

**As Reported by the Senate Insurance, Commerce and Labor
Committee**

**128th General Assembly
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2009-2010**

Sub. H. B. No. 16

Representative Sykes

**Cosponsors: Representatives Dodd, Letson, Dyer, Phillips, Bolon, Brown,
Combs, Domenick, Foley, Gerberry, Goyal, Harris, Heard, Koziura, Luckie,
Mallory, Moran, Pryor, Slesnick, Stewart, Szollosi, Weddington, Williams, B.,
Williams, S., Winburn, Yates, Yuko**

—

A B I L L

To amend sections 2305.24, 2305.25, 4121.04, and 1
4123.511 of the Revised Code to make changes to 2
the Industrial Commission Law, to make 3
appropriations for the Industrial Commission for 4
the biennium beginning July 1, 2009, and ending 5
June 30, 2011, and to provide authorization and 6
conditions for the operation of Commission 7
programs. 8

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

Section 101. That sections 2305.24, 2305.25, 4121.04, and 9
4123.511 of the Revised Code be amended to read as follows: 10

Sec. 2305.24. Any information, data, reports, or records made 11
available to a quality assurance committee or utilization 12
committee of a hospital or long-term care facility or of any 13
not-for-profit health care corporation that is a member of the 14
hospital or long-term care facility or of which the hospital or 15

long-term care facility is a member are confidential and shall be 16
used by the committee and the committee members only in the 17
exercise of the proper functions of the committee. Any 18
information, data, reports, or records made available to a 19
utilization committee of a state or local medical society composed 20
of doctors of medicine or doctors of osteopathic medicine are 21
confidential and shall be used by the committee and the committee 22
members only in the exercise of the proper functions of the 23
committee. A right of action similar to that a patient may have 24
against an attending physician for misuse of information, data, 25
reports, or records arising out of the physician-patient 26
relationship shall accrue against a member of a quality assurance 27
committee or utilization committee for misuse of any information, 28
data, reports, or records furnished to the committee by an 29
attending physician. No physician, institution, hospital, or 30
long-term care facility furnishing information, data, reports, or 31
records to a committee with respect to any patient examined or 32
treated by the physician or confined in the institution, hospital, 33
or long-term care facility shall, by reason of the furnishing, be 34
deemed liable in damages to any person, or be held to answer for 35
betrayal of a professional confidence within the meaning and 36
intent of section 4731.22 of the Revised Code. Information, data, 37
or reports furnished to a utilization committee of a state or 38
local medical society shall contain no name of any person involved 39
therein. 40

Any information, data, reports, or records made available to 41
a quality assurance committee of the bureau of workers' 42
compensation or the industrial commission that is responsible for 43
reviewing the professional qualifications and the performance of 44
providers conducting medical examinations or file reviews for the 45
bureau or the commission are confidential and shall be used by the 46
committee and the committee members only in the exercise of the 47

proper functions of the committee. 48

As used in this section, "utilization committee" is the 49
committee established to administer a utilization review plan of a 50
hospital, of a not-for-profit health care corporation which is a 51
member of the hospital or of which the hospital is a member, or of 52
a skilled nursing facility as provided in the "Health Insurance 53
for the Aged Act," 79 Stat. 313 (1965), 42 U.S.C. 1395x(k). 54

Sec. 2305.25. As used in this section and sections 2305.251 55
to 2305.253 of the Revised Code: 56

(A)(1) "Health care entity" means an entity, whether acting 57
on its own behalf or on behalf of or in affiliation with other 58
health care entities, that conducts as part of its regular 59
business activities professional credentialing or quality review 60
activities involving the competence of, professional conduct of, 61
or quality of care provided by health care providers, including 62
both individuals who provide health care and entities that provide 63
health care. 64

(2) "Health care entity" includes any entity described in 65
division (A)(1) of this section, regardless of whether it is a 66
government entity; for-profit or nonprofit corporation; limited 67
liability company; partnership; professional corporation; state or 68
local society composed of physicians, dentists, optometrists, 69
psychologists, or pharmacists; or other health care organization. 70

