

As Introduced

**128th General Assembly
Regular Session
2009-2010**

H. B. No. 15

Representative Sykes

—

A BILL

To amend sections 121.52, 4121.12, 4121.125, 4121.62, 1
4121.70, and 4123.34 of the Revised Code to create 2
the Deputy Inspector General for the Bureau of 3
Workers' Compensation and Industrial Commission 4
Fund; to make other changes to the Workers' 5
Compensation Law; to make appropriations for the 6
Bureau of Workers' Compensation for the biennium 7
beginning July 1, 2009, and ending June 30, 2011; 8
and to provide authorization and conditions for 9
the operation of the Bureau's programs. 10

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

Section 101. That sections 121.52, 4121.12, 4121.125, 11
4121.62, 4121.70, and 4123.34 of the Revised Code be amended to 12
read as follows: 13

Sec. 121.52. There is hereby created in the office of the 14
inspector general the office of deputy inspector general for the 15
bureau of workers' compensation and industrial commission. The 16
inspector general shall appoint the deputy inspector general, and 17
the deputy inspector general shall serve at the pleasure of the 18
inspector general. A person employed as the deputy inspector 19
general shall have the same qualifications as those specified in 20

section 121.49 of the Revised Code for the inspector general. The 21
inspector general shall provide professional and clerical 22
assistance to the deputy inspector general. 23

The deputy inspector general for the bureau of workers' 24
compensation and the industrial commission shall investigate 25
wrongful acts or omissions that have been committed by or are 26
being committed by officers or employees of the bureau of workers' 27
compensation and the industrial commission. The deputy inspector 28
general has the same powers and duties regarding matters 29
concerning the bureau and the commission as those specified in 30
sections 121.42, 121.43, and 121.45 of the Revised Code for the 31
inspector general. Complaints may be filed with the deputy 32
inspector general in the same manner as prescribed for complaints 33
filed with the inspector general under section 121.46 of the 34
Revised Code. All investigations conducted and reports issued by 35
the deputy inspector general are subject to section 121.44 of the 36
Revised Code. 37

There is hereby created in the state treasury the deputy 38
inspector general for the bureau of workers' compensation and 39
industrial commission fund, which shall consist of moneys 40
deposited into it that the inspector general receives from the 41
administrator of workers' compensation and receives from the 42
industrial commission. The inspector general shall use the fund to 43
pay the costs incurred by the deputy inspector general in 44
performing the duties of the deputy inspector general as required 45
under this section. 46

The members of the industrial commission, bureau of workers' 47
compensation board of directors, workers' compensation audit 48
committee, workers' compensation actuarial committee, and workers' 49
compensation investment committee, and the administrator of 50
~~workers' compensation~~, and employees of the industrial commission 51
and the bureau shall cooperate with and provide assistance to the 52

deputy inspector general in the performance of any investigation 53
conducted by the deputy inspector general. In particular, those 54
persons shall make their premises, equipment, personnel, books, 55
records, and papers readily available to the deputy inspector 56
general. In the course of an investigation, the deputy inspector 57
general may question any person employed by the industrial 58
commission or the administrator and any person transacting 59
business with the industrial commission, the board, the audit 60
committee, the actuarial committee, the investment committee, the 61
administrator, or the bureau and may inspect and copy any books, 62
records, or papers in the possession of those persons or entities, 63
taking care to preserve the confidentiality of information 64
contained in responses to questions or the books, records, or 65
papers that are made confidential by law. 66

In performing any investigation, the deputy inspector general 67
shall avoid interfering with the ongoing operations of the 68
entities being investigated, except insofar as is reasonably 69
necessary to successfully complete the investigation. 70

At the conclusion of an investigation conducted by the deputy 71
inspector general for the bureau of workers' compensation and 72
industrial commission, the deputy inspector general shall deliver 73
to the board, the administrator, the industrial commission, and 74
the governor any case for which remedial action is necessary. The 75
deputy inspector general shall maintain a public record of the 76
activities of the office of the deputy inspector general to the 77
extent permitted under this section, ensuring that the rights of 78
the parties involved in each case are protected. The inspector 79
general shall include in the annual report required under section 80
121.48 of the Revised Code a summary of the activities of the 81
deputy inspector general during the previous year. 82

No person shall disclose any information that is designated 83
as confidential in accordance with section 121.44 of the Revised 84

Code or any confidential information that is acquired in the 85
course of an investigation conducted under this section ~~121.53~~ of 86
~~the Revised Code~~ to any person who is not legally entitled to 87
disclosure of that information. 88

