

**As Re-referred to the House Finance and Appropriations  
Committee**

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

**Sub. H. B. No. 15**

**Representative Sykes**

**Cosponsor: Representative Dodd**

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**A B I L L**

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 and for the 7  
Workers' Compensation Council for the biennium 8  
beginning July 1, 2009, and ending June 30, 2011; 9  
and to provide authorization and conditions for 10  
the operation of the Bureau's and the Council's 11  
programs. 12

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

**Section 101.** That sections 121.52, 4121.12, 4121.125, 13  
4121.62, 4121.70, and 4123.34 of the Revised Code be amended to 14  
read as follows: 15

**Sec. 121.52.** There is hereby created in the office of the 16  
inspector general the office of deputy inspector general for the 17  
bureau of workers' compensation and industrial commission. The 18

inspector general shall appoint the deputy inspector general, and 19  
the deputy inspector general shall serve at the pleasure of the 20  
inspector general. A person employed as the deputy inspector 21  
general shall have the same qualifications as those specified in 22  
section 121.49 of the Revised Code for the inspector general. The 23  
inspector general shall provide professional and clerical 24  
assistance to the deputy inspector general. 25

The deputy inspector general for the bureau of workers' 26  
compensation and the industrial commission shall investigate 27  
wrongful acts or omissions that have been committed by or are 28  
being committed by officers or employees of the bureau of workers' 29  
compensation and the industrial commission. The deputy inspector 30  
general has the same powers and duties regarding matters 31  
concerning the bureau and the commission as those specified in 32  
sections 121.42, 121.43, and 121.45 of the Revised Code for the 33  
inspector general. Complaints may be filed with the deputy 34  
inspector general in the same manner as prescribed for complaints 35  
filed with the inspector general under section 121.46 of the 36  
Revised Code. All investigations conducted and reports issued by 37  
the deputy inspector general are subject to section 121.44 of the 38  
Revised Code. 39

There is hereby created in the state treasury the deputy 40  
inspector general for the bureau of workers' compensation and 41  
industrial commission fund, which shall consist of moneys 42  
deposited into it that the inspector general receives from the 43  
administrator of workers' compensation and receives from the 44  
industrial commission in accordance with this section. The 45  
inspector general shall use the fund to pay the costs incurred by 46  
the deputy inspector general in performing the duties of the 47  
deputy inspector general as required under this section. 48

Beginning the fiscal year quarter that begins October 1, 49  
2009, and at the beginning of each quarter of each fiscal year 50

thereafter, the inspector general shall submit a billing to the 51  
administrator and to the chairperson of the industrial commission 52  
that reflects the costs incurred by the deputy inspector general 53  
during the fiscal year quarter immediately preceding the quarter 54  
that the inspector general submits the billing. The billing 55  
submitted to the administrator and the chairperson shall reflect 56  
each agency's respective share of the costs incurred by the deputy 57  
inspector general for work performed regarding the respective 58  
agency. At the beginning of the fiscal year quarter that starts 59  
October 1, 2009, and at the beginning of each quarter of each 60  
fiscal year thereafter, upon the receipt of the billings the 61  
administrator and the chairperson shall process intrastate 62  
transfer vouchers to pay for those billings. 63

The members of the industrial commission, bureau of workers' 64  
compensation board of directors, workers' compensation audit 65  
committee, workers' compensation actuarial committee, and workers' 66  
compensation investment committee, and the administrator ~~of~~ 67  
~~workers' compensation~~, and employees of the industrial commission 68  
and the bureau shall cooperate with and provide assistance to the 69  
deputy inspector general in the performance of any investigation 70  
conducted by the deputy inspector general. In particular, those 71  
persons shall make their premises, equipment, personnel, books, 72  
records, and papers readily available to the deputy inspector 73  
general. In the course of an investigation, the deputy inspector 74  
general may question any person employed by the industrial 75  
commission or the administrator and any person transacting 76  
business with the industrial commission, the board, the audit 77  
committee, the actuarial committee, the investment committee, the 78  
administrator, or the bureau and may inspect and copy any books, 79  
records, or papers in the possession of those persons or entities, 80  
taking care to preserve the confidentiality of information 81  
contained in responses to questions or the books, records, or 82  
papers that are made confidential by law. 83

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

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

No person shall disclose any information that is designated as confidential in accordance with section 121.44 of the Revised Code or any confidential information that is acquired in the course of an investigation conducted under this section ~~121.53 of the Revised Code~~ to any person who is not legally entitled to disclosure of that information.

**Sec. 4121.12.** (A) There is hereby created the bureau of workers' compensation board of directors consisting of eleven members to be appointed by the governor with the advice and consent of the senate. One member shall be an individual who, on account of the individual's previous vocation, employment, or affiliations, can be classed as a representative of employees; two members shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representatives of employee organizations and at least one of

these two individuals shall be a member of the executive committee 115  
of the largest statewide labor federation; three members shall be 116  
individuals who, on account of their previous vocation, 117  
employment, or affiliations, can be classed as representatives of 118  
employers, one of whom represents self-insuring employers, one of 119  
whom is a state fund employer who employs one hundred or more 120  
employees, and one of whom is a state fund employer who employs 121  
less than one hundred employees; two members shall be individuals 122  
who, on account of their vocation, employment, or affiliations, 123  
can be classed as investment and securities experts who have 124  
direct experience in the management, analysis, supervision, or 125  
investment of assets and are residents of this state; one member 126  
who shall be a certified public accountant; one member who shall 127  
be an actuary who is a member in good standing with the American 128  
academy of actuaries or who is an associate or fellow with the 129  
society of actuaries; and one member shall represent the public 130  
and also be an individual who, on account of the individual's 131  
previous vocation, employment, or affiliations, cannot be classed 132  
as either predominantly representative of employees or of 133  
employers. The governor shall select the chairperson of the board 134  
who shall serve as chairperson at the pleasure of the governor. 135