(B) "Health insuring corporation" means an entity that holds 71
a certificate of authority under Chapter 1751. of the Revised 72
Code. "Health insuring corporation" includes wholly owned 73
subsidiaries of a health insuring corporation. 74

(C) "Hospital" means either of the following: 75

(1) An institution that has been registered or licensed by 76
the department of health as a hospital; 77

(2) An entity, other than an insurance company authorized to do business in this state, that owns, controls, or is affiliated with an institution that has been registered or licensed by the department of health as a hospital.

(D) "Incident report or risk management report" means a report of an incident involving injury or potential injury to a patient as a result of patient care provided by health care providers, including both individuals who provide health care and entities that provide health care, that is prepared by or for the use of a peer review committee of a health care entity and is within the scope of the functions of that committee.

(E)(1) "Peer review committee" means a utilization review committee, quality assessment committee, performance improvement committee, tissue committee, credentialing committee, or other committee that does either of the following:

(a) Conducts professional credentialing or quality review activities involving the competence of, professional conduct of, or quality of care provided by health care providers, including both individuals who provide health care and entities that provide health care;

(b) Conducts any other attendant hearing process initiated as a result of a peer review committee's recommendations or actions.

(2) "Peer review committee" includes all of the following:

(a) A peer review committee of a hospital or long-term care facility or a peer review committee of a nonprofit health care corporation that is a member of the hospital or long-term care facility or of which the hospital or facility is a member;

(b) A peer review committee of a community mental health center;

(c) A board or committee of a hospital, a long-term care

facility, or other health care entity when reviewing professional 108
qualifications or activities of health care providers, including 109
both individuals who provide health care and entities that provide 110
health care; 111

(d) A peer review committee, professional standards review 112
committee, or arbitration committee of a state or local society 113
composed of members who are in active practice as physicians, 114
dentists, optometrists, psychologists, or pharmacists; 115

(e) A peer review committee of a health insuring corporation 116
that has at least a two-thirds majority of member physicians in 117
active practice and that conducts professional credentialing and 118
quality review activities involving the competence or professional 119
conduct of health care providers that adversely affects or could 120
adversely affect the health or welfare of any patient; 121

(f) A peer review committee of a health insuring corporation 122
that has at least a two-thirds majority of member physicians in 123
active practice and that conducts professional credentialing and 124
quality review activities involving the competence or professional 125
conduct of a health care facility that has contracted with the 126
health insuring corporation to provide health care services to 127
enrollees, which conduct adversely affects, or could adversely 128
affect, the health or welfare of any patient; 129

(g) A peer review committee of a sickness and accident 130
insurer that has at least a two-thirds majority of physicians in 131
active practice and that conducts professional credentialing and 132
quality review activities involving the competence or professional 133
conduct of health care providers that adversely affects or could 134
adversely affect the health or welfare of any patient; 135

(h) A peer review committee of a sickness and accident 136
insurer that has at least a two-thirds majority of physicians in 137
active practice and that conducts professional credentialing and 138

quality review activities involving the competence or professional 139
conduct of a health care facility that has contracted with the 140
insurer to provide health care services to insureds, which conduct 141
adversely affects, or could adversely affect, the health or 142
welfare of any patient; 143

(i) A peer review committee of any insurer authorized under 144
Title XXXIX of the Revised Code to do the business of medical 145
professional liability insurance in this state that conducts 146
professional quality review activities involving the competence or 147
professional conduct of health care providers that adversely 148
affects or could affect the health or welfare of any patient; 149

(j) A peer review committee of the bureau of workers' 150
compensation or the industrial commission that is responsible for 151
reviewing the professional qualifications and the performance of 152
providers conducting medical examinations or file reviews for the 153
bureau or the commission; 154

(k) Any other peer review committee of a health care entity. 155

(F) "Physician" means an individual authorized to practice 156
medicine and surgery, osteopathic medicine and surgery, or 157
podiatric medicine and surgery. 158

