

132nd General Assembly
Regular Session
2017-2018

Sub. H. B. No. 27

A BILL

To amend sections 4121.125, 4121.44, 4123.29, 1
4123.343, 4123.512, 4123.53, 4123.54, 4123.56, 2
4123.57, 4123.66, 4123.68, 4123.71, 4123.84, 3
4125.07, 4167.01, 4167.02, and 4167.10 and to 4
repeal sections 4123.72 and 4167.19 of the Revised 5
Code to make changes to the Workers' Compensation 6
Law, to make appropriations for the Bureau of 7
Workers' Compensation for the biennium beginning 8
July 1, 2017, and ending June 30, 2019, and to 9
provide authorization and conditions for the 10
operation of the Bureau's programs. 11

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 101.01. That sections 4121.125, 4121.44, 4123.29, 12
4123.343, 4123.512, 4123.53, 4123.54, 4123.56, 4123.57, 4123.66, 13
4123.68, 4123.71, 4123.84, 4125.07, 4167.01, 4167.02, and 4167.10 14
of the Revised Code be amended to read as follows: 15

Sec. 4121.125. (A) The bureau of workers' compensation board 16
of directors, based upon recommendations of the workers' 17
compensation actuarial committee, may contract with one or more 18
outside actuarial firms and other professional persons, as the 19
board determines necessary, to assist the board in ~~measuring~~ 20
maintaining and monitoring the performance of Ohio's workers' 21

compensation system and in comparing Ohio's workers' compensation 22
system to other state and private workers' compensation systems. 23
The board, actuarial firm or firms, and professional persons shall 24
~~make such measurements and comparisons~~ perform analyses using 25
accepted insurance industry standards, including, but not limited 26
to, standards promulgated by the actuarial standards board of the 27
American academy of actuaries or techniques used by the National 28
Council on Compensation Insurance. 29

(B) The board may contract with one or more outside firms to 30
conduct management and financial audits of the workers' 31
compensation system, including ~~audits~~ analyses of the reserve fund 32
belonging to the state insurance fund, and to establish objective 33
quality management principles and methods by which to review the 34
performance of the workers' compensation system. 35

(C) The board shall do all of the following: 36

(1) Contract to have prepared annually by or under the 37
supervision of an actuary a report that meets the requirements 38
specified under division (E) of this section and that consists of 39
an actuarial ~~valuation of the assets,~~ estimate of the unpaid 40
~~liabilities, and funding requirements~~ of the state insurance fund 41
and all other funds specified in this chapter and Chapters 4123., 42
4127., and 4131. of the Revised Code; 43

(2) Require that the actuary or person supervised by an 44
actuary referred to in division (C)(1) of this section complete 45
the ~~valuation~~ estimate of unpaid liabilities in accordance with 46
the actuarial standards of practice promulgated by the actuarial 47
standards board of the American academy of actuaries; 48

(3) Submit the report referred to in division (C)(1) of this 49
section to the standing committees of the house of representatives 50
and the senate with primary responsibility for workers' 51
compensation legislation on or before the first day of November 52

following the year for which the ~~valuation~~ estimate of unpaid 53
liabilities was made; 54

(4) Have an actuary or a person who provides actuarial 55
services under the supervision of an actuary, at such time as the 56
board determines, and at least once during the five-year period 57
that commences on September 10, 2007, and once within each 58
five-year period thereafter, conduct an actuarial ~~investigation of~~ 59
~~the experience of employers,~~ analysis of the mortality, ~~service,~~ 60
~~and injury rate of employees,~~ and the payment of temporary total 61
~~disability, permanent partial disability,~~ experience used in 62
estimating the future costs of awards for survivor benefits and 63
permanent total disability under sections 4123.56 to 4123.58 of 64
the Revised Code to be used in the experience rating of an 65
employer for purposes of premium calculation and to update the 66
~~actuarial assumptions~~ claim level reserves used in the report 67
required by division (C)(1) of this section; 68

(5) Submit the report required under division (F) of this 69
section to the standing committees of the house of representatives 70
and the senate with primary responsibility for workers' 71
compensation legislation not later than the first day of November 72
following the fifth year of the period that the report covers; 73

(6) Have prepared by or under the supervision of an actuary 74
an actuarial analysis of any introduced legislation expected to 75
have a measurable financial impact on the workers' compensation 76
system; 77

(7) Submit the report required under division (G) of this 78
section to the legislative service commission and the standing 79
committees of the house of representatives and the senate with 80
primary responsibility for workers' compensation legislation not 81
later than sixty days after the date of introduction of the 82
legislation. 83

(D) The administrator of workers' compensation and the industrial commission shall compile information and provide access to records of the bureau and the industrial commission to the board to the extent necessary for fulfillment of both of the following requirements:

(1) Conduct of the ~~measurements and comparisons~~ monitoring described in division (A) of this section;

(2) Conduct of the management and financial audits and establishment of the principles and methods described in division (B) of this section.

(E) The firm or person with whom the board contracts pursuant to division (C)(1) of this section shall prepare a report of the ~~valuation analysis of the unpaid liabilities~~ and submit the report to the board. The firm or person shall include all of the following information in the report that is required under division (C)(1) of this section:

(1) A summary of the ~~compensation and benefit provisions~~ funds and components evaluated;

(2) A description of the actuarial methods and assumptions ~~and actuarial cost method~~ used in the valuation analysis of the unpaid liabilities;

(3) A schedule showing the ~~effect~~ impact of ~~any~~ changes in the ~~compensation and benefit provisions, actuarial assumptions, or cost methods~~ estimates of the unpaid liabilities since the previous annual actuarial ~~valuation analysis~~ report was submitted to the board.

(F) The actuary or person whom the board designates to conduct an actuarial investigation under division (C)(4) of this section shall prepare a report of the actuarial investigation and shall submit the report to the board. The actuary or person shall prepare the report and make any recommended changes ~~in~~ to the

actuarial mortality assumptions in accordance with the actuarial 115
standards of practice promulgated by the actuarial standards board 116
of the American academy of actuaries. ~~The actuary or person shall~~ 117
~~include all of the following information in the report:~~ 118

~~(1) A summary of relevant decrement and economic assumption~~ 119
~~experience;~~ 120

~~(2) Recommended changes in actuarial assumptions to be used~~ 121
~~in subsequent actuarial valuations required by division (C)(1) of~~ 122
~~this section;~~ 123

~~(3) A measurement of the financial effect of the recommended~~ 124
~~changes in actuarial assumptions.~~ 125

(G) The actuary or person whom the board designates to 126
conduct the actuarial analysis under division (C)(6) of this 127
section shall prepare a report of the actuarial analysis and shall 128
submit that report to the board. The actuary or person shall 129
complete the analysis in accordance with the actuarial standards 130
of practice promulgated by the actuarial standards board of the 131
American academy of actuaries. The actuary or person shall include 132
all of the following information in the report: 133

(1) A summary of the statutory changes being evaluated; 134

(2) A description of or reference to the actuarial 135
assumptions and actuarial cost method used in the report; 136

~~(3) A description of the participant group or groups included~~ 137
~~in the report;~~ 138

~~(4) A statement of the financial impact of the legislation,~~ 139
~~including the resulting increase, if any, in employer premiums,~~ 140
~~and in actuarial accrued current estimates of unpaid liabilities,~~ 141
~~and, if an increase in actuarial accrued liabilities is predicted,~~ 142
~~the per cent of premium increase that would be required to~~ 143
~~amortize the increase in those liabilities as a level per cent of~~ 144

~~employer premiums over a period not to exceed thirty years.~~ 145

~~(5) A statement of whether the employer premiums paid to the 146
bureau of workers' compensation after the proposed change is 147
enacted are expected to be sufficient to satisfy the funding 148
objectives established by the board.~~ 149

(H) The board may, at any time, request an actuary to ~~make~~ 150
~~any studies or perform~~ actuarial ~~valuations~~ analyses to determine 151
the adequacy of the premium rates established by the administrator 152
in accordance with sections 4123.29 and 4123.34 of the Revised 153
Code, and may adjust those rates as recommended by the actuary. 154

(I) The board shall have an independent auditor, at least 155
once every ten years, conduct a fiduciary performance audit of the 156
investment program of the bureau of workers' compensation. That 157
audit shall include an audit of the investment policies approved 158
by the board and investment procedures of the bureau. The board 159
shall submit a copy of that audit to the auditor of state. 160

(J) The administrator, with the advice and consent of the 161
board, shall employ an internal auditor who shall report findings 162
directly to the board, workers' compensation audit committee, and 163
administrator, except that the internal auditor shall not report 164
findings directly to the administrator when those findings involve 165
malfeasance, misfeasance, or nonfeasance on the part of the 166
administrator. The board and the workers' compensation audit 167
committee may request and review internal audits conducted by the 168
internal auditor. 169

(K) The administrator shall pay the expenses incurred by the 170
board to effectively fulfill its duties and exercise its powers 171
under this section as the administrator pays other operating 172
expenses of the bureau. 173

Sec. 4121.44. (A) The administrator of workers' compensation 174

shall oversee the implementation of the Ohio workers' compensation 175
qualified health plan system as established under section 4121.442 176
of the Revised Code. 177

(B) The administrator shall direct the implementation of the 178
health partnership program administered by the bureau as set forth 179
in section 4121.441 of the Revised Code. To implement the health 180
partnership program and to ensure the efficiency and effectiveness 181
of the public services provided through the program, the bureau: 182

(1) Shall certify one or more external vendors, which shall 183
be known as "managed care organizations," to provide medical 184
management and cost containment services in the health partnership 185
program for a period of two years beginning on the date of 186
certification, consistent with the standards established under 187
this section; 188

(2) May recertify managed care organizations for additional 189
periods of two years; and 190

(3) May integrate the certified managed care organizations 191
with bureau staff and existing bureau services for purposes of 192
operation and training to allow the bureau to assume operation of 193
the health partnership program at the conclusion of the 194
certification periods set forth in division (B)(1) or (2) of this 195
section; 196

(4) May enter into a contract with any managed care 197
organization that is certified by the bureau, pursuant to division 198
(B)(1) or (2) of this section, to provide medical management and 199
cost containment services in the health partnership program. 200

(C) A contract entered into pursuant to division (B)(4) of 201
this section shall include both of the following: 202

(1) Incentives that may be awarded by the administrator, at 203
the administrator's discretion, based on compliance and 204
performance of the managed care organization; 205

(2) Penalties that may be imposed by the administrator, at 206
the administrator's discretion, based on the failure of the 207
managed care organization to reasonably comply with or perform 208
terms of the contract, which may include termination of the 209
contract. 210

(D) Notwithstanding section 119.061 of the Revised Code, a 211
contract entered into pursuant to division (B)(4) of this section 212
may include provisions limiting, restricting, or regulating any 213
marketing or advertising by the managed care organization, or by 214
any individual or entity that is affiliated with or acting on 215
behalf of the managed care organization, under the health 216
partnership program. 217

(E) No managed care organization shall receive compensation 218
under the health partnership program unless the managed care 219
organization has entered into a contract with the bureau pursuant 220
to division (B)(4) of this section. 221

(F) Any managed care organization selected shall demonstrate 222
all of the following: 223

(1) Arrangements and reimbursement agreements with a 224
substantial number of the medical, professional and pharmacy 225
providers currently being utilized by claimants. 226

(2) Ability to accept a common format of medical bill data in 227
an electronic fashion from any provider who wishes to submit 228
medical bill data in that form. 229

(3) A computer system able to handle the volume of medical 230
bills and willingness to customize that system to the bureau's 231
needs and to be operated by the managed care organization's staff, 232
bureau staff, or some combination of both staffs. 233

(4) A prescription drug system where pharmacies on a 234
statewide basis have access to the eligibility and pricing, at a 235
discounted rate, of all prescription drugs. 236

(5) A tracking system to record all telephone calls from claimants and providers regarding the status of submitted medical bills so as to be able to track each inquiry.	237 238 239
(6) Data processing capacity to absorb all of the bureau's medical bill processing or at least that part of the processing which the bureau arranges to delegate.	240 241 242
(7) Capacity to store, retrieve, array, simulate, and model in a relational mode all of the detailed medical bill data so that analysis can be performed in a variety of ways and so that the bureau and its governing authority can make informed decisions.	243 244 245 246
(8) Wide variety of software programs which translate medical terminology into standard codes, and which reveal if a provider is manipulating the procedures codes, commonly called "unbundling."	247 248 249
(9) Necessary professional staff to conduct, at a minimum, authorizations for treatment, medical necessity, utilization review, concurrent review, post-utilization review, and have the attendant computer system which supports such activity and measures the outcomes and the savings.	250 251 252 253 254
(10) Management experience and flexibility to be able to react quickly to the needs of the bureau in the case of required change in federal or state requirements.	255 256 257
(G)(1) The administrator may decertify a managed care organization if the managed care organization does any of the following:	258 259 260
(a) Fails to maintain any of the requirements set forth in division (F) of this section;	261 262
(b) Fails to reasonably comply with or to perform in accordance with the terms of a contract entered into under division (B)(4) of this section;	263 264 265
(c) Violates a rule adopted under section 4121.441 of the	266

Revised Code. 267

(2) The administrator shall provide each managed care 268
organization that is being decertified pursuant to division (G)(1) 269
of this section with written notice of the pending decertification 270
and an opportunity for a hearing pursuant to rules adopted by the 271
administrator. 272

(H)(1) Information contained in a managed care organization's 273
application for certification in the health partnership program, 274
and other information furnished to the bureau by a managed care 275
organization for purposes of obtaining certification or to comply 276
with performance and financial auditing requirements established 277
by the administrator, is for the exclusive use and information of 278
the bureau in the discharge of its official duties, and shall not 279
be open to the public or be used in any court in any proceeding 280
pending therein, unless the bureau is a party to the action or 281
proceeding, but the information may be tabulated and published by 282
the bureau in statistical form for the use and information of 283
other state departments and the public. No employee of the bureau, 284
except as otherwise authorized by the administrator, shall divulge 285
any information secured by the employee while in the employ of the 286
bureau in respect to a managed care organization's application for 287
certification or in respect to the business or other trade 288
processes of any managed care organization to any person other 289
than the administrator or to the employee's superior. 290

(2) Notwithstanding the restrictions imposed by division 291
(H)(1) of this section, the governor, members of select or 292
standing committees of the senate or house of representatives, the 293
auditor of state, the attorney general, or their designees, 294
pursuant to the authority granted in this chapter and Chapter 295
4123. of the Revised Code, may examine any managed care 296
organization application or other information furnished to the 297
bureau by the managed care organization. None of those individuals 298

shall divulge any information secured in the exercise of that 299
authority in respect to a managed care organization's application 300
for certification or in respect to the business or other trade 301
processes of any managed care organization to any person. 302

(I) On and after January 1, 2001, a managed care organization 303
shall not be an insurance company holding a certificate of 304
authority issued pursuant to Title XXXIX of the Revised Code or a 305
health insuring corporation holding a certificate of authority 306
under Chapter 1751. of the Revised Code. 307

(J) The administrator may limit freedom of choice of health 308
care provider or supplier by requiring, beginning with the period 309
set forth in division (B)(1) or (2) of this section, that 310
claimants shall pay an appropriate out-of-plan copayment for 311
selecting a medical provider not within the health partnership 312
program as provided for in this section. 313

(K) The administrator, six months prior to the expiration of 314
the bureau's certification or recertification of the managed care 315
organizations as set forth in division (B)(1) or (2) of this 316
section, may certify and provide evidence to the governor, the 317
speaker of the house of representatives, and the president of the 318
senate that the existing bureau staff is able to match or exceed 319
the performance and outcomes of the managed care organizations and 320
that the bureau should be permitted to internally administer the 321
health partnership program upon the expiration of the 322
certification or recertification as set forth in division (B)(1) 323
or (2) of this section. 324

(L) The administrator shall establish and operate a bureau of 325
workers' compensation health care data program. The administrator 326
shall develop reporting requirements from all employees, 327
employers, medical providers, managed care organizations, and 328
plans that participate in the workers' compensation system. The 329
administrator shall do all of the following: 330

(1) Utilize the collected data to measure and perform 331
comparison analyses of costs, quality, appropriateness of medical 332
care, and effectiveness of medical care delivered by all 333
components of the workers' compensation system. 334

(2) Compile data to support activities of the selected 335
managed care organizations and to measure the outcomes and savings 336
of the health partnership program. 337

(3) Publish and report compiled data on the measures of 338
outcomes and savings of the health partnership program and submit 339
the report to the president of the senate, the speaker of the 340
house of representatives, and the governor with the annual report 341
prepared under division (F)(3) of section 4121.12 of the Revised 342
Code. The administrator shall protect the confidentiality of all 343
proprietary pricing data. 344

(M) Any rehabilitation facility the bureau operates is 345
eligible for inclusion in the Ohio workers' compensation qualified 346
health plan system or the health partnership program under the 347
same terms as other providers within health care plans or the 348
program. 349

(N) In areas outside the state or within the state where no 350
qualified health plan or an inadequate number of providers within 351
the health partnership program exist, the administrator shall 352
permit employees to use a nonplan or nonprogram health care 353
provider and shall pay the provider for the services or supplies 354
provided to or on behalf of an employee for an injury or 355
occupational disease that is compensable under this chapter or 356
Chapter 4123., 4127., or 4131. of the Revised Code on a fee 357
schedule the administrator adopts. 358

