



Sub. H.B. 91*

125th General Assembly

(As Reported by S. Insurance, Commerce, and Labor,
excluding appropriations, fund transfers, and similar provisions)

Reps. Young, Core, Grendell, Calvert, Beatty, Buehrer

BILL SUMMARY

- Permits an employer, who, on religious grounds conscientiously objects to the acceptance of public or private death, disability, old age, retirement, or health care benefits, to have excepted from coverage under the Workers' Compensation Law and payment of premiums and assessments under that law, an individual who on religious grounds conscientiously objects to the acceptance of public or private death, disability, old age, retirement, or health care benefits.
- Requires the Administrator of Workers' Compensation to allocate the costs solely attributable to the activities of the Workers' Compensation Oversight Commission and the Bureau of Workers' Compensation separate from the costs solely attributable to the activities of the Industrial Commission.
- Requires the Administrator to divide the administrative cost assessments collected into two administrative assessment accounts within the State Insurance Fund.
- Abolishes requirements that the Administrator: (1) provide suitable office space in the Bureau service offices for district and staff hearing officers and Commission employees, as requested by the Commission, and (2) include the cost of furnishing this office space in the Bureau's biennial budget.

* *This analysis was prepared before the report of the Senate Insurance, Commerce, and Labor Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Establishes special confidentiality provisions for records of peer review committees of the Bureau responsible for reviewing the professional qualifications and the performance of providers conducting medical examinations or file reviews for the Bureau.
- Specifies that any information made available to a quality assurance committee of the Bureau responsible for reviewing the professional qualifications and performance of providers conducting medical examinations or file reviews for the Bureau are confidential and can be used by committee members only in exercising proper committee functions.
- Prohibits noncertified health care providers (certified health care providers already are so prohibited) from charging an employee, employer, managed care organization, or the Bureau any amount for covered services or supplies that is in excess of the allowed amount paid.

CONTENT AND OPERATION

Religious exemption from workers' compensation

Current law specifically exempts from the definition of "employee" an officer of a family farm corporation and a duly ordained, commissioned, or licensed minister or assistant or associate minister of a church in the exercise of ministry. The effect of the exemption is that an employer is not required to pay workers' compensation premiums or assessments based on that individual's service and the individual is not entitled to benefits and compensation paid under the Workers' Compensation Law (R.C. Chapters 4121. and 4123.) for work-related injuries and occupational diseases the individual incurs. An employer may elect to include as an employee any person excluded from the definition of "employee" by giving to the Bureau of Workers' Compensation a written notice containing the names of the individuals to be covered and certain other specified information. Current law further prohibits an employee from waiving rights to compensation under the Workers' Compensation Law, except for an employee who is blind or an employee who participates in an employer-sponsored recreation or fitness activity.

The bill permits certain employers to apply to the Administrator of Workers' Compensation to be excepted from the payment of premiums and other charges under the law with respect to, or if the employer is a self-insuring employer, from payment of direct compensation and benefits to and assessments required by the law on account of, certain individuals for religious reasons. To qualify for an exception under the bill, both the employer and the individual have

to be members of a recognized religious sect or division thereof. They also must be adherents of established tenets or teachings of that sect or division by reason of which they are conscientiously opposed to acceptance of the benefits of any public or private insurance that makes payment in the event of death, disability, impairment, old age, or retirement, or makes payment toward the cost of, or provides services in connection with the payment for, medical services. The application, which is on forms prescribed by the Bureau, may be the same or similar to forms used by the Internal Revenue Service for granting exemptions from payment of social security taxes under federal law. It must include affidavits of the employer and the employee stating that they are members of a religious sect or division as described above. The application also must include a waiver, signed by the individual employee to be excepted from all the benefits and compensation under the Workers' Compensation Law. If the individual is a minor, the bill requires the minor's guardian to complete the waiver and affidavit.

The Administrator must grant the waiver and exemption to the employer for a particular individual employee if the Administrator determines the following: (1) that both the employer and the individual employee meet the qualifications described above, (2) that it is the practice, and has been so for a "substantial" number of years, for members of that sect or division to make provision for their dependent members which, in the Administrator's judgment, is reasonable in view of their general level of hiring, and (3) that the sect or division has been in existence in all times since December 31, 1950.

A waiver and exception is effective on the date the Administrator grants it. The employer, with regard to the excepted individual employee, and the employer's other employees are entitled to the protections of the Workers' Compensation Law in relation to any injuries or occupational diseases of that individual that occurred before the effective date of the waiver and exception. On and after the effective date of the waiver and exception, the employer is not assessed premium or other assessment charges in regard to that individual, or if a self-insurer, is not required to pay compensation and benefits directly or other charges under the law in regard to that individual employee for all injuries and occupational diseases of the individual employee occurring during the time the waiver is in effect. (Sec. 4123.15(C).)

A waiver is valid for a specific employer and individual employee for all future years unless the Administrator determines that the individual, employer, or sect or division cease to meet the requirements of the bill. If the Administrator makes this determination, the employer is liable for the payment of premiums and other charges, or for the direct payment of compensation and benefits and other charges, as applicable, in regard to that individual employee for the individual's injuries and occupational diseases occurring on and after the date of the

determination. Additionally, the individual employee is entitled to all of the benefits and compensation of the Workers' Compensation Law. (Secs. 4123.01, 4123.15, and 4123.80.)