(G) "Sickness and accident insurer" means an entity 159
authorized under Title XXXIX of the Revised Code to do the 160
business of sickness and accident insurance in this state. 161

(H) "Tort action" means a civil action for damages for 162
injury, death, or loss to a patient of a health care entity. "Tort 163
action" includes a product liability claim, as defined in section 164
2307.71 of the Revised Code, and an asbestos claim, as defined in 165
section 2307.91 of the Revised Code, but does not include a civil 166
action for a breach of contract or another agreement between 167
persons. 168

Sec. 4121.04. (A) There is hereby created the industrial 169
commission nominating council consisting of ~~four~~ five employer 170
representatives ~~and~~, four labor representatives, one 171
representative from the Ohio association for justice, and two 172
members of the public, each of a different political party, who 173
are appointed by the governor. The nominating council shall make 174
recommendations to the governor for the appointment of members to 175
the industrial commission as provided in section 4121.02 of the 176
Revised Code. 177

(B) ~~The governor shall make initial appointments to the~~ 178
~~nominating council within fourteen days after October 20, 1993, by~~ 179
~~appointing two persons, each of a different political party, as~~ 180
~~public representatives and the four employer and four employee~~ 181
~~representatives. In making the appointments, the governor shall~~ 182
select the members representing employees from a list of eight 183
names submitted by the Ohio federation of labor, the member 184
representing the Ohio association for justice from a list of two 185
names submitted by the Ohio association of justice, and the 186
members representing employers from a list of ~~eight~~ ten names 187
submitted jointly by the ~~major statewide~~ Ohio industry 188
organizations ~~representing self-insuring employers, manufacturers,~~ 189
~~retail merchants, and chambers of commerce, provided that such~~ 190
~~organizations have been in existence since prior to November 3,~~ 191
~~1974, and further provided that from the list submitted from the~~ 192
~~organizations representing industry, the.~~ The governor shall 193
appoint at least one member from each of the Ohio industry 194
organizations ~~which represent self-insuring employers,~~ 195
~~manufacturers, retail merchants, and chambers of commerce.~~ Of the 196
list submitted by the Ohio industry organizations ~~representing~~ 197
~~industry~~, two individuals from each of the Ohio industry 198
organizations ~~which represent self-insuring employers,~~ 199
~~manufacturers, retail merchants, and chambers of commerce~~ shall be 200

included in the list. ~~One employer and employee representative~~ 201
~~shall serve an initial term of office ending October 20, 1994, one~~ 202
~~employer and one employee representative shall serve an initial~~ 203
~~term of office ending October 20, 1995, one employer and one~~ 204
~~employee representative shall serve an initial term of office~~ 205
~~ending October 20, 1996, and one employer and one employee~~ 206
~~representative shall serve an initial term of office ending four~~ 207
~~years after the effective date of this section. Thereafter, terms~~ 208
Terms of office of employer and employee representatives are for 209
four years, each term ending on the same day as the date of their 210
original appointment. The Ohio federation of labor for a vacancy 211
of an employee representative on the council, and the Ohio 212
industry organizations, for a vacancy of an employer 213
representative on the council, shall submit to the governor a list 214
containing two names for appointment and the governor shall 215
appoint an individual from the list to fill the vacancy provided 216
that the list submitted to fill an industry representative vacancy 217
shall contain the names of individuals who represent the 218
organizations for which a vacancy has occurred. One public member 219
shall represent the interests of small business ~~and shall serve an~~ 220
~~initial term of office ending October 20, 1994, and the remaining~~ 221
~~public member shall serve a term of office ending October 20,~~ 222
1995. Thereafter, public Public members shall serve for a term of 223
two years, each term ending on the same day as the date of their 224
original appointment. The governor shall fill a vacancy occurring 225
on the nominating council for a public member in the same manner 226
as for the original appointment but only for the unexpired part of 227
the term. As used in this division, "small business" means any 228
manufacturing establishment employing five hundred or fewer 229
employees or any retail, or other service establishment employing 230
one hundred or fewer employees. The representative from the Ohio 231
association for justice shall serve for a term of four years, each 232
term ending on the twentieth day of October of the appropriate 233