(O) No health care provider, whether certified or not, shall 359
charge, assess, or otherwise attempt to collect from an employee, 360
employer, a managed care organization, or the bureau any amount 361

for covered services or supplies that is in excess of the allowed 362
amount paid by a managed care organization, the bureau, or a 363
qualified health plan. 364

(P) The administrator shall permit any employer or group of 365
employers who agree to abide by the rules adopted under this 366
section and sections 4121.441 and 4121.442 of the Revised Code to 367
provide services or supplies to or on behalf of an employee for an 368
injury or occupational disease that is compensable under this 369
chapter or Chapter 4123., 4127., or 4131. of the Revised Code 370
through qualified health plans of the Ohio workers' compensation 371
qualified health plan system pursuant to section 4121.442 of the 372
Revised Code or through the health partnership program pursuant to 373
section 4121.441 of the Revised Code. No amount paid under the 374
qualified health plan system pursuant to section 4121.442 of the 375
Revised Code by an employer who is a state fund employer shall be 376
charged to the employer's experience or otherwise be used in 377
merit-rating or determining the risk of that employer for the 378
purpose of the payment of premiums under this chapter, and if the 379
employer is a self-insuring employer, the employer shall not 380
include that amount in the paid compensation the employer reports 381
under section 4123.35 of the Revised Code. 382

(Q) The administrator, in consultation with the health care 383
quality assurance advisory committee created by the administrator 384
or its successor committee, shall develop and periodically revise 385
standards for maintaining an adequate number of providers 386
certified by the bureau for each service currently being used by 387
claimants. The standards shall ensure both of the following: 388

(1) That a claimant has access to a choice of providers for 389
similar services within the geographic area that the claimant 390
resides; 391

(2) That the providers within a geographic area are actively 392
accepting new claimants as required in rules adopted by the 393

administrator. 394

Sec. 4123.29. (A) The administrator of workers' compensation, 395
subject to the approval of the bureau of workers' compensation 396
board of directors, shall do all of the following: 397

(1) Classify occupations or industries with respect to their 398
degree of hazard and determine the risks of the different classes 399
according to the categories the national council on compensation 400
insurance establishes that are applicable to employers in this 401
state; 402

(2)(a) Fix the rates of premium of the risks of the classes 403
based upon the total payroll in each of the classes of occupation 404
or industry sufficiently large to provide a fund for the 405
compensation provided for in this chapter and to maintain a state 406
insurance fund from year to year. The administrator shall set the 407
rates at a level that assures the solvency of the fund. Where the 408
payroll cannot be obtained or, in the opinion of the 409
administrator, is not an adequate measure for determining the 410
premium to be paid for the degree of hazard, the administrator may 411
determine the rates of premium upon such other basis, consistent 412
with insurance principles, as is equitable in view of the degree 413
of hazard, and whenever in this chapter reference is made to 414
payroll or expenditure of wages with reference to fixing premiums, 415
the reference shall be construed to have been made also to such 416
other basis for fixing the rates of premium as the administrator 417
may determine under this section. 418

(b) If an employer elects to obtain other-states' coverage, 419
including limited other-states' coverage, pursuant to section 420
4123.292 of the Revised Code through the administrator, if the 421
administrator elects to offer such coverage, calculate the 422
employer's premium for the state insurance fund in the same manner 423
as otherwise required under division (A) of this section and 424

section 4123.34 of the Revised Code, except that the administrator 425
may establish in rule an alternative calculation of the employer's 426
premium to appropriately account for the expenditure of wages, 427
payroll, or both attributable to the labor performed and services 428
provided by that employer's employees when those employees 429
performed labor and provided services in this state and in the 430
other state or states for which the employer elects to secure 431
other-states' coverage. 432

(c) If an employer elects to obtain other-states' coverage 433
pursuant to section 4123.292 of the Revised Code through an 434
other-states' insurer, calculate the employer's premium for the 435
state insurance fund in the same manner as otherwise required 436
under division (A) of this section and section 4123.34 of the 437
Revised Code, except that when the administrator determines the 438
expenditure of wages, payroll, or both upon which to base the 439
employer's premium, the administrator shall use only the 440
expenditure of wages, payroll, or both attributable to the labor 441
performed and services provided by that employer's employees when 442
those employees performed labor and provided services in this 443
state only and to which the other-states' coverage does not apply. 444
The administrator may adopt rules setting forth the information 445
that an employer electing to obtain other-states' coverage through 446
an other-states' insurer shall report for purposes of determining 447
the expenditure of wages, payroll, or both attributable to the 448
labor performed and services provided in this state. 449

(d) The administrator in setting or revising rates shall 450
furnish to employers an adequate explanation of the basis for the 451
rates set. 452

(3) Develop and make available to employers who are paying 453
premiums to the state insurance fund alternative premium plans. 454
Alternative premium plans shall include retrospective rating 455
plans. The administrator may make available plans under which an 456

advanced deposit may be applied against a specified deductible 457
amount per claim. 458

(4)(a) Offer to insure the obligations of employers under 459
this chapter under a plan that groups, for rating purposes, 460
employers, and pools the risk of the employers within the group 461
provided that the employers meet all of the following conditions: 462

(i) All of the employers within the group are members of an 463
organization that has been in existence for at least two years 464
prior to the date of application for group coverage; 465

(ii) The organization was formed for purposes other than that 466
of obtaining group workers' compensation under this division; 467

(iii) The employers' business in the organization is 468
substantially similar such that the risks which are grouped are 469
substantially homogeneous; 470

(iv) The group of employers consists of at least one hundred 471
members or the aggregate workers' compensation premiums of the 472
members, as determined by the administrator, are estimated to 473
exceed one hundred fifty thousand dollars during the coverage 474
period; 475

(v) The formation and operation of the group program in the 476
organization will substantially improve accident prevention and 477
claims handling for the employers in the group; 478

(vi) Each employer seeking to enroll in a group for workers' 479
compensation coverage has an account in good standing with the 480
bureau of workers' compensation. The administrator shall adopt 481
rules setting forth the criteria by which the administrator will 482
determine whether an employer's account is in good standing. 483

(b) If an organization sponsors more than one employer group 484
to participate in group plans established under this section, that 485
organization may submit a single application that supplies all of 486

the information necessary for each group of employers that the organization wishes to sponsor.

(c) In providing employer group plans under division (A)(4) of this section, the administrator shall consider an employer group as a single employing entity for purposes of group rating. No employer may be a member of more than one group for the purpose of obtaining workers' compensation coverage under this division.

(d) At the time the administrator revises premium rates pursuant to this section and section 4123.34 of the Revised Code, if the premium rate of an employer who participates in a group plan established under this section changes from the rate established for the previous year, the administrator, in addition to sending the invoice with the rate revision to that employer, shall ~~send a copy of that invoice~~ provide an explanation of the rate revision to the third-party administrator that administers the group plan for that employer's group.

(e) In providing employer group plans under division (A)(4) of this section, the administrator shall establish a program designed to mitigate the impact of a significant claim that would come into the experience of a private, state fund group-rated employer or a taxing district employer for the first time and be a contributing factor in that employer being excluded from a group-rated plan. The administrator shall establish eligibility criteria and requirements that such employers must satisfy in order to participate in this program. For purposes of this program, the administrator shall establish a discount on premium rates applicable to employers who qualify for the program.

(f) In no event shall division (A)(4) of this section be construed as granting to an employer status as a self-insuring employer.

(g) The administrator shall develop classifications of

occupations or industries that are sufficiently distinct so as not 518
to group employers in classifications that unfairly represent the 519
risks of employment with the employer. 520

(5) Generally promote employer participation in the state 521
insurance fund through the regular dissemination of information to 522
all classes of employers describing the advantages and benefits of 523
opting to make premium payments to the fund. To that end, the 524
administrator shall regularly make employers aware of the various 525
workers' compensation premium packages developed and offered 526
pursuant to this section. 527

(6) Make available to every employer who is paying premiums 528
to the state insurance fund a program whereby the employer or the 529
employer's agent pays to the claimant or on behalf of the claimant 530
the first fifteen thousand dollars of a compensable workers' 531
compensation medical-only claim filed by that claimant that is 532
related to the same injury or occupational disease. No formal 533
application is required; however, an employer must elect to 534
participate by telephoning the bureau after July 1, 1995. Once an 535
employer has elected to participate in the program, the employer 536
will be responsible for all bills in all medical-only claims with 537
a date of injury the same or later than the election date, unless 538
the employer notifies the bureau within fourteen days of receipt 539
of the notification of a claim being filed that it does not wish 540
to pay the bills in that claim, or the employer notifies the 541
bureau that the fifteen thousand dollar maximum has been paid, or 542
the employer notifies the bureau of the last day of service on 543
which it will be responsible for the bills in a particular 544
medical-only claim. If an employer elects to enter the program, 545
the administrator shall not reimburse the employer for such 546
amounts paid and shall not charge the first fifteen thousand 547
dollars of any medical-only claim paid by an employer to the 548
employer's experience or otherwise use it in merit rating or 549

determining the risks of any employer for the purpose of payment 550
of premiums under this chapter. A certified health care provider 551
shall extend to an employer who participates in this program the 552
same rates for services rendered to an employee of that employer 553
as the provider bills the administrator for the same type of 554
medical claim processed by the bureau and shall not charge, 555
assess, or otherwise attempt to collect from an employee any 556
amount for covered services or supplies that is in excess of that 557
rate. If an employer elects to enter the program and the employer 558
fails to pay a bill for a medical-only claim included in the 559
program, the employer shall be liable for that bill and the 560
employee for whom the employer failed to pay the bill shall not be 561
liable for that bill. The administrator shall adopt rules to 562
implement and administer division (A)(6) of this section. Upon 563
written request from the bureau, the employer shall provide 564
documentation to the bureau of all medical-only bills that they 565
are paying directly. Such requests from the bureau may not be made 566
more frequently than on a semiannual basis. Failure to provide 567
such documentation to the bureau within thirty days of receipt of 568
the request may result in the employer's forfeiture of 569
participation in the program for such injury. The provisions of 570
this section shall not apply to claims in which an employer with 571
knowledge of a claimed compensable injury or occupational disease, 572
has paid wages in lieu of compensation or total disability. 573

(B) The administrator, with the advice and consent of the 574
board, by rule, may do both of the following: 575

(1) Grant an employer who pays the employer's annual 576
estimated premium in full prior to the start of the policy year 577
for which the estimated premium is due, a discount as the 578
administrator fixes from time to time; 579

(2) Levy a minimum annual administrative charge upon risks 580
where premium reports develop a charge less than the administrator 581

considers adequate to offset administrative costs of processing. 582

Sec. 4123.343. This section shall be construed liberally to 583
the end that employers shall be encouraged to employ and retain in 584
their employment handicapped employees as defined in this section. 585

(A) As used in this section, "handicapped employee" means an 586
employee who is afflicted with or subject to any physical or 587
mental impairment, or both, whether congenital or due to an injury 588
or disease of such character that the impairment constitutes a 589
handicap in obtaining employment or would constitute a handicap in 590
obtaining reemployment if the employee should become unemployed 591
and whose handicap is due to any of the following diseases or 592
conditions: 593

(1) Epilepsy; 594

(2) Diabetes; 595

(3) Cardiac disease; 596

(4) Arthritis; 597

(5) Amputated foot, leg, arm, or hand; 598

(6) Loss of sight of one or both eyes or a partial loss of 599
uncorrected vision of more than seventy-five per cent bilaterally; 600

(7) Residual disability from poliomyelitis; 601

(8) Cerebral palsy; 602

(9) Multiple sclerosis; 603

(10) Parkinson's disease; 604

(11) Cerebral vascular accident; 605

(12) Tuberculosis; 606

(13) Silicosis; 607

(14) Psycho-neurotic disability following treatment in a 608

recognized medical or mental institution;	609
(15) Hemophilia;	610
(16) Chronic osteomyelitis;	611
(17) Ankylosis of joints;	612
(18) Hyper insulinism;	613
(19) Muscular dystrophies;	614
(20) Arterio-sclerosis;	615
(21) Thrombo-phlebitis;	616
(22) Varicose veins;	617
(23) Cardiovascular, pulmonary, or respiratory diseases of a firefighter or police officer employed by a municipal corporation or township as a regular member of a lawfully constituted police department or fire department;	618 619 620 621
(24) Coal miners' pneumoconiosis, commonly referred to as "black lung disease";	622 623
(25) Disability with respect to which an individual has completed a rehabilitation program conducted pursuant to sections 4121.61 to 4121.69 of the Revised Code.	624 625 626
(B) Under the circumstances set forth in this section all or such portion as the administrator determines of the compensation and benefits paid in any claim arising hereafter shall be charged to and paid from the statutory surplus fund created under section 4123.34 of the Revised Code and only the portion remaining shall be merit-rated or otherwise treated as part of the accident or occupational disease experience of the employer. The provisions of this section apply only in cases of death, total disability, whether temporary or permanent, and all disabilities compensated under division (B) of section 4123.57 of the Revised Code. The administrator shall adopt rules specifying the grounds upon which	627 628 629 630 631 632 633 634 635 636 637

charges to the statutory surplus fund are to be made. The 638
~~administrator, in those rules, shall prohibit as a grounds any~~ 639
~~agreement between employer and claimant as to the merits of a~~ 640
~~claim and the amount of the charge~~ require that a settlement 641
agreement approved pursuant to section 4123.65 of the Revised Code 642
or a settlement agreement approved by a court of competent 643
jurisdiction in this state be treated as an award of compensation 644
granted by the administrator for the purpose of making a 645
determination under this section. 646

(C) Any employer who has in its employ a handicapped employee 647
is entitled, in the event the person is injured, to a 648
determination under this section. 649

An employer shall file an application under this section for 650
a determination with the bureau or commission in the same manner 651
as other claims. An application only may be made in cases where a 652
handicapped employee or a handicapped employee's dependents claim 653
or are receiving an award of compensation as a result of an injury 654
or occupational disease occurring or contracted on or after the 655
date on which division (A) of this section first included the 656
handicap of such employee. 657

(D) The circumstances under and the manner in which an 658
apportionment under this section shall be made are: 659

(1) Whenever a handicapped employee is injured or disabled or 660
dies as the result of an injury or occupational disease sustained 661
in the course of and arising out of a handicapped employee's 662
employment in this state and the administrator awards compensation 663
therefor and when it appears to the satisfaction of the 664
administrator that the injury or occupational disease or the death 665
resulting therefrom would not have occurred but for the 666
pre-existing physical or mental impairment of the handicapped 667
employee, all compensation and benefits payable on account of the 668
disability or death shall be paid from the surplus fund. 669

(2) Whenever a handicapped employee is injured or disabled or dies as a result of an injury or occupational disease and the administrator finds that the injury or occupational disease would have been sustained or suffered without regard to the employee's pre-existing impairment but that the resulting disability or death was caused at least in part through aggravation of the employee's pre-existing disability, the administrator shall determine in a manner that is equitable and reasonable and based upon medical evidence the amount of disability or proportion of the cost of the death award that is attributable to the employee's pre-existing disability and the amount found shall be charged to the statutory surplus fund.

(E) The benefits and provisions of this section apply only to employers who have complied with this chapter through insurance with the state fund.

(F) No employer shall in any year receive credit under this section in an amount greater than the premium the employer paid.

(G) An order issued by the administrator pursuant to this section is appealable under section 4123.511 of the Revised Code but is not appealable to court under section 4123.512 of the Revised Code.

Sec. 4123.512. (A) The claimant or the employer may appeal an order of the industrial commission made under division (E) of section 4123.511 of the Revised Code in any injury or occupational disease case, other than a decision as to the extent of disability to the court of common pleas of the county in which the injury was inflicted or in which the contract of employment was made if the injury occurred outside the state, or in which the contract of employment was made if the exposure occurred outside the state. If no common pleas court has jurisdiction for the purposes of an appeal by the use of the jurisdictional requirements described in

this division, the appellant may use the venue provisions in the Rules of Civil Procedure to vest jurisdiction in a court. If the claim is for an occupational disease, the appeal shall be to the court of common pleas of the county in which the exposure which caused the disease occurred. Like appeal may be taken from an order of a staff hearing officer made under division (D) of section 4123.511 of the Revised Code from which the commission has refused to hear an appeal. The Except as otherwise provided in this division, the appellant shall file the notice of appeal with a court of common pleas within sixty days after the date of the receipt of the order appealed from or the date of receipt of the order of the commission refusing to hear an appeal of a staff hearing officer's decision under division (D) of section 4123.511 of the Revised Code. The If the claimant or the employer files a notice of an intent to settle the claim with the administrator of workers' compensation within sixty days after the date of the receipt of the order appealed from or of the order of the commission refusing to hear an appeal of a staff hearing officer's decision, the time to file an appeal shall be extended to one hundred fifty days. The time to file an appeal shall not be extended if the claimant or the employer files an objection to the notice of intent to settle with the administrator within sixty days after the date of the receipt of the order appealed from or of the order of the commission refusing to hear an appeal. The filing of the notice of the appeal with the court is the only act required to perfect the appeal.

If an action has been commenced in a court of a county other than a court of a county having jurisdiction over the action, the court, upon notice by any party or upon its own motion, shall transfer the action to a court of a county having jurisdiction.