None of the members of the board, within one year immediately 136  
preceding the member's appointment, shall have been employed by 137  
the bureau of workers' compensation or by any person, partnership, 138  
or corporation that has provided to the bureau services of a 139  
financial or investment nature, including the management, 140  
analysis, supervision, or investment of assets. 141

(B) Of the initial appointments made to the board, the 142  
governor shall appoint the member who represents employees, one 143  
member who represents employers, and the member who represents the 144  
public to a term ending one year after ~~the effective date of this~~ 145  
~~amendment~~ June 11, 2007; one member who represents employers, one 146

member who represents employee organizations, one member who is an 147  
investment and securities expert, and the member who is a 148  
certified public accountant to a term ending two years after ~~the~~ 149  
~~effective date of this amendment~~ June 11, 2007; and one member who 150  
represents employers, one member who represents employee 151  
organizations, one member who is an investment and securities 152  
expert, and the member who is an actuary to a term ending three 153  
years after ~~the effective date of this amendment~~ June 11, 2007. 154  
Thereafter, terms of office shall be for three years, with each 155  
term ending on the same day of the same month as did the term that 156  
it succeeds. Each member shall hold office from the date of the 157  
member's appointment until the end of the term for which the 158  
member was appointed. 159

Members may be reappointed. Any member appointed to fill a 160  
vacancy occurring prior to the expiration date of the term for 161  
which the member's predecessor was appointed shall hold office as 162  
a member for the remainder of that term. A member shall continue 163  
in office subsequent to the expiration date of the member's term 164  
until a successor takes office or until a period of sixty days has 165  
elapsed, whichever occurs first. 166

(C) In making appointments to the board, the governor shall 167  
select the members from the list of names submitted by the 168  
workers' compensation board of directors nominating committee 169  
pursuant to this division. The nominating committee shall submit 170  
to the governor a list containing four separate names for each of 171  
the members on the board. Within fourteen days after the 172  
submission of the list, the governor shall appoint individuals 173  
from the list. 174

~~Within sixty~~ At least thirty days ~~after~~ prior to a vacancy 175  
occurring as a result of the expiration of a term and within 176  
thirty days after other vacancies occurring on the board, the 177  
nominating committee shall submit an initial list containing four 178

names for each vacancy. Within fourteen days after the submission 179  
of the initial list, the governor either shall appoint individuals 180  
from that list or request the nominating committee to submit 181  
another list of four names for each member the governor has not 182  
appointed from the initial list, which list the nominating 183  
committee shall submit to the governor within fourteen days after 184  
the governor's request. The governor then shall appoint, within 185  
seven days after the submission of the second list, one of the 186  
individuals from either list to fill the vacancy for which the 187  
governor has not made an appointment from the initial list. If the 188  
governor appoints an individual to fill a vacancy occurring as a 189  
result of the expiration of a term, the individual appointed shall 190  
begin serving as a member of the board when the term for which the 191  
individual's predecessor was appointed expires or immediately upon 192  
appointment by the governor, whichever occurs later. With respect 193  
to the filling of vacancies, the nominating committee shall 194  
provide the governor with a list of four individuals who are, in 195  
the judgment of the nominating committee, the most fully qualified 196  
to accede to membership on the board. 197

In order for the name of an individual to be submitted to the 199  
governor under this division, the nominating committee shall 200  
approve the individual by an affirmative vote of a majority of its 201  
members. 202

(D) All members of the board shall receive their reasonable 203  
and necessary expenses pursuant to section 126.31 of the Revised 204  
Code while engaged in the performance of their duties as members 205  
and also shall receive an annual salary not to exceed sixty 206  
thousand dollars in total, payable on the following basis: 207

(1) Except as provided in division (D)(2) of this section, a 208  
member shall receive two thousand five hundred dollars during a 209  
month in which the member attends one or more meetings of the 210

board and shall receive no payment during a month in which the 211  
member attends no meeting of the board. 212

(2) A member may receive no more than thirty thousand dollars 213  
per year to compensate the member for attending meetings of the 214  
board, regardless of the number of meetings held by the board 215  
during a year or the number of meetings in excess of twelve within 216  
a year that the member attends. 217

(3) Except as provided in division (D)(4) of this section, if 218  
a member serves on the workers' compensation audit committee, 219  
workers' compensation actuarial committee, or the workers' 220  
compensation investment committee, the member shall receive two 221  
thousand five hundred dollars during a month in which the member 222  
attends one or more meetings of the committee on which the member 223  
serves and shall receive no payment during any month in which the 224  
member attends no meeting of that committee. 225

(4) A member may receive no more than thirty thousand dollars 226  
per year to compensate the member for attending meetings of any of 227  
the committees specified in division (D)(3) of this section, 228  
regardless of the number of meetings held by a committee during a 229  
year or the number of committees on which a member serves. 230

The chairperson of the board shall set the meeting dates of 231  
the board as necessary to perform the duties of the board under 232  
this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of 233  
the Revised Code. The board shall meet at least twelve times a 234  
year. The administrator of workers' compensation shall provide 235  
professional and clerical assistance to the board, as the board 236  
considers appropriate. 237

