

**As Reported by the House Insurance Committee**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**Sub. H. B. No. 27**

**Representative Brinkman**

**Cosponsor: Representative Brenner**

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**A B I L L**

To amend sections 742.38, 2743.02, 2744.02, 4113.21, 1  
4121.125, 4121.44, 4123.01, 4123.29, 4123.343, 2  
4123.511, 4123.512, 4123.53, 4123.54, 4123.56, 3  
4123.57, 4123.66, 4123.68, 4123.71, 4123.84, 4  
4125.07, 4167.01, 4167.02, and 4167.10, to enact 5  
sections 1.481, 2307.82, and 4123.513, and to 6  
repeal sections 4123.72 and 4167.19 of the Revised 7  
Code to make changes to the Workers' Compensation 8  
Law, to prohibit a public employer from requiring 9  
an employee to pay for a medical examination as a 10  
condition of continued employment, to prohibit 11  
state agencies from taking actions that have 12  
retrospective effects, to make appropriations for 13  
the Bureau of Workers' Compensation for the 14  
biennium beginning July 1, 2017, and ending June 15  
30, 2019, and to provide authorization and 16  
conditions for the operation of the Bureau's 17  
programs. 18

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

**Section 101.01.** That sections 742.38, 2743.02, 2744.02, 19  
4113.21, 4121.125, 4121.44, 4123.01, 4123.29, 4123.343, 4123.511, 20

4123.512, 4123.53, 4123.54, 4123.56, 4123.57, 4123.66, 4123.68, 21  
4123.71, 4123.84, 4125.07, 4167.01, 4167.02, and 4167.10 be 22  
amended and sections 1.481, 2307.82, and 4123.513 of the Revised 23  
Code be enacted to read as follows: 24

Sec. 1.481. A state agency shall not adopt a rule, or an 25  
amendment or rescission of a rule, or take any other 26  
quasi-legislative or quasi-judicial action that has a substantive 27  
or procedural retrospective effect unless the general assembly 28  
expressly has authorized rulemaking or other quasi-legislative or 29  
quasi-judicial action that has such an effect. 30

**Sec. 742.38.** (A)(1) The board of trustees of the Ohio police 31  
and fire pension fund shall adopt rules establishing minimum 32  
medical testing and diagnostic standards or procedures to be 33  
incorporated into physical examinations administered by physicians 34  
to prospective members of the fund. The standards or procedures 35  
shall include diagnosis and evaluation of the existence of any 36  
heart disease, cardiovascular disease, or respiratory disease. The 37  
rules shall specify the form of the physician's report and the 38  
information to be included in it. 39

The board shall notify all employers of the establishment of 40  
the minimum standards or procedures and shall include with the 41  
notice a copy of the standards or procedures. The board shall 42  
notify all employers of any changes made to the standards or 43  
procedures. Once the standards or procedures take effect, 44  
employers shall cause each prospective member of the fund to 45  
submit to a physical examination that incorporates the standards 46  
or procedures. 47

(2) Division (A)(2) of this section applies to an employee 48  
who becomes a member of the fund on or after the date the minimum 49  
standards or procedures described in division (A)(1) of this 50

section take effect. For each employee described in division 51  
(A)(2) of this section, the employer shall forward to the board a 52  
copy of the physician's report of a physical examination that 53  
incorporates the standards or procedures described in division 54  
(A)(1) of this section. If an employer fails to forward the report 55  
in the form required by the board on or before the date that is 56  
sixty days after the employee becomes a member of the fund, the 57  
board shall assess against the employer a penalty determined under 58  
section 742.353 of the Revised Code. 59

(B) Application for a disability benefit may be made by a 60  
member of the fund or, if the member is incapacitated as defined 61  
in rules adopted by the board, by a person acting on the member's 62  
behalf. Not later than fourteen days after receiving an 63  
application for a disability benefit from a member or a person 64  
acting on behalf of a member, the board shall notify the member's 65  
employer that an application has been filed. The notice shall 66  
state the member's position or rank. Not later than twenty-eight 67  
days after receiving the notice or filing an application on behalf 68  
of a member, the employer shall forward to the board a statement 69  
certifying the member's job description and any other information 70  
required by the board to process the application. 71

If the member applying for a disability benefit becomes a 72  
member of the fund prior to the date the minimum standards or 73  
procedures described in division (A)(1) of this section take 74  
effect, the board may request from the member's employer a copy of 75  
the physician's report of the member's physical examination taken 76  
on entry into the police or fire department or, if the employer 77  
does not have a copy of the report, a written statement certifying 78  
that the employer does not have a copy of the report. If an 79  
employer fails to forward the report or statement in the form 80  
required by the board on or before the date that is twenty-eight 81  
days after the date of the request, the board shall assess against 82

the employer a penalty determined under section 742.353 of the Revised Code. The board shall maintain the information submitted under this division and division (A)(2) of this section in the member's file.

(C) For purposes of determining under division (D) of this section whether a member of the fund is disabled, the board shall adopt rules establishing objective criteria under which the board shall make the determination. The rules shall include standards that provide for all of the following:

(1) Evaluating a member's illness or injury on which an application for disability benefits is based;

(2) Defining the occupational duties of a police officer or firefighter;

(3) Providing for the board to assign competent and disinterested physicians and vocational evaluators to conduct examinations of a member;

(4) Requiring a written report for each disability application that includes a summary of findings, medical opinions, including an opinion on whether the illness or injury upon which the member's application for disability benefits is based was caused or induced by the actual performance of the member's official duties, and any recommendations or comments based on the medical opinions;

(5) Providing for the board to consider the member's potential for retraining or reemployment.

(D) This division does not apply to members of the fund who have elected to receive benefits and pensions in accordance with division (A) or (B) of section 742.37 of the Revised Code or from a police relief and pension fund or a firemen's relief and pension fund in accordance with the rules of that fund in force on April 1, 1947.

As used in this division:	114
"Totally disabled" means a member of the fund is unable to perform the duties of any gainful occupation for which the member is reasonably fitted by training, experience, and accomplishments. Absolute helplessness is not a prerequisite of being totally disabled.	115 116 117 118 119
"Permanently disabled" means a condition of disability from which there is no present indication of recovery.	120 121
"Hazardous duty" has the same meaning as in 5 C.F.R. 550.902, as amended.	122 123
(1) A member of the fund who is permanently and totally disabled as the result of the performance of the member's official duties as a member of a police or fire department shall be paid annual disability benefits in accordance with division (A) of section 742.39 of the Revised Code. In determining whether a member of the fund is permanently and totally disabled, the board shall consider standards adopted under division (C) of this section applicable to the determination.	124 125 126 127 128 129 130 131
(2) A member of the fund who is permanently and partially disabled as the result of the performance of the member's official duties as a member of a police or fire department shall, if the disability prevents the member from performing those duties and impairs the member's earning capacity, receive annual disability benefits in accordance with division (B) of section 742.39 of the Revised Code. In determining whether a member of the fund is permanently and partially disabled, the board shall consider standards adopted under division (C) of this section applicable to the determination.	132 133 134 135 136 137 138 139 140 141
(3)(a) A member of the fund who is permanently disabled as a result of heart disease or any cardiovascular or respiratory disease of a chronic nature, which disease or any evidence of	142 143 144

which disease was not revealed by the physical examination passed 145  
by the member on entry into the department or another examination 146  
specified in rules the board adopts under section 742.10 of the 147  
Revised Code, is presumed to have incurred the disease while 148  
performing the member's official duties, unless the contrary is 149  
shown by competent evidence. The board may waive the requirement 150  
that the absence of disease be evidenced by a physical examination 151  
if competent medical evidence of a type specified in rules adopted 152  
under section 742.10 of the Revised Code is submitted documenting 153  
that the disease was not evident prior to or at the time of entry 154  
into the department. 155