Notwithstanding anything to the contrary in this section, if the commission determines under section 4123.522 of the Revised

Code that an employee, employer, or their respective 733
representatives have not received written notice of an order or 734
decision which is appealable to a court under this section and 735
which grants relief pursuant to section 4123.522 of the Revised 736
Code, the party granted the relief has sixty days from receipt of 737
the order under section 4123.522 of the Revised Code to file a 738
notice of appeal under this section. 739

(B) The notice of appeal shall state the names of the 740
administrator of workers' compensation, the claimant, and the 741
employer; the number of the claim; the date of the order appealed 742
from; and the fact that the appellant appeals therefrom. 743

The administrator, the claimant, and the employer shall be 744
parties to the appeal and the court, upon the application of the 745
commission, shall make the commission a party. The party filing 746
the appeal shall serve a copy of the notice of appeal on the 747
administrator at the central office of the bureau of workers' 748
compensation in Columbus. The administrator shall notify the 749
employer that if the employer fails to become an active party to 750
the appeal, then the administrator may act on behalf of the 751
employer and the results of the appeal could have an adverse 752
effect upon the employer's premium rates or may result in a 753
recovery from the employer if the employer is determined to be a 754
noncomplying employer under section 4123.75 of the Revised Code. 755

(C) The attorney general or one or more of the attorney 756
general's assistants or special counsel designated by the attorney 757
general shall represent the administrator and the commission. In 758
the event the attorney general or the attorney general's 759
designated assistants or special counsel are absent, the 760
administrator or the commission shall select one or more of the 761
attorneys in the employ of the administrator or the commission as 762
the administrator's attorney or the commission's attorney in the 763
appeal. Any attorney so employed shall continue the representation 764

during the entire period of the appeal and in all hearings thereof 765
except where the continued representation becomes impractical. 766

(D) Upon receipt of notice of appeal, the clerk of courts 767
shall provide notice to all parties who are appellees and to the 768
commission. 769

The claimant shall, within thirty days after the filing of 770
the notice of appeal, file a petition containing a statement of 771
facts in ordinary and concise language showing a cause of action 772
to participate or to continue to participate in the fund and 773
setting forth the basis for the jurisdiction of the court over the 774
action. Further pleadings shall be had in accordance with the 775
Rules of Civil Procedure, provided that service of summons on such 776
petition shall not be required and provided that the claimant may 777
not dismiss the complaint without the employer's consent if the 778
employer is the party that filed the notice of appeal to court 779
pursuant to this section. The clerk of the court shall, upon 780
receipt thereof, transmit by certified mail a copy thereof to each 781
party named in the notice of appeal other than the claimant. Any 782
party may file with the clerk prior to the trial of the action a 783
deposition of any physician taken in accordance with the 784
provisions of the Revised Code, which deposition may be read in 785
the trial of the action even though the physician is a resident of 786
or subject to service in the county in which the trial is had. The 787
bureau of workers' compensation shall pay the cost of the 788
stenographic deposition filed in court and of copies of the 789
stenographic deposition for each party from the surplus fund and 790
charge the costs thereof against the unsuccessful party if the 791
claimant's right to participate or continue to participate is 792
finally sustained or established in the appeal. In the event the 793
deposition is taken and filed, the physician whose deposition is 794
taken is not required to respond to any subpoena issued in the 795
trial of the action. The court, or the jury under the instructions 796

of the court, if a jury is demanded, shall determine the right of 797
the claimant to participate or to continue to participate in the 798
fund upon the evidence adduced at the hearing of the action. 799

(E) The court shall certify its decision to the commission 800
and the certificate shall be entered in the records of the court. 801
Appeals from the judgment are governed by the law applicable to 802
the appeal of civil actions. 803

(F) The cost of any legal proceedings authorized by this 804
section, including an attorney's fee to the claimant's attorney to 805
be fixed by the trial judge, based upon the effort expended, in 806
the event the claimant's right to participate or to continue to 807
participate in the fund is established upon the final 808
determination of an appeal, shall be taxed against the employer or 809
the commission if the commission or the administrator rather than 810
the employer contested the right of the claimant to participate in 811
the fund. The attorney's fee shall not exceed ~~forty two hundred~~ 812
five thousand dollars. 813

(G) If the finding of the court or the verdict of the jury is 814
in favor of the claimant's right to participate in the fund, the 815
commission and the administrator shall thereafter proceed in the 816
matter of the claim as if the judgment were the decision of the 817
commission, subject to the power of modification provided by 818
section 4123.52 of the Revised Code. 819

(H)(1) An appeal from an order issued under division (E) of 820
section 4123.511 of the Revised Code or any action filed in court 821
in a case in which an award of compensation or medical benefits 822
has been made shall not stay the payment of compensation or 823
medical benefits under the award, or payment for subsequent 824
periods of total disability or medical benefits during the 825
pendency of the appeal. If, in a final administrative or judicial 826
action, it is determined that payments of compensation or 827
benefits, or both, made to or on behalf of a claimant should not 828

have been made, the amount thereof shall be charged to the surplus 829
fund account under division (B) of section 4123.34 of the Revised 830
Code. In the event the employer is a state risk, the amount shall 831
not be charged to the employer's experience, and the administrator 832
shall adjust the employer's account accordingly. In the event the 833
employer is a self-insuring employer, the self-insuring employer 834
shall deduct the amount from the paid compensation the 835
self-insuring employer reports to the administrator under division 836
(L) of section 4123.35 of the Revised Code. If an employer is a 837
state risk and has paid an assessment for a violation of a 838
specific safety requirement, and, in a final administrative or 839
judicial action, it is determined that the employer did not 840
violate the specific safety requirement, the administrator shall 841
reimburse the employer from the surplus fund account under 842
division (B) of section 4123.34 of the Revised Code for the amount 843
of the assessment the employer paid for the violation. 844

(2)(a) Notwithstanding a final determination that payments of 845
benefits made to or on behalf of a claimant should not have been 846
made, the administrator or self-insuring employer shall award 847
payment of medical or vocational rehabilitation services submitted 848
for payment after the date of the final determination if all of 849
the following apply: 850

(i) The services were approved and were rendered by the 851
provider in good faith prior to the date of the final 852
determination. 853

(ii) The services were payable under division (I) of section 854
4123.511 of the Revised Code prior to the date of the final 855
determination. 856

(iii) The request for payment is submitted within the time 857
limit set forth in section 4123.52 of the Revised Code. 858

(b) Payments made under division (H)(1) of this section shall 859

be charged to the surplus fund account under division (B) of 860
section 4123.34 of the Revised Code. If the employer of the 861
employee who is the subject of a claim described in division 862
(H)(2)(a) of this section is a state fund employer, the payments 863
made under that division shall not be charged to the employer's 864
experience. If that employer is a self-insuring employer, the 865
self-insuring employer shall deduct the amount from the paid 866
compensation the self-insuring employer reports to the 867
administrator under division (L) of section 4123.35 of the Revised 868
Code. 869

(c) Division (H)(2) of this section shall apply only to a 870
claim under this chapter or Chapter 4121., 4127., or 4131. of the 871
Revised Code arising on or after July 29, 2011. 872

(3) A self-insuring employer may elect to pay compensation 873
and benefits under this section directly to an employee or an 874
employee's dependents by filing an application with the bureau of 875
workers' compensation not more than one hundred eighty days and 876
not less than ninety days before the first day of the employer's 877
next six-month coverage period. If the self-insuring employer 878
timely files the application, the application is effective on the 879
first day of the employer's next six-month coverage period, 880
provided that the administrator shall compute the employer's 881
assessment for the surplus fund account due with respect to the 882
period during which that application was filed without regard to 883
the filing of the application. On and after the effective date of 884
the employer's election, the self-insuring employer shall pay 885
directly to an employee or to an employee's dependents 886
compensation and benefits under this section regardless of the 887
date of the injury or occupational disease, and the employer shall 888
receive no money or credits from the surplus fund account on 889
account of those payments and shall not be required to pay any 890
amounts into the surplus fund account on account of this section. 891

The election made under this division is irrevocable. 892

(I) All actions and proceedings under this section which are 893
the subject of an appeal to the court of common pleas or the court 894
of appeals shall be preferred over all other civil actions except 895
election causes, irrespective of position on the calendar. 896

This section applies to all decisions of the commission or 897
the administrator on November 2, 1959, and all claims filed 898
thereafter are governed by sections 4123.511 and 4123.512 of the 899
Revised Code. 900

Any action pending in common pleas court or any other court 901
on January 1, 1986, under this section is governed by former 902
sections 4123.514, 4123.515, 4123.516, and 4123.519 and section 903
4123.522 of the Revised Code. 904

Sec. 4123.53. (A) The administrator of workers' compensation 905
or the industrial commission may require any employee claiming the 906
right to receive compensation to submit to a medical examination, 907
vocational evaluation, or vocational questionnaire at any time, 908
and from time to time, at a place reasonably convenient for the 909
employee, and as provided by the rules of the commission or the 910
administrator of workers' compensation. A claimant required by the 911
commission or administrator to submit to a medical examination or 912
vocational evaluation, at a point outside of the place of 913
permanent or temporary residence of the claimant, as provided in 914
this section, is entitled to have paid to the claimant by the 915
bureau of workers' compensation the necessary and actual expenses 916
on account of the attendance for the medical examination or 917
vocational evaluation after approval of the expense statement by 918
the bureau. Under extraordinary circumstances and with the 919
unanimous approval of the commission, if the commission requires 920
the medical examination or vocational evaluation, or with the 921
approval of the administrator, if the administrator requires the 922

medical examination or vocational evaluation, the bureau shall pay 923
an injured or diseased employee the necessary, actual, and 924
authorized expenses of treatment at a point outside the place of 925
permanent or temporary residence of the claimant. 926

(B) ~~When~~ (1) Except as provided in divisions (B)(2) and (3) 927
of this section, when an employee initially receives temporary 928
total disability compensation pursuant to section 4123.56 of the 929
Revised Code for a consecutive ninety-day period, the 930
administrator shall refer the employee to the bureau medical 931
section ~~for~~ to schedule a medical examination to determine the 932
employee's continued entitlement to such compensation, the 933
employee's rehabilitation potential, and the appropriateness of 934
the medical treatment the employee is receiving. The bureau 935
medical section shall ~~conduct~~ schedule the examination for a date 936
not later than thirty days following the end of the initial 937
ninety-day period. If the medical examiner, upon an initial or any 938
subsequent examination recommended by the medical examiner under 939
this division, determines that the employee is temporarily and 940
totally impaired, the medical examiner shall recommend a date when 941
the employee should be reexamined. Upon the issuance of the 942
medical examination report containing a recommendation for 943
reexamination, the administrator shall schedule an examination 944
and, if at the date of reexamination the employee is receiving 945
temporary total disability compensation, the employee shall be 946
examined. ~~The~~ 947

(2) The administrator, for good cause, may waive the 948
scheduling of a medical examination under division (B)(1) of this 949
section. If the employee's employer objects to the administrator's 950
waiver, the administrator shall refer the employee to the bureau 951
medical section to schedule the examination or the administrator 952
shall schedule the examination. 953

(3) The administrator shall adopt a rule, pursuant to Chapter 954

119. of the Revised Code, permitting employers to waive the 955
administrator's scheduling of any such examinations. 956

(C) If an employee refuses to submit to any medical 957
examination or vocational evaluation scheduled pursuant to this 958
section or obstructs the same, or refuses to complete and submit 959
to the bureau or commission a vocational questionnaire within 960
thirty days after the bureau or commission mails the request to 961
complete and submit the questionnaire the employee's right to have 962
~~his or her~~ the employee's claim for compensation considered, if 963
the claim is pending before the bureau or commission, or to 964
receive any payment for compensation theretofore granted, is 965
suspended during the period of the refusal or obstruction. 966
Notwithstanding this section, an employee's failure to submit to a 967
medical examination or vocational evaluation, or to complete and 968
submit a vocational questionnaire, shall not result in the 969
dismissal of the employee's claim. 970

(D) Medical examinations scheduled under this section do not 971
limit medical examinations provided for in other provisions of 972
this chapter or Chapter 4121. of the Revised Code. 973

Sec. 4123.54. (A) Except as otherwise provided in this 974
division or divisions (I) and (K) of this section, every employee, 975
who is injured or who contracts an occupational disease, and the 976
dependents of each employee who is killed, or dies as the result 977
of an occupational disease contracted in the course of employment, 978
wherever the injury has occurred or occupational disease has been 979
contracted, is entitled to receive the compensation for loss 980
sustained on account of the injury, occupational disease, or 981
death, and the medical, nurse, and hospital services and 982
medicines, and the amount of funeral expenses in case of death, as 983
are provided by this chapter. The compensation and benefits shall 984
be provided, as applicable, directly from the employee's 985

self-insuring employer as provided in section 4123.35 of the Revised Code or from the state insurance fund. An employee or dependent is not entitled to receive compensation or benefits under this division if the employee's injury or occupational disease is either of the following:

(1) Purposely self-inflicted;

(2) Caused by the employee being intoxicated, under the influence of a controlled substance not prescribed by a physician, or under the influence of marihuana if being intoxicated, under the influence of a controlled substance not prescribed by a physician, or under the influence of marihuana was the proximate cause of the injury.

(B) For the purpose of this section, provided that an employer has posted written notice to employees that the results of, or the employee's refusal to submit to, any chemical test described under this division may affect the employee's eligibility for compensation and benefits pursuant to this chapter and Chapter 4121. of the Revised Code, there is a rebuttable presumption that an employee is intoxicated, under the influence of a controlled substance not prescribed by the employee's physician, or under the influence of marihuana and that being intoxicated, under the influence of a controlled substance not prescribed by the employee's physician, or under the influence of marihuana is the proximate cause of an injury under either of the following conditions:

(1) When ~~any one or more~~ either of the following is true:

(a) The employee, through a qualifying chemical test administered within eight hours of an injury, is determined to have an alcohol concentration level equal to or in excess of the levels established in divisions (A)(1)(b) to (i) of section 4511.19 of the Revised Code.

(b) The employee, through a qualifying chemical test 1017
administered within thirty-two hours of an injury, is determined 1018
to have ~~one of the following~~ a controlled ~~substances~~ substance not 1019
prescribed by the employee's physician or marihuana in the 1020
employee's system ~~that tests above the following levels in an~~ 1021
~~enzyme multiplied immunoassay technique screening test and above~~ 1022
~~the levels established in division (B)(1)(c) of this section in a~~ 1023
~~gas chromatography mass spectrometry test:~~ 1024

~~(i) For amphetamines, one thousand nanograms per milliliter 1025
of urine;~~ 1026

~~(ii) For cannabinoids, fifty nanograms per milliliter of 1027
urine;~~ 1028

~~(iii) For cocaine, including crack cocaine, three hundred 1029
nanograms per milliliter of urine;~~ 1030

~~(iv) For opiates, two thousand nanograms per milliliter of 1031
urine;~~ 1032

~~(v) For phencyclidine, twenty five nanograms per milliliter 1033
of urine.~~ 1034

~~(c) The employee, through a qualifying chemical test 1035
administered within thirty two hours of an injury, is determined 1036
to have one of the following controlled substances not prescribed 1037
by the employee's physician or marihuana in the employee's system 1038
that tests above the following levels by a gas chromatography mass 1039
spectrometry test:~~ 1040

~~(i) For amphetamines, five hundred nanograms per milliliter 1041
of urine;~~ 1042

~~(ii) For cannabinoids, fifteen nanograms per milliliter of 1043
urine;~~ 1044

~~(iii) For cocaine, including crack cocaine, one hundred fifty 1045
nanograms per milliliter of urine;~~ 1046

~~(iv) For opiates, two thousand nanograms per milliliter of urine;~~ 1047
1048

~~(v) For phencyclidine, twenty five nanograms per milliliter of urine.~~ 1049
1050

~~(d) at a level equal to or in excess of the cutoff concentration level for the particular substance as provided in section 40.87 of Title 49 of the Code of Federal Regulations, 49 C.F.R. 40.87, as amended.~~ 1051
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1054

(c) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have barbiturates, benzodiazepines, or methadone, ~~or~~ propoxyphene in the employee's system that tests above levels established by laboratories certified by the United States department of health and human services. 1055
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(2) When the employee refuses to submit to a requested chemical test, on the condition that that employee is or was given notice that the refusal to submit to any chemical test described in division (B)(1) of this section may affect the employee's eligibility for compensation and benefits under this chapter and Chapter 4121. of the Revised Code. 1061
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(C)(1) For purposes of division (B) of this section, a chemical test is a qualifying chemical test if it is administered to an employee after an injury under at least one of the following conditions: 1067
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(a) When the employee's employer had reasonable cause to suspect that the employee may be intoxicated, under the influence of a controlled substance not prescribed by the employee's physician, or under the influence of marihuana; 1071
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(b) At the request of a police officer pursuant to section 4511.191 of the Revised Code, and not at the request of the employee's employer; 1075
1076
1077

(c) At the request of a licensed physician who is not 1078
employed by the employee's employer, and not at the request of the 1079
employee's employer. 1080

(2) As used in division (C)(1)(a) of this section, 1081
"reasonable cause" means, but is not limited to, evidence that an 1082
employee is or was using alcohol, a controlled substance, or 1083
marihuana drawn from specific, objective facts and reasonable 1084
inferences drawn from these facts in light of experience and 1085
training. These facts and inferences may be based on, but are not 1086
limited to, any of the following: 1087

(a) Observable phenomena, such as direct observation of use, 1088
possession, or distribution of alcohol, a controlled substance, or 1089
marihuana, or of the physical symptoms of being under the 1090
influence of alcohol, a controlled substance, or marihuana, such 1091
as but not limited to slurred speech; dilated pupils; odor of 1092
alcohol, a controlled substance, or marihuana; changes in affect; 1093
or dynamic mood swings; 1094