(E) Before entering upon the duties of office, each appointed 238  
member of the board shall take an oath of office as required by 239  
sections 3.22 and 3.23 of the Revised Code and file in the office 240  
of the secretary of state the bond required under section 4121.127 241



of the Revised Code.	242
(F) The board shall:	243
(1) Establish the overall administrative policy for the	244
bureau for the purposes of this chapter and Chapters 4123., 4125.,	245
4127., 4131., and 4167. of the Revised Code;	246
(2) Review progress of the bureau in meeting its cost and	247
quality objectives and in complying with this chapter and Chapters	248
4123., 4125., 4127., 4131., and 4167. of the Revised Code;	249
(3) Submit an annual report to the president of the senate,	250
the speaker of the house of representatives, the governor, and the	251
workers' compensation council and include all of the following in	252
that report:	253
(a) An evaluation of the cost and quality objectives of the	254
bureau;	255
(b) A statement of the net assets available for the provision	256
of compensation and benefits under this chapter and Chapters	257
4123., 4127., and 4131. of the Revised Code as of the last day of	258
the fiscal year;	259
(c) A statement of any changes that occurred in the net	260
assets available, including employer premiums and net investment	261
income, for the provision of compensation and benefits and payment	262
of administrative expenses, between the first and last day of the	263
fiscal year immediately preceding the date of the report;	264
(d) The following information for each of the six consecutive	265
fiscal years occurring previous to the report:	266
(i) A schedule of the net assets available for compensation	267
and benefits;	268
(ii) The annual cost of the payment of compensation and	269
benefits;	270
(iii) Annual administrative expenses incurred;	271

(iv) Annual employer premiums allocated for the provision of compensation and benefits.	272 273
(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.	274 275 276 277 278
(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.	279 280 281
(5) Study issues as requested by the administrator or the governor;	282 283
(6) Contract with all of the following:	284
(a) An independent actuarial firm to assist the board in making recommendations to the administrator regarding premium rates;	285 286 287
(b) An outside investment counsel to assist the workers' compensation investment committee in fulfilling its duties;	288 289
(c) An independent fiduciary counsel to assist the board in the performance of its duties.	290 291
(7) Approve the investment policy developed by the workers' compensation investment committee pursuant to section 4121.129 of the Revised Code if the policy satisfies the requirements specified in section 4123.442 of the Revised Code.	292 293 294 295
(8) Review and publish the investment policy no less than annually and make copies available to interested parties.	296 297
(9) Prohibit, on a prospective basis, any specific investment it finds to be contrary to the investment policy approved by the board.	298 299 300
(10) Vote to open each investment class and allow the	301

administrator to invest in an investment class only if the board, 302  
by a majority vote, opens that class; 303

(11) After opening a class but prior to the administrator 304  
investing in that class, adopt rules establishing due diligence 305  
standards for employees of the bureau to follow when investing in 306  
that class and establish policies and procedures to review and 307  
monitor the performance and value of each investment class; 308

(12) Submit a report annually on the performance and value of 309  
each investment class to the governor, the president and minority 310  
leader of the senate, ~~and~~ the speaker and minority leader of the 311  
house of representatives, and the workers' compensation council. 312

(13) Advise and consent on all of the following: 313

(a) Administrative rules the administrator submits to it 314  
pursuant to division (B)(5) of section 4121.121 of the Revised 315  
Code for the classification of occupations or industries, for 316  
premium rates and contributions, for the amount to be credited to 317  
the surplus fund, for rules and systems of rating, rate revisions, 318  
and merit rating; 319

(b) The duties and authority conferred upon the administrator 320  
pursuant to section 4121.37 of the Revised Code; 321

(c) Rules the administrator adopts for the health partnership 322  
program and the qualified health plan system, as provided in 323  
sections 4121.44, 4121.441, and 4121.442 of the Revised Code; 324

(d) Rules the administrator submits to it pursuant to Chapter 325  
4167. of the Revised Code regarding the public employment risk 326  
reduction program and the protection of public health care workers 327  
from exposure incidents. 328

As used in this division, "public health care worker" and 329  
"exposure incident" have the same meanings as in section 4167.25 330  
of the Revised Code. 331

(14) Perform all duties required under this chapter and	332
Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised	333
Code;	334
(15) Meet with the governor on an annual basis to discuss the	335
administrator's performance of the duties specified in this	336
chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the	337
Revised Code;	338
(16) Develop and participate in a bureau of workers'	339
compensation board of directors education program that consists of	340
all of the following:	341
(a) An orientation component for newly appointed members;	342
(b) A continuing education component for board members who	343
have served for at least one year;	344
(c) A curriculum that includes education about each of the	345
following topics:	346
(i) Board member duties and responsibilities;	347
(ii) Compensation and benefits paid pursuant to this chapter	348
and Chapters 4123., 4127., and 4131. of the Revised Code;	349
(iii) Ethics;	350
(iv) Governance processes and procedures;	351
(v) Actuarial soundness;	352
(vi) Investments;	353
(vii) Any other subject matter the board believes is	354
reasonably related to the duties of a board member.	355
(17) Submit the program developed pursuant to division	356
(F)(16) of this section to the workers' compensation council for	357
approval;	358
(18) Hold all sessions, classes, and other events for the	359
program developed pursuant to division (F)(16) of this section in	360

this state.	361
(G) The board may do both of the following:	362
(1) Vote to close any investment class;	363
(2) Create any committees in addition to the workers'	364
compensation audit committee, the workers' compensation actuarial	365
committee, and the workers' compensation investment committee that	366
the board determines are necessary to assist the board in	367
performing its duties.	368
(H) The office of a member of the board who is convicted of	369
or pleads guilty to a felony, a theft offense as defined in	370
section 2913.01 of the Revised Code, or a violation of section	371
102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31,	372
2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be	373
deemed vacant. The vacancy shall be filled in the same manner as	374
the original appointment. A person who has pleaded guilty to or	375
been convicted of an offense of that nature is ineligible to be a	376
member of the board. A member who receives a bill of indictment	377
for any of the offenses specified in this section shall be	378
automatically suspended from the board pending resolution of the	379
criminal matter.	380
(I) For the purposes of division (G)(1) of section 121.22 of	381
the Revised Code, the meeting between the governor and the board	382
to review the administrator's performance as required under	383
division (F)(15) of this section shall be considered a meeting	384
regarding the employment of the administrator.	385
<b>Sec. 4121.125.</b> (A) The bureau of workers' compensation board	386
of directors, based upon recommendations of the workers'	387
compensation actuarial committee, may contract with one or more	388
outside actuarial firms and other professional persons, as the	389
board determines necessary, to assist the board in measuring the	390

