



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Fiscal Note & Local Impact Statement

**Bill:** H.B. 99 of the 132nd G.A.

**Status:** As Introduced

**Sponsor:** Rep. Cera

**Local Impact Statement Procedure Required:** No

**Subject:** Modifies workers' compensation benefits for occupational pneumoconiosis

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### State Fiscal Highlights

- The bill modifies the definition of what qualifies as occupational pneumoconiosis and changes workers' compensation benefits paid for claims arising from the disease. Modifying the definition of occupational pneumoconiosis makes the qualifying conditions more inclusive. This is likely to result in more claims qualifying for the revised benefits.
- Changing the compensation amounts for temporary total disability (TTD), permanent partial disability (PPD), and permanent total disability (PTD) could result in greater amounts of compensation paid for occupational pneumoconiosis claims from the State Insurance Fund.
- The bill creates the Occupational Pneumoconiosis Board within the Bureau of Workers' Compensation to handle all claims determinations related to the disease. The five board members must be physicians who are internists or pulmonary specialists. They would be paid and reimbursed for their expenses related to their duties. The additional administrative costs would be paid out of assessment income deposited into the Workers' Compensation Fund (Fund 7023).

### Detailed Fiscal Analysis

#### Overview

The bill changes the way occupational pneumoconiosis claims are handled under the workers' compensation system. The bill does so by revising the claim process for these claims and creating the Occupational Pneumoconiosis Board to oversee the claims process in the Bureau of Workers' Compensation (BWC). Overall, it appears the bill would lead to an increase in filed claims being determined as related to occupational pneumoconiosis. Consequently, this is likely to lead to an increase in payments made from the State Insurance Fund. According to Bureau of Labor Statistics (BLS) and the Mining Safety and Health Administration (MSHA) data, there are slightly more than 2,400 coal mining jobs in Ohio. Some portion of these employees who contract

occupational pneumoconiosis will qualify for the additional benefits under the bill if they file a claim with BWC.

### Occupational pneumoconiosis claims

The bill establishes separate provisions for workers' compensation claims for occupational pneumoconiosis and creates a separate board, the Occupational Pneumoconiosis Board, for hearing medical disputes in these claims. The bill specifically applies to claims for disability or death arising on or after its effective date. The bill defines occupational pneumoconiosis and the associate diseases included therein. The bill provides that any disease included in this definition is subject to the bill's requirements and procedures for occupational pneumoconiosis claims. Overall, it would appear that the definition provided in the bill would be more inclusive, likely resulting in additional claims that would qualify as related to occupational pneumoconiosis.

### Compensation and benefits

The bill applies current law provisions regarding medical benefits to occupational pneumoconiosis claims. However, the bill's compensation amounts for occupational pneumoconiosis claims could be greater than compensation amounts for similar claims under current law. Generally, there are three major forms of compensation under Workers' Compensation Law: temporary total disability (TTD), permanent partial disability (PPD), and permanent total disability (PTD). The table below compares the compensation levels offered in the bill as compared to current law. For death benefits, the bill states that death benefits are to be paid in accordance with current law provisions.

<b>Comparison of Compensation Changes in H.B. 99 vs. Current Law</b>		
	<b>Under the Bill</b>	<b>Current Law</b>
<b>Temporary Total Disability (TTD)</b>		
Benefit	Weekly benefit of 66 2/3% of the employee's average weekly wage (AWW), not to exceed 100% of the statewide average weekly wage (SAWW – currently \$902), with a minimum of 33 1/3% of the SAWW, not to exceed that amount as calculated using the federal minimum wage	Weekly benefit of between 33 1/3% of SAWW or the employee's AWW, whichever is lower, and 66 2/3% of employee's AWW, not to exceed the SAWW, except that for the first 12 weeks, TTD equals 72% of the employee's full weekly wage, up to a statutory minimum
Duration	Payable up to 104 weeks	Payable up to 200 weeks or until specified events occur, whichever occurs first
<b>Permanent Partial Disability (PPD)</b>		
Benefit	Same as TTD above, except the maximum amount cannot exceed 70% of the SAWW (\$631.40)	Weekly benefit of between 66 2/3% of AWW not to exceed 33 1/3% of the SAWW for a percentage of 200 weeks that equals the percentage of the employee's partial disability
Duration	Either of the following: (1) four weeks of compensation for each percent of disability that the Administrator of BWC determines is permanent or (2) six weeks of compensation for each percent of disability if an employer fails to re-employ the employee at the employee's pre-injury job or a comparable job	Number of weeks determined by multiplying the percentage of the employee's disability due to the injury or occupational disease by 200 (as an example, if a claimant is 50% disabled, the claimant receives PPD for 100 weeks)

<b>Comparison of Compensation Changes in H.B. 99 vs. Current Law</b>		
	<b>Under the Bill</b>	<b>Current Law</b>
<b>Permanent Total Disability (PTD)</b>		
Benefit	Same as TTD	Weekly benefit of between 66 2/3% of employee's AWW, with a maximum of the statewide SAWW at the time of injury, and a minimum of 50% of the statewide AWW (\$451)
Duration	Until age 70	Until the employee's death

Ultimately, the compensation for individuals under the provisions of the bill will exceed those in current law, and there would be an increase in lost wage payments made from the State Insurance Fund. Furthermore, as mentioned above, there would be an increase in the number of such claims classified as occupational pneumoconiosis under the bill, and further additional payments made from the State Insurance Fund. According to Bureau of Labor Statistics (BLS) and the Mining Safety and Health Administration (MSHA) data, there are slightly more than 2,400 coal mining jobs in Ohio.

### **Occupational Pneumoconiosis Board**

The bill creates the Occupational Pneumoconiosis Board within BWC to determine, under the direction and supervision of the Administrator of Workers' Compensation, all medical questions relating to workers' compensation claims for occupational pneumoconiosis. The Board consists of five physicians who are board-certified internists or board-certified pulmonary specialists appointed by the Administrator. The Board is responsible for many of the duties pertaining to the claims process, including examinations of individuals and determinations of claims. However, the procedures for appeals fall under the Industrial Commission, or if necessary, a court through a writ of mandamus as is the process under current law.

Under the bill, the members of the Board are to be compensated for their work and reimbursed for travel and necessary expenses. The BWC Administrator must establish the members' compensation under current law's provisions governing employment compensation of BWC and Industrial Commission employees. As a point of comparison, members of the BWC Board of Directors receive compensation of up to \$60,000 per year based on the number of board and committee meetings they attend yearly. If the five members of the Occupational Pneumoconiosis Board were compensated in a similar fashion, then the compensation expenses of the Board could reach \$300,000 annually. There could also be some administrative operating costs for the Board to complete its duties that exceed those that currently exist for BWC to handle these claims. The costs for board member compensation and other administrative costs would be paid from the Workers' Compensation Fund (Fund 7023).