Sec. 4121.12. (A) There is hereby created the bureau of 89
workers' compensation board of directors consisting of eleven 90
members to be appointed by the governor with the advice and 91
consent of the senate. One member shall be an individual who, on 92
account of the individual's previous vocation, employment, or 93
affiliations, can be classed as a representative of employees; two 94
members shall be individuals who, on account of their previous 95
vocation, employment, or affiliations, can be classed as 96
representatives of employee organizations and at least one of 97
these two individuals shall be a member of the executive committee 98
of the largest statewide labor federation; three members shall be 99
individuals who, on account of their previous vocation, 100
employment, or affiliations, can be classed as representatives of 101
employers, one of whom represents self-insuring employers, one of 102
whom is a state fund employer who employs one hundred or more 103
employees, and one of whom is a state fund employer who employs 104
less than one hundred employees; two members shall be individuals 105
who, on account of their vocation, employment, or affiliations, 106
can be classed as investment and securities experts who have 107
direct experience in the management, analysis, supervision, or 108
investment of assets and are residents of this state; one member 109
who shall be a certified public accountant; one member who shall 110
be an actuary who is a member in good standing with the American 111
academy of actuaries or who is an associate or fellow with the 112
society of actuaries; and one member shall represent the public 113
and also be an individual who, on account of the individual's 114
previous vocation, employment, or affiliations, cannot be classed 115
as either predominantly representative of employees or of 116

employers. The governor shall select the chairperson of the board 117
who shall serve as chairperson at the pleasure of the governor. 118

None of the members of the board, within one year immediately 119
preceding the member's appointment, shall have been employed by 120
the bureau of workers' compensation or by any person, partnership, 121
or corporation that has provided to the bureau services of a 122
financial or investment nature, including the management, 123
analysis, supervision, or investment of assets. 124

(B) Of the initial appointments made to the board, the 125
governor shall appoint the member who represents employees, one 126
member who represents employers, and the member who represents the 127
public to a term ending one year after ~~the effective date of this~~ 128
~~amendment~~ June 11, 2007; one member who represents employers, one 129
member who represents employee organizations, one member who is an 130
investment and securities expert, and the member who is a 131
certified public accountant to a term ending two years after ~~the~~ 132
~~effective date of this amendment~~ June 11, 2007; and one member who 133
represents employers, one member who represents employee 134
organizations, one member who is an investment and securities 135
expert, and the member who is an actuary to a term ending three 136
years after ~~the effective date of this amendment~~ June 11, 2007. 137
Thereafter, terms of office shall be for three years, with each 138
term ending on the same day of the same month as did the term that 139
it succeeds. Each member shall hold office from the date of the 140
member's appointment until the end of the term for which the 141
member was appointed. 142

Members may be reappointed. Any member appointed to fill a 143
vacancy occurring prior to the expiration date of the term for 144
which the member's predecessor was appointed shall hold office as 145
a member for the remainder of that term. A member shall continue 146
in office subsequent to the expiration date of the member's term 147
until a successor takes office or until a period of sixty days has 148

elapsed, whichever occurs first. 149

(C) In making appointments to the board, the governor shall 150
select the members from the list of names submitted by the 151
workers' compensation board of directors nominating committee 152
pursuant to this division. The nominating committee shall submit 153
to the governor a list containing four separate names for each of 154
the members on the board. Within fourteen days after the 155
submission of the list, the governor shall appoint individuals 156
from the list. 157

~~Within sixty~~ At least thirty days ~~after~~ prior to a vacancy 158
occurring as a result of the expiration of a term and within 159
thirty days after other vacancies occurring on the board, the 160
nominating committee shall submit an initial list containing four 161
names for each vacancy. Within fourteen days after the submission 162
of the initial list, the governor either shall appoint individuals 163
from that list or request the nominating committee to submit 164
another list of four names for each member the governor has not 165
appointed from the initial list, which list the nominating 166
committee shall submit to the governor within fourteen days after 167
the governor's request. The governor then shall appoint, within 168
seven days after the submission of the second list, one of the 169
individuals from either list to fill the vacancy for which the 170
governor has not made an appointment from the initial list. With 171
respect to the filling of vacancies, the nominating committee 172
shall provide the governor with a list of four individuals who 173
are, in the judgment of the nominating committee, the most fully 174
qualified to accede to membership on the board. 175
176

In order for the name of an individual to be submitted to the 177
governor under this division, the nominating committee shall 178
approve the individual by an affirmative vote of a majority of its 179
members. 180

(D) All members of the board shall receive their reasonable 181
and necessary expenses pursuant to section 126.31 of the Revised 182
Code while engaged in the performance of their duties as members 183
and also shall receive an annual salary not to exceed sixty 184
thousand dollars in total, payable on the following basis: 185

(1) Except as provided in division (D)(2) of this section, a 186
member shall receive two thousand five hundred dollars during a 187
month in which the member attends one or more meetings of the 188
board and shall receive no payment during a month in which the 189
member attends no meeting of the board. 190

(2) A member may receive no more than thirty thousand dollars 191
per year to compensate the member for attending meetings of the 192
board, regardless of the number of meetings held by the board 193
during a year or the number of meetings in excess of twelve within 194
a year that the member attends. 195

(3) Except as provided in division (D)(4) of this section, if 196
a member serves on the workers' compensation audit committee, 197
workers' compensation actuarial committee, or the workers' 198
compensation investment committee, the member shall receive two 199
thousand five hundred dollars during a month in which the member 200
attends one or more meetings of the committee on which the member 201
serves and shall receive no payment during any month in which the 202
member attends no meeting of that committee. 203

(4) A member may receive no more than thirty thousand dollars 204
per year to compensate the member for attending meetings of any of 205
the committees specified in division (D)(3) of this section, 206
regardless of the number of meetings held by a committee during a 207
year or the number of committees on which a member serves. 208

The chairperson of the board shall set the meeting dates of 209
the board as necessary to perform the duties of the board under 210
this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of 211

the Revised Code. The board shall meet at least twelve times a year. The administrator of workers' compensation shall provide professional and clerical assistance to the board, as the board considers appropriate.

