



Ohio Legislative Service Commission

Bill Analysis

Meredith L. Rockwell

Sub. H.B. 16

128th General Assembly

(As Reported by S. Insurance, Commerce, and Labor)

(Excluding appropriations, fund transfers, and similar provisions)

Reps. Sykes, Dodd, Letson, Dyer, Phillips, Bolon, Brown, Combs, Domenick, Foley, Gerberry, Goyal, Harris, Heard, Koziura, Luckie, Mallory, Moran, Pryor, Slesnick, Stewart, Szollosi, Weddington, B. Williams, S. Williams, Winburn, Yates, Yuko

BILL SUMMARY

- Adds an employer representative and a representative from the Ohio Association for Justice to the Industrial Commission Nominating Council.
- Requires the Governor to appoint the new employer representative to the Industrial Commission Nominating Council from a list of two names submitted by the National Federation of Independent Business.
- Makes confidential the records of a quality assurance committee and a peer review committee of the Industrial Commission.
- Changes the time period within which the Commission or the designated staff hearing officer must issue the order and notice denying an appeal from an order of a staff hearing officer.

CONTENT AND OPERATION

Industrial Commission Nominating Council

Under current law the Industrial Commission Nominating Council consists of ten members: four employer representatives, four labor representatives, and two members of the public. The Council is required to make recommendations to the Governor for the appointment of members to the Industrial Commission. The bill adds two members to the Council: a new employer representative and a representative from the Ohio Association for Justice. Under the bill, the Governor is required to select the employer representatives from a list of ten names submitted by the "Ohio industry

organizations." Each Ohio industry organization must submit two names on the list, and the Governor must choose at least one appointment from each Ohio industry organization. The Ohio industry organizations are the Ohio Self-Insurers' Association, the Ohio Manufacturers' Association, the Ohio Council of Retail Merchants, the Ohio Chamber of Commerce, and the National Federation of Independent Business. The Governor is required to select the member representing the Ohio Association for Justice from a list of two names submitted by the Ohio Association for Justice. The new employer representative serves a term of four years, as provided in current law. The bill specifies that the Ohio Association for Justice representative serves for a term of four years, each term ending on October 20 of the appropriate year. The Governor is required, under the bill, to fill a vacancy on the Council for the Ohio Association for Justice representative in the same manner as the original appointment. (R.C. 4121.04.)

The bill does not affect the terms of members serving on the Council on the effective date. The bill requires the Governor to appoint to the Council the two new members not later than 14 days after the effective date, and those members must take office not later than 90 days after the effective date. The Governor must choose the new employer representative from a list of two names selected by the National Federation of Independent Business and must appoint that employer representative to a term ending October 20, 2013. The Governor must appoint the representative from the Ohio Association for Justice to a term ending October 20, 2010. (Section 210.)

Quality Assurance Committee and Peer Review Committee

Under current law, any information, data, reports, or records made available to a quality assurance committee of the Bureau of Workers' Compensation responsible for reviewing the professional qualifications and the performance of providers conducting medical examinations or file reviews for the Bureau are confidential and must be used by the committee and the committee members only in the exercise of the proper functions of the committee. The bill extends the same protections and limitations to a quality assurance committee of the Industrial Commission. (R.C. 2305.24.)

Under current law, proceedings and records within the scope of a peer review committee of the Bureau of Workers' Compensation responsible for reviewing the professional qualifications and the performance of providers conducting medical examinations or file reviews for the Bureau must be held in confidence and are not subject to discovery or introduction in evidence in any civil action against a health care entity or health care provider, including both individuals who provide health care and entities that provide health care, arising out of matters that are the subject of evaluation and review by the peer review committee. An individual who attends a meeting of a peer review committee, as described above, serves as a member of such a peer review committee, works for or on behalf of such a peer review committee, or provides

information to such a peer review committee is prohibited from being permitted or required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any finding, recommendation, evaluation, opinion, or other action of the committee or a member thereof. Information, documents, or records otherwise available from original sources are not to be construed as being unavailable for discovery or for use in any civil action merely because they were produced or presented during proceedings of a peer review committee, but the information, documents, or records are available only from the original sources and cannot be obtained from the peer review committee's proceedings or records. An individual who testifies before a peer review committee, serves as a representative of a peer review committee, serves as a member of a peer review committee, works for or on behalf of a peer review committee, or provides information to a peer review committee must not be prevented from testifying as to matters within the individual's knowledge, but the individual cannot be asked about the individual's testimony before the peer review committee, information the individual provided to the peer review committee, or any opinion the individual formed as a result of the peer review committee's activities. An order by a court to produce for discovery or for use at trial the proceedings or records described above is a final order. The bill extends these provisions to apply to a peer review committee of the Industrial Commission. (R.C. 2305.25, in the bill, and 2305.252, not in the bill.)

Denial of appeal

Under current law, the appeal of the decision of the Administrator to allow or deny a claim commences with a district hearing officer. In turn, the district hearing officer's decision can be appealed to a staff hearing officer. The staff hearing officer's decision may be appealed to the Industrial Commission. Upon the filing of a timely (14 days) appeal of an order of the first staff hearing officer, the Commission or a designated second staff hearing officer, on behalf of the Commission, must determine whether the Commission will hear the appeal. If the Commission or the designated staff hearing officer determines not to hear the appeal, within 14 days after the filing of the notice of appeal, the Commission or the designated staff hearing officer must issue an order to that effect and notify the parties and their respective representatives in writing of that order. The bill instead requires the Commission or the designated staff hearing officer to provide the requisite notice and order within 14 days after the expiration of the period in which an appeal of the order of the staff hearing officer may be filed. Since an appeal may actually be made at any time earlier than the 14-day appeal deadline, the practical effect of the amendment is potentially to lengthen by several days the timeframe within which the Commission or staff hearing officer must issue the order stating that an appeal will not be heard. (R.C. 4123.511.)

HISTORY

ACTION	DATE
Introduced	02-17-09
Reported, H. Insurance	03-18-09
Re-referred to H. Finance & Appropriations	03-18-09
Re-reported, H. Finance & Appropriations	03-24-09
Passed House (96-2)	03-24-09
Reported, S. Insurance, Commerce, & Labor	06-16-09

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