year. The governor shall fill a vacancy occurring on the 234
nominating council for the representative from the Ohio 235
association for justice in the same manner as the original 236
appointment. In the event that an appointment to the council does 237
not conform to this division, such organizations may challenge the 238
appointment pursuant to division (E) of this section, provided 239
that the industry organizations only may challenge the appointment 240
of an industry representative, and further provided that the labor 241
organization only may challenge the appointment of a labor 242
representative. 243

~~(C) At the time of the initial appointment of the members to~~ 244
~~the nominating council, the governor shall immediately call a~~ 245
~~meeting of the nominating council in order to make the initial~~ 246
~~recommendations to the governor for the appointment of industrial~~ 247
~~commission members under section 4121.02 of the Revised Code. At~~ 248
~~that meeting, the members shall elect a chairperson and such other~~ 249
~~officers as it determines necessary. Thereafter, the The~~ 250
nominating council annually shall meet and elect such officers as 251
it determines appropriate and shall meet at such other times as it 252
determines appropriate in order to make recommendations to the 253
governor for the appointment of industrial commission members 254
pursuant to section 4121.02 of the Revised Code. 255

(D) Members of the nominating council shall be paid fifty 256
dollars per day and their actual and necessary expenses while 257
engaged in the performance of their duties as members of the 258
nominating council, which the industrial commission shall pay from 259
funds which the industrial commission uses to pay its operating 260
expenses. 261

(E) An association generally recognized as representing the 262
interests of labor or industry may file, within fifteen days after 263
the governor's appointment of a member, a challenge in the common 264
pleas court of Franklin county asserting that a representative 265

named to represent its interests is not representative of the 266
interests the appointee has been appointed to represent. An 267
appointee whose appointment has been challenged shall not receive 268
any pay nor serve on the nominating council until the court, 269
acting without a jury and following the expedited timetable 270
provided for hearing on restraining orders in Civil Rule 65, makes 271
a determination that the appointee is a true and qualified 272
representative of the group for which the appointee is selected 273
and possesses all of the qualifications. 274

A challenged appointee may request the attorney general to 275
represent the appointee in an action brought under this division 276
and the attorney general shall provide the appointee with 277
competent representation without charge. 278

(F) As used in this section, "Ohio industry organizations" 279
means all of the following organizations: 280

(1) The Ohio self-insurers' association; 281

(2) The Ohio manufacturers' association; 282

(3) The Ohio council of retail merchants; 283

(4) The Ohio chamber of commerce; 284

(5) The national federation of independent business. 285

Sec. 4123.511. (A) Within seven days after receipt of any 286
claim under this chapter, the bureau of workers' compensation 287
shall notify the claimant and the employer of the claimant of the 288
receipt of the claim and of the facts alleged therein. If the 289
bureau receives from a person other than the claimant written or 290
facsimile information or information communicated verbally over 291
the telephone indicating that an injury or occupational disease 292
has occurred or been contracted which may be compensable under 293
this chapter, the bureau shall notify the employee and the 294
employer of the information. If the information is provided 295

verbally over the telephone, the person providing the information 296
shall provide written verification of the information to the 297
bureau according to division (E) of section 4123.84 of the Revised 298
Code. The receipt of the information in writing or facsimile, or 299
if initially by telephone, the subsequent written verification, 300
and the notice by the bureau shall be considered an application 301
for compensation under section 4123.84 or 4123.85 of the Revised 302
Code, provided that the conditions of division (E) of section 303
4123.84 of the Revised Code apply to information provided verbally 304
over the telephone. Upon receipt of a claim, the bureau shall 305
advise the claimant of the claim number assigned and the 306
claimant's right to representation in the processing of a claim or 307
to elect no representation. If the bureau determines that a claim 308
is determined to be a compensable lost-time claim, the bureau 309
shall notify the claimant and the employer of the availability of 310
rehabilitation services. No bureau or industrial commission 311
employee shall directly or indirectly convey any information in 312
derogation of this right. This section shall in no way abrogate 313
the bureau's responsibility to aid and assist a claimant in the 314
filing of a claim and to advise the claimant of the claimant's 315
rights under the law. 316

