

AN ACT

To amend sections 4121.37, 4121.47, 4121.62, 4123.25, and 4123.291 and to repeal section 4121.48 of the Revised Code to make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2001, and ending June 30, 2003, and to provide authorization and conditions for the operation of Bureau programs.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 4121.37, 4121.47, 4121.62, 4123.25, and 4123.291 of the Revised Code be amended to read as follows:

Sec. 4121.37. The administrator of workers' compensation having, by virtue of Section 35 of Article II, Ohio Constitution, the expenditure of the fund therein created for the investigation and prevention of industrial accidents and diseases, shall, with the advice and consent of the workers' compensation oversight commission, in the exercise of the administrator's authority and in the performance of the administrator's duty, employ a superintendent and the necessary experts, engineers, investigators, clerks, and stenographers for the efficient operation of a division of safety and hygiene of the bureau of workers' compensation, which is hereby created.

~~The general assembly hereby declares that in furtherance of the authority granted to the administrator pursuant to Section 35 of Article II, Ohio Constitution, and to encourage public employers to operate and maintain safe places of employment for public employees of this state, the administrator, with the advice and consent of the oversight commission, may transfer funds, certified as provided in section 126.07 of the Revised Code, from the safety and hygiene fund to the occupational safety loan fund created in section 4121.48 of the Revised Code, for the purposes of that section.~~

The administrator of workers' compensation, with the advice and consent of the oversight commission, shall pay into the safety and hygiene fund, which is hereby created in the state treasury, the portion of the contributions paid by employers, calculated as though all employers paid premiums based upon payroll, not to exceed one per cent thereof in any

year, as is necessary for the payment of the salary of the superintendent of the division of safety and hygiene and the compensation of the other employees of the division of safety and hygiene, and the expenses of investigations and researches for the prevention of industrial accidents and diseases. All investment ~~earning~~ earnings of the fund shall be credited to the fund. The administrator has the same powers to invest any of the funds belonging to the fund as are delegated to the administrator under section 4123.44 of the Revised Code with respect to the state insurance fund. The superintendent, under the direction of the administrator, with the advice and consent of the oversight commission, shall conduct investigations and researches for the prevention of industrial accidents and diseases, conduct loss prevention programs and courses for employers, establish and administrate cooperative programs with employers for the purchase of individual safety equipment for employees, and print and distribute information as may be of benefit to employers and employees. The administrator shall pay from the safety and hygiene fund the salary of the superintendent of the division of safety and hygiene, the compensation of the other employees of the division of safety and hygiene, the expenses necessary or incidental to investigations and researches for the prevention of industrial accidents and diseases, and the cost of printing and distributing such information.

The superintendent, under the direction of the administrator, shall prepare an annual report, addressed to the governor, on the amount of the expenditures and the purposes for which they have been made, and the results of the investigations and researches. The administrator shall include the administrative costs, salaries, and other expenses of the division of safety and hygiene as a part of the budget of the bureau of workers' compensation that is submitted to the director of budget and management and shall identify those expenditures separately from other bureau expenditures.

The superintendent shall be a competent person with at least five years' experience in industrial accident or disease prevention work. The superintendent and up to six positions in the division of safety and hygiene as the administrator, with the advice and consent of the oversight commission, designates are in the unclassified civil service of the state as long as the administrator, with the advice and consent of the oversight commission, determines the positions subordinate to the superintendent are primarily and distinctively administrative, managerial, or professional in character. All other full-time employees of the division of safety and hygiene are in the classified civil service of the state.

Sec. 4121.47. (A) No employer shall violate a specific safety rule adopted by the administrator of workers' compensation pursuant to section 4121.13 of the Revised Code or an act of the general assembly to protect the lives, health, and safety of employees pursuant to Section 35 of Article II, Ohio Constitution. Chapter 4167. of the Revised Code and rules and standards adopted thereunder are not the rules or enactment referred to in this division and shall not be considered as such for purposes of this section.

(B) If a staff hearing officer, in the course of ~~his~~ the staff hearing officer's determination of a claim for an additional award under Section 35 of Article II, Ohio Constitution, finds the employer guilty of violating division (A) of this section, ~~he~~ the staff hearing officer shall, in addition to any award paid to the claimant, issue an order to the employer to correct the violation within the period of time ~~he~~ the staff hearing officer fixes. For any violation occurring within twenty-four months of the last violation, the staff hearing officer shall assess against the employer a civil penalty in an amount ~~he~~ the staff hearing officer determines up to a maximum of fifty thousand dollars for each violation. In fixing the exact penalty, the staff hearing officer shall base ~~his~~ the decision upon the size of the employer as measured by the number of employees, assets, and earnings of the employer.