performance of Ohio's workers' compensation system and in 391  
comparing Ohio's workers' compensation system to other state and 392  
private workers' compensation systems. The board, actuarial firm 393  
or firms, and professional persons shall make such measurements 394  
and comparisons using accepted insurance industry standards, 395  
including, but not limited to, standards promulgated by the 396  
National Council on Compensation Insurance. 397

(B) The board may contract with one or more outside firms to 398  
conduct management and financial audits of the workers' 399  
compensation system, including audits of the reserve fund 400  
belonging to the state insurance fund, and to establish objective 401  
quality management principles and methods by which to review the 402  
performance of the workers' compensation system. 403

(C) The board shall do all of the following: 404

(1) Contract to have prepared annually by or under the 405  
supervision of an actuary a report that meets the requirements 406  
specified under division (E) of this section and that consists of 407  
an actuarial valuation of the assets, liabilities, and funding 408  
requirements of the state insurance fund and all other funds 409  
specified in this chapter and Chapters 4123., 4127., and 4131. of 410  
the Revised Code; 411

(2) Require that the actuary or person supervised by an 412  
actuary referred to in division (C)(1) of this section complete 413  
the valuation in accordance with the actuarial standards of 414  
practice promulgated by the actuarial standards board of the 415  
American academy of actuaries; 416

(3) Submit the report referred to in division (C)(1) of this 417  
section to the workers' compensation council and the standing 418  
committees of the house of representatives and the senate with 419  
primary responsibility for workers' compensation legislation ~~not~~ 420  
~~later than~~ on or before the first day of ~~September~~ November 421

following the year for which the valuation was made; 422

(4) Have an actuary or a person who provides actuarial 423  
services under the supervision of an actuary, at such time as the 424  
board determines, and at least once during the five-year period 425  
that commences on ~~the effective date of this amendment~~ September 426  
10, 2007, and once within each five-year period thereafter, 427  
conduct an actuarial investigation of the experience of employers, 428  
the mortality, service, and injury rate of employees, and the 429  
payment of temporary total disability, permanent partial 430  
disability, and permanent total disability under sections 4123.56 431  
to 4123.58 of the Revised Code to update the actuarial assumptions 432  
used in the report required by division (C)(1) of this section; 433  
434

(5) Submit the report required under division (F) of this 435  
section to the council and the standing committees of the house of 436  
representatives and the senate with primary responsibility for 437  
workers' compensation legislation not later than the first day of 438  
November following the fifth year of the period that the report 439  
covers; 440

(6) Have prepared by or under the supervision of an actuary 441  
an actuarial analysis of any introduced legislation expected to 442  
have a measurable financial impact on the workers' compensation 443  
system; 444

(7) Submit the report required under division (G) of this 445  
section to the legislative service commission, the standing 446  
committees of the house of representatives and the senate with 447  
primary responsibility for workers' compensation legislation, and 448  
the council not later than sixty days after the date of 449  
introduction of the legislation. 450

(D) The administrator of workers' compensation and the 451  
industrial commission shall compile information and provide access 452

to records of the bureau and the industrial commission to the 453  
board to the extent necessary for fulfillment of both of the 454  
following requirements: 455

(1) Conduct of the measurements and comparisons described in 456  
division (A) of this section; 457

(2) Conduct of the management and financial audits and 458  
establishment of the principles and methods described in division 459  
(B) of this section. 460

(E) The firm or person with whom the board contracts pursuant 461  
to division (C)(1) of this section shall prepare a report of the 462  
valuation and submit the report to the board. The firm or person 463  
shall include all of the following information in the report that 464  
is required under division (C)(1) of this section: 465

(1) A summary of the compensation and benefit provisions 466  
evaluated; 467

(2) A summary of the census data and financial information 468  
used in the valuation; 469

(3) A description of the actuarial assumptions, actuarial 470  
cost method, and asset valuation method used in the valuation; 471

(4) A summary of findings that includes a statement of the 472  
actuarial accrued compensation and benefit liabilities and 473  
unfunded actuarial accrued compensation and benefit liabilities; 474

(5) A schedule showing the effect of any changes in the 475  
compensation and benefit provisions, actuarial assumptions, or 476  
cost methods since the previous annual actuarial valuation report 477  
was submitted to the board. 478

(F) The actuary or person whom the board designates to 479  
conduct an actuarial investigation under division (C)(4) of this 480  
section shall prepare a report of the actuarial investigation and 481  
shall submit the report to the board. The actuary or person shall 482



prepare the report and make any recommended changes in actuarial 483  
assumptions in accordance with the actuarial standards of practice 484  
promulgated by the actuarial standards board of the American 485  
academy of actuaries. The actuary or person shall include all of 486  
the following information in the report: 487

(1) A summary of relevant decrement and economic assumption 488  
experience; 489

(2) Recommended changes in actuarial assumptions to be used 490  
in subsequent actuarial valuations required by division (C)(1) of 491  
this section; 492

(3) A measurement of the financial effect of the recommended 493  
changes in actuarial assumptions. 494