(b) A pattern of abnormal conduct, erratic or aberrant 1095
behavior, or deteriorating work performance such as frequent 1096
absenteeism, excessive tardiness, or recurrent accidents, that 1097
appears to be related to the use of alcohol, a controlled 1098
substance, or marihuana, and does not appear to be attributable to 1099
other factors; 1100

(c) The identification of an employee as the focus of a 1101
criminal investigation into unauthorized possession, use, or 1102
trafficking of a controlled substance or marihuana; 1103

(d) A report of use of alcohol, a controlled substance, or 1104
marihuana provided by a reliable and credible source; 1105

(e) Repeated or flagrant violations of the safety or work 1106
rules of the employee's employer, that are determined by the 1107
employee's supervisor to pose a substantial risk of physical 1108

injury or property damage and that appear to be related to the use 1109
of alcohol, a controlled substance, or marihuana and that do not 1110
appear attributable to other factors. 1111

(D) Nothing in this section shall be construed to affect the 1112
rights of an employer to test employees for alcohol or controlled 1113
substance abuse. 1114

(E) For the purpose of this section, laboratories certified 1115
by the United States department of health and human services or 1116
laboratories that meet or exceed the standards of that department 1117
for laboratory certification shall be used for processing the test 1118
results of a qualifying chemical test. 1119

(F) The written notice required by division (B) of this 1120
section shall be the same size or larger than the proof of 1121
workers' compensation coverage furnished by the bureau of workers' 1122
compensation and shall be posted by the employer in the same 1123
location as the proof of workers' compensation coverage or the 1124
certificate of self-insurance. 1125

(G) If a condition that pre-existed an injury is 1126
substantially aggravated by the injury, and that substantial 1127
aggravation is documented by objective diagnostic findings, 1128
objective clinical findings, or objective test results, no 1129
compensation or benefits are payable because of the pre-existing 1130
condition once that condition has returned to a level that would 1131
have existed without the injury. 1132

(H)(1) Whenever, with respect to an employee of an employer 1133
who is subject to and has complied with this chapter, there is 1134
possibility of conflict with respect to the application of 1135
workers' compensation laws because the contract of employment is 1136
entered into and all or some portion of the work is or is to be 1137
performed in a state or states other than Ohio, the employer and 1138
the employee may agree to be bound by the laws of this state or by 1139

the laws of some other state in which all or some portion of the 1140
work of the employee is to be performed. The agreement shall be in 1141
writing and shall be filed with the bureau of workers' 1142
compensation within ten days after it is executed and shall remain 1143
in force until terminated or modified by agreement of the parties 1144
similarly filed. If the agreement is to be bound by the laws of 1145
this state and the employer has complied with this chapter, then 1146
the employee is entitled to compensation and benefits regardless 1147
of where the injury occurs or the disease is contracted and the 1148
rights of the employee and the employee's dependents under the 1149
laws of this state are the exclusive remedy against the employer 1150
on account of injury, disease, or death in the course of and 1151
arising out of the employee's employment. If the agreement is to 1152
be bound by the laws of another state and the employer has 1153
complied with the laws of that state, the rights of the employee 1154
and the employee's dependents under the laws of that state are the 1155
exclusive remedy against the employer on account of injury, 1156
disease, or death in the course of and arising out of the 1157
employee's employment without regard to the place where the injury 1158
was sustained or the disease contracted. If an employer and an 1159
employee enter into an agreement under this division, the fact 1160
that the employer and the employee entered into that agreement 1161
shall not be construed to change the status of an employee whose 1162
continued employment is subject to the will of the employer or the 1163
employee, unless the agreement contains a provision that expressly 1164
changes that status. 1165

(2) If an employee or the employee's dependents receive an 1166
award of compensation or benefits under this chapter or Chapter 1167
4121., 4127., or 4131. of the Revised Code for the same injury, 1168
occupational disease, or death for which the employee or the 1169
employee's dependents previously pursued or otherwise elected to 1170
accept workers' compensation benefits and received a decision on 1171
the merits as defined in section 4123.542 of the Revised Code 1172

under the laws of another state or recovered damages under the 1173
laws of another state, the claim shall be disallowed and the 1174
administrator or any self-insuring employer, by any lawful means, 1175
may collect from the employee or the employee's dependents any of 1176
the following: 1177

(a) The amount of compensation or benefits paid to or on 1178
behalf of the employee or the employee's dependents by the 1179
administrator or a self-insuring employer pursuant to this chapter 1180
or Chapter 4121., 4127., or 4131. of the Revised Code for that 1181
award; 1182

(b) Any interest, attorney's fees, and costs the 1183
administrator or the self-insuring employer incurs in collecting 1184
that payment. 1185

(3) If an employee or the employee's dependents receive an 1186
award of compensation or benefits under this chapter or Chapter 1187
4121., 4127., or 4131. of the Revised Code and subsequently pursue 1188
or otherwise elect to accept workers' compensation benefits or 1189
damages under the laws of another state for the same injury, 1190
occupational disease, or death the claim under this chapter or 1191
Chapter 4121., 4127., or 4131. of the Revised Code shall be 1192
disallowed. The administrator or a self-insuring employer, by any 1193
lawful means, may collect from the employee or the employee's 1194
dependents or other-states' insurer any of the following: 1195

(a) The amount of compensation or benefits paid to or on 1196
behalf of the employee or the employee's dependents by the 1197
administrator or the self-insuring employer pursuant to this 1198
chapter or Chapter 4121., 4127., or 4131. of the Revised Code for 1199
that award; 1200

(b) Any interest, costs, and attorney's fees the 1201
administrator or the self-insuring employer incurs in collecting 1202
that payment; 1203

(c) Any costs incurred by an employer in contesting or 1204
responding to any claim filed by the employee or the employee's 1205
dependents for the same injury, occupational disease, or death 1206
that was filed after the original claim for which the employee or 1207
the employee's dependents received a decision on the merits as 1208
described in section 4123.542 of the Revised Code. 1209

(4) If the employee's employer pays premiums into the state 1210
insurance fund, the administrator shall not charge the amount of 1211
compensation or benefits the administrator collects pursuant to 1212
division (H)(2) or (3) of this section to the employer's 1213
experience. If the administrator collects any costs incurred by an 1214
employer in contesting or responding to any claim pursuant to 1215
division (H)(2) or (3) of this section, the administrator shall 1216
forward the amount collected to that employer. If the employee's 1217
employer is a self-insuring employer, the self-insuring employer 1218
shall deduct the amount of compensation or benefits the 1219
self-insuring employer collects pursuant to this division from the 1220
paid compensation the self-insuring employer reports to the 1221
administrator under division (L) of section 4123.35 of the Revised 1222
Code. 1223

(5) If an employee is a resident of a state other than this 1224
state and is insured under the workers' compensation law or 1225
similar laws of a state other than this state, the employee and 1226
the employee's dependents are not entitled to receive compensation 1227
or benefits under this chapter, on account of injury, disease, or 1228
death arising out of or in the course of employment while 1229
temporarily within this state, and the rights of the employee and 1230
the employee's dependents under the laws of the other state are 1231
the exclusive remedy against the employer on account of the 1232
injury, disease, or death. 1233

(6) An employee, or the dependent of an employee, who elects 1234
to receive compensation and benefits under this chapter or Chapter 1235

4121., 4127., or 4131. of the Revised Code for a claim may not 1236
receive compensation and benefits under the workers' compensation 1237
laws of any state other than this state for that same claim. For 1238
each claim submitted by or on behalf of an employee, the 1239
administrator or, if the employee is employed by a self-insuring 1240
employer, the self-insuring employer, shall request the employee 1241
or the employee's dependent to sign an election that affirms the 1242
employee's or employee's dependent's acceptance of electing to 1243
receive compensation and benefits under this chapter or Chapter 1244
4121., 4127., or 4131. of the Revised Code for that claim that 1245
also affirmatively waives and releases the employee's or the 1246
employee's dependent's right to file for and receive compensation 1247
and benefits under the laws of any state other than this state for 1248
that claim. The employee or employee's dependent shall sign the 1249
election form within twenty-eight days after the administrator or 1250
self-insuring employer submits the request or the administrator or 1251
self-insuring employer shall dismiss that claim. 1252

In the event a workers' compensation claim has been filed in 1253
another jurisdiction on behalf of an employee or the dependents of 1254
an employee, and the employee or dependents subsequently elect to 1255
receive compensation, benefits, or both under this chapter or 1256
Chapter 4121., 4127., or 4131. of the Revised Code, the employee 1257
or dependent shall withdraw or refuse acceptance of the workers' 1258
compensation claim filed in the other jurisdiction in order to 1259
pursue compensation or benefits under the laws of this state. If 1260
the employee or dependents were awarded workers' compensation 1261
benefits or had recovered damages under the laws of the other 1262
state, any compensation and benefits awarded under this chapter or 1263
Chapter 4121., 4127., or 4131. of the Revised Code shall be paid 1264
only to the extent to which those payments exceed the amounts paid 1265
under the laws of the other state. If the employee or dependent 1266
fails to withdraw or to refuse acceptance of the workers' 1267
compensation claim in the other jurisdiction within twenty-eight 1268

days after a request made by the administrator or a self-insuring 1269
employer, the administrator or self-insuring employer shall 1270
dismiss the employee's or employee's dependents' claim made in 1271
this state. 1272

(I) If an employee who is covered under the federal 1273
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 1274
33 U.S.C. 901 et seq., is injured or contracts an occupational 1275
disease or dies as a result of an injury or occupational disease, 1276
and if that employee's or that employee's dependents' claim for 1277
compensation or benefits for that injury, occupational disease, or 1278
death is subject to the jurisdiction of that act, the employee or 1279
the employee's dependents are not entitled to apply for and shall 1280
not receive compensation or benefits under this chapter and 1281
Chapter 4121. of the Revised Code. The rights of such an employee 1282
and the employee's dependents under the federal "Longshore and 1283
Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et 1284
seq., are the exclusive remedy against the employer for that 1285
injury, occupational disease, or death. 1286

(J) Compensation or benefits are not payable to a claimant or 1287
a dependent during the period of confinement of the claimant or 1288
dependent in any state or federal correctional institution, or in 1289
any county jail in lieu of incarceration in a state or federal 1290
correctional institution, whether in this or any other state for 1291
conviction of violation of any state or federal criminal law. 1292

(K) An employer, upon the approval of the administrator, may 1293
provide for workers' compensation coverage for the employer's 1294
employees who are professional athletes and coaches by submitting 1295
to the administrator proof of coverage under a league policy 1296
issued under the laws of another state under either of the 1297
following circumstances: 1298

(1) The employer administers the payroll and workers' 1299
compensation insurance for a professional sports team subject to a 1300

collective bargaining agreement, and the collective bargaining 1301
agreement provides for the uniform administration of workers' 1302
compensation benefits and compensation for professional athletes. 1303

(2) The employer is a professional sports league, or is a 1304
member team of a professional sports league, and all of the 1305
following apply: 1306

(a) The professional sports league operates as a single 1307
entity, whereby all of the players and coaches of the sports 1308
league are employees of the sports league and not of the 1309
individual member teams. 1310

(b) The professional sports league at all times maintains 1311
workers' compensation insurance that provides coverage for the 1312
players and coaches of the sports league. 1313

(c) Each individual member team of the professional sports 1314
league, pursuant to the organizational or operating documents of 1315
the sports league, is obligated to the sports league to pay to the 1316
sports league any workers' compensation claims that are not 1317
covered by the workers' compensation insurance maintained by the 1318
sports league. 1319

If the administrator approves the employer's proof of 1320
coverage submitted under division (K) of this section, a 1321
professional athlete or coach who is an employee of the employer 1322
and the dependents of the professional athlete or coach are not 1323
entitled to apply for and shall not receive compensation or 1324
benefits under this chapter and Chapter 4121. of the Revised Code. 1325
The rights of such an athlete or coach and the dependents of such 1326
an athlete or coach under the laws of the state where the policy 1327
was issued are the exclusive remedy against the employer for the 1328
athlete or coach if the athlete or coach suffers an injury or 1329
contracts an occupational disease in the course of employment, or 1330
for the dependents of the athlete or the coach if the athlete or 1331

coach is killed as a result of an injury or dies as a result of an occupational disease, regardless of the location where the injury was suffered or the occupational disease was contracted.

Sec. 4123.56. (A) Except as provided in division (D) of this section, in the case of temporary disability, an employee shall receive sixty-six and two-thirds per cent of the employee's average weekly wage so long as such disability is total, not to exceed a maximum amount of weekly compensation which is equal to the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code, and not less than a minimum amount of compensation which is equal to thirty-three and one-third per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code unless the employee's wage is less than thirty-three and one-third per cent of the minimum statewide average weekly wage, in which event the employee shall receive compensation equal to the employee's full wages; provided that for the first twelve weeks of total disability the employee shall receive seventy-two per cent of the employee's full weekly wage, but not to exceed a maximum amount of weekly compensation which is equal to the lesser of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code or one hundred per cent of the employee's net take-home weekly wage. In the case of a self-insuring employer, payments shall be for a duration based upon the medical reports of the attending physician. If the employer disputes the attending physician's report, payments may be terminated only upon application and hearing by a district hearing officer pursuant to division (C) of section 4123.511 of the Revised Code. Payments shall continue pending the determination of the matter, however payment shall not be made for the period when any employee has returned to work, when an employee's treating physician has made a written statement that the employee is capable of returning to the

employee's former position of employment, when work within the 1364
physical capabilities of the employee is made available by the 1365
employer or another employer, or when the employee has reached the 1366
maximum medical improvement. Where the employee is capable of work 1367
activity, but the employee's employer is unable to offer the 1368
employee any employment, the employee shall register with the 1369
director of job and family services, who shall assist the employee 1370
in finding suitable employment. The termination of temporary total 1371
disability, whether by order or otherwise, does not preclude the 1372
commencement of temporary total disability at another point in 1373
time if the employee again becomes temporarily totally disabled. 1374

After two hundred weeks of temporary total disability 1375
benefits, the medical section of the bureau of workers' 1376
compensation shall schedule the claimant for an examination for an 1377
evaluation to determine whether or not the temporary disability 1378
has become permanent. A self-insuring employer shall notify the 1379
bureau immediately after payment of two hundred weeks of temporary 1380
total disability and request that the bureau schedule the claimant 1381
for such an examination. 1382

When the employee is awarded compensation for temporary total 1383
disability for a period for which the employee has received 1384
benefits under Chapter 4141. of the Revised Code, the bureau shall 1385
pay an amount equal to the amount received from the award to the 1386
director of job and family services and the director shall credit 1387
the amount to the accounts of the employers to whose accounts the 1388
payment of benefits was charged or is chargeable to the extent it 1389
was charged or is chargeable. 1390

If any compensation under this section has been paid for the 1391
same period or periods for which temporary nonoccupational 1392
accident and sickness insurance is or has been paid pursuant to an 1393
insurance policy or program to which the employer has made the 1394
entire contribution or payment for providing insurance or under a 1395

nonoccupational accident and sickness program fully funded by the 1396
employer, except as otherwise provided in this division 1397
compensation paid under this section for the period or periods 1398
shall be paid only to the extent by which the payment or payments 1399
exceeds the amount of the nonoccupational insurance or program 1400
paid or payable. Offset of the compensation shall be made only 1401
upon the prior order of the bureau or industrial commission or 1402
agreement of the claimant. If an employer provides supplemental 1403
sick leave benefits in addition to temporary total disability 1404
compensation paid under this section, and if the employer and an 1405
employee agree in writing to the payment of the supplemental sick 1406
leave benefits, temporary total disability benefits may be paid 1407
without an offset for those supplemental sick leave benefits. 1408

As used in this division, "net take-home weekly wage" means 1409
the amount obtained by dividing an employee's total remuneration, 1410
as defined in section 4141.01 of the Revised Code, paid to or 1411
earned by the employee during the first four of the last five 1412
completed calendar quarters which immediately precede the first 1413
day of the employee's entitlement to benefits under this division, 1414
by the number of weeks during which the employee was paid or 1415
earned remuneration during those four quarters, less the amount of 1416
local, state, and federal income taxes deducted for each such 1417
week. 1418

(B)(1) If an employee in a claim allowed under this chapter 1419
suffers a wage loss as a result of returning to employment other 1420
than the employee's former position of employment due to an injury 1421
or occupational disease, the employee shall receive compensation 1422
at sixty-six and two-thirds per cent of the difference between the 1423
employee's average weekly wage and the employee's present earnings 1424
not to exceed the statewide average weekly wage. The payments may 1425
continue for up to a maximum of two hundred weeks, but the 1426
payments shall be reduced by the corresponding number of weeks in 1427

which the employee receives payments pursuant to division (A)(2) 1428
of section 4121.67 of the Revised Code. 1429

(2) If an employee in a claim allowed under this chapter 1430
suffers a wage loss as a result of being unable to find employment 1431
consistent with the employee's disability resulting from the 1432
employee's injury or occupational disease, the employee shall 1433
receive compensation at sixty-six and two-thirds per cent of the 1434
difference between the employee's average weekly wage and the 1435
employee's present earnings, not to exceed the statewide average 1436
weekly wage. The payments may continue for up to a maximum of 1437
fifty-two weeks. The first twenty-six weeks of payments under 1438
division (B)(2) of this section shall be in addition to the 1439
maximum of two hundred weeks of payments allowed under division 1440
(B)(1) of this section. If an employee in a claim allowed under 1441
this chapter receives compensation under division (B)(2) of this 1442
section in excess of twenty-six weeks, the number of weeks of 1443
compensation allowable under division (B)(1) of this section shall 1444
be reduced by the corresponding number of weeks in excess of 1445
twenty-six, and up to fifty-two, that is allowable under division 1446
(B)(1) of this section. 1447

