



MEMORANDUM

To: Senate Insurance & Financial Institutions Committee
From: Representative Larry Householder, Representative Bill Seitz
Date: March 13th, 2018
Re: HB 380 Sponsor Testimony

Thank you, Mr. Chairman, and members of the committee, for the opportunity to present House Bill 380 today.

This legislation requires every injured worker to certify to the Ohio Bureau of Workers' Compensation (BWC) that they are authorized to work in this country. Under our legislation, illegal aliens will no longer be entitled to receive workers' compensation benefits, and may be prosecuted for fraud on the Bureau if they are caught misrepresenting their authorization to work status. I introduced similar legislation in previous General Assemblies (SB 238, SB 323, and SB 176). SB 238 (128th GA) passed the Senate on May 27, 2010 but did not receive House hearings; SB 323 (129th GA) ran out of time, as well as SB 176 (130th GA). Most recently, this language was a part of the House's BWC Budget (HB 27) which passed 66 to 31 earlier this year.

During the fall 2009 oversight hearings on BWC rates, Senate Insurance Committee members learned that BWC does not currently check employment authorization status and, in fact, views current state law as prohibiting it from doing so. BWC admitted, however, that no federal law requires payment of illegal aliens' workers' compensation claims and that the General Assembly is free to change state law to require proof of authorized employment status, as several states have already done. Because BWC is mainly funded by charges to Ohio employers, and because employers constantly complain to us about the price of payments, every dollar paid out by BWC to illegal alien workers is money that would otherwise go to reduce employer charges and make Ohio more competitive.

Under our legislation, every injured worker must certify to BWC that he or she is authorized to work in the USA. They will make this certification on their claim form under penalty of criminal violation if the certification is false. This will be the same certification process currently used to process unemployment compensation claims in Ohio. If the injured claimant does not certify proper work authorization, or falsely does so, then their claim will not be paid and the incident

will not count against the employer's claims experience (this is a principal variable in employer BWC rates).

Under the legislation, illegal aliens whose claims are denied by BWC will be able to sue their employer for their injuries, if the employer committed an intentional tort against the employee (current law allows this) or if the illegal alien can prove by clear and convincing evidence that the employer hired the injured worker knowing that the employee was not authorized to work in the US (this is the same standard of liability as federal immigration law establishes for all US employers).

Legal workers have every reason to be concerned that our workers' compensation system will have enough money to pay their injury claims and law abiding employers have every reason to pay their BWC premiums only on the workers who are legally authorized to work in Ohio. Through this bill, we will disincentivize illegal aliens from working in Ohio when they have no legal status to be in the United States at all, but we will also disincentivize unscrupulous employers who violate the federal law that prevents them from hiring illegal aliens knowing of their status as illegal aliens. In this way we attack the illegal immigration problem from both the supply and demand angles.

I have worked closely with BWC to refine our proposal over the past several General Assemblies and during the budget process to ensure that it is workable and as least burdensome as possible. We are confident that this has been achieved. The legislation before you also incorporates changes requested by the NFIB and Farm Bureau.

Finally, after this bill passed the House, we drafted an amendment (copy enclosed) clarifying that workers who are legally entitled to work at the time they are hired, but subsequently lose their status through things like visa overstays, and are then injured, will still be able to collect workers compensation benefits as long as they remain with the employer by whom they were legally hired in the first place. This fixes something that was our intention all along, and matches up the duties on both employer and employee so that they exist at the time of initial hire.

Representative Householder and I thank you for providing us the opportunity to provide sponsor testimony on HB 380. We urge your favorable consideration of the bill and the amendment we just discussed. At this time we would be happy to entertain questions from the committee. Thank you, Mr. Chairman.