(G) The actuary or person whom the board designates to 495  
conduct the actuarial analysis under division (C)(6) of this 496  
section shall prepare a report of the actuarial analysis and shall 497  
submit that report to the board. The actuary or person shall 498  
complete the analysis in accordance with the actuarial standards 499  
of practice promulgated by the actuarial standards board of the 500  
American academy of actuaries. The actuary or person shall include 501  
all of the following information in the report: 502

(1) A summary of the statutory changes being evaluated; 503

(2) A description of or reference to the actuarial 504  
assumptions and actuarial cost method used in the report; 505

(3) A description of the participant group or groups included 506  
in the report; 507

(4) A statement of the financial impact of the legislation, 508  
including the resulting increase, if any, in employer premiums, in 509  
actuarial accrued liabilities, and, if an increase in actuarial 510  
accrued liabilities is predicted, the per cent of premium increase 511  
that would be required to amortize the increase in those 512

liabilities as a level per cent of employer premiums over a period 513  
not to exceed thirty years. 514

(5) A statement of whether the employer premiums paid to the 515  
bureau of workers' compensation after the proposed change is 516  
enacted are expected to be sufficient to satisfy the funding 517  
objectives established by the board. 518

(H) The board may, at any time, request an actuary to make 519  
any studies or actuarial valuations to determine the adequacy of 520  
the premium rates established by the administrator in accordance 521  
with sections 4123.29 and 4123.34 of the Revised Code, and may 522  
adjust those rates as recommended by the actuary. 523

(I) The board shall have an independent auditor, at least 524  
once every ten years, conduct a fiduciary performance audit of the 525  
investment program of the bureau of workers' compensation. That 526  
audit shall include an audit of the investment policies approved 527  
by the board and investment procedures of the bureau. The board 528  
shall submit a copy of that audit to the auditor of state. 529

(J) The administrator, with the advice and consent of the 530  
board, shall employ an internal auditor who shall report findings 531  
directly to the board, workers' compensation audit committee, and 532  
administrator, except that the internal auditor shall not report 533  
findings directly to the administrator when those findings involve 534  
malfeasance, misfeasance, or nonfeasance on the part of the 535  
administrator. The board and the workers' compensation audit 536  
committee may request and review internal audits conducted by the 537  
internal auditor. 538

(K) The administrator shall pay the expenses incurred by the 539  
board to effectively fulfill its duties and exercise its powers 540  
under this section as the administrator pays other operating 541  
expenses of the bureau. 542

Sec. 4121.62. (A) The authority granted to the administrator 543  
of workers' compensation pursuant to sections 4121.61 to 4121.69 544  
of the Revised Code includes the authority to do all of the 545  
following: 546

(1) Contract with any public or private person for the 547  
rendition of rehabilitation services; 548

(2) Take actions and utilize money in the state insurance 549  
fund as necessary to obtain federal funds and assistance in the 550  
maximum amounts and most advantageous proportions and terms 551  
possible; 552

(3) Conduct rehabilitation educational programs for employers 553  
and employees; 554

~~(4) Establish within the bureau of workers' compensation a 555  
rehabilitation division under the supervision of a director of 556  
rehabilitation appointed by and responsible to the administrator. 557~~

~~(B) The director of the division established is in the 558  
unclassified civil service of the state. The appointing authority 559  
may designate up to three positions at each facility under the 560  
jurisdiction of the division, and up to six positions in the 561  
division which are part of the director's immediate staff as being 562  
in the unclassified service of the state as long as the 563  
administrator determines that the positions are primarily and 564  
distinctively administrative, managerial, or professional. All 565  
other full-time employees of the division are in the classified 566  
civil service. 567~~

~~(C) The administrator shall establish fees for use of 568  
services offered by the division of rehabilitation, including, 569  
without limitation, the expense of providing rehabilitation 570  
services, counseling, and training. The administrator shall adopt 571  
rules, in accordance with Chapter 119. of the Revised Code, which 572~~

~~establish the specific services the division offers and the amount 573  
of the fee for those services, which amount shall be based upon 574  
the actual cost of the division providing the services to the 575  
employer and employee. 576~~

~~(D)~~ Nothing in sections 4121.61 to 4121.69 of the Revised 577  
Code shall be interpreted to grant authority to the administrator 578  
to require a claimant to utilize a public provider of 579  
rehabilitation services, counseling, or training. 580

**Sec. 4121.70.** (A) There is hereby created the 581  
labor-management government advisory council consisting of twelve 582  
members appointed as follows: 583

(1) The governor, with the advice and consent of the senate, 584  
shall appoint three members who, by training and vocation, are 585  
representative of labor and three members who, by training and 586  
vocation, are representative of employers. 587

(2) Ex officio, the chairpersons of the standing committees 588  
of the house of representatives and the senate to which 589  
legislation concerned with workers' compensation is customarily 590  
referred. A chairperson may designate the vice-chairperson of the 591  
committee to serve instead. 592

(3) One person who by training and vocation represents labor 593  
and one person who by training and vocation represents employers 594  
of differing political parties appointed by the speaker of the 595  
house of representatives. 596

(4) One person who by training and vocation represents labor 597  
and one person who by training and vocation represents employers 598  
of differing political parties appointed by the president of the 599  
senate. 600

(B) Members appointed by the governor shall serve for a term 601  
of six years with each term ending on the same day of the year in 602

which the member was first appointed, except that each member 603  
shall serve for a period of sixty additional days at the end of 604  
the member's term or until the member's successor is appointed and 605  
qualifies, whichever date occurs first. Of the members first 606  
appointed to the council by the governor, one member each 607  
representing labor and management shall serve an initial term of 608  
two years, one member each representing labor and management shall 609  
serve a term of four years, and the remaining two members shall 610  
serve full six-year terms. The members initially appointed by the 611  
speaker of the house of representatives and the president of the 612  
senate shall serve a term of six years. Thereafter, members shall 613  
be appointed to and serve full six-year terms. Members are 614  
eligible for reappointment to any number of additional terms. 615