(3) The number of weeks of wage loss payable to an employee 1448
under divisions (B)(1) and (2) of this section shall not exceed 1449
two hundred and twenty-six weeks in the aggregate. 1450

(C) In the event an employee of a professional sports 1451
franchise domiciled in this state is disabled as the result of an 1452
injury or occupational disease, the total amount of payments made 1453
under a contract of hire or collective bargaining agreement to the 1454
employee during a period of disability is deemed an advanced 1455
payment of compensation payable under sections 4123.56 to 4123.58 1456
of the Revised Code. The employer shall be reimbursed the total 1457
amount of the advanced payments out of any award of compensation 1458
made pursuant to sections 4123.56 to 4123.58 of the Revised Code. 1459

(D) If an employee receives temporary total disability 1460
benefits pursuant to division (A) of this section and social 1461
security retirement benefits pursuant to the "Social Security 1462
Act," the weekly benefit amount under division (A) of this section 1463
shall not exceed sixty-six and two-thirds per cent of the 1464
statewide average weekly wage as defined in division (C) of 1465
section 4123.62 of the Revised Code. 1466

(E) If an employee is eligible for compensation under 1467
division (A) of this section, but the employee's full weekly wage 1468
has not been determined at the time payments are to commence under 1469
division (H) of section 4123.511 of the Revised Code, the employee 1470
shall receive thirty-three and one-third per cent of the statewide 1471
average weekly wage as defined in division (C) of section 4123.62 1472
of the Revised Code. On determination of the employee's full 1473
weekly wage, the compensation an employee receives shall be 1474
adjusted pursuant to division (A) of this section. 1475

If the amount of compensation an employee receives under this 1476
division is greater than the adjusted amount the employee receives 1477
under division (A) of this section that is based on the employee's 1478
full weekly wage, the excess amount shall be recovered in the 1479
manner provided in division (K) of section 4123.511 of the Revised 1480
Code. If the amount of compensation an employee receives under 1481
this division is less than the adjusted amount the employee 1482
receives under that division that is based on the employee's full 1483
weekly wage, the employee shall receive the difference between 1484
those two amounts. 1485

Sec. 4123.57. Partial disability compensation shall be paid 1486
as follows. 1487

Except as provided in this section, not earlier than 1488
twenty-six weeks after the date of termination of the latest 1489
period of payments under section 4123.56 of the Revised Code, or 1490

not earlier than twenty-six weeks after the date of the injury or 1491
contraction of an occupational disease in the absence of payments 1492
under section 4123.56 of the Revised Code, the employee may file 1493
an application with the bureau of workers' compensation for the 1494
determination of the percentage of the employee's permanent 1495
partial disability resulting from an injury or occupational 1496
disease. 1497

Whenever the application is filed, the bureau shall send a 1498
copy of the application to the employee's employer or the 1499
employer's representative and shall schedule the employee for a 1500
medical examination by the bureau medical section. The bureau 1501
shall send a copy of the report of the medical examination to the 1502
employee, the employer, and their representatives. Thereafter, the 1503
administrator of workers' compensation shall review the employee's 1504
claim file and make a tentative order as the evidence before the 1505
administrator at the time of the making of the order warrants. If 1506
the administrator determines that there is a conflict of evidence, 1507
the administrator shall send the application, along with the 1508
claimant's file, to the district hearing officer who shall set the 1509
application for a hearing. 1510

If an employee fails to respond to an attempt to schedule a 1511
medical examination by the bureau medical section, or fails to 1512
attend a medical examination scheduled under this section without 1513
notice or explanation, the employee's application for a finding 1514
shall be dismissed without prejudice. The employee may refile the 1515
application. A dismissed application does not toll the continuing 1516
jurisdiction of the industrial commission under section 4123.52 of 1517
the Revised Code. 1518

The administrator shall notify the employee, the employer, 1519
and their representatives, in writing, of the tentative order and 1520
of the parties' right to request a hearing. Unless the employee, 1521
the employer, or their representative notifies the administrator, 1522

in writing, of an objection to the tentative order within twenty 1523
days after receipt of the notice thereof, the tentative order 1524
shall go into effect and the employee shall receive the 1525
compensation provided in the order. In no event shall there be a 1526
reconsideration of a tentative order issued under this division. 1527

If the employee, the employer, or their representatives 1528
timely notify the administrator of an objection to the tentative 1529
order, the matter shall be referred to a district hearing officer 1530
who shall set the application for hearing with written notices to 1531
all interested persons. Upon referral to a district hearing 1532
officer, the employer may obtain a medical examination of the 1533
employee, pursuant to rules of the industrial commission. 1534

(A) The district hearing officer, upon the application, shall 1535
determine the percentage of the employee's permanent disability, 1536
except as is subject to division (B) of this section, based upon 1537
that condition of the employee resulting from the injury or 1538
occupational disease and causing permanent impairment evidenced by 1539
medical or clinical findings reasonably demonstrable. The employee 1540
shall receive sixty-six and two-thirds per cent of the employee's 1541
average weekly wage, but not more than a maximum of thirty-three 1542
and one-third per cent of the statewide average weekly wage as 1543
defined in division (C) of section 4123.62 of the Revised Code, 1544
per week regardless of the average weekly wage, for the number of 1545
weeks which equals the percentage of two hundred weeks. Except on 1546
application for reconsideration, review, or modification, which is 1547
filed within ten days after the date of receipt of the decision of 1548
the district hearing officer, in no instance shall the former 1549
award be modified unless it is found from medical or clinical 1550
findings that the condition of the claimant resulting from the 1551
injury has so progressed as to have increased the percentage of 1552
permanent partial disability. A staff hearing officer shall hear 1553
an application for reconsideration filed and the staff hearing 1554

officer's decision is final. An employee may file an application 1555
for a subsequent determination of the percentage of the employee's 1556
permanent disability. If such an application is filed, the bureau 1557
shall send a copy of the application to the employer or the 1558
employer's representative. No sooner than sixty days from the date 1559
of the mailing of the application to the employer or the 1560
employer's representative, the administrator shall review the 1561
application. The administrator may require a medical examination 1562
or medical review of the employee. The administrator shall issue a 1563
tentative order based upon the evidence before the administrator, 1564
provided that if the administrator requires a medical examination 1565
or medical review, the administrator shall not issue the tentative 1566
order until the completion of the examination or review. 1567

The employer may obtain a medical examination of the employee 1568
and may submit medical evidence at any stage of the process up to 1569
a hearing before the district hearing officer, pursuant to rules 1570
of the commission. The administrator shall notify the employee, 1571
the employer, and their representatives, in writing, of the nature 1572
and amount of any tentative order issued on an application 1573
requesting a subsequent determination of the percentage of an 1574
employee's permanent disability. An employee, employer, or their 1575
representatives may object to the tentative order within twenty 1576
days after the receipt of the notice thereof. If no timely 1577
objection is made, the tentative order shall go into effect. In no 1578
event shall there be a reconsideration of a tentative order issued 1579
under this division. If an objection is timely made, the 1580
application for a subsequent determination shall be referred to a 1581
district hearing officer who shall set the application for a 1582
hearing with written notice to all interested persons. No 1583
application for subsequent percentage determinations on the same 1584
claim for injury or occupational disease shall be accepted for 1585
review by the district hearing officer unless supported by 1586
substantial evidence of new and changed circumstances developing 1587

since the time of the hearing on the original or last 1588
determination. 1589

No award shall be made under this division based upon a 1590
percentage of disability which, when taken with all other 1591
percentages of permanent disability, exceeds one hundred per cent. 1592
If the percentage of the permanent disability of the employee 1593
equals or exceeds ninety per cent, compensation for permanent 1594
partial disability shall be paid for two hundred weeks. 1595

Compensation payable under this division accrues and is 1596
payable to the employee from the date of last payment of 1597
compensation, or, in cases where no previous compensation has been 1598
paid, from the date of the injury or the date of the diagnosis of 1599
the occupational disease. 1600

When an award under this division has been made prior to the 1601
death of an employee, all unpaid installments accrued or to accrue 1602
under the provisions of the award are payable to the surviving 1603
spouse, or if there is no surviving spouse, to the dependent 1604
children of the employee, and if there are no children surviving, 1605
then to other dependents as the administrator determines. 1606

(B) For purposes of this division, "payable per week" means 1607
the seven-consecutive-day period in which compensation is paid in 1608
installments according to the schedule associated with the 1609
applicable injury as set forth in this division. 1610

Compensation paid in weekly installments according to the 1611
schedule described in this division may only be commuted to one or 1612
more lump sum payments pursuant to the procedure set forth in 1613
section 4123.64 of the Revised Code. 1614

In cases included in the following schedule the compensation 1615
payable per week to the employee is the statewide average weekly 1616
wage as defined in division (C) of section 4123.62 of the Revised 1617
Code per week and shall be paid in installments according to the 1618

following schedule:	1619
For the loss of a first finger, commonly known as a thumb, sixty weeks.	1620 1621
For the loss of a second finger, commonly called index finger, thirty-five weeks.	1622 1623
For the loss of a third finger, thirty weeks.	1624
For the loss of a fourth finger, twenty weeks.	1625
For the loss of a fifth finger, commonly known as the little finger, fifteen weeks.	1626 1627
The loss of a second, or distal, phalange of the thumb is considered equal to the loss of one half of such thumb; the loss of more than one half of such thumb is considered equal to the loss of the whole thumb.	1628 1629 1630 1631
The loss of the third, or distal, phalange of any finger is considered equal to the loss of one-third of the finger.	1632 1633
The loss of the middle, or second, phalange of any finger is considered equal to the loss of two-thirds of the finger.	1634 1635
The loss of more than the middle and distal phalanges of any finger is considered equal to the loss of the whole finger. In no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.	1636 1637 1638 1639
For the loss of the metacarpal bone (bones of the palm) for the corresponding thumb, or fingers, add ten weeks to the number of weeks under this division.	1640 1641 1642
For ankylosis (total stiffness of) or contractures (due to scars or injuries) which makes any of the fingers, thumbs, or parts of either useless, the same number of weeks apply to the members or parts thereof as given for the loss thereof.	1643 1644 1645 1646
If the claimant has suffered the loss of two or more fingers	1647

by amputation or ankylosis and the nature of the claimant's 1648
employment in the course of which the claimant was working at the 1649
time of the injury or occupational disease is such that the 1650
handicap or disability resulting from the loss of fingers, or loss 1651
of use of fingers, exceeds the normal handicap or disability 1652
resulting from the loss of fingers, or loss of use of fingers, the 1653
administrator may take that fact into consideration and increase 1654
the award of compensation accordingly, but the award made shall 1655
not exceed the amount of compensation for loss of a hand. 1656

For the loss of a hand, one hundred seventy-five weeks. 1657

For the loss of an arm, two hundred twenty-five weeks. 1658

For the loss of a great toe, thirty weeks. 1659

For the loss of one of the toes other than the great toe, ten 1660
weeks. 1661

The loss of more than two-thirds of any toe is considered 1662
equal to the loss of the whole toe. 1663

The loss of less than two-thirds of any toe is considered no 1664
loss, except as to the great toe; the loss of the great toe up to 1665
the interphalangeal joint is co-equal to the loss of one-half of 1666
the great toe; the loss of the great toe beyond the 1667
interphalangeal joint is considered equal to the loss of the whole 1668
great toe. 1669

For the loss of a foot, one hundred fifty weeks. 1670

For the loss of a leg, two hundred weeks. 1671

For the loss of the sight of an eye, one hundred twenty-five 1672
weeks. 1673

For the permanent partial loss of sight of an eye, the 1674
portion of one hundred twenty-five weeks as the administrator in 1675
each case determines, based upon the percentage of vision actually 1676
lost as a result of the injury or occupational disease, but, in no 1677

case shall an award of compensation be made for less than 1678
twenty-five per cent loss of uncorrected vision. "Loss of 1679
uncorrected vision" means the percentage of vision actually lost 1680
as the result of the injury or occupational disease. 1681

For the permanent and total loss of hearing of one ear, 1682
twenty-five weeks; but in no case shall an award of compensation 1683
be made for less than permanent and total loss of hearing of one 1684
ear. 1685

For the permanent and total loss of hearing, one hundred 1686
twenty-five weeks; but, except pursuant to the next preceding 1687
paragraph, in no case shall an award of compensation be made for 1688
less than permanent and total loss of hearing. 1689

In case an injury or occupational disease results in serious 1690
facial or head disfigurement which either impairs or may in the 1691
future impair the opportunities to secure or retain employment, 1692
the administrator shall make an award of compensation as it deems 1693
proper and equitable, in view of the nature of the disfigurement, 1694
and not to exceed the sum of ten thousand dollars. For the purpose 1695
of making the award, it is not material whether the employee is 1696
gainfully employed in any occupation or trade at the time of the 1697
administrator's determination. 1698

When an award under this division has been made prior to the 1699
death of an employee all unpaid installments accrued or to accrue 1700
under the provisions of the award shall be payable to the 1701
surviving spouse, or if there is no surviving spouse, to the 1702
dependent children of the employee and if there are no such 1703
children, then to such dependents as the administrator determines. 1704

When an employee has sustained the loss of a member by 1705
severance, but no award has been made on account thereof prior to 1706
the employee's death, the administrator shall make an award in 1707
accordance with this division for the loss which shall be payable 1708

to the surviving spouse, or if there is no surviving spouse, to 1709
the dependent children of the employee and if there are no such 1710
children, then to such dependents as the administrator determines. 1711

(C) Compensation for partial impairment under divisions (A) 1712
and (B) of this section is in addition to the compensation paid 1713
the employee pursuant to section 4123.56 of the Revised Code. A 1714
claimant may receive compensation under divisions (A) and (B) of 1715
this section. 1716

In all cases arising under division (B) of this section, if 1717
it is determined by any one of the following: (1) the amputee 1718
clinic at University hospital, Ohio state university; (2) the 1719
opportunities for Ohioans with disabilities agency; (3) an amputee 1720
clinic or prescribing physician approved by the administrator or 1721
the administrator's designee, that an injured or disabled employee 1722
is in need of an artificial appliance, or in need of a repair 1723
thereof, regardless of whether the appliance or its repair will be 1724
serviceable in the vocational rehabilitation of the injured 1725
employee, and regardless of whether the employee has returned to 1726
or can ever again return to any gainful employment, the bureau 1727
shall pay the cost of the artificial appliance or its repair out 1728
of the surplus created by division (B) of section 4123.34 of the 1729
Revised Code. 1730

In those cases where an opportunities for Ohioans with 1731
disabilities agency's recommendation that an injured or disabled 1732
employee is in need of an artificial appliance would conflict with 1733
their state plan, adopted pursuant to the "Rehabilitation Act of 1734
1973," 87 Stat. 355, 29 U.S.C.A. 701, the administrator or the 1735
administrator's designee or the bureau may obtain a recommendation 1736
from an amputee clinic or prescribing physician that they 1737
determine appropriate. 1738

(D) If an employee of a state fund employer makes application 1739
for a finding and the administrator finds that the employee has 1740

contracted silicosis as defined in division (Y), or coal miners' 1741
pneumoconiosis as defined in division (Z), or asbestosis as 1742
defined in division (BB) of section 4123.68 of the Revised Code, 1743
and that a change of such employee's occupation is medically 1744
advisable in order to decrease substantially further exposure to 1745
silica dust, asbestos, or coal dust and if the employee, after the 1746
finding, has changed or shall change the employee's occupation to 1747
an occupation in which the exposure to silica dust, asbestos, or 1748
coal dust is substantially decreased, the administrator shall 1749
allow to the employee an amount equal to fifty per cent of the 1750
statewide average weekly wage per week for a period of thirty 1751
weeks, commencing as of the date of the discontinuance or change, 1752
and for a period of one hundred weeks immediately following the 1753
expiration of the period of thirty weeks, the employee shall 1754
receive sixty-six and two-thirds per cent of the loss of wages 1755
resulting directly and solely from the change of occupation but 1756
not to exceed a maximum of an amount equal to fifty per cent of 1757
the statewide average weekly wage per week. No such employee is 1758
entitled to receive more than one allowance on account of 1759
discontinuance of employment or change of occupation and benefits 1760
shall cease for any period during which the employee is employed 1761
in an occupation in which the exposure to silica dust, asbestos, 1762
or coal dust is not substantially less than the exposure in the 1763
occupation in which the employee was formerly employed or for any 1764
period during which the employee may be entitled to receive 1765
compensation or benefits under section 4123.68 of the Revised Code 1766
on account of disability from silicosis, asbestosis, or coal 1767
miners' pneumoconiosis. An award for change of occupation for a 1768
coal miner who has contracted coal miners' pneumoconiosis may be 1769
granted under this division even though the coal miner continues 1770
employment with the same employer, so long as the coal miner's 1771
employment subsequent to the change is such that the coal miner's 1772
exposure to coal dust is substantially decreased and a change of 1773

occupation is certified by the claimant as permanent. The 1774
administrator may accord to the employee medical and other 1775
benefits in accordance with section 4123.66 of the Revised Code. 1776