(b) A member of the fund who is a member of a fire 156  
department, has been assigned to at least six years of hazardous 157  
duty as a member of a fire department, and is disabled as a result 158  
of cancer, is presumed to have incurred the cancer while 159  
performing the member's official duties if the member was exposed 160  
to an agent classified by the international agency for research on 161  
cancer or its successor agency as a group 1 or 2A carcinogen. 162

(c) The presumption described in division (D)(3)(b) of this 163  
section is rebuttable in any of the following situations: 164

(i) There is evidence that the member incurred the type of 165  
cancer being alleged before becoming a member of the department. 166

(ii) There is evidence that the member's exposure, outside 167  
the scope of the member's official duties, to cigarettes, tobacco 168  
products, or other conditions presenting an extremely high risk 169  
for the development of the cancer alleged, was probably a 170  
significant factor in the cause or progression of the cancer. 171

(iii) There is evidence that shows, by a preponderance of 172  
competent scientific evidence, that exposure to the type of 173  
carcinogen alleged did not or could not have caused the cancer 174  
being alleged. 175

(iv) There is evidence that the member was not exposed to an agent classified by the international agency for research on cancer or its successor agency as a group 1 or 2A carcinogen.

~~(iv)~~(v) The member is seventy years of age or older.

(d) The presumption described in division (D)(3)(b) of this section does not apply if it has been more than ~~twenty~~ fifteen years since the member was last assigned to hazardous duty as a member of a fire department.

(4) A member of the fund who has five or more years of service credit and has incurred a permanent disability not caused or induced by the actual performance of the member's official duties as a member of the department, or by the member's own negligence, shall if the disability prevents the member from performing those duties and impairs the member's earning capacity, receive annual disability benefits in accordance with division (C) of section 742.39 of the Revised Code. In determining whether a member of the fund is permanently disabled, the board shall consider standards adopted under division (C) of this section applicable to the determination.

(5) The board shall notify a member of its final action awarding a disability benefit to the member within thirty days of the final action. The notice shall be sent by certified mail, return receipt requested. Not later than ninety days after receipt of notice from the board, the member shall elect, on a form provided by the board, either to accept or waive the disability benefit award. If the member elects to waive the disability benefit award or fails to make an election within the time period, the award is rescinded. A member who later seeks a disability benefit award shall be required to make a new application, which shall be dealt with in accordance with the procedures used for original disability benefit applications.

A person is not eligible to apply for or receive disability 207  
benefits under this division, section 742.39 of the Revised Code, 208  
or division (C)(2), (3), (4), or (5) of former section 742.37 of 209  
the Revised Code unless the person is a member of the fund on the 210  
date on which the application for disability benefits is submitted 211  
to the fund. 212

With the exception of persons who may make application for 213  
increased benefits as provided in division (D)(2) or (4) of this 214  
section or division (C)(3) or (5) of former section 742.37 of the 215  
Revised Code on or after July 24, 1986, or persons who may make 216  
application for benefits as provided in section 742.26 of the 217  
Revised Code, no person receiving a pension or benefit under this 218  
section or division (C) of former section 742.37 of the Revised 219  
Code may apply for any new, changed, or different benefit. 220

(E) Notwithstanding the requirement of section 742.41 of the 221  
Revised Code that all medical reports and recommendations required 222  
are privileged, the board shall submit to the administrator of 223  
workers' compensation any data necessary for the report required 224  
under section 4123.86 of the Revised Code. 225

Sec. 2307.82. (A) As used in this section, "employer," 226  
"illegal alien," "occupational disease," and "unauthorized alien" 227  
have the same meanings as in section 4123.01 of the Revised Code. 228

(B) Except as provided in division (C) of this section, no 229  
court in this state has jurisdiction over a claim for damages 230  
suffered by an illegal alien or an unauthorized alien by reason of 231  
personal injury sustained or occupational disease contracted by 232  
the illegal alien or unauthorized alien in the course of 233  
employment caused by the wrongful act or omission or neglect of 234  
the employer. Except as provided in division (C) of this section, 235  
an illegal alien or unauthorized alien assumes the risk of 236  
incurring such injury or contracting an occupational disease, and 237



that assumption is a complete bar to a recovery of damages for 238  
such injury or occupational disease. 239

(C) A court in this state has jurisdiction over a claim 240  
brought by an illegal alien or unauthorized alien against an 241  
employer for damages suffered by reason of personal injury 242  
sustained or occupational disease contracted in the course of 243  
employment caused by the wrongful act or omission or neglect of 244  
the employer if the illegal alien or unauthorized alien 245  
establishes, by clear and convincing evidence, that the employer 246  
hired the illegal alien or unauthorized alien knowing that the 247  
illegal alien or unauthorized alien was not authorized to work 248  
under section 101(a) of the "Immigration Reform and Control Act of 249  
1986," 100 Stat. 3360, 8 U.S.C. 1324a. There is a rebuttable 250  
presumption that an employer did not hire a person knowing the 251  
person was an illegal alien or unauthorized alien if the employer 252  
has complied with the requirements of section 101(a) of the 253  
"Immigration Reform and Control Act of 1986," 100 Stat. 3360, 8 254  
U.S.C. 1324a. 255

Nothing in this section shall be construed to prevent an 256  
illegal alien or an unauthorized alien from bringing a claim 257  
against an employer in a court of competent jurisdiction for an 258  
intentional tort allegedly committed by the employer against the 259  
illegal alien or unauthorized alien. 260

**Sec. 2743.02.** (A)(1) The state hereby waives its immunity 261  
from liability, except as provided for the office of the state 262  
fire marshal in division (G)(1) of section 9.60 and division (B) 263  
of section 3737.221 of the Revised Code, except as provided in 264  
division (I) of this section, and subject to division (H) of this 265  
section, and consents to be sued, and have its liability 266  
determined, in the court of claims created in this chapter in 267  
accordance with the same rules of law applicable to suits between 268

private parties, except that the determination of liability is 269  
subject to the limitations set forth in this chapter and, in the 270  
case of state universities or colleges, in section 3345.40 of the 271  
Revised Code, and except as provided in division (A)(2) or (3) of 272  
this section. To the extent that the state has previously 273  
consented to be sued, this chapter has no applicability. 274

Except in the case of a civil action filed by the state, 275  
filing a civil action in the court of claims results in a complete 276  
waiver of any cause of action, based on the same act or omission, 277  
that the filing party has against any officer or employee, as 278  
defined in section 109.36 of the Revised Code. The waiver shall be 279  
void if the court determines that the act or omission was 280  
manifestly outside the scope of the officer's or employee's office 281  
or employment or that the officer or employee acted with malicious 282  
purpose, in bad faith, or in a wanton or reckless manner. 283