Legislative members shall serve a term that coincides with 616  
the two-year legislative session in which they are first appointed 617  
with each term ending on the thirty-first day of December of the 618  
even-numbered year. Legislative members are eligible for 619  
reappointment. 620

Vacancies on the council shall be filled in the same manner 621  
as the original appointment. All members of the council shall 622  
serve without additional compensation but shall be reimbursed by 623  
the bureau of workers' compensation for actual and necessary 624  
expenses. 625

The council shall advise the bureau of workers' compensation 626  
board of directors and the administrator of workers' compensation 627  
on the quality and effectiveness of rehabilitation services and 628  
make recommendations pertaining to the bureau's rehabilitation 629  
program, including the operation of that program. 630

~~The labor management government advisory council shall 631  
recommend to the administrator three candidates for the position 632  
of director of rehabilitation. The candidates shall be chosen for 633  
their ability and background in the field of rehabilitation. The 634~~

~~administrator shall select a director from the list of candidates.~~ 635

**Sec. 4123.34.** It shall be the duty of the bureau of workers' 636  
compensation board of directors and the administrator of workers' 637  
compensation to safeguard and maintain the solvency of the state 638  
insurance fund and all other funds specified in this chapter and 639  
Chapters 4121., 4127., and 4131. of the Revised Code. The 640  
administrator, in the exercise of the powers and discretion 641  
conferred upon the administrator in section 4123.29 of the Revised 642  
Code, shall fix and maintain, with the advice and consent of the 643  
board, for each class of occupation or industry, the lowest 644  
possible rates of premium consistent with the maintenance of a 645  
solvent state insurance fund and the creation and maintenance of a 646  
reasonable surplus, after the payment of legitimate claims for 647  
injury, occupational disease, and death that the administrator 648  
authorizes to be paid from the state insurance fund for the 649  
benefit of injured, diseased, and the dependents of killed 650  
employees. In establishing rates, the administrator shall take 651  
into account the necessity of ensuring sufficient money is set 652  
aside in the premium payment security fund to cover any defaults 653  
in premium obligations. The administrator shall observe all of the 654  
following requirements in fixing the rates of premium for the 655  
risks of occupations or industries: 656

(A) The administrator shall keep an accurate account of the 657  
money paid in premiums by each of the several classes of 658  
occupations or industries, and the losses on account of injuries, 659  
occupational disease, and death of employees thereof, and also 660  
keep an account of the money received from each individual 661  
employer and the amount of losses incurred against the state 662  
insurance fund on account of injuries, occupational disease, and 663  
death of the employees of the employer. 664

(B) ~~Ten per cent~~ A portion of the money paid into the state 665

insurance fund shall be set aside for the creation of a surplus 666  
~~until the surplus amounts to the sum of one hundred thousand 667~~  
~~dollars, after which time, whenever necessary in the judgment of 668~~  
~~the administrator to guarantee a solvent fund account within the 669~~  
state insurance fund, a sum not exceeding five per cent of all the 670  
money paid into the state insurance fund shall be credited to the 671  
surplus fund. Any references in this chapter or in Chapter 4121., 672  
4125., 4127., or 4131. of the Revised Code to the surplus fund, 673  
the surplus created in this division, the statutory surplus fund, 674  
or the statutory surplus of the state insurance fund are hereby 675  
deemed to be references to the surplus fund account. The 676  
administrator may transfer the portion of the state insurance fund 677  
to the surplus fund account as the administrator determines is 678  
necessary to satisfy the needs of the surplus fund account and to 679  
guarantee the solvency of the state insurance fund and the surplus 680  
fund account. In addition to all statutory authority under this 681  
chapter and Chapter 4121. of the Revised Code, the administrator 682  
has discretionary and contingency authority to make charges to the 683  
surplus fund account. The administrator shall account for all 684  
charges, whether statutory, discretionary, or contingency, that 685  
the administrator may make to the surplus fund account. A revision 686  
of basic rates shall be made annually on the first day of July. 687

688  
Notwithstanding any provision of the law to the contrary, one 689  
hundred eighty days after the effective date on which 690  
self-insuring employers first may elect under division (D) of 691  
section 4121.66 of the Revised Code to directly pay for 692  
rehabilitation expenses, the administrator shall calculate the 693  
deficit, if any, in the portion of the surplus fund account that 694  
is used for reimbursement to self-insuring employers for all 695  
expenses other than handicapped reimbursement under section 696  
4123.343 of the Revised Code. The administrator, from time to 697  
time, may determine whether the surplus fund account has such a 698

deficit and may assess all self-insuring employers who 699  
participated in the portion of the surplus fund account during the 700  
accrual of the deficit and who during that time period have not 701  
made the election under division (D) of section 4121.66 of the 702  
Revised Code the amount the administrator determines necessary to 703  
reduce the deficit. 704

Revisions of basic rates shall be in accordance with the 705  
oldest four of the last five calendar years of the combined 706  
accident and occupational disease experience of the administrator 707  
in the administration of this chapter, as shown by the accounts 708  
kept as provided in this section, excluding the experience of 709  
employers that are no longer active if the administrator 710  
determines that the inclusion of those employers would have a 711  
significant negative impact on the remainder of the employers in a 712  
particular manual classification; and the administrator shall 713  
adopt rules, with the advice and consent of the board, governing 714  
rate revisions, the object of which shall be to make an equitable 715  
distribution of losses among the several classes of occupation or 716  
industry, which rules shall be general in their application. 717

