Ohio Legislative Service Commission

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Office of Research and Drafting

Legislative Budget Office

S.B. 139
134th General Assembly

Fiscal Note & Local Impact Statement

Click here for S.B. 139's Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Lang

Local Impact Statement Procedure Required: No

Eric Makela, Economist

Highlights

- The bill expands the definition of groups eligible to be chartered as multiple employer welfare arrangements (MEWAs), and allows these entities greater flexibility to operate in the insurance marketplace.
- The bill increases the dollar amount of insurance policies written by MEWAs. Thus, the bill is likely to increase MEWA application and certification revenue to the Department of Insurance Operating Fund (Fund 5540), by perhaps up to a few thousand dollars per year.
- If the bill results in additional amounts of written insurance, it would indirectly affect receipts from the domestic and foreign insurance taxes.

Detailed Analysis

The bill changes three primary facets of Ohio law regarding multiple employer welfare arrangements (MEWAs). First, the bill alters the eligibility requirements for MEWAs, to include employer associations whose principal office is not in Ohio, but whose metropolitan area includes parts of Ohio. The bill also eliminates the limitation on the amount of time a group must be organized to operate a self-insurance program under a certified MEWA arrangement. These provisions increase the employer base who are eligible for MEWA certification. Secondly, the bill defines self-insured MEWAs as a single employer for the purposes of complying with laws regarding self-funded insurance contracts.

Thirdly, the bill eliminates the statutory limitation on stop-loss insurance retention level.[1] Under the bill, MEWAs must determine their own retention level using actuarial principles approved by the Superintendent of Insurance, whereas under current law the retention level limits are set by the arrangement's annual aggregate premium. Last, the bill requires a stop-loss insurance policy purchased by a MEWA to provide stop-loss insurance coverage to an individual regardless of the individual's diagnosis, and eliminates statutory limitations on that individual's deductible or the policy's attachment points.[2]

As of December 31, 2019, there were 12 multiple employer welfare arrangements chartered in the state of Ohio. Each entity maintained, as of that time, a capital and surplus of at least $500,000. Total premiums written were approximately $628 million, over 97% of which were originated in Ohio.[3]

Information about MEWAs

Legal entities may apply for certification under the MEWA Program, allowing those organizations to form an employee welfare benefit plan, trust, or similar arrangement for the purpose of offering or providing group insurance or group self-insurance to employees or self-employed individuals and their families.[4] Once certified by the Ohio Department of Insurance (ODI), a MEWA may only operate a group self-insurance program if that MEWA is comprised of more than one legal entity and maintains enrollment of at least 300 employees and self-employed individuals.

Multiple employer welfare arrangements may offer a variety of insurance products to its members. MEWAs that operate a group self-insurance program are required to purchase stop-loss insurance from insurers authorized to conduct business in Ohio; the amount of stop-loss insurance required is based on the amount of the MEWA's annual aggregate premium and projected claims for the upcoming fiscal year. In addition, each MEWA member must pay its share of necessary costs borne by the board of the arrangement or its third-party administrator.

Under current law, MEWAs operating a group self-insurance program must maintain a minimum surplus of at least $500,000.[5] Prior to receiving their annual certification, each MEWA is required to submit to ODI an actuarial document certifying the association's compliance with Ohio law, and with actuarial underwriting and rating practices. The annual recertification fee is $1,000.

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[1] Retention is a measure of liability (expected payout); limiting retention is a means of ensuring the financial viability of a group insurance arrangement in future periods.

[2] Adjustments to deductible and attachment point can limit the primary policy's exposure to risk from a single individual or subgroup of individuals enrolled in the policy.

[3] *ODI 2020 Annual Report,* pg. 36

[4] Currently, the following organizations are eligible for certification under the MEWA Program: (1) a chamber of commerce, (2) a trade association, (3) an industry association, (4) a professional association, (5) an employee organization exempt from taxation under section 501(c)(9) of the Internal Revenue Code (IRC), (6) a business league exempt from taxation under IRC section 501(c)(6), and (7) other associations that the Superintendent of Insurance may designate.

[5] Surplus is defined as each MEWA's assets minus projected liabilities each fiscal year.