The administrator of workers' compensation shall assign all 317
claims and investigations to the bureau service office from which 318
investigation and determination may be made most expeditiously. 319

The bureau shall investigate the facts concerning an injury 320
or occupational disease and ascertain such facts in whatever 321
manner is most appropriate and may obtain statements of the 322
employee, employer, attending physician, and witnesses in whatever 323
manner is most appropriate. 324

The administrator, with the advice and consent of the bureau 325
of workers' compensation board of directors, may adopt rules that 326
identify specified medical conditions that have a historical 327

record of being allowed whenever included in a claim. The 328
administrator may grant immediate allowance of any medical 329
condition identified in those rules upon the filing of a claim 330
involving that medical condition and may make immediate payment of 331
medical bills for any medical condition identified in those rules 332
that is included in a claim. If an employer contests the allowance 333
of a claim involving any medical condition identified in those 334
rules, and the claim is disallowed, payment for the medical 335
condition included in that claim shall be charged to and paid from 336
the surplus fund created under section 4123.34 of the Revised 337
Code. 338

(B)(1) Except as provided in division (B)(2) of this section, 339
in claims other than those in which the employer is a 340
self-insuring employer, if the administrator determines under 341
division (A) of this section that a claimant is or is not entitled 342
to an award of compensation or benefits, the administrator shall 343
issue an order no later than twenty-eight days after the sending 344
of the notice under division (A) of this section, granting or 345
denying the payment of the compensation or benefits, or both as is 346
appropriate to the claimant. Notwithstanding the time limitation 347
specified in this division for the issuance of an order, if a 348
medical examination of the claimant is required by statute, the 349
administrator promptly shall schedule the claimant for that 350
examination and shall issue an order no later than twenty-eight 351
days after receipt of the report of the examination. The 352
administrator shall notify the claimant and the employer of the 353
claimant and their respective representatives in writing of the 354
nature of the order and the amounts of compensation and benefit 355
payments involved. The employer or claimant may appeal the order 356
pursuant to division (C) of this section within fourteen days 357
after the date of the receipt of the order. The employer and 358
claimant may waive, in writing, their rights to an appeal under 359
this division. 360

(2) Notwithstanding the time limitation specified in division (B)(1) of this section for the issuance of an order, if the employer certifies a claim for payment of compensation or benefits, or both, to a claimant, and the administrator has completed the investigation of the claim, the payment of benefits or compensation, or both, as is appropriate, shall commence upon the later of the date of the certification or completion of the investigation and issuance of the order by the administrator, provided that the administrator shall issue the order no later than the time limitation specified in division (B)(1) of this section.

(3) If an appeal is made under division (B)(1) or (2) of this section, the administrator shall forward the claim file to the appropriate district hearing officer within seven days of the appeal. In contested claims other than state fund claims, the administrator shall forward the claim within seven days of the administrator's receipt of the claim to the industrial commission, which shall refer the claim to an appropriate district hearing officer for a hearing in accordance with division (C) of this section.

(C) If an employer or claimant timely appeals the order of the administrator issued under division (B) of this section or in the case of other contested claims other than state fund claims, the commission shall refer the claim to an appropriate district hearing officer according to rules the commission adopts under section 4121.36 of the Revised Code. The district hearing officer shall notify the parties and their respective representatives of the time and place of the hearing.

