

# **LSC Greenbook**

**Analysis of the Enacted Budget**

## **Bureau of Workers' Compensation (Statutory and Appropriation Changes under H.B. 59)**

Terry Steele, Senior Budget Analyst  
Legislative Service Commission

August 2013

## TABLE OF CONTENTS

<b>BUREAU OF WORKERS' COMPENSATION .....</b>	<b>1</b>
<b>Overview .....</b>	<b>1</b>
Appropriation Changes under H.B. 59.....	1
<b>Statutory Changes Under H.B. 59 .....</b>	<b>3</b>
Prospective Payment System.....	3
Elimination of Transfers from the Coal Workers Pneumoconiosis Fund .....	3
Eligibility Criteria for Self-Insurance and Applicable Waiver Conditions .....	3
Managed Care Contracts.....	4

# Bureau of Workers' Compensation

- H.B. 59 increases funding for Safety Grants from \$5.0 million to \$15.0 million in each fiscal year
- Funding for Safety and Hygiene Division operations also increased by \$2.5 million in each fiscal year
- Authorization for BWC to establish a prospective payment system for workers' compensation coverage

## OVERVIEW

The biennial operating budgets for the Bureau of Workers' Compensation (BWC) and the Ohio Industrial Commission (OIC) are customarily enacted in legislation that is separate from the main operating budget. For the FY 2014-FY 2015 biennium, these bills were H.B. 34 (the BWC budget) and H.B. 35 (the OIC budget), both enacted in March 2013. However, H.B. 59, the main operating budget act for the FY 2014-FY 2015 biennium, included statutory changes and funding adjustments that affect BWC. This Greenbook provides a summary of these changes.

### Appropriation Changes under H.B. 59

H.B. 34 appropriated \$283.6 million for BWC operations in FY 2014 and \$267.1 million in FY 2015. H.B. 59 subsequently increased funding for two line items by a total of \$12.5 million in each fiscal year. Specifically, under H.B. 59, line item 855609, Safety and Hygiene Operating, increases from approximately \$19.2 million in each fiscal year to approximately \$21.7 million in each fiscal year of the FY 2014-FY 2015 biennium. Line item 855610, Safety Grants, increases from \$5.0 million in each fiscal year to \$15.0 million in each fiscal year of the FY 2014-FY 2015 biennium. Overall, these adjustments raise BWC appropriations to \$296.1 million in FY 2014 and \$279.6 million in FY 2015.

FY 2014-FY 2015 Appropriations for BWC, with H.B. 59 Changes		
	FY 2014	FY 2015
<b>Total BWC Appropriations under H.B. 34</b>	<b>\$283,610,000</b>	<b>\$267,083,900</b>
<b>H.B. 59 Increases (Fund 8260)</b>		
855609 Safety and Hygiene Operating	\$2,500,000	\$2,500,000
855610 Safety Grants*	\$10,000,000	\$10,000,000
<b>Total Additional Funding</b>	<b>\$12,500,000</b>	<b>\$12,500,000</b>
<b>ADJUSTED TOTAL APPROPRIATIONS</b>	<b>\$296,110,000</b>	<b>\$279,583,900</b>

\*H.B. 59 also changed the name of the line item 855610 from Gear Program to Safety Grants.

Both of the line items are supported by Safety and Hygiene assessments charged to employers. For private employers, the rate is 1.0% of workers' compensation premium payments. For state agencies and public employer taxing districts, the rate is 0.5% of paid premiums. These amounts are collected along with premiums and subsequently transferred into the Safety and Hygiene Fund (Fund 8260). The additional amounts appropriated for Fund 8260 line item 855609, Safety and Hygiene Operating, will supplement funding for services provided by safety and health consultants, industrial safety hygienists, ergonomists, and other staff located at the Center for Occupational Safety and Health in Pickerington and field offices statewide. The Safety and Hygiene Division is responsible for providing occupational safety and health information to private and public employers through a range of consulting services and training programs.