(E) Before entering upon the duties of office, each appointed member of the board shall take an oath of office as required by sections 3.22 and 3.23 of the Revised Code and file in the office of the secretary of state the bond required under section 4121.127 of the Revised Code.

(F) The board shall:

(1) Establish the overall administrative policy for the bureau for the purposes of this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(2) Review progress of the bureau in meeting its cost and quality objectives and in complying with this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(3) Submit an annual report to the president of the senate, the speaker of the house of representatives, the governor, and the workers' compensation council and include all of the following in that report:

(a) An evaluation of the cost and quality objectives of the bureau;

(b) A statement of the net assets available for the provision of compensation and benefits under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as of the last day of the fiscal year;

(c) A statement of any changes that occurred in the net assets available, including employer premiums and net investment income, for the provision of compensation and benefits and payment of administrative expenses, between the first and last day of the

fiscal year immediately preceding the date of the report;	242
(d) The following information for each of the six consecutive fiscal years occurring previous to the report:	243
(i) A schedule of the net assets available for compensation and benefits;	244
(ii) The annual cost of the payment of compensation and benefits;	246
(iii) Annual administrative expenses incurred;	248
(iv) Annual employer premiums allocated for the provision of compensation and benefits.	249
(e) A description of any significant changes that occurred during the six years for which the board provided the information required under division (F)(3)(d) of this section that affect the ability of the board to compare that information from year to year.	250
(4) Review all independent financial audits of the bureau. The administrator shall provide access to records of the bureau to facilitate the review required under this division.	252
(5) Study issues as requested by the administrator or the governor;	253
(6) Contract with all of the following:	254
(a) An independent actuarial firm to assist the board in making recommendations to the administrator regarding premium rates;	255
(b) An outside investment counsel to assist the workers' compensation investment committee in fulfilling its duties;	256
(c) An independent fiduciary counsel to assist the board in the performance of its duties.	259
(7) Approve the investment policy developed by the workers'	260

compensation investment committee pursuant to section 4121.129 of 271
the Revised Code if the policy satisfies the requirements 272
specified in section 4123.442 of the Revised Code. 273

(8) Review and publish the investment policy no less than 274
annually and make copies available to interested parties. 275

(9) Prohibit, on a prospective basis, any specific investment 276
it finds to be contrary to the investment policy approved by the 277
board. 278

(10) Vote to open each investment class and allow the 279
administrator to invest in an investment class only if the board, 280
by a majority vote, opens that class; 281

(11) After opening a class but prior to the administrator 282
investing in that class, adopt rules establishing due diligence 283
standards for employees of the bureau to follow when investing in 284
that class and establish policies and procedures to review and 285
monitor the performance and value of each investment class; 286

(12) Submit a report annually on the performance and value of 287
each investment class to the governor, the president and minority 288
leader of the senate, and the speaker and minority leader of the 289
house of representatives. 290

(13) Advise and consent on all of the following: 291

(a) Administrative rules the administrator submits to it 292
pursuant to division (B)(5) of section 4121.121 of the Revised 293
Code for the classification of occupations or industries, for 294
premium rates and contributions, for the amount to be credited to 295
the surplus fund, for rules and systems of rating, rate revisions, 296
and merit rating; 297

(b) The duties and authority conferred upon the administrator 298
pursuant to section 4121.37 of the Revised Code; 299

(c) Rules the administrator adopts for the health partnership 300

program and the qualified health plan system, as provided in	301
sections 4121.44, 4121.441, and 4121.442 of the Revised Code;	302
(d) Rules the administrator submits to it pursuant to Chapter	303
4167. of the Revised Code regarding the public employment risk	304
reduction program and the protection of public health care workers	305
from exposure incidents.	306
As used in this division, "public health care worker" and	307
"exposure incident" have the same meanings as in section 4167.25	308
of the Revised Code.	309
(14) Perform all duties required under this chapter and	310
Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised	311
Code;	312
(15) Meet with the governor on an annual basis to discuss the	313
administrator's performance of the duties specified in this	314
chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the	315
Revised Code;	316
(16) Develop and participate in a bureau of workers'	317
compensation board of directors education program that consists of	318
all of the following:	319
(a) An orientation component for newly appointed members;	320
(b) A continuing education component for board members who	321
have served for at least one year;	322
(c) A curriculum that includes education about each of the	323
following topics:	324
(i) Board member duties and responsibilities;	325
(ii) Compensation and benefits paid pursuant to this chapter	326
and Chapters 4123., 4127., and 4131. of the Revised Code;	327
(iii) Ethics;	328
(iv) Governance processes and procedures;	329