(C) An employer dissatisfied with the imposition of a civil penalty pursuant to division (B) of this section may appeal the staff hearing officer's decision, if the commission refuses to hear the appeal under division (E) of section 4123.511 of the Revised Code, or a decision of the commission, if the commission hears the appeal under that division, to a court of common pleas pursuant to the Rules of Civil Procedure. An appeal operates to stay the payment of the fine pending the appeal.

(D) The administrator shall deposit all penalties collected pursuant to this section in the ~~occupational safety loan program~~ safety and hygiene fund established pursuant to section ~~4121.48~~ 4121.37 of the Revised Code.

Sec. 4121.62. (A) The authority granted to the administrator of workers' compensation pursuant to sections 4121.61 to 4121.69 of the Revised Code includes the authority to do all of the following:

(1) Contract with any public or private person for the rendition of rehabilitation services;

(2) Take actions and utilize money in the state insurance fund as necessary to obtain federal funds and assistance in the maximum amounts and most advantageous proportions and terms possible;

(3) Conduct rehabilitation educational programs for employers and employees;

(4) Establish within the bureau of workers' compensation a

bilitation division under the supervision of a director of rehabilitation appointed by and responsible to the administrator.

(B) The director of the division established is in the unclassified civil service of the state. The appointing authority may designate up to three positions at each facility under the jurisdiction of the division, and up to six positions in the division which are part of the director's immediate staff as being in the unclassified service of the state as long as the administrator determines that the positions are primarily and distinctively administrative, managerial, or professional. All other full-time employees of the division are in the classified civil service.

(C) The administrator shall establish fees for use of services offered by the division of rehabilitation, including, without limitation, the expense of providing rehabilitation services, counseling, and training. The administrator shall adopt rules, in accordance with Chapter 119. of the Revised Code, which establish the specific services the division offers and the amount of the fee for those services, which amount shall be based upon the actual cost of the division providing the services to the employer and employee.

(D) Nothing in sections 4121.61 to 4121.69 of the Revised Code shall be interpreted to grant authority to the administrator to require a claimant to utilize a public provider of rehabilitation services, counseling, or training.

~~(E) There is hereby established in the state treasury the Camera center fund. The fund shall consist of all fees the administrator charges persons for the use of the services of the Camera center and all rent the center receives from its tenants. The fund shall be used solely to pay for the provision of rehabilitation services and expenses of the Camera center. All investment earnings of the fund shall be credited to the fund.~~

Sec. 4123.25. (A) No employer shall knowingly misrepresent to the bureau of workers' compensation the amount or classification of payroll upon which the premium under this chapter is based. Whoever violates this division shall be liable to the state in an amount determined by the administrator of workers' compensation for not more than ten times the amount of the difference ~~in~~ between the premium paid and the amount the employer should have paid. The liability to the state under this division ~~shall~~ may be enforced in a civil action in the name of the state, and all sums collected under this division shall be paid into the state insurance fund.

(B) No self-insuring employer shall knowingly misrepresent the amount of paid compensation paid by such employer for purposes of the assessments provided under this chapter and Chapter 4121. of the Revised Code as required by section 4123.35 of the Revised Code. Whoever violates this division is liable to the state in an amount ~~assessed~~ determined by the

self-insuring employers evaluation board pursuant to division (C) of section 4123.352 of the Revised Code or for an amount the board determines that is not more than ten times the amount of the difference between the assessment paid and the amount of the assessment that should have been paid ~~along with any other penalty as determined by the board~~. The liability to the state under this division may be enforced in a civil action in the name of the state and all sums collected under this division shall be paid into the self-insurance assessment fund created pursuant to division (K) of section 4123.35 of the Revised Code.

(C) The administrator of workers' compensation, with the advice and consent of the workers' compensation oversight commission, shall adopt rules establishing criteria for determining both of the following:

(1) The amount of the penalty assessed against an employer for a violation of division (A) of this section;

(2) Acts or omissions that do not constitute a violation of division (A) or (B) of this section.