The district hearing officer shall hold a hearing on a disputed issue or claim within forty-five days after the filing of the appeal under this division and issue a decision within seven days after holding the hearing. The district hearing officer shall

notify the parties and their respective representatives in writing 393
of the order. Any party may appeal an order issued under this 394
division pursuant to division (D) of this section within fourteen 395
days after receipt of the order under this division. 396

(D) Upon the timely filing of an appeal of the order of the 397
district hearing officer issued under division (C) of this 398
section, the commission shall refer the claim file to an 399
appropriate staff hearing officer according to its rules adopted 400
under section 4121.36 of the Revised Code. The staff hearing 401
officer shall hold a hearing within forty-five days after the 402
filing of an appeal under this division and issue a decision 403
within seven days after holding the hearing under this division. 404
The staff hearing officer shall notify the parties and their 405
respective representatives in writing of the staff hearing 406
officer's order. Any party may appeal an order issued under this 407
division pursuant to division (E) of this section within fourteen 408
days after receipt of the order under this division. 409

(E) Upon the filing of a timely appeal of the order of the 410
staff hearing officer issued under division (D) of this section, 411
the commission or a designated staff hearing officer, on behalf of 412
the commission, shall determine whether the commission will hear 413
the appeal. If the commission or the designated staff hearing 414
officer decides to hear the appeal, the commission or the 415
designated staff hearing officer shall notify the parties and 416
their respective representatives in writing of the time and place 417
of the hearing. The commission shall hold the hearing within 418
forty-five days after the filing of the notice of appeal and, 419
within seven days after the conclusion of the hearing, the 420
commission shall issue its order affirming, modifying, or 421
reversing the order issued under division (D) of this section. The 422
commission shall notify the parties and their respective 423
representatives in writing of the order. If the commission or the 424

designated staff hearing officer determines not to hear the 425
appeal, within fourteen days after the ~~filing of the notice of~~ 426
~~appeal~~ expiration of the period in which an appeal of the order of 427
the staff hearing officer may be filed as provided in division (D) 428
of this section, the commission or the designated staff hearing 429
officer shall issue an order to that effect and notify the parties 430
and their respective representatives in writing of that order. 431

432
Except as otherwise provided in this chapter and Chapters 433
4121., 4127., and 4131. of the Revised Code, any party may appeal 434
an order issued under this division to the court pursuant to 435
section 4123.512 of the Revised Code within sixty days after 436
receipt of the order, subject to the limitations contained in that 437
section. 438

(F) Every notice of an appeal from an order issued under 439
divisions (B), (C), (D), and (E) of this section shall state the 440
names of the claimant and employer, the number of the claim, the 441
date of the decision appealed from, and the fact that the 442
appellant appeals therefrom. 443

(G) All of the following apply to the proceedings under 444
divisions (C), (D), and (E) of this section: 445

(1) The parties shall proceed promptly and without 446
continuances except for good cause; 447

(2) The parties, in good faith, shall engage in the free 448
exchange of information relevant to the claim prior to the conduct 449
of a hearing according to the rules the commission adopts under 450
section 4121.36 of the Revised Code; 451

(3) The administrator is a party and may appear and 452
participate at all administrative proceedings on behalf of the 453
state insurance fund. However, in cases in which the employer is 454
represented, the administrator shall neither present arguments nor 455

introduce testimony that is cumulative to that presented or 456
introduced by the employer or the employer's representative. The 457
administrator may file an appeal under this section on behalf of 458
the state insurance fund; however, except in cases arising under 459
section 4123.343 of the Revised Code, the administrator only may 460
appeal questions of law or issues of fraud when the employer 461
appears in person or by representative. 462

(H) Except as provided in section 4121.63 of the Revised Code 463
and division (K) of this section, payments of compensation to a 464
claimant or on behalf of a claimant as a result of any order 465
issued under this chapter shall commence upon the earlier of the 466
following: 467

(1) Fourteen days after the date the administrator issues an 468
order under division (B) of this section, unless that order is 469
appealed; 470

(2) The date when the employer has waived the right to appeal 471
a decision issued under division (B) of this section; 472