(2) If a claimant proves in the court of claims that an 284  
officer or employee, as defined in section 109.36 of the Revised 285  
Code, would have personal liability for the officer's or 286  
employee's acts or omissions but for the fact that the officer or 287  
employee has personal immunity under section 9.86 of the Revised 288  
Code, the state shall be held liable in the court of claims in any 289  
action that is timely filed pursuant to section 2743.16 of the 290  
Revised Code and that is based upon the acts or omissions. 291

(3)(a) Except as provided in division (A)(3)(b) of this 292  
section, the state is immune from liability in any civil action or 293  
proceeding involving the performance or nonperformance of a public 294  
duty, including the performance or nonperformance of a public duty 295  
that is owed by the state in relation to any action of an 296  
individual who is committed to the custody of the state. 297

(b) The state immunity provided in division (A)(3)(a) of this 298  
section does not apply to any action of the state under 299  
circumstances in which a special relationship can be established 300

between the state and an injured party. A special relationship 301  
under this division is demonstrated if all of the following 302  
elements exist: 303

(i) An assumption by the state, by means of promises or 304  
actions, of an affirmative duty to act on behalf of the party who 305  
was allegedly injured; 306

(ii) Knowledge on the part of the state's agents that 307  
inaction of the state could lead to harm; 308

(iii) Some form of direct contact between the state's agents 309  
and the injured party; 310

(iv) The injured party's justifiable reliance on the state's 311  
affirmative undertaking. 312

(B) The state hereby waives the immunity from liability of 313  
all hospitals owned or operated by one or more political 314  
subdivisions and consents for them to be sued, and to have their 315  
liability determined, in the court of common pleas, in accordance 316  
with the same rules of law applicable to suits between private 317  
parties, subject to the limitations set forth in this chapter. 318  
This division is also applicable to hospitals owned or operated by 319  
political subdivisions that have been determined by the supreme 320  
court to be subject to suit prior to July 28, 1975. 321

(C) Any hospital, as defined in section 2305.113 of the 322  
Revised Code, may purchase liability insurance covering its 323  
operations and activities and its agents, employees, nurses, 324  
interns, residents, staff, and members of the governing board and 325  
committees, and, whether or not such insurance is purchased, may, 326  
to the extent that its governing board considers appropriate, 327  
indemnify or agree to indemnify and hold harmless any such person 328  
against expense, including attorney's fees, damage, loss, or other 329  
liability arising out of, or claimed to have arisen out of, the 330  
death, disease, or injury of any person as a result of the 331

negligence, malpractice, or other action or inaction of the 332  
indemnified person while acting within the scope of the 333  
indemnified person's duties or engaged in activities at the 334  
request or direction, or for the benefit, of the hospital. Any 335  
hospital electing to indemnify those persons, or to agree to so 336  
indemnify, shall reserve any funds that are necessary, in the 337  
exercise of sound and prudent actuarial judgment, to cover the 338  
potential expense, fees, damage, loss, or other liability. The 339  
superintendent of insurance may recommend, or, if the hospital 340  
requests the superintendent to do so, the superintendent shall 341  
recommend, a specific amount for any period that, in the 342  
superintendent's opinion, represents such a judgment. This 343  
authority is in addition to any authorization otherwise provided 344  
or permitted by law. 345

(D) Recoveries against the state shall be reduced by the 346  
aggregate of insurance proceeds, disability award, or other 347  
collateral recovery received by the claimant. This division does 348  
not apply to civil actions in the court of claims against a state 349  
university or college under the circumstances described in section 350  
3345.40 of the Revised Code. The collateral benefits provisions of 351  
division (B)(2) of that section apply under those circumstances. 352

(E) The only defendant in original actions in the court of 353  
claims is the state. The state may file a third-party complaint or 354  
counterclaim in any civil action, except a civil action for ten 355  
thousand dollars or less, that is filed in the court of claims. 356

(F) A civil action against an officer or employee, as defined 357  
in section 109.36 of the Revised Code, that alleges that the 358  
officer's or employee's conduct was manifestly outside the scope 359  
of the officer's or employee's employment or official 360  
responsibilities, or that the officer or employee acted with 361  
malicious purpose, in bad faith, or in a wanton or reckless manner 362  
shall first be filed against the state in the court of claims that 363

has exclusive, original jurisdiction to determine, initially, 364  
whether the officer or employee is entitled to personal immunity 365  
under section 9.86 of the Revised Code and whether the courts of 366  
common pleas have jurisdiction over the civil action. The officer 367  
or employee may participate in the immunity determination 368  
proceeding before the court of claims to determine whether the 369  
officer or employee is entitled to personal immunity under section 370  
9.86 of the Revised Code. 371

The filing of a claim against an officer or employee under 372  
this division tolls the running of the applicable statute of 373  
limitations until the court of claims determines whether the 374  
officer or employee is entitled to personal immunity under section 375  
9.86 of the Revised Code. 376

(G) If a claim lies against an officer or employee who is a 377  
member of the Ohio national guard, and the officer or employee 378  
was, at the time of the act or omission complained of, subject to 379  
the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 U.S.C. 380  
2671, et seq., the Federal Tort Claims Act is the exclusive remedy 381  
of the claimant and the state has no liability under this section. 382

(H) If an inmate of a state correctional institution has a 383  
claim against the state for the loss of or damage to property and 384  
the amount claimed does not exceed three hundred dollars, before 385  
commencing an action against the state in the court of claims, the 386  
inmate shall file a claim for the loss or damage under the rules 387  
adopted by the director of rehabilitation and correction pursuant 388  
to this division. The inmate shall file the claim within the time 389  
allowed for commencement of a civil action under section 2743.16 390  
of the Revised Code. If the state admits or compromises the claim, 391  
the director shall make payment from a fund designated by the 392  
director for that purpose. If the state denies the claim or does 393  
not compromise the claim at least sixty days prior to expiration 394  
of the time allowed for commencement of a civil action based upon 395

the loss or damage under section 2743.16 of the Revised Code, the 396  
inmate may commence an action in the court of claims under this 397  
chapter to recover damages for the loss or damage. 398

The director of rehabilitation and correction shall adopt 399  
rules pursuant to Chapter 119. of the Revised Code to implement 400  
this division. 401

(I) The state is not liable in any civil action brought by or 402  
on behalf of an illegal alien or an unauthorized alien for damages 403  
suffered by reason of personal injury sustained or occupational 404  
disease contracted in the course of employment caused by the 405  
wrongful act or omission or neglect of the state acting as an 406  
employer unless the illegal alien or unauthorized alien 407  
establishes, by clear and convincing evidence, that the state 408  
hired that illegal alien or unauthorized alien knowing that the 409  
illegal alien or unauthorized alien was not authorized to work 410  
under section 101(a) of the "Immigration Reform and Control Act of 411  
1986," 100 Stat. 3360, 8 U.S.C. 1324a. There is a rebuttable 412  
presumption that the state did not hire a person knowing the 413  
person was an illegal alien or unauthorized alien if the state has 414  
complied with the requirements of section 101(a) of the 415  
"Immigration Reform and Control Act of 1986," 100 Stat. 3360, 8 416  
U.S.C. 1324a. 417