Sec. 4123.291. (A) An adjudicating committee appointed by the administrator of workers' compensation to hear any matter specified in divisions (B)(1) to (6) of this section shall hear the matter within sixty days of the date on which an employer files the request, protest, or petition. An employer desiring to file a request, protest, or petition regarding any matter specified in divisions (B)(1) to (6) of this section shall file the request, protest, or petition to the adjudicating committee on or before twenty-four months after the administrator sends notice of the determination about which the employer is filing the request, protest, or petition.

(B) An employer who is adversely affected by a decision of an adjudicating committee appointed by the administrator may appeal the decision of the committee to the administrator or ~~his~~ the administrator's designee. The employer shall file the appeal in writing within thirty days after the employer receives the decision of the adjudicating committee. The administrator or ~~his~~ the designee shall hear the appeal and hold a hearing, provided that the decision of the adjudicating committee relates to one of the following:

(1) An employer request for a waiver of a default in the payment of premiums pursuant to section 4123.37 of the Revised Code;

(2) An employer request for the settlement of liability as a noncomplying employer under section 4123.75 of the Revised Code;

(3) An employer petition objecting to the assessment of a premium pursuant to section 4123.37 of the Revised Code and the rules adopted pursuant to that section;

(4) An employer request for the abatement of penalties assessed pursuant to section 4123.32 of the Revised Code and the rules adopted pursuant to that section;

(5) An employer protest relating to an audit finding or a determination of a manual classification, experience rating, or transfer or combination of risk experience;

(6) Any decision relating to any other risk premium matter under Chapters 4121., 4123., and 4131. of the Revised Code.

SECTION 2. That existing sections 4121.37, 4121.47, 4121.62, 4123.25, and 4123.291 and section 4121.48 of the Revised Code are hereby repealed.

SECTION 3. (A) The Administrator of Workers' Compensation, with the advice and consent of the Workers' Compensation Oversight Commission, may adopt rules that identify specified medical conditions that have a historical record of being allowed whenever included in a claim. The Administrator shall designate the rules to be effective only until three years after the effective date of this section. The Administrator, for a period of three years after the effective date of this section, may grant immediate allowance of any medical condition identified in those rules upon the filing of a claim involving that medical condition and may make immediate payment of medical bills for any medical condition identified in those rules that is included in a claim. If an employer contests the allowance of a claim involving any medical condition identified in those rules, and the claim is disallowed, payment for the medical condition included in that claim shall be charged to and paid from the surplus fund created under section 4123.34 of the Revised Code.

(B) The Administrator shall establish a pilot program to determine the effectiveness of implementing division (A) of this section.

SECTION 4. The Administrator of Workers' Compensation shall submit a series of reports to the Workers' Compensation Oversight Commission, the Office of Budget and Management, the Legislative Service Commission, and the General Assembly semiannually during the 2001-2003 biennium, beginning on or before October 1, 2001, containing information relative to all of the following:

(A) The premium cost per worker, which reports the average annual cost a state fund employer pays to provide workers' compensation coverage

for its employees. The premium cost per worker is calculated by adding together an employer's total amounts of premiums and assessments paid during a calendar year and dividing that sum by the employer's average number of workers.

(B) The claims cost per worker, which reports the average annual benefit cost paid for each worker who is employed by a state fund employer during the preceding twelve months. The claims cost per worker is calculated by dividing an employer's total claim expenses paid during the preceding twelve months by the employer's average number of workers.

(C) The administrative cost per claim, which reports the average annual administrative expense a state fund employer pays to process a claim. The administrative cost per claim is calculated by dividing an employer's total amount of administrative expenses incurred during the preceding twelve months by the total number of claims the employer processed.

(D) The direct loss ratio, which measures the relationship between an employer's revenues and workers' compensation benefits paid to an injured worker during the preceding twelve months;

(E) The rate of return generated by investments of the Bureau of Workers' Compensation;

(F) The customer service index, which accounts for various statistical measures reflecting the bureau's customer service levels;

(G) The Health Partnership Program performance index, which measures the effectiveness of managed care organizations working for the bureau and reflects the quality of care, customer satisfaction, and cost of care provided by the managed care organizations;

(H) The rate of injury in the state per 1,000 workers;

(I) The average and median number of days the bureau takes to adjudicate an injured worker's medical bill fee;

(J) The return-to-work rate of state fund employers' injured workers who do not receive workers' compensation benefits for at least ninety days following their injury, which reports the number of injured workers who returned to work as a percentage of total injuries;

(K) The average number of days it takes for an employer or injured worker to report an injury to the bureau, which is calculated by taking the average number of days between the date of injury and the date the claim was filed with the bureau;

(L) The percentage of indemnity claims adjudicated by the bureau within fourteen days of the injury.