(v) Actuarial soundness;	330
(vi) Investments;	331
(vii) Any other subject matter the board believes is reasonably related to the duties of a board member.	332 333
(17) Submit the program developed pursuant to division (F)(16) of this section to the workers' compensation council for approval;	334 335 336
(18) Hold all sessions, classes, and other events for the program developed pursuant to division (F)(16) of this section in this state.	337 338 339
(G) The board may do both of the following:	340
(1) Vote to close any investment class;	341
(2) Create any committees in addition to the workers' compensation audit committee, the workers' compensation actuarial committee, and the workers' compensation investment committee that the board determines are necessary to assist the board in performing its duties.	342 343 344 345 346
(H) The office of a member of the board who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be deemed vacant. The vacancy shall be filled in the same manner as the original appointment. A person who has pleaded guilty to or been convicted of an offense of that nature is ineligible to be a member of the board. A member who receives a bill of indictment for any of the offenses specified in this section shall be automatically suspended from the board pending resolution of the criminal matter.	347 348 349 350 351 352 353 354 355 356 357 358
(I) For the purposes of division (G)(1) of section 121.22 of	359

the Revised Code, the meeting between the governor and the board 360
to review the administrator's performance as required under 361
division (F)(15) of this section shall be considered a meeting 362
regarding the employment of the administrator. 363

Sec. 4121.125. (A) The bureau of workers' compensation board 364
of directors, based upon recommendations of the workers' 365
compensation actuarial committee, may contract with one or more 366
outside actuarial firms and other professional persons, as the 367
board determines necessary, to assist the board in measuring the 368
performance of Ohio's workers' compensation system and in 369
comparing Ohio's workers' compensation system to other state and 370
private workers' compensation systems. The board, actuarial firm 371
or firms, and professional persons shall make such measurements 372
and comparisons using accepted insurance industry standards, 373
including, but not limited to, standards promulgated by the 374
National Council on Compensation Insurance. 375

(B) The board may contract with one or more outside firms to 376
conduct management and financial audits of the workers' 377
compensation system, including audits of the reserve fund 378
belonging to the state insurance fund, and to establish objective 379
quality management principles and methods by which to review the 380
performance of the workers' compensation system. 381

(C) The board shall do all of the following: 382

(1) Contract to have prepared annually by or under the 383
supervision of an actuary a report that meets the requirements 384
specified under division (E) of this section and that consists of 385
an actuarial valuation of the assets, liabilities, and funding 386
requirements of the state insurance fund and all other funds 387
specified in this chapter and Chapters 4123., 4127., and 4131. of 388
the Revised Code; 389

(2) Require that the actuary or person supervised by an 390

actuary referred to in division (C)(1) of this section complete 391
the valuation in accordance with the actuarial standards of 392
practice promulgated by the actuarial standards board of the 393
American academy of actuaries; 394

(3) Submit the report referred to in division (C)(1) of this 395
section to the workers' compensation council and the standing 396
committees of the house of representatives and the senate with 397
primary responsibility for workers' compensation legislation ~~not~~ 398
~~later than~~ on or before the first day of ~~September~~ November 399
following the year for which the valuation was made; 400

(4) Have an actuary or a person who provides actuarial 401
services under the supervision of an actuary, at such time as the 402
board determines, and at least once during the five-year period 403
that commences on ~~the effective date of this amendment~~ September 404
10, 2007, and once within each five-year period thereafter, 405
conduct an actuarial investigation of the experience of employers, 406
the mortality, service, and injury rate of employees, and the 407
payment of temporary total disability, permanent partial 408
disability, and permanent total disability under sections 4123.56 409
to 4123.58 of the Revised Code to update the actuarial assumptions 410
used in the report required by division (C)(1) of this section; 411

(5) Submit the report required under division (F) of this 412
section to the council and the standing committees of the house of 413
representatives and the senate with primary responsibility for 414
workers' compensation legislation not later than the first day of 415
November following the fifth year of the period that the report 416
covers; 417
418

(6) Have prepared by or under the supervision of an actuary 419
an actuarial analysis of any introduced legislation expected to 420
have a measurable financial impact on the workers' compensation 421
system; 422

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

(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 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 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 evaluated;

(2) A summary of the census data and financial information used in the valuation;

(3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation;

(4) A summary of findings that includes a statement of the actuarial accrued compensation and benefit liabilities and unfunded actuarial accrued compensation and benefit liabilities;

(5) A schedule showing the effect of any changes in the 453
compensation and benefit provisions, actuarial assumptions, or 454
cost methods since the previous annual actuarial valuation report 455
was submitted to the board. 456

(F) The actuary or person whom the board designates to 457
conduct an actuarial investigation under division (C)(4) of this 458
section shall prepare a report of the actuarial investigation and 459
shall submit the report to the board. The actuary or person shall 460
prepare the report and make any recommended changes in actuarial 461
assumptions in accordance with the actuarial standards of practice 462
promulgated by the actuarial standards board of the American 463
academy of actuaries. The actuary or person shall include all of 464
the following information in the report: 465

(1) A summary of relevant decrement and economic assumption 466
experience; 467

(2) Recommended changes in actuarial assumptions to be used 468
in subsequent actuarial valuations required by division (C)(1) of 469
this section; 470

(3) A measurement of the financial effect of the recommended 471
changes in actuarial assumptions. 472

(G) The actuary or person whom the board designates to 473
conduct the actuarial analysis under division (C)(6) of this 474
section shall prepare a report of the actuarial analysis and shall 475
submit that report to the board. The actuary or person shall 476
complete the analysis in accordance with the actuarial standards 477
of practice promulgated by the actuarial standards board of the 478
American academy of actuaries. The actuary or person shall include 479
all of the following information in the report: 480