(C) The administrator may apply that form of rating system 718  
that the administrator finds is best calculated to merit rate or 719  
individually rate the risk more equitably, predicated upon the 720  
basis of its individual industrial accident and occupational 721  
disease experience, and may encourage and stimulate accident 722  
prevention. The administrator shall develop fixed and equitable 723  
rules controlling the rating system, which rules shall conserve to 724  
each risk the basic principles of workers' compensation insurance. 725

(D) The administrator, from the money paid into the state 726  
insurance fund, shall set aside into an account of the state 727  
insurance fund titled a premium payment security fund sufficient 728  
money to pay for any premiums due from an employer and uncollected 729  
that are in excess of the employer's premium security deposit. 730



The fund shall be in the custody of the treasurer of state. 731  
All investment earnings of the fund shall be deposited in the 732  
fund. Disbursements from the fund shall be made by the bureau of 733  
workers' compensation upon order of the administrator to the state 734  
insurance fund. The use of the moneys held by the premium payment 735  
security fund is restricted to reimbursement to the state 736  
insurance fund of premiums due and uncollected in excess of an 737  
employer's premium security deposit. The moneys constituting the 738  
premium payment security fund shall be maintained without regard 739  
to or reliance upon any other fund. This section does not prevent 740  
the deposit or investment of the premium payment security fund 741  
with any other fund created by this chapter, but the premium 742  
payment security fund is separate and distinct for every other 743  
purpose and a strict accounting thereof shall be maintained. 744

(E) The administrator may grant discounts on premium rates 745  
for employers who meet either of the following requirements: 746

(1) Have not incurred a compensable injury for one year or 747  
more and who maintain an employee safety committee or similar 748  
organization or make periodic safety inspections of the workplace. 749

(2) Successfully complete a loss prevention program 750  
prescribed by the superintendent of the division of safety and 751  
hygiene and conducted by the division or by any other person 752  
approved by the superintendent. 753

(F)(1) In determining the premium rates for the construction 754  
industry the administrator shall calculate the employers' premiums 755  
based upon the actual remuneration construction industry employees 756  
receive from construction industry employers, provided that the 757  
amount of remuneration the administrator uses in calculating the 758  
premiums shall not exceed an average weekly wage equal to one 759  
hundred fifty per cent of the statewide average weekly wage as 760  
defined in division (C) of section 4123.62 of the Revised Code. 761

(2) Division (F)(1) of this section shall not be construed as affecting the manner in which benefits to a claimant are awarded under this chapter. 762  
 763  
 764

(3) As used in division (F) of this section, "construction industry" includes any activity performed in connection with the erection, alteration, repair, replacement, renovation, installation, or demolition of any building, structure, highway, or bridge. 765  
 766  
 767  
 768  
 769

**Section 102.** That existing sections 121.52, 4121.12, 4121.125, 4121.62, 4121.70, and 4123.34 of the Revised Code are hereby repealed. 770  
 771  
 772

**Section 201.** All items in Sections 201 and 203 of this act 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 2010, and those in the second column are for fiscal year 2011. 773  
 774  
 775  
 776  
 777

FND AI	AI TITLE	Appropriations		
	BWC BUREAU OF WORKERS' COMPENSATION			779
	Workers' Compensation Fund Group			780
7023 855401	William Green Lease	\$ 19,871,795	\$ 19,049,395	781
	Payments to OBA			
7023 855407	Claims, Risk and	\$ 138,129,873	\$ 142,659,528	782
	Medical Management			
7023 855408	Fraud Prevention	\$ 12,546,239	\$ 13,101,761	783
7023 855409	Administrative	\$ 124,355,772	\$ 119,767,995	784
	Services			
7023 855410	Attorney General	\$ 4,621,850	\$ 4,621,850	785
	Payments			
8220 855606	Coal Workers' Fund	\$ 91,894	\$ 91,894	786
8230 855608	Marine Industry	\$ 53,952	\$ 53,952	787

8250	855605	Disabled Workers Relief Fund	\$	492,500	\$	492,500	788
8260	855609	Safety and Hygiene Operating	\$	20,734,750	\$	20,734,750	789
8260	855610	Gear Program	\$	4,000,000	\$	4,000,000	790
8290	855604	Long Term Care Loan Program	\$	2,000,000	\$	2,000,000	791
TOTAL WCF Workers' Compensation							792
Fund Group			\$	326,898,625	\$	326,573,625	793
Federal Special Revenue Fund Group							794
3490	855601	OSHA Enforcement	\$	1,604,140	\$	1,604,140	795
TOTAL FED Federal Special Revenue			\$	1,604,140	\$	1,604,140	796
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	328,502,765	\$	328,177,765	797

WILLIAM GREEN LEASE PAYMENTS 798

The foregoing appropriation item 855401, William Green Lease 799  
 Payments to OBA, shall be used for lease payments to the Ohio 800  
 Building Authority, and these appropriations shall be used to meet 801  
 all payments at the times they are required to be made during the 802  
 period from July 1, 2009, to June 30, 2011, by the Bureau of 803  
 Workers' Compensation to the Ohio Building Authority pursuant to 804  
 leases and agreements made under Chapter 152. of the Revised Code 805  
 and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. 806  
 Of the amounts received in Fund 7023, appropriation item 855401, 807  
 William Green Lease Payments to OBA, up to \$41,123,100 shall be 808  
 restricted for lease rental payments to the Ohio Building 809  
 Authority. If it is determined that additional appropriations are 810  
 necessary for such purpose, such amounts are hereby appropriated. 811

Notwithstanding any provision of law to the contrary, all 812  
 tenants of the William Green Building not funded by the Workers' 813  
 Compensation Fund (Fund 7023) shall pay their fair share of the 814  
 costs of lease payments to the Workers' Compensation Fund (Fund 815