SECTION 5. All items in this section are 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 2002, and those in the second column are for fiscal year 2003.

BWC BUREAU OF WORKERS' COMPENSATION

FND	ALI	ALI TITLE		FY 2002		FY 2003
Workers' Compensation Fund Group						
023	855-401	William Green Lease	\$	17,570,700	\$	18,174,700
		Payments to OBA				
023	855-407	Claims, Risk & Medical	\$	133,919,528	\$	141,539,537
		Management				
023	855-408	Fraud Prevention	\$	10,698,376	\$	11,713,797
023	855-409	Administrative Services	\$	117,121,527	\$	119,884,053
023	855-410	Attorney General Payments	\$	4,078,273	\$	4,314,644
4Y6	855-612	J.L. Camera Center Operating	\$	500,000	\$	0
822	855-606	Coal Workers' Fund	\$	86,465	\$	91,894
823	855-608	Marine Industry	\$	50,755	\$	53,952
825	855-605	Disabled Workers Relief Fund	\$	668,280	\$	693,764
826	855-609	Safety & Hygiene Operating	\$	18,888,294	\$	20,130,820
TOTAL WCF Workers' Compensation						
Fund Group			\$	303,582,198	\$	316,597,161
TOTAL ALL BUDGET FUND GROUPS			\$	303,582,198	\$	316,597,161

WILLIAM GREEN LEASE PAYMENTS

The foregoing appropriation item 855-401, William Green Lease Payments to OBA, shall be used for lease payments to the Ohio Building Authority, and these appropriations shall be used to meet all payments at the times they are required to be made during the period from July 1, 2001, to June 30, 2003, by the Bureau of Workers' Compensation to the Ohio Building Authority pursuant to leases and agreements made under Chapter 152. of the Revised Code and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. Of the amounts received in Fund 023, appropriation item 855-401, up to \$35,745,400 shall be restricted for lease rental payments to the Ohio Building Authority. If it is determined that additional appropriations are necessary for such purpose, such amounts are hereby appropriated.

Notwithstanding any other provision of law to the contrary, all tenants of the William Green Building not funded by the Workers' Compensation Fund (Fund 023) shall pay their fair share of the costs of lease payments to the Workers' Compensation Fund (Fund 023) by intrastate transfer voucher.

WORKERS' COMPENSATION FRAUD UNIT

The Workers' Compensation Section Fund (Fund 195) shall receive payments from the Bureau of Workers' Compensation at the beginning of each quarter of each fiscal year to fund expenses of the Workers' Compensation Fraud Unit of the Attorney General's Office. Of the foregoing appropriation item 855-410, Attorney General Payments, \$751,694 in fiscal

year 2002 and \$773,151 in fiscal year 2003 shall be used to provide these payments.

CAMERA CENTER

The Camera Center Fund (Fund 4Y6) created in division (F) of section 4121.62 of the Revised Code shall receive revenues raised by the fees the Camera Center charges for its services and rent paid by tenants of the Center's facilities. The foregoing appropriation item 855-612, J.L. Camera Center Operating, shall be used for expenses related to the closing of the center. On January 1, 2002, or as soon thereafter as possible, the Director of Budget and Management shall transfer the cash balance in the Camera Center Fund (Fund 4Y6) to the Administrative Fund (Fund 023). The director shall cancel any existing encumbrances against appropriation items 855-611, J.L. Camera Center Rent, and 855-612, J.L. Camera Center Operating, and reestablish them against appropriation item 855-409, Administrative Services (Fund 023). These amounts are hereby appropriated.

The Bureau of Workers' Compensation shall not consider appropriations made to the Camera Center Fund (Fund 4Y6) when establishing administrative cost rates.

SAFETY AND HYGIENE

Notwithstanding section 4121.37 of the Revised Code, the Administrator of Workers' Compensation shall transfer moneys from the State Insurance Fund so that appropriation item 855-609, Safety and Hygiene Operating, is provided \$18,888,294 in fiscal year 2002 and \$20,130,820 in fiscal year 2003.