(E) If a firefighter or police officer makes application for 1777
a finding and the administrator finds that the firefighter or 1778
police officer has contracted a cardiovascular and pulmonary 1779
disease as defined in division (W) of section 4123.68 of the 1780
Revised Code, and that a change of the firefighter's or police 1781
officer's occupation is medically advisable in order to decrease 1782
substantially further exposure to smoke, toxic gases, chemical 1783
fumes, and other toxic vapors, and if the firefighter, or police 1784
officer, after the finding, has changed or changes occupation to 1785
an occupation in which the exposure to smoke, toxic gases, 1786
chemical fumes, and other toxic vapors is substantially decreased, 1787
the administrator shall allow to the firefighter or police officer 1788
an amount equal to fifty per cent of the statewide average weekly 1789
wage per week for a period of thirty weeks, commencing as of the 1790
date of the discontinuance or change, and for a period of 1791
seventy-five weeks immediately following the expiration of the 1792
period of thirty weeks the administrator shall allow the 1793
firefighter or police officer sixty-six and two-thirds per cent of 1794
the loss of wages resulting directly and solely from the change of 1795
occupation but not to exceed a maximum of an amount equal to fifty 1796
per cent of the statewide average weekly wage per week. No such 1797
firefighter or police officer is entitled to receive more than one 1798
allowance on account of discontinuance of employment or change of 1799
occupation and benefits shall cease for any period during which 1800
the firefighter or police officer is employed in an occupation in 1801
which the exposure to smoke, toxic gases, chemical fumes, and 1802
other toxic vapors is not substantially less than the exposure in 1803
the occupation in which the firefighter or police officer was 1804
formerly employed or for any period during which the firefighter 1805
or police officer may be entitled to receive compensation or 1806

benefits under section 4123.68 of the Revised Code on account of 1807
disability from a cardiovascular and pulmonary disease. The 1808
administrator may accord to the firefighter or police officer 1809
medical and other benefits in accordance with section 4123.66 of 1810
the Revised Code. 1811

(F) An order issued under this section is appealable pursuant 1812
to section 4123.511 of the Revised Code but is not appealable to 1813
court under section 4123.512 of the Revised Code. 1814

Sec. 4123.66. (A) In addition to the compensation provided 1815
for in this chapter, the administrator of workers' compensation 1816
shall disburse and pay from the state insurance fund the amounts 1817
for medical, nurse, and hospital services and medicine as the 1818
administrator deems proper and, in case death ensues from the 1819
injury or occupational disease, the administrator shall disburse 1820
and pay from the fund reasonable funeral expenses in an amount not 1821
to exceed fifty-five hundred dollars. The bureau of workers' 1822
compensation shall reimburse anyone, whether dependent, volunteer, 1823
or otherwise, who pays the funeral expenses of any employee whose 1824
death ensues from any injury or occupational disease as provided 1825
in this section. The administrator may adopt rules, with the 1826
advice and consent of the bureau of workers' compensation board of 1827
directors, with respect to furnishing medical, nurse, and hospital 1828
service and medicine to injured or disabled employees entitled 1829
thereto, and for the payment therefor. In case an injury or 1830
industrial accident that injures an employee also causes damage to 1831
the employee's eyeglasses, artificial teeth or other denture, or 1832
hearing aid, or in the event an injury or occupational disease 1833
makes it necessary or advisable to replace, repair, or adjust the 1834
same, the bureau shall disburse and pay a reasonable amount to 1835
repair or replace the same. 1836

(B) The administrator, in the rules the administrator adopts 1837

pursuant to division (A) of this section, may adopt rules 1838
specifying the circumstances under which the bureau may make 1839
immediate payment for the first fill of prescription drugs for 1840
medical conditions identified in an application for compensation 1841
or benefits under section 4123.84 or 4123.85 of the Revised Code 1842
that occurs prior to the date the administrator issues an initial 1843
determination order under division (B) of section 4123.511 of the 1844
Revised Code. If the claim is ultimately disallowed in a final 1845
administrative or judicial order, and if the employer is a state 1846
fund employer who pays assessments into the surplus fund account 1847
created under section 4123.34 of the Revised Code, the payments 1848
for medical services made pursuant to this division for the first 1849
fill of prescription drugs shall be charged to and paid from the 1850
surplus fund account and not charged through the state insurance 1851
fund to the employer against whom the claim was filed. 1852

(C)(1) If an employer or a welfare plan has provided to or on 1853
behalf of an employee any benefits or compensation for an injury 1854
or occupational disease and that injury or occupational disease is 1855
determined compensable under this chapter, the employer or a 1856
welfare plan may request that the administrator reimburse the 1857
employer or welfare plan for the amount the employer or welfare 1858
plan paid to or on behalf of the employee in compensation or 1859
benefits. The administrator shall reimburse the employer or 1860
welfare plan for the compensation and benefits paid if, at the 1861
time the employer or welfare plan provides the benefits or 1862
compensation to or on behalf of employee, the injury or 1863
occupational disease had not been determined to be compensable 1864
under this chapter and if the employee was not receiving 1865
compensation or benefits under this chapter for that injury or 1866
occupational disease. The administrator shall reimburse the 1867
employer or welfare plan in the amount that the administrator 1868
would have paid to or on behalf of the employee under this chapter 1869
if the injury or occupational disease originally would have been 1870

determined compensable under this chapter. If the employer is a merit-rated employer, the administrator shall adjust the amount of premium next due from the employer according to the amount the administrator pays the employer. The administrator shall adopt rules, in accordance with Chapter 119. of the Revised Code, to implement this division.

(2) As used in this division, "welfare plan" has the same meaning as in division (1) of 29 U.S.C.A. 1002.

(D)(1) Subject to the requirements of division (D)(2) of this section, the administrator may make a payment of up to five hundred dollars to either of the following:

(a) The centers of medicare and medicaid services, for reimbursement of conditional payments made pursuant to the "Medicare Secondary Payer Act," 42 U.S.C. 1395y;

(b) The Ohio department of medicaid, or a medical assistance provider to whom the department has assigned a right of recovery for a claim for which the department has notified the provider that the department intends to recoup the department's prior payment for the claim, for reimbursement under sections 5160.35 to 5160.43 of the Revised Code for the cost of medical assistance paid on behalf of a medical assistance recipient.

(2) The administrator may make a payment under division (D)(1) of this section if the administrator makes a reasonable determination that both of the following apply:

(a) The payment is for reimbursement of benefits for an injury or occupational disease.

(b) The injury or occupational disease is compensable, or is likely to be compensable, under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code.

(3) Any payment made pursuant to this division shall be

charged to and paid from the surplus fund account created under 1901
section 4123.34 of the Revised Code. 1902

(4) Nothing in this division shall be construed as limiting 1903
the centers of medicare and medicaid services, the department, or 1904
any other entity with a lawful right to reimbursement from 1905
recovering sums greater than five hundred dollars. 1906

(5) The administrator may adopt rules, with the advice and 1907
consent of the bureau of workers' compensation board of directors, 1908
to implement this division. 1909

Sec. 4123.68. Every employee who is disabled because of the 1910
contraction of an occupational disease or the dependent of an 1911
employee whose death is caused by an occupational disease, is 1912
entitled to the compensation provided by sections 4123.55 to 1913
4123.59 and 4123.66 of the Revised Code subject to the 1914
modifications relating to occupational diseases contained in this 1915
chapter. An order of the administrator issued under this section 1916
is appealable pursuant to sections 4123.511 and 4123.512 of the 1917
Revised Code. 1918

The following diseases are occupational diseases and 1919
compensable as such when contracted by an employee in the course 1920
of the employment in which such employee was engaged and due to 1921
the nature of any process described in this section. A disease 1922
which meets the definition of an occupational disease is 1923
compensable pursuant to this chapter though it is not specifically 1924
listed in this section. 1925

SCHEDULE 1926

Description of disease or injury and description of process: 1927

(A) Anthrax: Handling of wool, hair, bristles, hides, and 1928
skins. 1929

(B) Glanders: Care of any equine animal suffering from 1930

glanders; handling carcass of such animal.	1931
(C) Lead poisoning: Any industrial process involving the use of lead or its preparations or compounds.	1932 1933
(D) Mercury poisoning: Any industrial process involving the use of mercury or its preparations or compounds.	1934 1935
(E) Phosphorous poisoning: Any industrial process involving the use of phosphorous or its preparations or compounds.	1936 1937
(F) Arsenic poisoning: Any industrial process involving the use of arsenic or its preparations or compounds.	1938 1939
(G) Poisoning by benzol or by nitro-derivatives and amido-derivatives of benzol (dinitro-benzol, anilin, and others): Any industrial process involving the use of benzol or nitro-derivatives or amido-derivatives of benzol or its preparations or compounds.	1940 1941 1942 1943 1944
(H) Poisoning by gasoline, benzine, naphtha, or other volatile petroleum products: Any industrial process involving the use of gasoline, benzine, naphtha, or other volatile petroleum products.	1945 1946 1947 1948
(I) Poisoning by carbon bisulphide: Any industrial process involving the use of carbon bisulphide or its preparations or compounds.	1949 1950 1951
(J) Poisoning by wood alcohol: Any industrial process involving the use of wood alcohol or its preparations.	1952 1953
(K) Infection or inflammation of the skin on contact surfaces due to oils, cutting compounds or lubricants, dust, liquids, fumes, gases, or vapors: Any industrial process involving the handling or use of oils, cutting compounds or lubricants, or involving contact with dust, liquids, fumes, gases, or vapors.	1954 1955 1956 1957 1958
(L) Epithelion cancer or ulceration of the skin or of the corneal surface of the eye due to carbon, pitch, tar, or tarry	1959 1960

compounds: Handling or industrial use of carbon, pitch, or tarry compounds.	1961 1962
(M) Compressed air illness: Any industrial process carried on in compressed air.	1963 1964
(N) Carbon dioxide poisoning: Any process involving the evolution or resulting in the escape of carbon dioxide.	1965 1966
(O) Brass or zinc poisoning: Any process involving the manufacture, founding, or refining of brass or the melting or smelting of zinc.	1967 1968 1969
(P) Manganese dioxide poisoning: Any process involving the grinding or milling of manganese dioxide or the escape of manganese dioxide dust.	1970 1971 1972
(Q) Radium poisoning: Any industrial process involving the use of radium and other radioactive substances in luminous paint.	1973 1974
(R) Tenosynovitis and prepatellar bursitis: Primary tenosynovitis characterized by a passive effusion or crepitus into the tendon sheath of the flexor or extensor muscles of the hand, due to frequently repetitive motions or vibrations, or prepatellar bursitis due to continued pressure.	1975 1976 1977 1978 1979
(S) Chrome ulceration of the skin or nasal passages: Any industrial process involving the use of or direct contact with chromic acid or bichromates of ammonium, potassium, or sodium or their preparations.	1980 1981 1982 1983
(T) Potassium cyanide poisoning: Any industrial process involving the use of or direct contact with potassium cyanide.	1984 1985
(U) Sulphur dioxide poisoning: Any industrial process in which sulphur dioxide gas is evolved by the expansion of liquid sulphur dioxide.	1986 1987 1988
(V) Berylliosis: Berylliosis means a disease of the lungs caused by breathing beryllium in the form of dust or fumes,	1989 1990

producing characteristic changes in the lungs and demonstrated by 1991
x-ray examination, by biopsy or by autopsy. 1992

This chapter does not entitle an employee or the employee's 1993
dependents to compensation, medical treatment, or payment of 1994
funeral expenses for disability or death from berylliosis unless 1995
the employee has been subjected to injurious exposure to beryllium 1996
dust or fumes in the employee's employment in this state preceding 1997
the employee's disablement and only in the event of such 1998
disability or death resulting within eight years after the last 1999
injurious exposure; provided that such eight-year limitation does 2000
not apply to disability or death from exposure occurring after 2001
January 1, 1976. In the event of death following continuous total 2002
disability commencing within eight years after the last injurious 2003
exposure, the requirement of death within eight years after the 2004
last injurious exposure does not apply. 2005

Before awarding compensation for partial or total disability 2006
or death due to berylliosis, the administrator of workers' 2007
compensation shall refer the claim to a qualified medical 2008
specialist for examination and recommendation with regard to the 2009
diagnosis, the extent of the disability, the nature of the 2010
disability, whether permanent or temporary, the cause of death, 2011
and other medical questions connected with the claim. An employee 2012
shall submit to such examinations, including clinical and x-ray 2013
examinations, as the administrator requires. In the event that an 2014
employee refuses to submit to examinations, including clinical and 2015
x-ray examinations, after notice from the administrator, or in the 2016
event that a claimant for compensation for death due to 2017
berylliosis fails to produce necessary consents and permits, after 2018
notice from the administrator, so that such autopsy examination 2019
and tests may be performed, then all rights for compensation are 2020
forfeited. The reasonable compensation of such specialist and the 2021
expenses of examinations and tests shall be paid, if the claim is 2022

allowed, as part of the expenses of the claim, otherwise they 2023
shall be paid from the surplus fund. 2024

(W) Cardiovascular, pulmonary, or respiratory diseases 2025
incurred by firefighters or police officers following exposure to 2026
heat, smoke, toxic gases, chemical fumes and other toxic 2027
substances: Any cardiovascular, pulmonary, or respiratory disease 2028
of a firefighter or police officer caused or induced by the 2029
cumulative effect of exposure to heat, the inhalation of smoke, 2030
toxic gases, chemical fumes and other toxic substances in the 2031
performance of the firefighter's or police officer's duty 2032
constitutes a presumption, which may be refuted by affirmative 2033
evidence, that such occurred in the course of and arising out of 2034
the firefighter's or police officer's employment. For the purpose 2035
of this section, "firefighter" means any regular member of a 2036
lawfully constituted fire department of a municipal corporation or 2037
township, whether paid or volunteer, and "police officer" means 2038
any regular member of a lawfully constituted police department of 2039
a municipal corporation, township or county, whether paid or 2040
volunteer. 2041

This chapter does not entitle a firefighter, or police 2042
officer, or the firefighter's or police officer's dependents to 2043
compensation, medical treatment, or payment of funeral expenses 2044
for disability or death from a cardiovascular, pulmonary, or 2045
respiratory disease, unless the firefighter or police officer has 2046
been subject to injurious exposure to heat, smoke, toxic gases, 2047
chemical fumes, and other toxic substances in the firefighter's or 2048
police officer's employment in this state preceding the 2049
firefighter's or police officer's disablement, some portion of 2050
which has been after January 1, 1967, except as provided in 2051
division (E) of section 4123.57 of the Revised Code. 2052

Compensation on account of cardiovascular, pulmonary, or 2053
respiratory diseases of firefighters and police officers is 2054

payable only in the event of temporary total disability, permanent 2055
total disability, or death, in accordance with section 4123.56, 2056
4123.58, or 4123.59 of the Revised Code. Medical, hospital, and 2057
nursing expenses are payable in accordance with this chapter. 2058
Compensation, medical, hospital, and nursing expenses are payable 2059
only in the event of such disability or death resulting within 2060
eight years after the last injurious exposure; provided that such 2061
eight-year limitation does not apply to disability or death from 2062
exposure occurring after January 1, 1976. In the event of death 2063
following continuous total disability commencing within eight 2064
years after the last injurious exposure, the requirement of death 2065
within eight years after the last injurious exposure does not 2066
apply. 2067

This chapter does not entitle a firefighter or police 2068
officer, or the firefighter's or police officer's dependents, to 2069
compensation, medical, hospital, and nursing expenses, or payment 2070
of funeral expenses for disability or death due to a 2071
cardiovascular, pulmonary, or respiratory disease in the event of 2072
failure or omission on the part of the firefighter or police 2073
officer truthfully to state, when seeking employment, the place, 2074
duration, and nature of previous employment in answer to an 2075
inquiry made by the employer. 2076

Before awarding compensation for disability or death under 2077
this division, the administrator shall refer the claim to a 2078
qualified medical specialist for examination and recommendation 2079
with regard to the diagnosis, the extent of disability, the cause 2080
of death, and other medical questions connected with the claim. A 2081
firefighter or police officer shall submit to such examinations, 2082
including clinical and x-ray examinations, as the administrator 2083
requires. In the event that a firefighter or police officer 2084
refuses to submit to examinations, including clinical and x-ray 2085
examinations, after notice from the administrator, or in the event 2086

that a claimant for compensation for death under this division 2087
fails to produce necessary consents and permits, after notice from 2088
the administrator, so that such autopsy examination and tests may 2089
be performed, then all rights for compensation are forfeited. The 2090
reasonable compensation of such specialists and the expenses of 2091
examination and tests shall be paid, if the claim is allowed, as 2092
part of the expenses of the claim, otherwise they shall be paid 2093
from the surplus fund. 2094

(X)(1) Cancer contracted by a firefighter: Cancer contracted 2095
by a firefighter who has been assigned to at least six years of 2096
hazardous duty as a firefighter constitutes a presumption that the 2097
cancer was contracted in the course of and arising out of the 2098
firefighter's employment if the firefighter was exposed to an 2099
agent classified by the international agency for research on 2100
cancer or its successor organization as a group 1 or 2A 2101
carcinogen. 2102

(2) The presumption described in division (X)(1) of this 2103
section is rebuttable in any of the following situations: 2104

(a) There is evidence that the firefighter's exposure, 2105
outside the scope of the firefighter's official duties, to 2106
cigarettes, tobacco products, or other conditions presenting an 2107
extremely high risk for the development of the cancer alleged, was 2108
probably a significant factor in the cause or progression of the 2109
cancer. 2110

(b) There is evidence that the firefighter was not exposed to 2111
an agent classified by the international agency for research on 2112
cancer as a group 1 or 2A carcinogen. 2113

(c) There is evidence that the firefighter incurred the type 2114
of cancer alleged before becoming a member of the fire department. 2115

