



OHIO LEGISLATIVE SERVICE COMMISSION

Terry Steele

Fiscal Note & Local Impact Statement

Bill: H.B. 380 of the 132nd G.A.

Status: As Reported by House Insurance

Sponsor: Reps. Seitz and Householder

Local Impact Statement Procedure Required: No

Subject: Prohibits unauthorized or illegal aliens from receiving workers' compensation benefits

State & Local Fiscal Highlights

- The bill prohibits unauthorized or illegal aliens from receiving workers' compensation benefits in most cases. This would likely reduce the amount of medical and lost-time benefits paid from the State Insurance Fund; however, the total magnitude is unclear.
- The bill generally retains current law liability provisions for employers, but does permit unauthorized workers to file a claim under certain circumstances. Because unauthorized workers might be hesitant to file such claims in court, this provision could reduce caseloads by some small amount. Consequently, there might be some small savings in costs for county courts responsible for dealing with such cases.
- The bill prohibits the Bureau of Workers' Compensation from paying any compensation or benefits, other than medical benefits, if an individual who is not a U.S. citizen does not provide an attestation or provide proof of attestation if requested, including an alien registration number and expiration. This could potentially result in some eligible employees not receiving benefits.

Detailed Fiscal Analysis

Overview

The bill modifies the definition of employee for the purposes of Ohio Workers' Compensation Law to exclude illegal or unauthorized aliens from receiving benefits under that law in most cases. The bill also contains liability provisions for employers that employ illegal or unauthorized aliens, including the ability of workers to file a lawsuit for damages. Generally, it would appear that the provisions of the bill could reduce the compensation and benefit payments made by the Bureau of Workers' Compensation (BWC) from the State Insurance Fund. The extent of the reduced compensation and benefit payments cannot, however, be estimated. The provisions of the bill apply to workers' compensation claims that come up on or after the bill's effective date.

Illegal and unauthorized aliens

The bill limits the definition of "employee," for purposes of the Ohio Workers' Compensation Law as it relates to aliens to include only aliens authorized to work by the U.S. Department of Homeland Security or its successor. The bill does so by excluding an illegal alien and an unauthorized alien from the definition of employee. The bill does not extend the authority of employers to include employees who are illegal or unauthorized aliens under their workers' compensation coverage. However, the bill does permit U.S. citizen dependents of illegal or unauthorized aliens to receive death benefits. Generally, this provision would appear to reduce the number of potential claims and the amount of compensation and benefits paid from the State Insurance Fund. The total magnitude of these cost reductions is unclear. While BWC has not been able to estimate the potential reduction in claims and the concomitant drop in compensation and benefit payments, the agency anticipates that, system wide, the cost reductions would probably be relatively small. In FY 2016, there were 88,170 allowed injuries payable from the State Insurance Fund. In that same year, there were more than \$580.3 million in medical benefits and \$1.0 billion in lost-time benefits paid from the State Insurance Fund.

Liability for injuries

Current law specifies that Ohio's workers' compensation system compensates an employee or an employee's dependents for death, injuries, or occupational diseases occurring in the course of and arising from employment. An employer who pays premiums or compensation as required by the Workers' Compensation Law will not be held liable in damages at common law or by statute. The bill generally retains this employer immunity from liability. However, the bill does assign liability to the employer if the injury suffered by an illegal or unauthorized alien was caused by a wrongful act or omission or neglect of the employer, and the employer, by clear and convincing evidence, knowingly employed an individual not authorized to work under the Immigration Reform and Control Act (IRCA). The bill also contains a rebuttable presumption specifying that if an employer complied with the IRCA, then the employer did not knowingly hire an illegal or unauthorized alien. The bill grants a court jurisdiction over such a claim. Because an illegal or unauthorized alien might hesitate to pursue such a claim in court because of his or her immigration status, the likely outcome is a reduction in such cases heard by courts having jurisdiction on such matters. However, it would appear that any such cost reductions would be slight.

Eligibility attestation

To be considered eligible for compensation or benefits, other than for medical benefits, a claimant who is not a U.S. citizen must provide BWC with a signed attestation that the claimant is an eligible employee as defined by the bill. The claimant must provide his or her alien registration number and expiration as part of this attestation. If not, BWC may not pay compensation or benefits, other than medical benefits. Also under the bill, BWC is permitted to request that the claimant give proof of

eligibility to work. If a claimant fails to comply with BWC's request, then BWC must deny any claim for compensation or benefits other than medical benefits. Taken together, these provisions of the bill could potentially result in some number of eligible claimants not receiving benefits.

Prosecution for fraud

Finally, the bill states that if a claimant signs an attestation but is in fact not eligible for workers' compensation benefits, then that individual must be prosecuted for fraud. It is possible that this provision could result in increased costs to county courts of common pleas to hear these cases and for BWC to prosecute them. However, it would appear that the number of additional prosecutions resulting from this provision would be relatively small.