(1) A summary of the statutory changes being evaluated; 481

(2) A description of or reference to the actuarial 482
assumptions and actuarial cost method used in the report; 483

(3) A description of the participant group or groups included	484
in the report;	485
(4) A statement of the financial impact of the legislation,	486
including the resulting increase, if any, in employer premiums, in	487
actuarial accrued liabilities, and, if an increase in actuarial	488
accrued liabilities is predicted, the per cent of premium increase	489
that would be required to amortize the increase in those	490
liabilities as a level per cent of employer premiums over a period	491
not to exceed thirty years.	492
(5) A statement of whether the employer premiums paid to the	493
bureau of workers' compensation after the proposed change is	494
enacted are expected to be sufficient to satisfy the funding	495
objectives established by the board.	496
(H) The board may, at any time, request an actuary to make	497
any studies or actuarial valuations to determine the adequacy of	498
the premium rates established by the administrator in accordance	499
with sections 4123.29 and 4123.34 of the Revised Code, and may	500
adjust those rates as recommended by the actuary.	501
(I) The board shall have an independent auditor, at least	502
once every ten years, conduct a fiduciary performance audit of the	503
investment program of the bureau of workers' compensation. That	504
audit shall include an audit of the investment policies approved	505
by the board and investment procedures of the bureau. The board	506
shall submit a copy of that audit to the auditor of state.	507
(J) The administrator, with the advice and consent of the	508
board, shall employ an internal auditor who shall report findings	509
directly to the board, workers' compensation audit committee, and	510
administrator, except that the internal auditor shall not report	511
findings directly to the administrator when those findings involve	512
malfeasance, misfeasance, or nonfeasance on the part of the	513
administrator. The board and the workers' compensation audit	514

committee may request and review internal audits conducted by the 515
internal auditor. 516

(K) The administrator shall pay the expenses incurred by the 517
board to effectively fulfill its duties and exercise its powers 518
under this section as the administrator pays other operating 519
expenses of the bureau. 520

Sec. 4121.62. (A) The authority granted to the administrator 521
of workers' compensation pursuant to sections 4121.61 to 4121.69 522
of the Revised Code includes the authority to do all of the 523
following: 524

(1) Contract with any public or private person for the 525
rendition of rehabilitation services; 526

(2) Take actions and utilize money in the state insurance 527
fund as necessary to obtain federal funds and assistance in the 528
maximum amounts and most advantageous proportions and terms 529
possible; 530

(3) Conduct rehabilitation educational programs for employers 531
and employees; 532

~~(4) Establish within the bureau of workers' compensation a 533
rehabilitation division under the supervision of a director of 534
rehabilitation appointed by and responsible to the administrator. 535~~

~~(B) The director of the division established is in the 536
unclassified civil service of the state. The appointing authority 537
may designate up to three positions at each facility under the 538
jurisdiction of the division, and up to six positions in the 539
division which are part of the director's immediate staff as being 540
in the unclassified service of the state as long as the 541
administrator determines that the positions are primarily and 542
distinctively administrative, managerial, or professional. All 543
other full-time employees of the division are in the classified 544~~

~~civil service.~~ 545

~~(C) The administrator shall establish fees for use of 546
services offered by the division of rehabilitation, including, 547
without limitation, the expense of providing rehabilitation 548
services, counseling, and training. The administrator shall adopt 549
rules, in accordance with Chapter 119. of the Revised Code, which 550
establish the specific services the division offers and the amount 551
of the fee for those services, which amount shall be based upon 552
the actual cost of the division providing the services to the 553
employer and employee.~~ 554

~~(D) Nothing in sections 4121.61 to 4121.69 of the Revised 555
Code shall be interpreted to grant authority to the administrator 556
to require a claimant to utilize a public provider of 557
rehabilitation services, counseling, or training.~~ 558

Sec. 4121.70. (A) There is hereby created the 559
labor-management government advisory council consisting of twelve 560
members appointed as follows: 561

(1) The governor, with the advice and consent of the senate, 562
shall appoint three members who, by training and vocation, are 563
representative of labor and three members who, by training and 564
vocation, are representative of employers. 565

(2) Ex officio, the chairpersons of the standing committees 566
of the house of representatives and the senate to which 567
legislation concerned with workers' compensation is customarily 568
referred. A chairperson may designate the vice-chairperson of the 569
committee to serve instead. 570

(3) One person who by training and vocation represents labor 571
and one person who by training and vocation represents employers 572
of differing political parties appointed by the speaker of the 573
house of representatives. 574

(4) One person who by training and vocation represents labor 575
and one person who by training and vocation represents employers 576
of differing political parties appointed by the president of the 577
senate. 578

(B) Members appointed by the governor shall serve for a term 579
of six years with each term ending on the same day of the year in 580
which the member was first appointed, except that each member 581
shall serve for a period of sixty additional days at the end of 582
the member's term or until the member's successor is appointed and 583
qualifies, whichever date occurs first. Of the members first 584
appointed to the council by the governor, one member each 585
representing labor and management shall serve an initial term of 586
two years, one member each representing labor and management shall 587
serve a term of four years, and the remaining two members shall 588
serve full six-year terms. The members initially appointed by the 589
speaker of the house of representatives and the president of the 590
senate shall serve a term of six years. Thereafter, members shall 591
be appointed to and serve full six-year terms. Members are 592
eligible for reappointment to any number of additional terms. 593