Workers' Compensation Fund Group and separated allocation of costs

Under current law, money in the state treasury for the use of the Bureau and Commission is in a fund referred to as the Workers' Compensation Fund and that money is disbursed pursuant to vouchers approved by the Administrator. The bill instead refers to Workers' Compensation Fund *Group*, referencing two funds; one from which money is disbursed pursuant to vouchers approved by the Administrator and the other pursuant to approval by the Commission's chairperson. (Sec. 4123.31.)

Under current law, the Administrator must allocate the costs solely attributable to the activities of the Industrial Commission, Workers' Compensation Oversight Commission, and Bureau among the following four classes of employers: (1) counties and taxing districts, (2) the state and its instrumentalities, (3) private employers who are insured under the private fund, and (4) self-insuring employers. The Administrator must separately calculate each employer's assessment in the class, except self-insuring employers, on the basis of the following three factors relative to the employer: (1) payroll, (2) paid compensation, and (3) paid medical costs. The Administrator must separately calculate each self-insuring employer's assessment on the basis of the paid compensation attributable to the individual self-insuring employer according to a statutorily specified calculation.

Instead of allocating the combined costs of the three entities (Industrial Commission, Oversight Commission and Bureau), the bill requires the Administrator to allocate the costs solely attributable to the activities of the Oversight Commission and the Bureau separate from the costs solely attributable to the activities of the Industrial Commission. The bill also requires the Industrial Commission, in a timely manner, to provide to the Administrator the information necessary for the Administrator to allocate and calculate, with the approval of the chairperson of the Industrial Commission, for each class of employer, the costs solely attributable to the activities of the Industrial Commission. (Sec. 4123.342(A).)

The bill additionally requires the Administrator to divide the administrative cost assessments collected into two administrative assessment accounts within the State Insurance Fund. One of the administrative assessment accounts must consist of the administrative cost assessment collected by the Administrator for the Industrial Commission. The other administrative assessment account must consist of the administrative cost assessments collected for the Bureau and the Workers'

Compensation Oversight Commission. The bill allows the Administrator to invest the administrative cost assessments in these accounts on behalf of the Bureau and the Industrial Commission as authorized under current law. The bill also requires the Administrator, in a timely manner, to provide to the Industrial Commission the information and reports the Commission deems necessary for the Commission to monitor the receipts and the disbursements from the administrative assessment account for the Industrial Commission. (Sec. 4123.342(B).)

The Administrator or the Administrator's designee must transfer moneys as necessary from the administrative assessment account identified for the Bureau and the Workers' Compensation Oversight Commission to the Workers' Compensation Fund for the use of the Bureau and the Oversight Commission. As necessary and upon the authorization of the Industrial Commission, the Administrator or the Administrator's designee must transfer moneys from the administrative assessment account identified for the Industrial Commission to the Industrial Commission Operating Fund, created under the bill and consisting of moneys so transferred. The bill specifies that revenues credited to the Industrial Commission Operating Fund must be used for costs solely attributable to the activities of the Industrial Commission. (Secs. 4121.021 and 4123.342(C).)

Funding and provision of office space for Commission employees

Current law requires the Administrator to provide suitable office space in the Bureau service offices for district and staff hearing officers and Commission employees, as requested by the Commission, and to include the cost of furnishing this office space in the Bureau's biennial budget. The bill eliminates these requirements. (Sec. 4121.121(B)(4) and (10).)

Peer review committees

Under current law, proceedings and records of specified review committees must be held in confidence and are not subject to discovery or introduction in evidence in any civil action against a health care professional, a hospital, a long-term care facility, a not-for-profit health care corporation that is a member of a hospital or long-term care facility or of which a hospital or long-term care facility is a member, or another health care institution arising out of matters that are the subject of evaluation and review by the committee. For purposes of this provision, a "peer review committee" is defined to include peer review committees of various health related entities, such as hospitals and insurance corporations. To this list, the bill adds peer review committees of the Bureau responsible for reviewing the professional qualifications and the performance of providers conducting medical examinations or file reviews for the Bureau. (Sec. 2305.25(E)(2)(j).)

Confidentiality of information on medical examiners used by the Bureau

The bill specifies that any information, data, reports, or records made available to a quality assurance committee of the Bureau responsible for reviewing the professional qualifications and the performance of providers conducting medical examinations or file reviews for the Bureau are confidential and may be used by the committee and the committee members only in the exercise of the proper functions of the committee. (Sec. 2305.24.)

Balance billing prohibited

Existing law prohibits *certified* health care providers from charging, assessing, or otherwise attempting to collect from an employee, employer, a managed care organization, or the Bureau any amount for covered services or supplies that is in excess of the allowed amount paid by a managed care organization, the bureau, or a qualified health plan. The bill places this same prohibition on *noncertified* health care providers. (Sec. 4121.44(K).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-26-03	p. 172
Reported, H. Finance & Appropriations	03-11-03	p. 221
Passed House (96-0)	03-12-03	p. 249
Reported, S. Insurance, Commerce & Labor	---	---

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