As used in this division, "illegal alien," "occupational 418  
disease," and "unauthorized alien" have the same meanings as in 419  
section 4123.01 of the Revised Code. 420

**Sec. 2744.02.** (A)(1) For the purposes of this chapter, the 421  
functions of political subdivisions are hereby classified as 422  
governmental functions and proprietary functions. Except as 423  
provided in division (B) of this section, a political subdivision 424  
is not liable in damages in a civil action for injury, death, or 425  
loss to person or property allegedly caused by any act or omission 426

of the political subdivision or an employee of the political 427  
subdivision in connection with a governmental or proprietary 428  
function. A political subdivision is not liable in any civil 429  
action brought by or on behalf of an illegal alien or an 430  
unauthorized alien for damages suffered by reason of personal 431  
injury sustained or occupational disease contracted in the course 432  
of employment caused by the wrongful act or omission or neglect of 433  
the political subdivision acting as an employer unless the illegal 434  
alien or unauthorized alien establishes, by clear and convincing 435  
evidence, that the political subdivision hired that illegal alien 436  
or unauthorized alien knowing that the illegal alien or 437  
unauthorized alien was not authorized to work under section 101(a) 438  
of the "Immigration Reform and Control Act of 1986," 100 Stat. 439  
3360, 8 U.S.C. 1324a. There is a rebuttable presumption that a 440  
political subdivision did not hire a person knowing the person was 441  
an illegal alien or unauthorized alien if the political 442  
subdivision has complied with the requirements of section 101(a) 443  
of the "Immigration Reform and Control Act of 1986," 100 Stat. 444  
3360, 8 U.S.C. 1324a. 445

As used in this division, "illegal alien," "occupational 446  
disease," and "unauthorized alien" have the same meanings as in 447  
section 4123.01 of the Revised Code. 448

(2) The defenses and immunities conferred under this chapter 449  
apply in connection with all governmental and proprietary 450  
functions performed by a political subdivision and its employees, 451  
whether performed on behalf of that political subdivision or on 452  
behalf of another political subdivision. 453

(3) Subject to statutory limitations upon their monetary 454  
jurisdiction, the courts of common pleas, the municipal courts, 455  
and the county courts have jurisdiction to hear and determine 456  
civil actions governed by or brought pursuant to this chapter. 457

(B) Subject to sections 2744.03 and 2744.05 of the Revised 458

Code, a political subdivision is liable in damages in a civil 459  
action for injury, death, or loss to person or property allegedly 460  
caused by an act or omission of the political subdivision or of 461  
any of its employees in connection with a governmental or 462  
proprietary function, as follows: 463

(1) Except as otherwise provided in this division, political 464  
subdivisions are liable for injury, death, or loss to person or 465  
property caused by the negligent operation of any motor vehicle by 466  
their employees when the employees are engaged within the scope of 467  
their employment and authority. The following are full defenses to 468  
that liability: 469

(a) A member of a municipal corporation police department or 470  
any other police agency was operating a motor vehicle while 471  
responding to an emergency call and the operation of the vehicle 472  
did not constitute willful or wanton misconduct; 473

(b) A member of a municipal corporation fire department or 474  
any other firefighting agency was operating a motor vehicle while 475  
engaged in duty at a fire, proceeding toward a place where a fire 476  
is in progress or is believed to be in progress, or answering any 477  
other emergency alarm and the operation of the vehicle did not 478  
constitute willful or wanton misconduct; 479

(c) A member of an emergency medical service owned or 480  
operated by a political subdivision was operating a motor vehicle 481  
while responding to or completing a call for emergency medical 482  
care or treatment, the member was holding a valid commercial 483  
driver's license issued pursuant to Chapter 4506. or a driver's 484  
license issued pursuant to Chapter 4507. of the Revised Code, the 485  
operation of the vehicle did not constitute willful or wanton 486  
misconduct, and the operation complies with the precautions of 487  
section 4511.03 of the Revised Code. 488

(2) Except as otherwise provided in sections 3314.07 and 489



3746.24 of the Revised Code, political subdivisions are liable for 490  
injury, death, or loss to person or property caused by the 491  
negligent performance of acts by their employees with respect to 492  
proprietary functions of the political subdivisions. 493

(3) Except as otherwise provided in section 3746.24 of the 494  
Revised Code, political subdivisions are liable for injury, death, 495  
or loss to person or property caused by their negligent failure to 496  
keep public roads in repair and other negligent failure to remove 497  
obstructions from public roads, except that it is a full defense 498  
to that liability, when a bridge within a municipal corporation is 499  
involved, that the municipal corporation does not have the 500  
responsibility for maintaining or inspecting the bridge. 501

(4) Except as otherwise provided in section 3746.24 of the 502  
Revised Code, political subdivisions are liable for injury, death, 503  
or loss to person or property that is caused by the negligence of 504  
their employees and that occurs within or on the grounds of, and 505  
is due to physical defects within or on the grounds of, buildings 506  
that are used in connection with the performance of a governmental 507  
function, including, but not limited to, office buildings and 508  
courthouses, but not including jails, places of juvenile 509  
detention, workhouses, or any other detention facility, as defined 510  
in section 2921.01 of the Revised Code. 511

(5) In addition to the circumstances described in divisions 512  
(B)(1) to (4) of this section, a political subdivision is liable 513  
for injury, death, or loss to person or property when civil 514  
liability is expressly imposed upon the political subdivision by a 515  
section of the Revised Code, including, but not limited to, 516  
sections 2743.02 and 5591.37 of the Revised Code. Civil liability 517  
shall not be construed to exist under another section of the 518  
Revised Code merely because that section imposes a responsibility 519  
or mandatory duty upon a political subdivision, because that 520  
section provides for a criminal penalty, because of a general 521

authorization in that section that a political subdivision may sue 522  
and be sued, or because that section uses the term "shall" in a 523  
provision pertaining to a political subdivision. 524

(C) An order that denies a political subdivision or an 525  
employee of a political subdivision the benefit of an alleged 526  
immunity from liability as provided in this chapter or any other 527  
provision of the law is a final order. 528

**Sec. 4113.21.** (A) No private employer shall require any 529  
prospective employee or applicant for employment to pay the cost 530  
of a medical examination required by the employer as a condition 531  
of employment. 532

(B) No public employer shall require any employee, 533  
prospective employee, or applicant for employment to pay the cost 534  
of a medical examination required by the public employer as a 535  
condition of employment or continued employment. 536

(C) As used in this section: 537

~~(A)~~ Employer (1) "Private employer" means any individual, 538  
partnership, trust, estate, joint-stock company, insurance 539  
company, common carrier, public utility, or corporation, whether 540  
domestic or foreign, or the receiver, trustee in bankruptcy, 541  
trustee, or the successor thereof, who has in employment three or 542  
more individuals at any one time within a calendar year. 543

~~(B)~~ (2) "Public employer" means the United States, the state, 544  
any political subdivision of the state, and any agency of the 545  
United States, the state, or a political subdivision of the state. 546

(3) "Employee" means any person who may be permitted, 547  
required, or directed by any employer in consideration of direct 548  
or indirect gain or profit, to engage in any employment. 549

