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Fiscal Note & Local Impact Statement

Bill: H.B. 268 of the 132nd G.A. (L 132 0581-2)

Status: In House Insurance

Sponsor: Rep. Henne

Local Impact Statement Procedure Required: No

Subject: Modifies the Workers' Compensation Law with respect to self-insuring employers

State & Local Fiscal Highlights

- The bill modifies the requirements to qualify as a self-insured employer under the Workers' Compensation Law, thus appearing to allow for more employers to qualify for self-insured status. This could potentially result in a decrease in employer premium payments into the State Insurance Fund, partially offset by fewer medical and lost time claim payments from the fund. There are approximately 239,000 State Insurance Fund private employers, and nearly 1,200 self-insured employers in Ohio.

Detailed Fiscal Analysis

Overview

The bill allows any self-insuring employer to purchase private workers' compensation insurance from an insurer that has an A.M. Best Financial Strength Rating of A or higher to indemnify the employer against all or part of the employer's loss arising under the Workers' Compensation Law. Current law voids most contracts or agreements that indemnify or insure an employer against workers' compensation claims. A self-insuring employer may, however, purchase an insurance policy that indemnifies against all or part of the employer's loss in excess of $50,000 from a single event. The insurer cannot, directly or indirectly, represent the employer in any settlement, adjudication, or determination of a claim. The bill removes this prohibition. The bill also removes the prohibition against BWC considering a private workers' compensation insurance policy, or the employer's ability to obtain a policy, when determining whether an employer possesses sufficient financial ability to become a self-insuring employer.

Self-insurance asset requirement waiver

Current law requires an employer, in addition to satisfying other requirements, to have enough assets located in Ohio to insure the payment of claims to qualify for self-insuring status. Under the bill, BWC must waive the asset requirement if an employer holds a rating of Ba2 or higher from Moody's Investor Service or a comparable rating service. An employer granted self-insuring status through the waiver is subject to the same requirements that self-insuring employers are subject to under current law. This includes requirements to pay assessments based on the amount of the employer's paid compensation as defined in current law and to provide a surety bond sufficient to pay claims, except that the employer must contribute to the Self-Insuring Employers' Guaranty B Fund created in the bill, instead of the Self-Insuring Employers' Guaranty Fund (SIEGF) under current law. The Guaranty B Fund is a custodial fund that consists of contributions and other payments made by self-insuring employers granted a waiver. The fund operates in a similar manner to the SIEGF with respect to payments, contributions, and reserves.

Fiscal impact

Overall, the provisions of the bill would appear to allow more employers to achieve self-insured status. Therefore, it is possible that some State Insurance Fund employers could elect to instead become self-insured employers. This could therefore reduce premium payments made to the State Insurance Fund and could also possibly reduce medical and lost time benefit claim payments made from the State Insurance Fund. However, the magnitude of either of these changes is unknown. As of this writing there are approximately 239,000 State Insurance Fund private employers, and nearly 1,200 self-insured employers statewide.

Synopsis of Fiscal Effect Changes

The substitute bill makes two primary changes. First, the substitute bill increases the necessary credit rating from B3 to a Ba2 rating. Secondly, the bill allows the Administrator of BWC to require an employer to obtain an irrevocable letter of credit, a bond, or any other security the Administrator determines necessary to ensure solvency. These changes do not appear to substantively alter the fiscal impact of the bill, however, it is possible that increasing the necessary credit rating could reduce the number of employers seeking self-insured status.

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