7023) by intrastate transfer voucher.	816
WORKERS' COMPENSATION FRAUD UNIT	817
The Workers' Compensation Section Fund (Fund 1950) that is	818
used by the Attorney General shall receive payments from the	819
Bureau of Workers' Compensation at the beginning of each quarter	820
of each fiscal year to fund expenses of the Workers' Compensation	821
Fraud Unit of the Attorney General's Office. Of the foregoing	822
appropriation item 855410, Attorney General Payments, \$828,200 in	823
fiscal year 2010 and \$828,200 in fiscal year 2011 shall be used to	824
provide these payments.	825
SAFETY AND HYGIENE	826
Notwithstanding section 4121.37 of the Revised Code, the	827
Administrator of Workers' Compensation shall transfer moneys from	828
the State Insurance Fund so that appropriation item 855609, Safety	829
and Hygiene Operating, is provided \$20,734,750 in fiscal year 2010	830
and \$20,734,750 in fiscal year 2011.	831
OSHA ON-SITE CONSULTATION PROGRAM	832
The Bureau of Workers' Compensation may designate a portion	833
of appropriation item 855609, Safety and Hygiene Operating, to be	834
used to match federal funding for the federal Occupational Safety	835
and Health Administration's (OSHA) on-site consultation program.	836
VOCATIONAL REHABILITATION	837
The Bureau of Workers' Compensation and the Rehabilitation	838
Services Commission shall enter into an interagency agreement for	839
the provision of vocational rehabilitation services and staff to	840
mutually eligible clients. The bureau shall provide \$605,407 in	841
fiscal year 2010 and \$605,407 in fiscal year 2011 from the State	842
Insurance Fund to fund vocational rehabilitation services and	843
staff in accordance with the interagency agreement.	844
FUND BALANCE	845

Any unencumbered cash balance in excess of \$45,000,000 in the 846  
Workers' Compensation Fund (Fund 7023) on the thirtieth day of 847  
June of each fiscal year shall be used to reduce the 848  
administrative cost rate charged to employers to cover 849  
appropriations for Bureau of Workers' Compensation operations. 850

**Section 203.** WCC WORKERS' COMPENSATION COUNCIL 851  
5FV0 321600 Remuneration Expenses \$ 471,200 \$ 471,200 852  
TOTAL 5FV0 Workers' Compensation \$ 471,200 \$ 471,200 853  
Council Remuneration Fund  
TOTAL ALL BUDGET FUND GROUPS \$ 471,200 \$ 471,200 854

WORKERS' COMPENSATION COUNCIL 855

The foregoing appropriation item 321600, Remuneration 856  
Expenses, shall be used to pay the payroll and fringe benefit 857  
costs for employees of the Workers' Compensation Council. 858

Between July 1, 2009, and December 31, 2009, the 859  
Administrator of Workers' Compensation shall direct the Treasurer 860  
of State to transfer \$325,000 in cash from the Workers' 861  
Compensation Fund (Fund 7023) to the Workers' Compensation Council 862  
Fund, created in division (C) of section 4121.79 of the Revised 863  
Code, in three installments. These transfers shall be made 864  
according to a schedule agreed to by the Director of the Workers' 865  
Compensation Council and the Administrator of Workers' 866  
Compensation. 867

**Section 211.** RECOVERING THE COST OF DEPUTY INSPECTOR GENERAL 868  
INVESTIGATIONS FROM BWC AND OIC 869

On July 1, 2009, or as soon as possible thereafter, the 870  
Director of Budget and Management shall transfer \$106,000 in cash 871  
from the Workers' Compensation Fund (Fund 7023) to the Deputy 872  
Inspector General for the Bureau of Workers' Compensation and 873  
Industrial Commission Fund (Fund 5FT0). The amounts transferred 874

are appropriated. 875

Beginning October 1, 2009, the Inspector General shall 876  
recover the costs of investigations prescribed by section 121.52 877  
of the Revised Code through intrastate transfer voucher billings 878  
to the Bureau of Workers' Compensation and to the Industrial 879  
Commission. 880

Notwithstanding division (D) of section 4121.03, division 881  
(B)(10) of section 4121.121, and section 101.532 of the Revised 882  
Code, of the appropriation item 855409, Administrative Services, 883  
in the Bureau of Workers' Compensation and appropriation item 884  
845321, Operating Expenses, in the Industrial Commission, not more 885  
than \$425,000 in total in each fiscal year shall be used to 886  
reimburse the Inspector General for the cost of investigations 887  
incurred under section 121.52 of the Revised Code. Should 888  
additional amounts be necessary, the Administrator of Workers' 889  
Compensation and the Chairperson of the Industrial Commission may 890  
seek Controlling Board approval to increase the amounts designated 891  
and the appropriations necessary to reimburse the Inspector 892  
General for the cost of investigations. 893

**Section 221.** Law contained in the Main Operating 894  
Appropriations Act of the 128th General Assembly that applies 895  
generally to the appropriations made in that act also applies 896  
generally to the appropriations made in this act. 897

**Section 301.** The provisions of law contained in this act, and 898  
their applications, are severable. If any provision of law 899  
contained in this act, or if any application of any provision of 900  
law contained in this act, is held invalid, the invalidity does 901  
not affect other provisions of law contained in this act and their 902  
applications that can be given effect without the invalid 903  
provision or application. 904

**Section 311.** Except as otherwise provided in this act, the amendment, enactment, or repeal by this act of a section of law is exempt from the referendum because it is or relates to an appropriation for current expenses within the meaning of Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and therefore takes effect immediately when this act becomes law.

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

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