(D) Any employer who violates this section shall forfeit not 550  
more than one hundred dollars for each violation. The bureau of 551

workers' compensation and the public utilities commission shall 552  
enforce this section. 553

**Sec. 4121.125.** (A) The bureau of workers' compensation board 554  
of directors, based upon recommendations of the workers' 555  
compensation actuarial committee, may contract with one or more 556  
outside actuarial firms and other professional persons, as the 557  
board determines necessary, to assist the board in ~~measuring~~ 558  
maintaining and monitoring the performance of Ohio's workers' 559  
compensation system ~~and in comparing Ohio's workers' compensation~~ 560  
~~system to other state and private workers' compensation systems.~~ 561  
The board, actuarial firm or firms, and professional persons shall 562  
~~make such measurements and comparisons~~ perform analyses using 563  
accepted insurance industry standards, including, but not limited 564  
to, standards promulgated by the actuarial standards board of the 565  
American academy of actuaries or techniques used by the National 566  
Council on Compensation Insurance. 567

(B) The board may contract with one or more outside firms to 568  
conduct management and financial audits of the workers' 569  
compensation system, including ~~audits~~ analyses of the reserve fund 570  
belonging to the state insurance fund, and to establish objective 571  
quality management principles and methods by which to review the 572  
performance of the workers' compensation system. 573

(C) The board shall do all of the following: 574

(1) Contract to have prepared annually by or under the 575  
supervision of an actuary a report that meets the requirements 576  
specified under division (E) of this section and that consists of 577  
an actuarial ~~valuation of the assets,~~ estimate of the unpaid 578  
~~liabilities, and funding requirements~~ of the state insurance fund 579  
and all other funds specified in this chapter and Chapters 4123., 580  
4127., and 4131. of the Revised Code; 581

(2) Require that the actuary or person supervised by an 582

actuary referred to in division (C)(1) of this section complete 583  
the ~~valuation~~ estimate of unpaid liabilities in accordance with 584  
the actuarial standards of practice promulgated by the actuarial 585  
standards board of the American academy of actuaries; 586

(3) Submit the report referred to in division (C)(1) of this 587  
section to the standing committees of the house of representatives 588  
and the senate with primary responsibility for workers' 589  
compensation legislation on or before the first day of November 590  
following the year for which the ~~valuation~~ estimate of unpaid 591  
liabilities was made; 592

(4) Have an actuary or a person who provides actuarial 593  
services under the supervision of an actuary, at such time as the 594  
board determines, and at least once during the five-year period 595  
that commences on September 10, 2007, and once within each 596  
five-year period thereafter, conduct an actuarial ~~investigation of~~ 597  
~~the experience of employers,~~ analysis of the mortality, ~~service,~~ 598  
~~and injury rate of employees,~~ and the ~~payment of temporary total~~ 599  
~~disability, permanent partial disability,~~ experience used in 600  
estimating the future costs of awards for survivor benefits and 601  
permanent total disability under sections 4123.56 to 4123.58 of 602  
the Revised Code to be used in the experience rating of an 603  
employer for purposes of premium calculation and to update the 604  
~~actuarial assumptions~~ claim level reserves used in the report 605  
required by division (C)(1) of this section; 606

(5) Submit the report required under division (F) of this 607  
section to the standing committees of the house of representatives 608  
and the senate with primary responsibility for workers' 609  
compensation legislation not later than the first day of November 610  
following the fifth year of the period that the report covers; 611

(6) Have prepared by or under the supervision of an actuary 612  
an actuarial analysis of any introduced legislation expected to 613  
have a measurable financial impact on the workers' compensation 614

system; 615

(7) Submit the report required under division (G) of this 616  
section to the legislative service commission and the standing 617  
committees of the house of representatives and the senate with 618  
primary responsibility for workers' compensation legislation not 619  
later than sixty days after the date of introduction of the 620  
legislation. 621

(D) The administrator of workers' compensation and the 622  
industrial commission shall compile information and provide access 623  
to records of the bureau and the industrial commission to the 624  
board to the extent necessary for fulfillment of both of the 625  
following requirements: 626

(1) Conduct of the ~~measurements and comparisons~~ monitoring 627  
described in division (A) of this section; 628

(2) Conduct of the management and financial audits and 629  
establishment of the principles and methods described in division 630  
(B) of this section. 631

(E) The firm or person with whom the board contracts pursuant 632  
to division (C)(1) of this section shall prepare a report of the 633  
~~valuation~~ analysis of the unpaid liabilities and submit the report 634  
to the board. The firm or person shall include all of the 635  
following information in the report that is required under 636  
division (C)(1) of this section: 637

(1) A summary of the ~~compensation and benefit provisions~~ 638  
funds and components evaluated; 639

(2) A description of the actuarial methods and assumptions 640  
~~and actuarial cost method~~ used in the valuation analysis of the 641  
unpaid liabilities; 642

(3) A schedule showing the ~~effect~~ impact of ~~any~~ changes in 643  
the ~~compensation and benefit provisions, actuarial assumptions, or~~ 644

~~cost methods~~ estimates of the unpaid liabilities since the 645  
previous annual actuarial ~~valuation~~ analysis report was submitted 646  
to the board. 647

(F) The actuary or person whom the board designates to 648  
conduct an actuarial investigation under division (C)(4) of this 649  
section shall prepare a report of the actuarial investigation and 650  
shall submit the report to the board. The actuary or person shall 651  
prepare the report and make any recommended changes ~~in~~ to the 652  
actuarial mortality assumptions in accordance with the actuarial 653  
standards of practice promulgated by the actuarial standards board 654  
of the American academy of actuaries. ~~The actuary or person shall~~ 655  
~~include all of the following information in the report:~~ 656

~~(1) A summary of relevant decrement and economic assumption~~ 657  
~~experience;~~ 658

~~(2) Recommended changes in actuarial assumptions to be used~~ 659  
~~in subsequent actuarial valuations required by division (C)(1) of~~ 660  
~~this section;~~ 661

~~(3) A measurement of the financial effect of the recommended~~ 662  
~~changes in actuarial assumptions.~~ 663

(G) The actuary or person whom the board designates to 664  
conduct the actuarial analysis under division (C)(6) of this 665  
section shall prepare a report of the actuarial analysis and shall 666  
submit that report to the board. The actuary or person shall 667  
complete the analysis in accordance with the actuarial standards 668  
of practice promulgated by the actuarial standards board of the 669  
American academy of actuaries. The actuary or person shall include 670  
all of the following information in the report: 671

(1) A summary of the statutory changes being evaluated; 672

(2) A description of or reference to the actuarial 673  
assumptions and actuarial cost method used in the report; 674

~~(3) A description of the participant group or groups included  
in the report;~~ 675  
676