(d) The firefighter is seventy years of age or older. 2116

(3) The presumption described in division (X)(1) of this 2117

section does not apply if it has been more than twenty years since 2118
the firefighter was last assigned to hazardous duty as a 2119
firefighter. 2120

(4) Compensation for cancer contracted by a firefighter in 2121
the course of hazardous duty under division (X) of this section is 2122
payable only in the event of temporary total disability, working 2123
wage loss, permanent total disability, or death, in accordance 2124
with ~~sections~~ division (A) or (B)(1) of section 4123.56, and 2125
sections 4123.58 and 4123.59 of the Revised Code. 2126

(5) As used in division (X) of this section, "hazardous duty" 2127
has the same meaning as in 5 C.F.R. 550.902, as amended. 2128

(Y) Silicosis: Silicosis means a disease of the lungs caused 2129
by breathing silica dust (silicon dioxide) producing fibrous 2130
nodules distributed through the lungs and demonstrated by x-ray 2131
examination, by biopsy or by autopsy. 2132

(Z) Coal miners' pneumoconiosis: Coal miners' pneumoconiosis, 2133
commonly referred to as "black lung disease," resulting from 2134
working in the coal mine industry and due to exposure to the 2135
breathing of coal dust, and demonstrated by x-ray examination, 2136
biopsy, autopsy or other medical or clinical tests. 2137

This chapter does not entitle an employee or the employee's 2138
dependents to compensation, medical treatment, or payment of 2139
funeral expenses for disability or death from silicosis, 2140
asbestosis, or coal miners' pneumoconiosis unless the employee has 2141
been subject to injurious exposure to silica dust (silicon 2142
dioxide), asbestos, or coal dust in the employee's employment in 2143
this state preceding the employee's disablement, some portion of 2144
which has been after October 12, 1945, except as provided in 2145
division (E) of section 4123.57 of the Revised Code. 2146

Compensation on account of silicosis, asbestosis, or coal 2147
miners' pneumoconiosis are payable only in the event of temporary 2148

total disability, permanent total disability, or death, in 2149
accordance with sections 4123.56, 4123.58, and 4123.59 of the 2150
Revised Code. Medical, hospital, and nursing expenses are payable 2151
in accordance with this chapter. Compensation, medical, hospital, 2152
and nursing expenses are payable only in the event of such 2153
disability or death resulting within eight years after the last 2154
injurious exposure; provided that such eight-year limitation does 2155
not apply to disability or death occurring after January 1, 1976, 2156
and further provided that such eight-year limitation does not 2157
apply to any asbestosis cases. In the event of death following 2158
continuous total disability commencing within eight years after 2159
the last injurious exposure, the requirement of death within eight 2160
years after the last injurious exposure does not apply. 2161

This chapter does not entitle an employee or the employee's 2162
dependents to compensation, medical, hospital and nursing 2163
expenses, or payment of funeral expenses for disability or death 2164
due to silicosis, asbestosis, or coal miners' pneumoconiosis in 2165
the event of the failure or omission on the part of the employee 2166
truthfully to state, when seeking employment, the place, duration, 2167
and nature of previous employment in answer to an inquiry made by 2168
the employer. 2169

Before awarding compensation for disability or death due to 2170
silicosis, asbestosis, or coal miners' pneumoconiosis, the 2171
administrator shall refer the claim to a qualified medical 2172
specialist for examination and recommendation with regard to the 2173
diagnosis, the extent of disability, the cause of death, and other 2174
medical questions connected with the claim. An employee shall 2175
submit to such examinations, including clinical and x-ray 2176
examinations, as the administrator requires. In the event that an 2177
employee refuses to submit to examinations, including clinical and 2178
x-ray examinations, after notice from the administrator, or in the 2179
event that a claimant for compensation for death due to silicosis, 2180

asbestosis, or coal miners' pneumoconiosis fails to produce 2181
necessary consents and permits, after notice from the commission, 2182
so that such autopsy examination and tests may be performed, then 2183
all rights for compensation are forfeited. The reasonable 2184
compensation of such specialist and the expenses of examinations 2185
and tests shall be paid, if the claim is allowed, as a part of the 2186
expenses of the claim, otherwise they shall be paid from the 2187
surplus fund. 2188

(AA) Radiation illness: Any industrial process involving the 2189
use of radioactive materials. 2190

Claims for compensation and benefits due to radiation illness 2191
are payable only in the event death or disability occurred within 2192
eight years after the last injurious exposure provided that such 2193
eight-year limitation does not apply to disability or death from 2194
exposure occurring after January 1, 1976. In the event of death 2195
following continuous disability which commenced within eight years 2196
of the last injurious exposure the requirement of death within 2197
eight years after the last injurious exposure does not apply. 2198

(BB) Asbestosis: Asbestosis means a disease caused by 2199
inhalation or ingestion of asbestos, demonstrated by x-ray 2200
examination, biopsy, autopsy, or other objective medical or 2201
clinical tests. 2202

All conditions, restrictions, limitations, and other 2203
provisions of this section, with reference to the payment of 2204
compensation or benefits on account of silicosis or coal miners' 2205
pneumoconiosis apply to the payment of compensation or benefits on 2206
account of any other occupational disease of the respiratory tract 2207
resulting from injurious exposures to dust. 2208

The refusal to produce the necessary consents and permits for 2209
autopsy examination and testing shall not result in forfeiture of 2210
compensation provided the administrator finds that such refusal 2211

was the result of bona fide religious convictions or teachings to 2212
which the claimant for compensation adhered prior to the death of 2213
the decedent. 2214

Sec. 4123.71. Every physician in this state attending on or 2215
called in to visit a patient whom ~~he~~ the physician believes to be 2216
suffering from an occupational disease as defined in section 2217
4123.68 of the Revised Code shall, within forty-eight hours from 2218
the time of making such diagnosis, send to the bureau of workers' 2219
compensation a report stating: 2220

(A) Name, address, and occupation of patient; 2221

(B) Name and address of business in which employed; 2222

(C) Nature of disease; 2223

(D) Name and address of employer of patient; 2224

(E) Such other information as is reasonably required by the 2225
bureau. 2226

The reports shall be made on blanks to be furnished by the 2227
bureau. ~~The mailing of~~ A physician who sends the report within the 2228
time stated, ~~in a stamped envelope addressed to the office of the~~ 2229
bureau is a in compliance with this section. 2230

Reports made under this section shall not be evidence of the 2231
facts therein stated in any action arising out of a disease 2232
therein reported. 2233

The bureau shall, within twenty-four hours after the receipt 2234
of the report, send a copy thereof to the employer of the patient 2235
named in the report. 2236

Sec. 4123.84. (A) In all cases of injury or death, claims for 2237
compensation or benefits for the specific part or parts of the 2238
body injured shall be forever barred unless, within ~~two years~~ one 2239
year after the injury or death: 2240

(1) Written or facsimile notice of the specific part or parts 2241
of the body claimed to have been injured has been made to the 2242
industrial commission or the bureau of workers' compensation; 2243

(2) The employer, with knowledge of a claimed compensable 2244
injury or occupational disease, has paid wages in lieu of 2245
compensation for total disability; 2246

(3) In the event the employer is a self-insuring employer, 2247
one of the following has occurred: 2248

(a) Written or facsimile notice of the specific part or parts 2249
of the body claimed to have been injured has been given to the 2250
commission or bureau or the employer has furnished treatment by a 2251
licensed physician in the employ of an employer, provided, 2252
however, that the furnishing of such treatment shall not 2253
constitute a recognition of a claim as compensable, but shall do 2254
no more than satisfy the requirements of this section; 2255

(b) Compensation or benefits have been paid or furnished 2256
equal to or greater than is provided for in sections 4123.52, 2257
4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code. 2258

(4) Written or facsimile notice of death has been given to 2259
the commission or bureau. 2260

(B) The bureau shall provide printed notices quoting in full 2261
division (A) of this section, and every self-insuring employer 2262
shall post and maintain at all times one or more of the notices in 2263
conspicuous places in the workshop or places of employment. 2264

(C) The commission has continuing jurisdiction as set forth 2265
in section 4123.52 of the Revised Code over a claim which meets 2266
the requirement of this section, including jurisdiction to award 2267
compensation or benefits for loss or impairment of bodily 2268
functions developing in a part or parts of the body not specified 2269
pursuant to division (A)(1) of this section, if the commission 2270
finds that the loss or impairment of bodily functions was due to 2271

and a result of or a residual of the injury to one of the parts of 2272
the body set forth in the written notice filed pursuant to 2273
division (A)(1) of this section. 2274

(D) Any claim pending before the administrator, the 2275
commission, or a court on December 11, 1967, in which the remedy 2276
is affected by this section is governed by this section. 2277

(E) Notwithstanding the requirement that the notice required 2278
to be given to the bureau, commission, or employer under this 2279
section is to be in writing or facsimile, the bureau may accept, 2280
assign a claim number, and process a claim when notice is provided 2281
verbally over the telephone. Immediately upon receipt of notice 2282
provided verbally over the telephone, the bureau shall send a 2283
written or facsimile notice to the employer of the bureau's 2284
receipt of the verbal notice. Within fifteen days after receipt of 2285
the bureau's written or facsimile notice, the employer may in 2286
writing or facsimile either verify or not verify the verbal 2287
notice. If the bureau does not receive the written or facsimile 2288
notification from the employer or receives a written or facsimile 2289
notification verifying the verbal notice within such time period, 2290
the claim is validly filed and such verbal notice tolls the 2291
statute of limitations in regard to the claim filed and is 2292
considered to meet the requirements of written or facsimile notice 2293
required by this section. 2294

(F) As used in division (A)(3)(b) of this section, "benefits" 2295
means payments by a self-insuring employer to, or on behalf of, an 2296
employee for a hospital bill, a medical bill to a licensed 2297
physician or hospital, or an orthopedic or prosthetic device. 2298

Sec. 4125.07. (A) As used in this section, "self-insuring 2299
employer" has the same meaning as in section 4123.01 of the 2300
Revised Code. 2301

(B) Not later than ~~fourteen~~ thirty calendar days after the 2302

date on which a professional employer organization agreement is 2303
terminated, the professional employer organization is adjudged 2304
bankrupt, the professional employer organization ceases operations 2305
within the state of Ohio, or the registration of the professional 2306
employer organization is revoked, the professional employer 2307
organization shall submit to the administrator of workers' 2308
compensation and each client employer associated with that 2309
professional employer organization a completed workers' 2310
compensation lease termination notice form provided by the 2311
administrator. The completed form shall include all client payroll 2312
and claim information listed in a format specified by the 2313
administrator and notice of all workers' compensation claims that 2314
have been reported to the professional employer organization in 2315
accordance with its internal reporting policies. 2316

(C)(1) If a professional employer organization that is a 2317
self-insuring employer is required to submit a workers' 2318
compensation lease termination notice form under division (B) of 2319
this section, not later than ~~fourteen~~ thirty calendar days after 2320
the lease termination the professional employer organization shall 2321
submit all of the following to the administrator for any years 2322
necessary for the administrator to develop a state fund experience 2323
modification factor for each client employer involved in the lease 2324
termination: 2325

(a) The payroll of each client employer involved in the lease 2326
termination, organized by manual classification and year; 2327

(b) The medical and indemnity costs of each client employer 2328
involved in the lease termination, organized by claim; 2329

(c) Any other information the administrator may require to 2330
develop a state fund experience modification factor for each 2331
client employer involved in the lease termination. 2332

(2) The administrator may require a professional employer 2333

organization to submit the information required under division 2334
(C)(1) of this section at additional times after the initial 2335
submission if the administrator determines that the information is 2336
necessary for the administrator to develop a state fund experience 2337
modification factor. 2338

(3) The administrator may revoke or refuse to renew a 2339
professional employer organization's status as a self-insuring 2340
employer if the professional employer organization fails to 2341
provide information requested by the administrator under division 2342
(C)(1) or (2) of this section. 2343

(D) The administrator shall use the information provided 2344
under division (C) of this section to develop a state fund 2345
experience modification factor for each client employer involved 2346
in a lease termination with a professional employer organization 2347
that is a self-insuring employer. 2348

(E) A professional employer organization shall report any 2349
transfer of employees between related professional employer 2350
organization entities or professional employer organization 2351
reporting entities to the administrator within fourteen calendar 2352
days after the date of the transfer on a form prescribed by the 2353
administrator. The professional employer organization or 2354
professional employer organization reporting entity shall include 2355
in the form all client payroll and claim information regarding the 2356
transferred employees listed in a format specified by the 2357
administrator and a notice of all workers' compensation claims 2358
that have been reported to the professional employer organization 2359
or professional employer organization reporting entity in 2360
accordance with the internal reporting policies of the 2361
professional employer organization or professional employer 2362
organization reporting entity. 2363

(F) Prior to entering into a professional employer 2364
organization agreement with a client employer, a professional 2365

employer organization shall disclose in writing to the client 2366
employer the reporting requirements that apply to the professional 2367
employer organization under division (C) of this section and that 2368
the administrator must develop a state fund experience 2369
modification factor for each client employer involved in a lease 2370
termination with a professional employer organization that is a 2371
self-insuring employer. 2372

Sec. 4167.01. As used in this chapter: 2373

(A) "Public employer" means any of the following: 2374

(1) The state and its instrumentalities; 2375

(2) Any political subdivisions and their instrumentalities, 2376
including any county, county hospital, municipal corporation, 2377
city, village, township, park district, school district, state 2378
institution of higher learning, public or special district, state 2379
agency, authority, commission, or board; 2380

(3) Any other branch of public employment not mentioned in 2381
division (A)(1) or (2) of this section. 2382

(B) "Public employee" means any individual who engages to 2383
furnish services subject to the direction and control of a public 2384
employer, including those individuals working for a private 2385
employer who has contracted with a public employer and over whom 2386
the national labor relations board has declined jurisdiction. 2387

"Public employee" does not mean any of the following: 2388

(1) ~~A firefighter, an emergency medical technician basic, an~~ 2389
~~emergency medical technician intermediate, a paramedic, or a peace~~ 2390
officer employed by a public employer as defined in division 2391
(A)(2) of this section, or any member of the organized militia 2392
ordered to duty by state authority pursuant to Chapter 5923. of 2393
the Revised Code, ~~or a firefighter, an emergency medical~~ 2394
~~technician basic, an emergency medical technician intermediate, or~~ 2395

a paramedic employed by a private employer that is organized as a	2396
nonprofit fire company or life squad that contracts with a public	2397
employer to provide fire protection or emergency medical services;	2398
(2) Any person employed as a correctional officer in a county	2399
or municipal corporation correctional institution, whether the	2400
county or municipal corporation solely or in conjunction with each	2401
other operates the institution;	2402
(3) Any person who engages to furnish services subject to the	2403
direction and control of a public employer but does not receive	2404
compensation, either directly or indirectly, for those services;	2405
(4)(3) Any forest-fire investigator, natural resources	2406
officer, wildlife officer, or preserve officer.	2407
(C) "Public employee representative" means an employee	2408
organization certified by the state employment relations board	2409
under section 4117.05 of the Revised Code as the exclusive	2410
representative of the public employees in a bargaining unit.	2411
(D) "Employment risk reduction standard" means a standard	2412
which requires conditions, or the adoption or use of one or more	2413
practices, means, methods, operations, or processes, reasonably	2414
necessary or appropriate to provide safe and healthful employment	2415
and places of employment.	2416
(E) "Ohio employment risk reduction standard" means any risk	2417
reduction standard adopted or issued under this chapter.	2418
(F) "Undue hardship" means any requirement imposed under this	2419
chapter or a rule or order issued thereunder that would require a	2420
public employer to take an action with significant difficulty or	2421
expense when considered in light of all of the following factors:	2422
(1) The nature and cost of the action required under this	2423
chapter;	2424
(2) The overall financial resources of the public employer	2425

involved in the action;	2426
(3) The number of persons employed by the public employer at the particular location where the action may be required;	2427 2428
(4) The effect on expenses and resources or the impact otherwise of the action required upon the operations of the public employer at the location where the action may be required;	2429 2430 2431
(5) The overall size of the public employer with respect to the number of its public employees;	2432 2433
(6) The number, type, and location of the public employer's operations, including the composition, structure, and functions of the workforce of the public entity;	2434 2435 2436
(7) The geographic separateness, administrative, or fiscal relationship of the public employer's operations to the whole public employer.	2437 2438 2439
Sec. 4167.02. (A) The administrator of worker's <u>workers'</u> compensation shall operate and enforce the public employment risk reduction program created by this chapter.	2440 2441 2442
(B) The administrator shall do all of the following:	2443
(1) Adopt rules, with the advice and consent of the bureau of workers' compensation board of directors and in accordance with Chapter 119. of the Revised Code, for the administration and enforcement of this chapter, including rules covering standards. <u>The administrator shall include both of the following in the rules:</u>	2444 2445 2446 2447 2448 2449
(a) <u>Standards</u> the administrator shall follow in issuing an emergency temporary Ohio employment risk reduction standard under section 4167.08 of the Revised Code and <u>in issuing</u> a temporary variance and a variance from an Ohio employment risk reduction standard or part thereof under section 4167.09 of the Revised Code;	2450 2451 2452 2453 2454 2455