Legislative members shall serve a term that coincides with 594
the two-year legislative session in which they are first appointed 595
with each term ending on the thirty-first day of December of the 596
even-numbered year. Legislative members are eligible for 597
reappointment. 598

Vacancies on the council shall be filled in the same manner 599
as the original appointment. All members of the council shall 600
serve without additional compensation but shall be reimbursed by 601
the bureau of workers' compensation for actual and necessary 602
expenses. 603

The council shall advise the bureau of workers' compensation 604
board of directors and the administrator of workers' compensation 605
on the quality and effectiveness of rehabilitation services and 606

make recommendations pertaining to the bureau's rehabilitation 607
program, including the operation of that program. 608

~~The labor management government advisory council shall 609
recommend to the administrator three candidates for the position 610
of director of rehabilitation. The candidates shall be chosen for 611
their ability and background in the field of rehabilitation. The 612
administrator shall select a director from the list of candidates. 613~~

Sec. 4123.34. It shall be the duty of the bureau of workers' 614
compensation board of directors and the administrator of workers' 615
compensation to safeguard and maintain the solvency of the state 616
insurance fund and all other funds specified in this chapter and 617
Chapters 4121., 4127., and 4131. of the Revised Code. The 618
administrator, in the exercise of the powers and discretion 619
conferred upon the administrator in section 4123.29 of the Revised 620
Code, shall fix and maintain, with the advice and consent of the 621
board, for each class of occupation or industry, the lowest 622
possible rates of premium consistent with the maintenance of a 623
solvent state insurance fund and the creation and maintenance of a 624
reasonable surplus, after the payment of legitimate claims for 625
injury, occupational disease, and death that the administrator 626
authorizes to be paid from the state insurance fund for the 627
benefit of injured, diseased, and the dependents of killed 628
employees. In establishing rates, the administrator shall take 629
into account the necessity of ensuring sufficient money is set 630
aside in the premium payment security fund to cover any defaults 631
in premium obligations. The administrator shall observe all of the 632
following requirements in fixing the rates of premium for the 633
risks of occupations or industries: 634

(A) The administrator shall keep an accurate account of the 635
money paid in premiums by each of the several classes of 636
occupations or industries, and the losses on account of injuries, 637

occupational disease, and death of employees thereof, and also 638
keep an account of the money received from each individual 639
employer and the amount of losses incurred against the state 640
insurance fund on account of injuries, occupational disease, and 641
death of the employees of the employer. 642

(B) ~~Ten per cent~~ A portion of the money paid into the state 643
insurance fund shall be set aside for the creation of a surplus 644
~~until the surplus amounts to the sum of one hundred thousand~~ 645
~~dollars, after which time, whenever necessary in the judgment of~~ 646
~~the administrator to guarantee a solvent~~ fund account within the 647
state insurance fund, ~~a sum not exceeding five per cent of all the~~ 648
~~money paid into the state insurance fund shall be credited to the~~ 649
~~surplus fund. Any references in this chapter or in Chapter 4121.,~~ 650
~~4125., 4127., or 4131. of the Revised Code to the surplus fund,~~ 651
~~the surplus created in this division, the statutory surplus fund,~~ 652
~~or the statutory surplus of the state insurance fund are hereby~~ 653
~~deemed to be references to the surplus fund account. The~~ 654
~~administrator may transfer the portion of the state insurance fund~~ 655
~~to the surplus fund account as is necessary to guarantee the~~ 656
~~solvency of the state insurance fund and the surplus fund account.~~ 657
In addition to all statutory authority under this chapter and 658
Chapter 4121. of the Revised Code, the administrator has 659
discretionary and contingency authority to make charges to the 660
surplus fund account. The administrator shall account for all 661
charges, whether statutory, discretionary, or contingency, that 662
the administrator may make to the surplus fund account. A revision 663
of basic rates shall be made annually on the first day of July. 664

Notwithstanding any provision of the law to the contrary, one 666
hundred eighty days after the effective date on which 667
self-insuring employers first may elect under division (D) of 668
section 4121.66 of the Revised Code to directly pay for 669

rehabilitation expenses, the administrator shall calculate the 670
deficit, if any, in the portion of the surplus fund account that 671
is used for reimbursement to self-insuring employers for all 672
expenses other than handicapped reimbursement under section 673
4123.343 of the Revised Code. The administrator, from time to 674
time, may determine whether the surplus fund account has such a 675
deficit and may assess all self-insuring employers who 676
participated in the portion of the surplus fund account during the 677
accrual of the deficit and who during that time period have not 678
made the election under division (D) of section 4121.66 of the 679
Revised Code the amount the administrator determines necessary to 680
reduce the deficit. 681

Revisions of basic rates shall be in accordance with the 682
oldest four of the last five calendar years of the combined 683
accident and occupational disease experience of the administrator 684
in the administration of this chapter, as shown by the accounts 685
kept as provided in this section, excluding the experience of 686
employers that are no longer active if the administrator 687
determines that the inclusion of those employers would have a 688
significant negative impact on the remainder of the employers in a 689
particular manual classification; and the administrator shall 690
adopt rules, with the advice and consent of the board, governing 691
rate revisions, the object of which shall be to make an equitable 692
distribution of losses among the several classes of occupation or 693
industry, which rules shall be general in their application. 694