~~(4) A statement of the financial impact of the legislation,  
including the resulting increase, if any, in employer premiums,  
and in actuarial accrued current estimates of unpaid liabilities,  
and, if an increase in actuarial accrued liabilities is predicted,  
the per cent of premium increase that would be required to  
amortize the increase in those liabilities as a level per cent of  
employer premiums over a period not to exceed thirty years.~~ 677  
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~~(5) A statement of whether the employer premiums paid to the  
bureau of workers' compensation after the proposed change is  
enacted are expected to be sufficient to satisfy the funding  
objectives established by the board.~~ 684  
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(H) The board may, at any time, request an actuary to ~~make~~ 688  
~~any studies or~~ perform actuarial ~~valuations~~ analyses to determine 689  
the adequacy of the premium rates established by the administrator 690  
in accordance with sections 4123.29 and 4123.34 of the Revised 691  
Code, and may adjust those rates as recommended by the actuary. 692

(I) The board shall have an independent auditor, at least 693  
once every ten years, conduct a fiduciary performance audit of the 694  
investment program of the bureau of workers' compensation. That 695  
audit shall include an audit of the investment policies approved 696  
by the board and investment procedures of the bureau. The board 697  
shall submit a copy of that audit to the auditor of state. 698

(J) The administrator, with the advice and consent of the 699  
board, shall employ an internal auditor who shall report findings 700  
directly to the board, workers' compensation audit committee, and 701  
administrator, except that the internal auditor shall not report 702  
findings directly to the administrator when those findings involve 703  
malfeasance, misfeasance, or nonfeasance on the part of the 704  
administrator. The board and the workers' compensation audit 705

committee may request and review internal audits conducted by the 706  
internal auditor. 707

(K) The administrator shall pay the expenses incurred by the 708  
board to effectively fulfill its duties and exercise its powers 709  
under this section as the administrator pays other operating 710  
expenses of the bureau. 711

**Sec. 4121.44.** (A) The administrator of workers' compensation 712  
shall oversee the implementation of the Ohio workers' compensation 713  
qualified health plan system as established under section 4121.442 714  
of the Revised Code. 715

(B) The administrator shall direct the implementation of the 716  
health partnership program administered by the bureau as set forth 717  
in section 4121.441 of the Revised Code. To implement the health 718  
partnership program and to ensure the efficiency and effectiveness 719  
of the public services provided through the program, the bureau: 720

(1) Shall certify one or more external vendors, which shall 721  
be known as "managed care organizations," to provide medical 722  
management and cost containment services in the health partnership 723  
program for a period of two years beginning on the date of 724  
certification, consistent with the standards established under 725  
this section; 726

(2) May recertify managed care organizations for additional 727  
periods of two years; and 728

(3) May integrate the certified managed care organizations 729  
with bureau staff and existing bureau services for purposes of 730  
operation and training to allow the bureau to assume operation of 731  
the health partnership program at the conclusion of the 732  
certification periods set forth in division (B)(1) or (2) of this 733  
section; 734

(4) May enter into a contract with any managed care 735



organization that is certified by the bureau, pursuant to division 736  
(B)(1) or (2) of this section, to provide medical management and 737  
cost containment services in the health partnership program. 738

(C) A contract entered into pursuant to division (B)(4) of 739  
this section shall include both of the following: 740

(1) Incentives that may be awarded by the administrator, at 741  
the administrator's discretion, based on compliance and 742  
performance of the managed care organization; 743

(2) Penalties that may be imposed by the administrator, at 744  
the administrator's discretion, based on the failure of the 745  
managed care organization to reasonably comply with or perform 746  
terms of the contract, which may include termination of the 747  
contract. 748

(D) Notwithstanding section 119.061 of the Revised Code, a 749  
contract entered into pursuant to division (B)(4) of this section 750  
may include provisions limiting, restricting, or regulating any 751  
marketing or advertising by the managed care organization, or by 752  
any individual or entity that is affiliated with or acting on 753  
behalf of the managed care organization, under the health 754  
partnership program. 755

(E) No managed care organization shall receive compensation 756  
under the health partnership program unless the managed care 757  
organization has entered into a contract with the bureau pursuant 758  
to division (B)(4) of this section. 759

(F) Any managed care organization selected shall demonstrate 760  
all of the following: 761

(1) Arrangements and reimbursement agreements with a 762  
substantial number of the medical, professional and pharmacy 763  
providers currently being utilized by claimants. 764

(2) Ability to accept a common format of medical bill data in 765

an electronic fashion from any provider who wishes to submit 766  
medical bill data in that form. 767

(3) A computer system able to handle the volume of medical 768  
bills and willingness to customize that system to the bureau's 769  
needs and to be operated by the managed care organization's staff, 770  
bureau staff, or some combination of both staffs. 771

(4) A prescription drug system where pharmacies on a 772  
statewide basis have access to the eligibility and pricing, at a 773  
discounted rate, of all prescription drugs. 774

(5) A tracking system to record all telephone calls from 775  
claimants and providers regarding the status of submitted medical 776  
bills so as to be able to track each inquiry. 777

(6) Data processing capacity to absorb all of the bureau's 778  
medical bill processing or at least that part of the processing 779  
which the bureau arranges to delegate. 780

(7) Capacity to store, retrieve, array, simulate, and model 781  
in a relational mode all of the detailed medical bill data so that 782  
analysis can be performed in a variety of ways and so that the 783  
bureau and its governing authority can make informed decisions. 784

(8) Wide variety of software programs which translate medical 785  
terminology into standard codes, and which reveal if a provider is 786  
manipulating the procedures codes, commonly called "unbundling." 787

(9) Necessary professional staff to conduct, at a minimum, 788  
authorizations for treatment, medical necessity, utilization 789  
review, concurrent review, post-utilization review, and have the 790  
attendant computer system which supports such activity and 791  
measures the outcomes and the savings. 792

(10) Management experience and flexibility to be able to 793  
react quickly to the needs of the bureau in the case of required 794  
change in federal or state requirements. 795

(G)(1) The administrator may decertify a managed care organization if the managed care organization does any of the following:	796
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(a) Fails to maintain any of the requirements set forth in division (F) of this section;	799
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(b) Fails to reasonably comply with or to perform in accordance with the terms of a contract entered into under division (B)(4) of this section;	801
	802
	803
(c) Violates a rule adopted under section 4121.441 of the Revised Code.	804
	805
(2) The administrator shall provide each managed care organization that is being decertified pursuant to division (G)(1) of this section with written notice of the pending decertification and an opportunity for a hearing pursuant to rules adopted by the administrator.	806
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(H)(1) Information contained in a managed care organization's application for certification in the health partnership program, and other information furnished to the bureau by a managed care organization for purposes of obtaining certification or to comply with performance and financial auditing requirements established by the administrator, is for the exclusive use and information of the bureau in the discharge of its official duties, and shall not be open to the public or be used in any court in any proceeding pending therein, unless the bureau is a party to the action or proceeding, but the information may be tabulated and published by the bureau in statistical form for the use and information of other state departments and the public. No employee of the bureau, except as otherwise authorized by the administrator, shall divulge any information secured by the employee while in the employ of the bureau in respect to a managed care organization's application for certification or in respect to the business or other trade	811
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processes of any managed care organization to any person other 827  
than the administrator or to the employee's superior. 828