(3) If no appeal of an order has been filed under this 473
section or to a court under section 4123.512 of the Revised Code, 474
the expiration of the time limitations for the filing of an appeal 475
of an order; 476

(4) The date of receipt by the employer of an order of a 477
district hearing officer, a staff hearing officer, or the 478
industrial commission issued under division (C), (D), or (E) of 479
this section. 480

(I) Payments of medical benefits payable under this chapter 481
or Chapter 4121., 4127., or 4131. of the Revised Code shall 482
commence upon the earlier of the following: 483

(1) The date of the issuance of the staff hearing officer's 484
order under division (D) of this section; 485

(2) The date of the final administrative or judicial determination. 486
487

(J) The administrator shall charge the compensation payments 488
made in accordance with division (H) of this section or medical 489
benefits payments made in accordance with division (I) of this 490
section to an employer's experience immediately after the employer 491
has exhausted the employer's administrative appeals as provided in 492
this section or has waived the employer's right to an 493
administrative appeal under division (B) of this section, subject 494
to the adjustment specified in division (H) of section 4123.512 of 495
the Revised Code. 496

(K) Upon the final administrative or judicial determination 497
under this section or section 4123.512 of the Revised Code of an 498
appeal of an order to pay compensation, if a claimant is found to 499
have received compensation pursuant to a prior order which is 500
reversed upon subsequent appeal, the claimant's employer, if a 501
self-insuring employer, or the bureau, shall withhold from any 502
amount to which the claimant becomes entitled pursuant to any 503
claim, past, present, or future, under Chapter 4121., 4123., 504
4127., or 4131. of the Revised Code, the amount of previously paid 505
compensation to the claimant which, due to reversal upon appeal, 506
the claimant is not entitled, pursuant to the following criteria: 507

(1) No withholding for the first twelve weeks of temporary 508
total disability compensation pursuant to section 4123.56 of the 509
Revised Code shall be made; 510

(2) Forty per cent of all awards of compensation paid 511
pursuant to sections 4123.56 and 4123.57 of the Revised Code, 512
until the amount overpaid is refunded; 513

(3) Twenty-five per cent of any compensation paid pursuant to 514
section 4123.58 of the Revised Code until the amount overpaid is 515
refunded; 516

(4) If, pursuant to an appeal under section 4123.512 of the Revised Code, the court of appeals or the supreme court reverses the allowance of the claim, then no amount of any compensation will be withheld.

The administrator and self-insuring employers, as appropriate, are subject to the repayment schedule of this division only with respect to an order to pay compensation that was properly paid under a previous order, but which is subsequently reversed upon an administrative or judicial appeal. The administrator and self-insuring employers are not subject to, but may utilize, the repayment schedule of this division, or any other lawful means, to collect payment of compensation made to a person who was not entitled to the compensation due to fraud as determined by the administrator or the industrial commission.

(L) If a staff hearing officer or the commission fails to issue a decision or the commission fails to refuse to hear an appeal within the time periods required by this section, payments to a claimant shall cease until the staff hearing officer or commission issues a decision or hears the appeal, unless the failure was due to the fault or neglect of the employer or the employer agrees that the payments should continue for a longer period of time.

(M) Except as otherwise provided in this section or section 4123.522 of the Revised Code, no appeal is timely filed under this section unless the appeal is filed with the time limits set forth in this section.

(N) No person who is not an employee of the bureau or commission or who is not by law given access to the contents of a claims file shall have a file in the person's possession.