(C) The administrator may apply that form of rating system 695
that the administrator finds is best calculated to merit rate or 696
individually rate the risk more equitably, predicated upon the 697
basis of its individual industrial accident and occupational 698
disease experience, and may encourage and stimulate accident 699
prevention. The administrator shall develop fixed and equitable 700
rules controlling the rating system, which rules shall conserve to 701

each risk the basic principles of workers' compensation insurance. 702

(D) The administrator, from the money paid into the state 703
insurance fund, shall set aside into an account of the state 704
insurance fund titled a premium payment security fund sufficient 705
money to pay for any premiums due from an employer and uncollected 706
that are in excess of the employer's premium security deposit. 707

The fund shall be in the custody of the treasurer of state. 708
All investment earnings of the fund shall be deposited in the 709
fund. Disbursements from the fund shall be made by the bureau of 710
workers' compensation upon order of the administrator to the state 711
insurance fund. The use of the moneys held by the premium payment 712
security fund is restricted to reimbursement to the state 713
insurance fund of premiums due and uncollected in excess of an 714
employer's premium security deposit. The moneys constituting the 715
premium payment security fund shall be maintained without regard 716
to or reliance upon any other fund. This section does not prevent 717
the deposit or investment of the premium payment security fund 718
with any other fund created by this chapter, but the premium 719
payment security fund is separate and distinct for every other 720
purpose and a strict accounting thereof shall be maintained. 721

(E) The administrator may grant discounts on premium rates 722
for employers who meet either of the following requirements: 723

(1) Have not incurred a compensable injury for one year or 724
more and who maintain an employee safety committee or similar 725
organization or make periodic safety inspections of the workplace. 726

(2) Successfully complete a loss prevention program 727
prescribed by the superintendent of the division of safety and 728
hygiene and conducted by the division or by any other person 729
approved by the superintendent. 730

(F)(1) In determining the premium rates for the construction 731
industry the administrator shall calculate the employers' premiums 732

based upon the actual remuneration construction industry employees 733
receive from construction industry employers, provided that the 734
amount of remuneration the administrator uses in calculating the 735
premiums shall not exceed an average weekly wage equal to one 736
hundred fifty per cent of the statewide average weekly wage as 737
defined in division (C) of section 4123.62 of the Revised Code. 738

(2) Division (F)(1) of this section shall not be construed as 739
affecting the manner in which benefits to a claimant are awarded 740
under this chapter. 741

(3) As used in division (F) of this section, "construction 742
industry" includes any activity performed in connection with the 743
erection, alteration, repair, replacement, renovation, 744
installation, or demolition of any building, structure, highway, 745
or bridge. 746

Section 102. That existing sections 121.52, 4121.12, 747
4121.125, 4121.62, 4121.70, and 4123.34 of the Revised Code are 748
hereby repealed. 749

Section 201. All items in this section are hereby 750
appropriated out of any moneys in the state treasury to the credit 751
of the designated fund. For all appropriations made in Am. Sub. 752
H.B. ___ of the 128th General Assembly, those in the first column 753
are for fiscal year 2010, and those in the second column are for 754
fiscal year 2011. 755

FND AI	AI TITLE	Appropriations		
	BWC BUREAU OF WORKERS' COMPENSATION			757
	Workers' Compensation Fund Group			758
7023 855401	William Green Lease	\$ 19,871,795	\$ 19,049,395	759
	Payments to OBA			
7023 855407	Claims, Risk and	\$ 138,129,873	\$ 142,659,528	760
	Medical Management			

7023	855408	Fraud Prevention	\$	12,546,239	\$	13,101,761	761
7023	855409	Administrative Services	\$	124,030,772	\$	119,767,995	762
7023	855410	Attorney General Payments	\$	4,621,850	\$	4,621,850	763
8220	855606	Coal Workers' Fund	\$	91,894	\$	91,894	764
8230	855608	Marine Industry	\$	53,952	\$	53,952	765
8250	855605	Disabled Workers Relief Fund	\$	492,500	\$	492,500	766
8260	855609	Safety and Hygiene Operating	\$	20,734,750	\$	20,734,750	767
8260	855610	Gear Program	\$	4,000,000	\$	4,000,000	768
8290	855604	Long Term Care Loan Program	\$	2,000,000	\$	2,000,000	769
TOTAL WCF Workers' Compensation							770
Fund Group			\$	326,573,625	\$	326,573,625	771
Federal Special Revenue Fund Group							772
3490	855601	OSHA Enforcement	\$	1,604,140	\$	1,604,140	773
TOTAL FED Federal Special Revenue Fund Group			\$	1,604,140	\$	1,604,140	774
TOTAL ALL BUDGET FUND GROUPS			\$	328,177,765	\$	328,177,765	775

WILLIAM GREEN LEASE PAYMENTS 776

The foregoing appropriation item 855401, William Green Lease 777
 Payments to OBA, shall be used for lease payments to the Ohio 778
 Building Authority, and these appropriations shall be used to meet 779
 all payments at the times they are required to be made during the 780
 period from July 1, 2009, to June 30, 2011, by the Bureau of 781
 Workers' Compensation to the Ohio Building Authority pursuant to 782
 leases and agreements made under Chapter 152. of the Revised Code 783
 and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. 784
 Of the amounts received in Fund 7023, appropriation item 855401, 785
 William Green Lease Payments to OBA, up to \$41,123,100 shall be 786

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 provision of law to the contrary, all tenants of the William Green Building not funded by the Workers' Compensation Fund (Fund 7023) shall pay their fair share of the costs of lease payments to the Workers' Compensation Fund (Fund 7023) by intrastate transfer voucher.