(2) Notwithstanding the restrictions imposed by division 829  
(H)(1) of this section, the governor, members of select or 830  
standing committees of the senate or house of representatives, the 831  
auditor of state, the attorney general, or their designees, 832  
pursuant to the authority granted in this chapter and Chapter 833  
4123. of the Revised Code, may examine any managed care 834  
organization application or other information furnished to the 835  
bureau by the managed care organization. None of those individuals 836  
shall divulge any information secured in the exercise of that 837  
authority in respect to a managed care organization's application 838  
for certification or in respect to the business or other trade 839  
processes of any managed care organization to any person. 840

(I) On and after January 1, 2001, a managed care organization 841  
shall not be an insurance company holding a certificate of 842  
authority issued pursuant to Title XXXIX of the Revised Code or a 843  
health insuring corporation holding a certificate of authority 844  
under Chapter 1751. of the Revised Code. 845

(J) The administrator may limit freedom of choice of health 846  
care provider or supplier by requiring, beginning with the period 847  
set forth in division (B)(1) or (2) of this section, that 848  
claimants shall pay an appropriate out-of-plan copayment for 849  
selecting a medical provider not within the health partnership 850  
program as provided for in this section. 851

(K) The administrator, six months prior to the expiration of 852  
the bureau's certification or recertification of the managed care 853  
organizations as set forth in division (B)(1) or (2) of this 854  
section, may certify and provide evidence to the governor, the 855  
speaker of the house of representatives, and the president of the 856  
senate that the existing bureau staff is able to match or exceed 857  
the performance and outcomes of the managed care organizations and 858

that the bureau should be permitted to internally administer the 859  
health partnership program upon the expiration of the 860  
certification or recertification as set forth in division (B)(1) 861  
or (2) of this section. 862

(L) The administrator shall establish and operate a bureau of 863  
workers' compensation health care data program. The administrator 864  
shall develop reporting requirements from all employees, 865  
employers, medical providers, managed care organizations, and 866  
plans that participate in the workers' compensation system. The 867  
administrator shall do all of the following: 868

(1) Utilize the collected data to measure and perform 869  
comparison analyses of costs, quality, appropriateness of medical 870  
care, and effectiveness of medical care delivered by all 871  
components of the workers' compensation system. 872

(2) Compile data to support activities of the selected 873  
managed care organizations and to measure the outcomes and savings 874  
of the health partnership program. 875

(3) Publish and report compiled data on the measures of 876  
outcomes and savings of the health partnership program and submit 877  
the report to the president of the senate, the speaker of the 878  
house of representatives, and the governor with the annual report 879  
prepared under division (F)(3) of section 4121.12 of the Revised 880  
Code. The administrator shall protect the confidentiality of all 881  
proprietary pricing data. 882

(M) Any rehabilitation facility the bureau operates is 883  
eligible for inclusion in the Ohio workers' compensation qualified 884  
health plan system or the health partnership program under the 885  
same terms as other providers within health care plans or the 886  
program. 887

(N) In areas outside the state or within the state where no 888  
qualified health plan or an inadequate number of providers within 889

the health partnership program exist, the administrator shall 890  
permit employees to use a nonplan or nonprogram health care 891  
provider and shall pay the provider for the services or supplies 892  
provided to or on behalf of an employee for an injury or 893  
occupational disease that is compensable under this chapter or 894  
Chapter 4123., 4127., or 4131. of the Revised Code on a fee 895  
schedule the administrator adopts. 896

(O) No health care provider, whether certified or not, shall 897  
charge, assess, or otherwise attempt to collect from an employee, 898  
employer, a managed care organization, or the bureau any amount 899  
for covered services or supplies that is in excess of the allowed 900  
amount paid by a managed care organization, the bureau, or a 901  
qualified health plan. 902

(P) The administrator shall permit any employer or group of 903  
employers who agree to abide by the rules adopted under this 904  
section and sections 4121.441 and 4121.442 of the Revised Code to 905  
provide services or supplies to or on behalf of an employee for an 906  
injury or occupational disease that is compensable under this 907  
chapter or Chapter 4123., 4127., or 4131. of the Revised Code 908  
through qualified health plans of the Ohio workers' compensation 909  
qualified health plan system pursuant to section 4121.442 of the 910  
Revised Code or through the health partnership program pursuant to 911  
section 4121.441 of the Revised Code. No amount paid under the 912  
qualified health plan system pursuant to section 4121.442 of the 913  
Revised Code by an employer who is a state fund employer shall be 914  
charged to the employer's experience or otherwise be used in 915  
merit-rating or determining the risk of that employer for the 916  
purpose of the payment of premiums under this chapter, and if the 917  
employer is a self-insuring employer, the employer shall not 918  
include that amount in the paid compensation the employer reports 919  
under section 4123.35 of the Revised Code. 920

(O) The administrator, in consultation with the health care 921

quality assurance advisory committee created by the administrator 922  
or its successor committee, shall develop and periodically revise 923  
standards for maintaining an adequate number of providers 924  
certified by the bureau for each service currently being used by 925  
claimants. The standards shall ensure both of the following: 926

(1) That a claimant has access to a choice of providers for 927  
similar services within the geographic area that the claimant 928  
resides; 929

(2) That the providers within a geographic area are actively 930  
accepting new claimants as required in rules adopted by the 931  
administrator. 932

**Sec. 4123.01.** As used in this chapter: 933

(A)(1) "Employee" means: 934

(a) Every person in the service of the state, or of any 935  
county, municipal corporation, township, or school district 936  
therein, including regular members of lawfully constituted police 937  
and fire departments of municipal corporations and townships, 938  
whether paid or volunteer, and wherever serving within the state 939  
or on temporary assignment outside thereof, and executive officers 940  
of boards of education, under any appointment or contract of hire, 941  
express or implied, oral or written, including any elected 942  
official of the state, or of any county, municipal corporation, or 943  
township, or members of boards of education. 944

As used in division (A)(1)(a) of this section, the term 945  
"employee" includes the following persons when responding to an 946  
inherently dangerous situation that calls for an immediate 947  
response on the part of the person, regardless of whether the 948  
person is within the limits of the jurisdiction of the person's 949  
regular employment or voluntary service when responding, on the 950  
condition that the person responds to the situation as the person 951

otherwise would if the person were on duty in the person's	952
jurisdiction:	953
(i) Off-duty peace officers. As used in division (A)(1)(a)(i)	954
of this section, "peace officer" has the same meaning as in	955
section 2935.01 of the Revised Code.	956
(ii) Off-duty firefighters, whether paid or volunteer, of a	957
lawfully constituted fire department.	958
(iii) Off-duty first responders, emergency medical	959
technicians-basic, emergency medical technicians-intermediate, or	960
emergency medical technicians-paramedic, whether paid or	961
volunteer, of an ambulance service organization or emergency	962
medical service organization pursuant to Chapter 4765. of the	963
Revised Code.	964
(b) Every person in the service of any person, firm, or	965
private corporation, including any public service corporation,	966
that (i) employs one or more persons regularly in the same	967
business or in or about the same establishment under any contract	968
of hire, express or implied, oral or written, including aliens <del>and</del>	969
<u>authorized to work by the United States department of homeland</u>	970
<u>security or its successors;</u> minors <sub>7</sub> ; household workers who earn	971
one hundred sixty dollars or more in cash in any calendar quarter	972
from a single household <sub>i</sub> and casual workers who earn one hundred	973
sixty dollars or more in cash in any calendar quarter from a	974
single employer <sub>7</sub> ; or (ii) is bound by any such contract of hire or	975
by any other written contract, to pay into the state insurance	976
fund the premiums provided by this chapter.	977
(c) Every person who performs labor or provides services	978
pursuant to a construction contract, as defined in section 4123.79	979
of the Revised Code, if at least ten of the following criteria	980
apply:	981
(i) The person is required to comply with instructions from	982



