



# Ohio Legislative Service Commission

Terry Steele

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 205 of the 131st G.A.

**Date:** November 23, 2015

**Status:** As Introduced

**Sponsor:** Reps. Henne and Retherford

**Local Impact Statement Procedure Required:** No

**Contents:** Allows certain employers to obtain workers' compensation coverage from a private workers' compensation insurer and modifies the requirements to qualify for self-insurance

### State Fiscal Highlights

- **Private workers' compensation insurance.** The bill allows employers with more than 1,000 employees to obtain workers' compensation coverage from a private workers' compensation employer. The most recent economic census data indicates that there are 272 such employers in Ohio.
- **Impact of the State Insurance Fund.** Large employers obtaining private coverage would result in reduced premium payments to the State Insurance Fund, managed by the Bureau of Workers' Compensation (BWC). Concurrently, there would be fewer claims filed and benefits paid from the Fund as well.
- **Self-insured employers.** The changes in the bill would appear to increase the number of employers eligible to obtain self-insured status. The number of self-insured employers in Ohio currently stands at approximately 1,200.
- **Oversight of self-insured employers.** The bill transfers administration of the Self-Insured Services Division and Self-Insuring Employers Evaluation Board (SIEEB) from BWC to the Department of Insurance. There are currently 29 full-time employees in that BWC division. The bill also transfers the management and use of the Self-Insuring Employers Guaranty Fund and the Self-Insurance Assessment Fund from BWC to the Department of Insurance.

### Local Fiscal Highlights

- **Counties seeking self-insurance on sports facility construction.** The bill lowers the number of employees required for counties wishing to self-insure construction of sports facilities status from 500 to 300. The impact on project costs for counties pursuing this status is unknown.

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## Detailed Fiscal Analysis

### Overview

The bill makes several modifications to the Workers' Compensation Law in three primary areas. First, the bill allows very large employers (those with 1,000 or more employees) to obtain workers' compensation coverage from a private workers' compensation insurer. Secondly, the bill modifies the requirements an employer must satisfy to be granted the status of a self-insuring employer. Finally, the bill revises many of the oversight and administration functions relating to self-insuring employers and moves those responsibilities from the Bureau of Workers' Compensation (BWC) to the Department of Insurance. Overall, these provisions of the bill would primarily impact the State Insurance Fund. In general terms, it would appear that the loss of revenue from collected premiums would exceed the cost reductions associated with fewer benefits paid from the fund. Transferring employees currently responsible for overseeing self-insured employers, along with the Self-Insuring Employers Guaranty Fund and the Self-Insurance Assessment Fund, from BWC to the Department of Insurance as required by the bill would appear not to create any new costs. However, the bill does not specify the nature of how this transfer is to occur. But presumably, any additional costs to the Department of Insurance for these employees would be borne from the Self-Insurance Assessment Fund.

### Private insurance coverage

The bill allows an employer with at least 1,000 employees in Ohio to obtain coverage for workers' compensation claims through a workers' compensation insurer (WCI). Under the bill, a WCI is not required to maintain a Health Partnership Program or a Qualified Health Plan, the managed care component of the state's workers' compensation system that applies to State Fund and self-insured employers, respectively. If these very large employers opt for private-sector coverage from a WCI, the State Insurance Fund will undoubtedly incur a loss in premium revenue. Conversely, BWC would no longer be paying any claims related to these employers from the State Insurance Fund. However, it is reasonable to assume that the loss of revenues from premium payments would exceed any cost reductions associated with claim payments. The bill does, however, provide that any WCI employers must submit an annual administrative assessment fee to BWC in the same manner that self-insured employers must do.

### Employers eligible for private coverage

There are approximately 250,000 State Fund employers in Ohio. According to the Economic Census produced by the U.S. Census Bureau, at the end of calendar year 2013 there were 272 employers in Ohio with 1,000 or more employees. It is unclear as to how many of these large employers would elect to obtain private insurance under a policy underwritten by a WCI. The number of employers electing to obtain private insurance

under the bill would dictate the scope of the revenue loss to the State Insurance Fund, as well as how many fewer claims would be paid from the Fund. In 2014, there were 108,549 new claims filed. BWC paid approximately \$1.7 billion in overall claim benefits.

### **Employers qualifying for self-insurance**

The bill revises some of the requirements necessary to become a self-insuring employer. The bill limits the application fee for any employer applying for self-insuring status to a reasonable fee of not more than \$1,000. Although BWC is permitted to charge employers wishing to qualify for self-insurance under the workers' compensation law a "reasonable" application fee, the agency does not currently impose such a fee. The bill also lowers the number of employees required for self-insuring status from 500 to 300 for private-sector employers and boards of county commissioners applying to self-insure construction of a sports facility. The bill makes many other changes to the necessary requirements to become a self-insuring employer. These can be found in greater detail in the LSC Bill Analysis.

There are approximately 1,200 self-insuring employers in Ohio. The bill would appear to expand the number of eligible employers that can achieve self-insuring status. To the extent that these employers would opt for self-insuring status is unclear. However, in such cases, this would reduce the amount of premium payments made to the State Insurance Fund, as well as the amount of claims paid from the Fund.

### **Oversight of self-insuring employers**

The bill transfers the oversight of self-insuring employers from the Administrator of BWC to the Superintendent of the Department of Insurance. The bill maintains the current law requirements, aside from the changes noted above, for applying and obtaining self-insured status. Included with this program transfer is the transfer of management and oversight of the Self-Insuring Employers Guaranty Fund. This fund is used to cover claims in the event a self-insuring employer defaults. The bill also specifies that all administrative assessments paid by self-insuring employers must continue to be done using the formulas specified in continuing law. These assessments are deposited into the Self-Insurance Assessment Fund, also transferred to the Superintendent of Insurance under the bill.

The bill requires that all employees who perform functions of the BWC Self-Insurance Department or who are staff of the Self-Insuring Employers Evaluation Board (SIEEB) be transferred to the Department of Insurance immediately prior to the bill's effective date. This transfer also involves vehicles and equipment. As of this writing, the Self-Insured Department of BWC had 29 full-time employees. BWC budgeted approximately \$2.2 million for this function in the current biennium under appropriation item 855407, Claims Risk and Medical Management. Oversight costs in this area were \$2.4 million in FY 2015. The Division is funded through appropriation item 855407, Claims Risk and Medical Management. These expenses are not covered by premium payments. Rather, they are funded by assessments paid by State Fund employers alongside their premiums. The assessment revenue is then deposited into the

Workers' Compensation Fund (Fund 7023). The bill states that any vehicles and equipment are transferred with these employees. The bill does not, however, specify where these employees will be located or from what state fund these employees will be paid. Presumably, assessments paid specifically by self-insured employers into the Self-Insurance Assessment Fund would be used to pay the costs of these employees.

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