OCCUPATIONAL SAFETY LOAN FUND

Not later than January 1, 2002, the Administrator of Workers' Compensation shall transfer the cash balance in the Occupational Safety Loan Fund established in former section 4121.48 of the Revised Code to the Safety and Hygiene Fund (Fund 826) created in section 4121.37 of the Revised Code.

BALANCES

Notwithstanding any provision of law to the contrary, the Director of Budget and Management shall make any transfers of cash balances between funds made necessary by the creation of new funds or the consolidation of funds as authorized by the General Assembly. Within the first five days after the effective date of this section, the administering agency head shall certify to the director an estimate of the amount of the cash balance to be transferred to the receiving fund. The director may transfer the estimated amount when needed to make payments. Within thirty days after the

Effective date of this section, the administering agency head shall certify the final amount to the director. The director shall transfer the difference between any estimated amount previously transferred and such certified final amount.

To implement funding changes as described above pertaining to prior year encumbrance balances and commensurate appropriation authority, in fiscal year 2002 the Director of Budget and Management may cancel encumbrances outstanding on June 30, 2001, and reestablish such prior year encumbrances or parts of encumbrances as needed in fiscal year 2002 in the appropriate fund or appropriation item as authorized in this act for the same purpose and to the same vendor. As determined by the director, the appropriation authority necessary to reestablish such prior year encumbrances in fiscal year 2000 in a different fund or appropriation item within an agency or between agencies is authorized. The director shall reduce each prior year's appropriation authority by the amount of the encumbrances canceled in their respective funds and appropriation items.

VOCATIONAL REHABILITATION

The Bureau of Workers' Compensation and the Rehabilitation Services Commission shall enter into an interagency agreement for the provision of vocational rehabilitation services and staff to mutually eligible clients. The bureau shall provide \$554,033 in fiscal year 2002 and \$570,654 in fiscal year 2003 from the State Insurance Fund to fund vocational rehabilitation services and staff in accordance with the interagency agreement.

FUND BALANCE

Any unencumbered cash balance in excess of \$45,000,000 in the Workers' Compensation Fund (Fund 023) on the thirtieth day of June of each fiscal year shall be used to reduce the administrative cost rate charged to employers to cover appropriations for Bureau of Workers' Compensation and Industrial Commission operations.

SECTION 6. LAW GENERALLY APPLICABLE TO APPROPRIATIONS

Law contained in the main operating appropriations act of the 124th General Assembly that applies generally to the appropriations made in that act also applies generally to the appropriations made in this act.

SECTION 7. The codified sections of law amended in this act, and the items of law of which the codified sections of law amended in this act are composed, are subject to the referendum. Therefore, under Ohio

titution, Article II, Section 1c and section 1.471 of the Revised Code, the codified sections of law amended by this act, and the items of law of which the codified sections of law as amended by this act are composed, take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such codified section of law as amended by this act, or against any item of law of which any such codified section of law as amended by this act is composed, the codified section of law as amended, or item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 8. The repeal by this act of a codified section of law is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the repeal takes effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the repeal, the repeal, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 9. Section 4121.62 of the Revised Code, as amended by this act, is subject to the referendum and takes effect January 1, 2002.

This section is subject to the referendum, together with section 4121.62 of the Revised Code as amended by this act.

SECTION 10. The uncodified sections of law enacted in this act, and the items of law of which the uncodified sections of law enacted in this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the uncodified sections of law enacted in this act, and the items of law of which the uncodified sections of law enacted in this act are composed, go into immediate effect when this act becomes law.

SECTION 11. If the amendment in this act of a codified section of law is subject to the referendum, the corresponding indications in the amending and existing repeal clauses commanding the amendment also are subject to the referendum, along with the amendment.

SECTION 12. An item, other than an amending or repealing clause, that composes the whole or part of an uncodified section contained in this act has

no effect after June 30, 2003, unless its context clearly indicates otherwise.

SECTION 13. If any item of law that constitutes the whole or part of a codified or uncoded section of law contained in this act, or if any application of any item of law that constitutes the whole or part of a codified or uncoded section of law contained in this act, is held invalid, the invalidity does not affect other items of law or applications of items of law that can be given effect without the invalid item of law or application. To this end, the items of law of which the codified and uncoded sections contained in this act are composed, and their applications, are independent and severable.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 75

13

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____