<u>(b) Standards and procedures for an effective safety</u>	2456
<u>partnership agreement program for public employers and employees</u>	2457
<u>that promotes voluntary compliance with this chapter.</u>	2458
(2) Do all things necessary and appropriate for the	2459
administration and enforcement of this chapter.	2460
(C) In carrying out the responsibilities of this chapter, the	2461
administrator may use, with the consent of any federal, state, or	2462
local agency, the services, facilities, and personnel of such	2463
agency, with or without reimbursement, and may retain or contract	2464
with experts, consultants, and organizations for services or	2465
personnel on such terms as the administrator determines	2466
appropriate.	2467
Sec. 4167.10. (A) In order to carry out the purposes of this	2468
chapter, the administrator of workers' compensation or the	2469
administrator's designee shall, as provided in this section, <u>enter</u>	2470
<u>without delay during normal working hours and at other reasonable</u>	2471
<u>times, to</u> inspect and investigate any plant, facility,	2472
establishment, construction site, or any other area, workplace, or	2473
environment where work is being performed by a public employee of	2474
a public employer, and any place of employment and all pertinent	2475
conditions, structures, machines, apparatus, devices, equipment,	2476
and materials therein, and question privately any public employer,	2477
administrator, department head, operator, agent, or public	2478
employee. The authority to inspect and investigate includes the	2479
taking of environmental samples, the taking and obtaining of	2480
photographs related to the purposes of the inspection or	2481
investigation, the examination of records required to be kept	2482
under section 4167.11 of the Revised Code and other documents and	2483
records relevant to the inspection and investigation, the issuance	2484
of subpoenas, and the conducting of tests and other studies	2485
reasonably calculated to serve the purposes of implementing and	2486

enforcing this chapter. Except as provided in this section, the 2487
administrator or the administrator's designee shall conduct 2488
scheduled inspections and investigations only pursuant to rules 2489
adopted under section 4167.02 of the Revised Code, a request to do 2490
so by a public employee or public employee representative, or the 2491
notification the administrator receives pursuant to division (B) 2492
of section 4167.06 of the Revised Code and only if the 2493
administrator or the administrator's designee complies with this 2494
section. The administrator or the administrator's designee shall 2495
conduct all requested or required inspections within a reasonable 2496
amount of time following receipt of the request or notification. 2497

(B)(1) Any public employee or public employee representative 2498
who believes that a violation of an Ohio employment risk reduction 2499
standard exists that threatens physical harm, or that an imminent 2500
danger exists, may request an inspection by giving written notice 2501
to the administrator or the administrator's designee of the 2502
violation or danger. The notice shall set forth with reasonable 2503
particularity the grounds for the notice, and shall be signed by 2504
the public employee or public employee representative. The names 2505
of individual public employees making the notice or referred to 2506
therein shall not appear in the copy provided to the public 2507
employer pursuant to division (B)(2) of this section and shall be 2508
kept confidential. 2509

(2) If, upon receipt of a notification pursuant to division 2510
(B)(1) of this section, the administrator determines that there 2511
are no reasonable grounds to believe that a violation or danger 2512
exists, the administrator shall inform the public employee or 2513
public employee representative in writing of the determination. 2514
If, upon receipt of a notification, the administrator determines 2515
that there are reasonable grounds to believe that a violation or 2516
danger exists, the administrator shall, within one week, excluding 2517
Saturdays, Sundays, and any legal holiday as defined in section 2518

1.14 of the Revised Code, after receipt of the notification, 2519
notify the public employer, by certified mail, return receipt 2520
requested, of the alleged violation or danger. The notice provided 2521
to the public employer or the public employer's agent shall 2522
~~contain a copy of the notice provided to the administrator by the~~ 2523
~~public employee or the public employee representative under~~ 2524
~~division (B)(1) of this section and shall~~ inform the public 2525
employer of the alleged violation or danger and that the 2526
administrator or the administrator's designee will investigate and 2527
inspect the public employer's workplace as provided in this 2528
section. The public employer must respond to the administrator, in 2529
a method determined by the administrator, concerning the alleged 2530
violation or danger, within thirty days after receipt of the 2531
notice. If the public employer does not correct the violation or 2532
danger within the thirty-day period or if the public employer 2533
fails to respond within that time period, the administrator or the 2534
administrator's designee shall investigate and inspect the public 2535
employer's workplace as provided in this section. The 2536
administrator or the administrator's designee shall not conduct 2537
any inspection prior to the end of the thirty-day period unless 2538
requested or permitted by the public employer. The administrator 2539
may, at any time upon the request of the public employer, inspect 2540
and investigate any violation or danger alleged to exist at the 2541
public employer's place of employment. 2542

(3) The authority of the administrator or the administrator's 2543
designee to investigate and inspect a premises pursuant to a 2544
public employee or public employee representative notification is 2545
not limited to the alleged violation or danger contained in the 2546
notification. The administrator or the administrator's designee 2547
may investigate and inspect any other area of the premises where 2548
there is reason to believe that a violation or danger exists. In 2549
addition, if the administrator or the administrator's designee 2550
detects any obvious or apparent violation at any temporary place 2551

of employment while en route to the premises to be inspected or 2552
investigated, and that violation presents a substantial 2553
probability that the condition or practice could result in death 2554
or serious physical harm, the administrator or the administrator's 2555
designee may use any of the enforcement mechanisms provided in 2556
this section to correct or remove the condition or practice. 2557

2558

(4) If, during an inspection or investigation, the 2559
administrator or the administrator's designee finds any condition 2560
or practice in any place of employment that presents a substantial 2561
probability that the condition or practice could result in death 2562
or serious physical harm, after notifying the employer of the 2563
administrator's intent to issue an order, the administrator shall 2564
issue an order, or the administrator's designee shall issue an 2565
order after consultation either by telephone or in person with the 2566
administrator and upon the recommendation of the administrator, 2567
which prohibits the employment of any public employee or any 2568
continuing operation or process under such condition or practice 2569
until necessary steps are taken to correct or remove the condition 2570
or practice. The order shall not be effective for more than 2571
fifteen days, unless a court of competent jurisdiction otherwise 2572
orders as provided in section 4167.14 of the Revised Code. 2573

(C) In making any inspections or investigations under this 2574
chapter, the administrator or the administrator's designee may 2575
administer oaths and require, by subpoena, the attendance and 2576
testimony of witnesses and the production of evidence under oath. 2577
Witnesses shall receive the fees and mileage provided for under 2578
section 119.094 of the Revised Code. In the case of contumacy, 2579
failure, or refusal of any person to comply with an order or any 2580
subpoena lawfully issued, or upon the refusal of any witness to 2581
testify to any matter regarding which the witness may lawfully be 2582
interrogated, a judge of the court of common pleas of any county 2583

in this state, on the application of the administrator or the 2584
administrator's designee, shall issue an order requiring the 2585
person to appear and to produce evidence if, as, and when so 2586
ordered, and to give testimony relating to the matter under 2587
investigation or in question. The court may punish any failure to 2588
obey the order of the court as a contempt thereof. 2589

(D) If, upon inspection or investigation, the administrator 2590
or the administrator's designee believes that a public employer 2591
has violated any requirement of this chapter or any rule, Ohio 2592
employment risk reduction standard, or order adopted or issued 2593
pursuant thereto, the administrator or the administrator's 2594
designee shall, with reasonable promptness, issue a citation to 2595
the public employer. The citation shall be in writing and describe 2596
with particularity the nature of the alleged violation, including 2597
a reference to the provision of law, Ohio employment risk 2598
reduction standard, rule, or order alleged to have been violated. 2599
In addition, the citation shall fix a time for the abatement of 2600
the violation, as provided in division (H) of this section. The 2601
administrator may prescribe procedures for the issuance of a 2602
notice with respect to minor violations and for enforcement of 2603
minor violations that have no direct or immediate relationship to 2604
safety or health. 2605

(E) Upon receipt of any citation under this section, the 2606
public employer shall immediately post the citation, or a copy 2607
thereof, at or near each place an alleged violation referred to in 2608
the citation occurred. 2609

(F) The administrator may not issue a citation under this 2610
section after the expiration of six months following the final 2611
occurrence of any violation. 2612

(G) If the administrator issues a citation pursuant to this 2613
section, the administrator shall mail the citation to the public 2614
employer by certified mail, return receipt requested. The public 2615

employer has fourteen days after receipt of the citation within 2616
which to notify the administrator that the employer wishes to 2617
contest the citation. If the employer notifies the administrator 2618
within the fourteen days that the employer wishes to contest the 2619
citation, or if within fourteen days after the issuance of a 2620
citation a public employee or public employee representative files 2621
notice that the time period fixed in the citation for the 2622
abatement of the violation is unreasonable, the administrator 2623
shall hold an adjudication hearing in accordance with Chapter 119. 2624
of the Revised Code. 2625

(H) In establishing the time limits in which a public 2626
employer must abate a violation under this section, the 2627
administrator shall consider the costs to the public employer, the 2628
size and financial resources of the public employer, the severity 2629
of the violation, the technological feasibility of the public 2630
employer's ability to comply with requirements of the citation, 2631
the possible present and future detriment to the health and safety 2632
of any public employee for failure of the public employer to 2633
comply with requirements of the citation, and such other factors 2634
as the administrator determines appropriate. The administrator 2635
may, after considering the above factors, permit the public 2636
employer to comply with the citation over a period of up to two 2637
years and may extend that period an additional one year, as the 2638
administrator determines appropriate. 2639

(I) Any public employer may request the administrator to 2640
conduct an employment risk reduction inspection of the public 2641
employer's place of employment. The administrator or the 2642
administrator's designee shall conduct the inspection within a 2643
reasonable amount of time following the request. Neither the 2644
administrator nor any other person may use any information 2645
obtained from the inspection for a period not to exceed three 2646
years in any proceeding for a violation of this chapter or any 2647

rule or order issued thereunder nor in any other action in any court in this state. 2648
2649

Section 101.02. That existing sections 4121.125, 4121.44, 4123.29, 4123.343, 4123.512, 4123.53, 4123.54, 4123.56, 4123.57, 4123.66, 4123.68, 4123.71, 4123.84, 4125.07, 4167.01, 4167.02, and 4167.10 of the Revised Code are hereby repealed. 2650
2651
2652
2653

Section 105.01. That sections 4123.72 and 4167.19 of the Revised Code are hereby repealed. 2654
2655

Section 201.10. All items in this section are hereby appropriated out of any moneys in the state treasury to the credit of the designated fund. For all appropriations made in this act, those in the first column are for fiscal year 2018, and those in the second column are for fiscal year 2019. 2656
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2658
2659
2660

BWC BUREAU OF WORKERS' COMPENSATION 2661

Dedicated Purpose Fund Group 2662

7023	855407	Claims, Risk and Medical Management	\$	115,598,050	\$	118,300,550	2663
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7023	855408	Fraud Prevention	\$	12,791,260	\$	12,791,260	2664
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7023	855409	Administrative Services	\$	109,472,100	\$	109,472,100	2665
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7023	855410	Attorney General Payments	\$	4,621,850	\$	4,621,850	2666
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8220	855606	Coal Workers' Fund	\$	154,000	\$	154,000	2667
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8230	855608	Marine Industry	\$	57,000	\$	57,000	2668
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8250	855605	Disabled Workers Relief Fund	\$	173,000	\$	173,000	2669
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8260	855609	Safety and Hygiene Operating	\$	22,000,000	\$	22,000,000	2670
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8260	855610	Safety Grants	\$	15,000,000	\$	15,000,000	2671
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TOTAL	DPF	Dedicated Purpose Fund	\$	279,867,260	\$	282,569,760	2672
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Group

Federal Fund Group					2673	
3490 855601	OSHA Enforcement	\$	1,653,900	\$	1,653,900	2674
3FW0 855614	BLS SOII Grant	\$	195,104	\$	195,104	2675
3FW0 855615	NIOSH Grant	\$	200,000	\$	200,000	2676
TOTAL FED	Federal Fund Group	\$	2,049,004	\$	2,049,004	2677
TOTAL ALL BUDGET FUND GROUPS		\$	281,916,264	\$	284,618,764	2678

WORKERS' COMPENSATION FRAUD UNIT 2679

Of the foregoing appropriation item 855410, Attorney General 2680
 Payments, \$828,200 in each fiscal year shall be used to fund the 2681
 expenses of the Workers' Compensation Fraud Unit within the 2682
 Attorney General's Office. These payments shall be processed at 2683
 the beginning of each quarter of each fiscal year and deposited 2684
 into the Workers' Compensation Section Fund (Fund 1950) used by 2685
 the Attorney General. 2686

SAFETY AND HYGIENE 2687

Notwithstanding section 4121.37 of the Revised Code, the 2688
 Treasurer of State shall remit \$22,000,000 cash in fiscal year 2689
 2018 and \$22,000,000 cash in fiscal year 2019 from the State 2690
 Insurance Fund to the state treasury to the credit of the Safety 2691
 and Hygiene Fund (Fund 8260). 2692

OSHA ON-SITE CONSULTATION PROGRAM 2693

A portion of the foregoing appropriation item 855609, Safety 2694
 and Hygiene Operating, may be used to provide the state match for 2695
 federal funding of the Occupational Safety and Health 2696
 Administration's On-site Consultation Program operated by the 2697
 Division of Safety and Hygiene. 2698

VOCATIONAL REHABILITATION 2699

The Bureau of Workers' Compensation and the Opportunities for 2700
 Ohioans with Disabilities Agency may enter into an interagency 2701

agreement for the provision of vocational rehabilitation services 2702
and staff to mutually eligible clients. The Bureau may provide 2703
funds from the State Insurance Fund to fund vocational 2704
rehabilitation services and staff in accordance with the 2705
interagency agreement. 2706

Section 201.20. DEPUTY INSPECTOR GENERAL FOR BWC AND OIC 2707
FUNDING 2708

To pay for the FY 2018 costs related to the Deputy Inspector 2709
General for the Bureau of Workers' Compensation and Industrial 2710
Commission, on July 1, 2017, and January 1, 2018, or as soon as 2711
possible thereafter, the Director of Budget and Management shall 2712
transfer \$212,500 in cash from the Workers' Compensation Fund 2713
(Fund 7023) to the Deputy Inspector General for the Bureau of 2714
Workers' Compensation and Industrial Commission Fund (Fund 5FT0). 2715

To pay for the FY 2019 costs related to the Deputy Inspector 2716
General for the Bureau of Workers' Compensation and Industrial 2717
Commission, on July 1, 2018, and January 1, 2019, or as soon as 2718
possible thereafter, the Director of Budget and Management shall 2719
transfer \$212,500 in cash from the Workers' Compensation Fund 2720
(Fund 7023) to the Deputy Inspector General for the Bureau of 2721
Workers' Compensation and Industrial Commission Fund (Fund 5FT0). 2722

If additional amounts are needed, the Inspector General may 2723
seek Controlling Board approval for additional transfers of cash 2724
and to increase the amount appropriated in appropriation item 2725
965604, Deputy Inspector General for the Bureau of Workers' 2726
Compensation and Industrial Commission. 2727

Section 741.10. The amendment by this act to section 4123.57 2728
of the Revised Code applies to any claim filed on or after the 2729
effective date of this section. 2730

Section 741.20. Sections 4123.512 and 4123.84 and division 2731
(J) of section 4123.54 of the Revised Code, as amended by this 2732
act, apply to a claim under Chapters 4121., 4123., 4127., and 2733
4131. of the Revised Code arising on or after the effective date 2734
of this section. 2735

Section 741.30. If, on the effective date of this section, an 2736
employee's application for a determination of the percentage of 2737
the employee's permanent partial disability filed under section 2738
4123.57 of the Revised Code has been suspended pursuant to 2739
division (C) of section 4123.53 of the Revised Code for two years 2740
or more, the Administrator of Workers' Compensation shall send a 2741
notice to the employee's last known address informing the employee 2742
that the application may be dismissed unless the employee responds 2743
within thirty days after receiving the notice. If the employee 2744
does not respond within thirty days after receiving the notice, 2745
the Administrator may dismiss the application. 2746

Section 801.10. Law contained in the Main Operating 2747
Appropriations Act of the 132nd General Assembly that applies 2748
generally to the appropriations made in that act also applies 2749
generally to the appropriations made in this act. 2750

Section 806.10. The provisions of law contained in this act, 2751
and their applications, are severable. If any provision of law 2752
contained in this act, or if any application of any provision of 2753
law contained in this act, is held invalid, the invalidity does 2754
not affect other provisions of law contained in this act and their 2755
applications that can be given effect without the invalid 2756
provision or application. 2757

Section 812.10. Except as otherwise specifically provided in 2758
this act, the amendment, enactment, or repeal by this act of a 2759

section of law is exempt from the referendum under Ohio 2760
Constitution, Article II, Section 1d and section 1.471 of the 2761
Revised Code and therefore takes effect immediately when this act 2762
becomes law. 2763

Section 812.20. The amendment, enactment, or repeal by this 2764
act of the divisions and sections of law listed below are subject 2765
to the referendum under Ohio Constitution, Article II, Section 1c 2766
and therefore take effect on the ninety-first day after this act 2767
is filed with the Secretary of State: 2768

All Revised Code sections in Sections 101.01 and 105.01 of 2769
this act; 2770

Sections of this act prefixed with the number "741." 2771

Section 815.10. Section 4121.125 of the Revised Code is 2772
presented in this act as a composite of the section as amended by 2773
Sub. H.B. 123, Am. Sub. H.B. 153, and Sub. S.B. 171 of the 129th 2774
General Assembly. The General Assembly, applying the principle 2775
stated in division (B) of section 1.52 of the Revised Code that 2776
amendments are to be harmonized if reasonably capable of 2777
simultaneous operation, finds that the composite is the resulting 2778
version of the section in effect prior to the effective date of 2779
the section as presented in this act. 2780