(O) Upon application of a party who resides in an area in which an emergency or disaster is declared, the industrial

commission and hearing officers of the commission may waive the 548
time frame within which claims and appeals of claims set forth in 549
this section must be filed upon a finding that the applicant was 550
unable to comply with a filing deadline due to an emergency or a 551
disaster. 552

As used in this division: 553

(1) "Emergency" means any occasion or instance for which the 554
governor of Ohio or the president of the United States publicly 555
declares an emergency and orders state or federal assistance to 556
save lives and protect property, the public health and safety, or 557
to lessen or avert the threat of a catastrophe. 558

(2) "Disaster" means any natural catastrophe or fire, flood, 559
or explosion, regardless of the cause, that causes damage of 560
sufficient magnitude that the governor of Ohio or the president of 561
the United States, through a public declaration, orders state or 562
federal assistance to alleviate damage, loss, hardship, or 563
suffering that results from the occurrence. 564

Section 102. That existing sections 2305.24, 2305.25, 565
4121.04, and 4123.511 of the Revised Code are hereby repealed. 566

Section 201. All items in this section are hereby 567
appropriated out of any moneys in the state treasury to the credit 568
of the designated fund. For all appropriations made in this 569
section, those in the first column are for fiscal year 2010, and 570
those in the second column are for fiscal year 2011. 571

Appropriations 572

FND AI	AI TITLE	FY 2010	FY 2011		
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573

OIC INDUSTRIAL COMMISSION 574

Workers' Compensation Fund Group 575

5W30	845321	Operating Expenses	\$	50,838,924	\$	52,838,924	
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5W30	845402	Rent - William Green	\$	6,149,960	\$	6,011,960	
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	Building						
5W30	845410	Attorney General	\$	3,793,650	\$	3,793,650	578
		Payments					
		TOTAL WCF Workers' Compensation					579
		Fund Group	\$	60,782,534	\$	62,644,534	580
		TOTAL ALL BUDGET FUND GROUPS	\$	60,782,534	\$	62,644,534	581

RENT - WILLIAM GREEN BUILDING 582

The foregoing appropriation item 845402, Rent - William Green 583
Building, shall be used for rent and operating expenses for the 584
space occupied by the Industrial Commission in the William Green 585
Building. 586

Section 210. Nothing in this act shall affect the term of any 587
member of the Industrial Commission Nominating Council serving on 588
the effective date of this section. 589

The Governor shall appoint to the Industrial Commission 590
Nominating Council a person to serve as a member who represents 591
employers and a person to serve as a representative from the Ohio 592
Association for Justice not later than fourteen days after the 593
effective date of this section, and those members shall take 594
office not later than ninety days after the effective date of this 595
section. The Governor shall choose the employer representative 596
from a list of two names selected by the National Federation of 597
Independent Business and shall appoint that employer 598
representative to a term ending October 20, 2013. The Governor 599
shall appoint the representative from the Ohio Association for 600
Justice to a term ending October 20, 2010. 601

Except as otherwise provided in this section, the 602
appointments made by the Governor pursuant to this section shall 603
comply with section 4121.04 of the Revised Code, as amended by 604
this act. 605

Section 230. Law contained in the main operating 606
appropriations act of the 128th General Assembly that applies 607
generally to the appropriations made in that act also applies 608
generally to the appropriations made in this act. 609

Section 301. The provisions of law contained in this act, and 610
their applications, are severable. If any provision of law 611
contained in this act, or if any application of any provision of 612
law contained in this act, is held invalid, the invalidity does 613
not affect other provisions of law contained in this act and their 614
applications that can be given effect without the invalid 615
provision or application. 616

Section 401. An item that composes the whole or part of an 617
uncodified section of law contained in this act has no effect 618
after June 30, 2011, unless the context clearly indicates 619
otherwise. 620

Section 501. Except as otherwise provided in this act, the 621
amendment or enactment by this act of a section of law is exempt 622
from the referendum because it is or relates to an appropriation 623
for current expenses within the meaning of Ohio Constitution, 624
Article II, Section 1d and section 1.471 of the Revised Code and 625
therefore takes effect immediately when this act becomes law. 626

Section 503. The amendment of sections 2305.24, 2305.25, and 627
4123.511 of the Revised Code by this act are subject to the 628
referendum under Ohio Constitution, Article II, Section 1c and 629
therefore take effect on the ninety-first day after this act is 630
filed with the Secretary of State. 631