WORKERS' COMPENSATION FRAUD UNIT

The Workers' Compensation Section Fund (Fund 1950) 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 855410, Attorney General Payments, \$796,346 in fiscal year 2010 and \$796,346 in fiscal year 2011 shall be used to provide these payments.

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 855609, Safety and Hygiene Operating, is provided \$20,734,750 in fiscal year 2010 and \$20,734,750 in fiscal year 2011.

OSHA ON-SITE CONSULTATION PROGRAM

The Bureau of Workers' Compensation may designate a portion of appropriation item 855609, Safety and Hygiene Operating, to be used to match federal funding for the federal Occupational Safety and Health Administration's (OSHA) on-site consultation program.

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 817
mutually eligible clients. The bureau shall provide \$605,407 in 818
fiscal year 2010 and \$605,407 in fiscal year 2011 from the State 819
Insurance Fund to fund vocational rehabilitation services and 820
staff in accordance with the interagency agreement. 821

FUND BALANCE 822

Any unencumbered cash balance in excess of \$45,000,000 in the 823
Workers' Compensation Fund (Fund 7023) on the thirtieth day of 824
June of each fiscal year shall be used to reduce the 825
administrative cost rate charged to employers to cover 826
appropriations for Bureau of Workers' Compensation operations. 827

Section 211. RECOVERING THE COST OF DEPUTY INSPECTOR GENERAL 828
INVESTIGATIONS FROM BWC AND OIC 829

On July 1, 2009, or as soon as possible thereafter, the 830
Director of Budget and Management shall transfer \$106,000 in cash 831
from the Workers' Compensation Fund (Fund 7023) to the Deputy 832
Inspector General for the Bureau of Workers' Compensation and 833
Industrial Commission Fund (Fund 5FT0). The amounts transferred 834
are appropriated. 835

Beginning the fiscal year quarter that begins October 1, 836
2009, and at the beginning of each quarter of each fiscal year 837
thereafter, the Inspector General shall submit a billing to the 838
Administrator of Workers' Compensation and to the Chairperson of 839
the Industrial Commission that reflects the costs incurred by the 840
Deputy Inspector General for the Bureau of Workers' Compensation 841
and the Industrial Commission during the fiscal year quarter 842
immediately preceding the quarter that the Inspector General 843
submits the billing. The billing submitted to the Administrator 844
and the Chairperson shall reflect each agency's respective share 845
of the costs incurred by the Deputy Inspector General for work 846
performed regarding the respective agency. At the beginning of the 847

fiscal year quarter that starts October 1, 2009, and at the 848
beginning of each quarter of each fiscal year thereafter, upon the 849
receipt of the billings the Administrator and the Chairperson 850
shall process intrastate transfer vouchers to pay for those 851
billings. 852

Notwithstanding division (D) of section 4121.03, division 853
(B)(10) of section 4121.121, and section 101.532 of the Revised 854
Code, of the appropriation item 855409, Administrative Services, 855
in the Bureau of Workers' Compensation and appropriation item 856
845321, Operating Expenses, in the Industrial Commission, not more 857
than \$425,000 in total in each fiscal year shall be used to 858
reimburse the Inspector General for the cost of investigations 859
incurred under section 121.52 of the Revised Code. Should 860
additional amounts be necessary, the Administrator and the 861
Chairperson may seek Controlling Board approval to increase the 862
amounts designated and the appropriations necessary to reimburse 863
the Inspector General for the cost of investigations. 864

Section 221. Law contained in the Main Operating 865
Appropriations Act of the 128th General Assembly that applies 866
generally to the appropriations made in that act also applies 867
generally to the appropriations made in this act. 868

Section 301. The provisions of law contained in this act, and 869
their applications, are severable. If any provision of law 870
contained in this act, or if any application of any provision of 871
law contained in this act, is held invalid, the invalidity does 872
not affect other provisions of law contained in this act and their 873
applications that can be given effect without the invalid 874
provision or application. 875

Section 311. Except as otherwise provided in this act, the 876
amendment, enactment, or repeal by this act of a section of law is 877

exempt from the referendum because it is or relates to an 878
appropriation for current expenses within the meaning of Ohio 879
Constitution, Article II, Section 1d and section 1.471 of the 880
Revised Code and therefore takes effect immediately when this act 881
becomes law. 882

Section 313. The amendment, enactment, or repeal by this act 883
of the sections of law listed below is subject to the referendum 884
under Ohio Constitution, Article II, Section 1c and therefore 885
takes effect on the ninety-first day after this act is filed with 886
the Secretary of State. 887

The amendment by this act of sections 4121.12, 4121.125, 888
4121.62, 4121.70, and 4123.34 of the Revised Code. 889