OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 269 of the 132nd G.A. **Status:** As Introduced

Sponsor: Rep. Henne **Local Impact Statement Procedure Required:** No

Subject: Renames the Bureau of Workers' Compensation and modifies benefits associated with temporary total disability and permanent total disability and death benefit payments

State & Local Fiscal Highlights

- The bill modifies benefits by replacing permanent total disability (PTD) payments with extended benefit (EB) payments. While the total magnitude of the change in benefits is unclear, preliminary BWC estimates suggest there will be a decrease of $8.7 million annually in benefits paid from the State Insurance Fund.
- The bill creates a lump sum survivor benefit of $35,000 for dependents of a deceased employee. BWC estimates nearly 100 such payments annually, resulting in approximately $3.4 million in increased benefit payments from the State Insurance Fund.
- The bill establishes a higher education scholarship benefit of $5,000 for dependents of deceased employees. BWC estimates nearly 110 eligible participants yearly for the benefit with a potential increase in costs of approximately $2.1 million annually.
- The bill establishes a return to work plan program for employees receiving temporary total disability payments. The costs of administering the program would be paid from the Workers' Compensation Fund (Fund 7023).
- The bill establishes a loss prevention incentive program for employers. This program is similar to the requirements in current law, for which participation by employers is voluntary. As a consequence, the bill may result in some additional discounted premium rates given to private and public employers.

Detailed Fiscal Analysis

Overview

The bill makes several changes to the benefits provided by the Bureau of Workers' Compensation, and makes several other changes. Specifically, the bill renames the Bureau of Workers' Compensation (BWC) the Office of Worker Safety and Rehabilitation. The bill also replaces permanent total disability (PTD) with extended benefit (EB) compensation when an employee attains full retirement age for the position which the employee was employed at the time of injury. This change will likely reduce benefit costs aid from the State Insurance Fund. The bill further requires BWC to add a lump sum payment and scholarship for higher education to the death benefits available to a deceased employee's dependents. These features are likely to increase benefit costs paid from the State Insurance Fund. The bill also requires BWC to develop a written return to work plan for an employee receiving temporary total disability compensation. Finally, the bill requires BWC to incentivize employers to participate in loss prevention programs developed by the Superintendent of the Division of Safety and Hygiene. Overall, while the changes in the bill pertaining to benefit distribution would impact the State Insurance Fund, the bill could also affect BWC costs for administering the new benefit structure as well as the loss prevention provisions. Any additional such costs would be paid from the Workers' Compensation Fund (Fund 7023) or, to a lesser extent, the Safety and Hygiene Fund (Fund 8260).

Extended benefit compensation

The bill generally terminates PTD compensation and replaces it with Extended Benefit (EB) compensation when the employee reaches full retirement age for the position held by the employee at the time of disability (see the LSC Bill Analysis for retirement age provisions). However, if the employee has reached retirement age, or is within one year of reaching that age when disability occurs, then PTD compensation then terminates after two years and EB compensation begins.

Extended benefit calculations

The bill makes calculations to determine the rate of extended benefits granted based on a percentage of PTD received. The LSC Bill Analysis table shows the graduated rate at which these benefits are calculated.

Under current law, PTD compensation is 66.7% of the employee's average weekly wage (AWW), not to exceed a maximum amount of weekly compensation equal to 66.7% of the statewide AWW ($902 in 2017) and not to fall below 50% of the statewide AWW ($451 in 2017) on the date of disability. Any employee whose AWW is less than 50% of the AWW receives the calculated statewide AWW.

Overall, BWC's preliminary estimates related to the transition from PTD to EB payments appear to anticipate a reduction of payments made from the State Insurance Fund related to the transition from the PTD benefit structure to the EB compensation structure outlined in the bill. While BWC's actuarial analysis is not yet completed and available, the agency's preliminary analysis indicates that the provisions related to these changes would result in approximately $8.7 million annually in reduced payments in total from the State Insurance Fund. This encompasses both private employers and public taxing districts.

Annual adjustments

The bill, in addition to the changes related to PTD/EB benefits listed above, also requires BWC to increase the amount of EB payable to an employee by 2% each year. The first increase in such payments only comes after the employee has been receiving

EB payments for 12 months. Any subsequent increases may only come 12 months after the initial payment increase. It is unclear as to how these scheduled increases would impact compensation increases that would happen normally under the current PTD structure.

Death benefits

The bill adds lump sum payments and a scholarship for higher education to the death benefits available to a deceased employee's dependents. Under the bill, wholly or partially dependent individuals receive a $35,000 lump sum payment in addition to the death benefits available in current law. The bill also grants each dependent a scholarship in the amount of $5,000 per year for four years. The scholarship can be used to pay the expenses of attending a college, university, technical school, vocational school, or other post-secondary education. The dependent cannot receive the scholarship until they have completed high school or received a certificate of high school equivalence.

BWC has estimated, based on historical claim data, that there could be approximately 100 beneficiaries of the lump sum survivor benefit provided in the bill. The estimated cost of the lump sum payments under the bill would be approximately $3.4 million per year. BWC further estimates that there could be nearly 110 dependents per accident year that would qualify for the scholarship payments under the bill. Assuming no qualifying dependents have their scholarship benefits terminated, the cost of providing these benefits would be approximately $2.1 million annually based on BWC estimates. Any such additional benefit payments would be paid from the State Insurance Fund. These additional benefit programs may result in some additional administrative costs for BWC as well. If any such costs would occur, they would be paid from the Workers' Compensation Fund (Fund 7023).

Temporary total disability – return to work plan

Under the bill, when an employee receives temporary total disability (TTD) compensation, BWC must develop a written return to work plan for the employee. BWC must include in the plan an objective of returning the employee to employment and the methods by which to achieve this objective. BWC must review the TTD plan every 90 days to ensure compliance with the plan and to determine if the plan needs revision. The bill further requires BWC to adopt any necessary rules to create and administer return to work plans. As with the benefits above, the costs of administering return to work plans would be paid from Fund 7023.

Loss prevention programs

The bill requires BWC to develop and make available incentives for employers to participate in loss prevention programs, including safety consultations prescribed by the Superintendent of the Division of Safety and Hygiene. BWC must establish goals for participation in programs for protecting workforce and reducing injury and illness. Under current law, BWC is required to offer loss prevention courses and programs to employers. Participation is voluntary, but employers may be granted a discounted premium rate if they successfully complete a program or course. It is unclear as to whether or not the provision of the bill would increase participation and result in more employers receiving a discounted premium rate.

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