The additional \$10.0 million in funding for Fund 8260 appropriation item 855610, Safety Grants, will be used to increase the pool of matching grant money available to employers for safety equipment purchases under the Safety Intervention Grant\$ Program. This increases appropriations for the grant program from \$5.0 million in each fiscal year under H.B. 34 to \$15.0 million in each fiscal year under H.B. 59. The additional funding allows for BWC to expand its match from 2:1 to 3:1, up to a maximum of \$40,000 provided by BWC to employers who obtain coverage through the State Insurance Fund. Also, certain restrictions on what type of equipment that may be bought with the grant funding have been relaxed. BWC awarded grants totaling \$3.9 million under the program in FY 2013.

## **STATUTORY CHANGES UNDER H.B. 59**

### **Prospective Payment System**

H.B. 59 includes a provision that allows the Administrator of Workers' Compensation, with the advice and consent of the BWC Board of Directors, to adopt a prospective payment model for collecting employer premiums. BWC currently collects premiums on a retrospective basis where employer premiums are due at the end of the coverage period. Under a prospective payment system, employers make payments in advance of the coverage period. Overall, BWC could incur some administrative costs to develop and implement a prospective payment plan, which would be paid from the Workers' Compensation Fund (Fund 7023). The more significant impact will be on employer premiums and will depend on the program guidelines that are implemented. The prospective payment system would apply to all employers except for state agencies and state institutions of higher education.

### **Elimination of Transfers from the Coal Workers Pneumoconiosis Fund**

To supplement funding for various mine safety and regulatory programs under the Department of Natural Resources during the FY 2012-FY 2013 biennium, previous law authorized the following cash transfers from the Coal Workers Pneumoconiosis Fund used by BWC: (1) up to \$3.0 million of the investment earnings to the Mine Safety Fund (Fund 5CU0), and (2) up to \$1.5 million of the investment earnings to the Coal Mining Administration and Reclamation Reserve Fund (Fund 5260). H.B. 59 eliminates the authority to make these transfers and instead provides \$2.5 million in GRF funding in each fiscal year to cover the Department of Natural Resources' costs for coal and mine safety regulatory programs previously paid for by these cash transfers. These activities include mine safety testing and certification, health inspections, underground mine electrical safety training and inspections, and the acquisition of mine rescue equipment.

### **Eligibility Criteria for Self-Insurance and Applicable Waiver Conditions**

H.B. 59 contains provisions that require the Administrator of Workers' Compensation to adopt rules that establish the conditions under which self-insurance eligibility criteria in current law may be waived. Currently, the following criteria may be waived: (1) the employer has a minimum of 500 employees in Ohio, (2) the employer has operated in Ohio for a minimum of two years, and (3) the employer maintains financial records that have been certified by a certified public accountant. Current law already requires that rules be adopted under (3). H.B. 59 requires that waiver rules be adopted under (1) and (2) as well. In addition, H.B. 59 allows the Administrator to include in the waiver rules a requirement that the employer pay a security in

accordance with continuing law in addition to the contribution the employer must pay into the Self-Insuring Employers' Guaranty Fund under current law.

### **Managed Care Contracts**

Finally, among the other changes affecting the state's workers' compensation system, H.B. 59 provides statutory authority for BWC to enter into contracts with managed care organizations (MCOs) to provide medical management and cost containment services in the Health Partnership Program. Specifically, the bill prohibits an MCO from receiving compensation under the Health Partnership Program unless the MCO has entered into a contract with BWC. The bill also requires MCO contracts to include incentives based on compliance and penalties for failure to comply. In addition, the bill permits MCO contracts to contain provisions limiting, restricting, or regulating any marketing or advertising by the MCO. Finally, H.B. 59 authorizes the Administrator to decertify an MCO if the MCO does not follow contract terms or violates any rules associated with the Health Partnership Program. If the Administrator pursues decertification, the provision requires that the MCO be given written notice and an opportunity for a hearing. There is no apparent fiscal effect to these provisions as these items have been established through administrative rule. As of August 2013, there were 17 MCOs in the Health Partnership Program.

BWC.docx/th