.*

The bill requires an employer who wishes to file a request, protest, or petition to do so on or before 180 days after the Administrator sends notice of the determination about which the employer is filing the request, protest, or petition. (Sec. 4123.291(A).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	---	p. ---

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