

**MEMORANDUM**

TO: Aniko Nagy, Ohio Bureau of Workers' Compensation

FROM: Todd Colquitt, Director of Business Advocacy

DATE: May 31, 2017

RE: **CSI Review – Self-Insuring Workers' Compensation, O.A.C. 4123-19**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (O.R.C.) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in O.R.C. 107.54.

Analysis

This Ohio Bureau of Workers' Compensation (Bureau) rule package consists of fourteen rules, ten of which are proposed for amendment while four contain no changes. These rules govern the process of applying for approval to self-insure, the procedures for the renewal or revocation of self-insuring status, and the assessment for the self-insuring employers' guaranty fund. This rule package is being reviewed by the Bureau under the five-year rule review requirement. Many of the proposed changes are non-substantive and involve typographical formatting and updates to references. The most substantive proposed change eliminates the previous requirement that private sector businesses employ a minimum of five hundred persons in order to seek self-insurer status. This change is proposed in order to conform to the statutory elimination of that minimum threshold enacted in House Bill 207 of the 131st General Assembly.

In response to early stakeholder outreach, the Bureau received one comment from an industry organization voicing agreement with the proposed changes. No comments were received from the public during the formal public comment period. In reviewing the package, CSI staff noted

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language in two separate places stating the Administrator of the Bureau has the discretion to require additional security (OAC 4123-19-03(E) and 4123-19-03.1(B), respectively). CSI staff contacted Bureau staff to inquire about the form such additional security would take and whether it was readily available. Bureau staff informed CSI staff that the form of security is a common Letter of Credit from a financial institution with a physical presence in the U.S. and that is unaffiliated with the self-insurer.

The purpose of a CSI recommendation memo is not to catalogue in detail each rule in all its subparts, but rather to weigh the rule package on the whole in whether stakeholders were included and their input considered, whether the appropriate balance has been struck, and whether the agency has adequately articulated the necessity for the adverse business impact. After reviewing the proposed rules, BIA, and stakeholder feedback, the CSI Office has determined that the rule package as a whole satisfactorily meets the standards espoused by the CSI Office and the purpose of the rule package justifies the adverse impacts identified in the BIA.

Recommendations

For the reasons described above, the CSI Office has no recommendations regarding this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Ohio Bureau of Workers' Compensation should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Emily Kaylor, Director of Regulatory Policy – CSI