the other contracting party regarding the manner or method of performing services;	983 984
(ii) The person is required by the other contracting party to have particular training;	985 986
(iii) The person's services are integrated into the regular functioning of the other contracting party;	987 988
(iv) The person is required to perform the work personally;	989
(v) The person is hired, supervised, or paid by the other contracting party;	990 991
(vi) A continuing relationship exists between the person and the other contracting party that contemplates continuing or recurring work even if the work is not full time;	992 993 994
(vii) The person's hours of work are established by the other contracting party;	995 996
(viii) The person is required to devote full time to the business of the other contracting party;	997 998
(ix) The person is required to perform the work on the premises of the other contracting party;	999 1000
(x) The person is required to follow the order of work set by the other contracting party;	1001 1002
(xi) The person is required to make oral or written reports of progress to the other contracting party;	1003 1004
(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;	1005 1006
(xiii) The person's expenses are paid for by the other contracting party;	1007 1008
(xiv) The person's tools and materials are furnished by the other contracting party;	1009 1010
(xv) The person is provided with the facilities used to	1011

perform services;	1012
(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;	1013 1014
(xvii) The person is not performing services for a number of employers at the same time;	1015 1016
(xviii) The person does not make the same services available to the general public;	1017 1018
(xix) The other contracting party has a right to discharge the person;	1019 1020
(xx) The person has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.	1021 1022 1023
Every person in the service of any independent contractor or subcontractor who has failed to pay into the state insurance fund the amount of premium determined and fixed by the administrator of workers' compensation for the person's employment or occupation or if a self-insuring employer has failed to pay compensation and benefits directly to the employer's injured and to the dependents of the employer's killed employees as required by section 4123.35 of the Revised Code, shall be considered as the employee of the person who has entered into a contract, whether written or verbal, with such independent contractor unless such employees or their legal representatives or beneficiaries elect, after injury or death, to regard such independent contractor as the employer.	1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035
(2) "Employee" does not mean any of the following:	1036
(a) A duly ordained, commissioned, or licensed minister or assistant or associate minister of a church in the exercise of ministry;	1037 1038 1039
(b) Any officer of a family farm corporation;	1040
(c) An individual incorporated as a corporation;	1041

(d) An officer of a nonprofit corporation, as defined in 1042  
section 1702.01 of the Revised Code, who volunteers the person's 1043  
services as a an officer; 1044

(e) An individual who otherwise is an employee of an employer 1045  
but who signs the waiver and affidavit specified in section 1046  
4123.15 of the Revised Code on the condition that the 1047  
administrator has granted a waiver and exception to the 1048  
individual's employer under section 4123.15 of the Revised Code; 1049

(f) An illegal alien or an unauthorized alien. 1050

Any employer may elect to include as an "employee" within 1051  
this chapter, any person excluded from the definition of 1052  
"employee" pursuant to division (A)(2)(a), (b), (c), or (e) of 1053  
this section in accordance with rules adopted by the 1054  
administrator, with the advice and consent of the bureau of 1055  
workers' compensation board of directors. If an employer is a 1056  
partnership, sole proprietorship, individual incorporated as a 1057  
corporation, or family farm corporation, such employer may elect 1058  
to include as an "employee" within this chapter, any member of 1059  
such partnership, the owner of the sole proprietorship, the 1060  
individual incorporated as a corporation, or the officers of the 1061  
family farm corporation. Nothing in this section shall prohibit a 1062  
partner, sole proprietor, or any person excluded from the 1063  
definition of "employee" pursuant to division (A)(2)(a), (b), (c), 1064  
or (e) of this section from electing to be included as an 1065  
"employee" under this chapter in accordance with rules adopted by 1066  
the administrator, with the advice and consent of the board. 1067

In the event of an election, the employer or person electing 1068  
coverage shall serve upon the bureau of workers' compensation 1069  
written notice naming the person to be covered and include the 1070  
person's remuneration for premium purposes in all future payroll 1071  
reports. No partner, sole proprietor, or person excluded from the 1072  
definition of "employee" pursuant to division (A)(2)(a), (b), (c), 1073

or (e) of this section, shall receive benefits or compensation 1074  
under this chapter until the bureau receives written notice of the 1075  
election permitted by this section. 1076

For informational purposes only, the bureau shall prescribe 1077  
such language as it considers appropriate, on such of its forms as 1078  
it considers appropriate, to advise employers of their right to 1079  
elect to include as an "employee" within this chapter a sole 1080  
proprietor, any member of a partnership, or a person excluded from 1081  
the definition of "employee" under division (A)(2)(a), (b), (c), 1082  
or (e) of this section, that they should check any health and 1083  
disability insurance policy, or other form of health and 1084  
disability plan or contract, presently covering them, or the 1085  
purchase of which they may be considering, to determine whether 1086  
such policy, plan, or contract excludes benefits for illness or 1087  
injury that they might have elected to have covered by workers' 1088  
compensation. 1089

(B) "Employer" means: 1090

(1) The state, including state hospitals, each county, 1091  
municipal corporation, township, school district, and hospital 1092  
owned by a political subdivision or subdivisions other than the 1093  
state; 1094

(2) Every person, firm, professional employer organization, 1095  
and private corporation, including any public service corporation, 1096  
that (a) has in service one or more employees or shared employees 1097  
regularly in the same business or in or about the same 1098  
establishment under any contract of hire, express or implied, oral 1099  
or written, or (b) is bound by any such contract of hire or by any 1100  
other written contract, to pay into the insurance fund the 1101  
premiums provided by this chapter. 1102

All such employers are subject to this chapter. Any member of 1103  
a firm or association, who regularly performs manual labor in or 1104

about a mine, factory, or other establishment, including a 1105  
household establishment, shall be considered an employee in 1106  
determining whether such person, firm, or private corporation, or 1107  
public service corporation, has in its service, one or more 1108  
employees and the employer shall report the income derived from 1109  
such labor to the bureau as part of the payroll of such employer, 1110  
and such member shall thereupon be entitled to all the benefits of 1111  
an employee. 1112

(C) "Injury" includes any injury, whether caused by external 1113  
accidental means or accidental in character and result, received 1114  
in the course of, and arising out of, the injured employee's 1115  
employment. "Injury" does not include: 1116

(1) Psychiatric conditions except where the claimant's 1117  
psychiatric conditions have arisen from an injury or occupational 1118  
disease sustained by that claimant or where the claimant's 1119  
psychiatric conditions have arisen from sexual conduct in which 1120  
the claimant was forced by threat of physical harm to engage or 1121  
participate; 1122

(2) Injury or disability caused primarily by the natural 1123  
deterioration of tissue, an organ, or part of the body; 1124

(3) Injury or disability incurred in voluntary participation 1125  
in an employer-sponsored recreation or fitness activity if the 1126  
employee signs a waiver of the employee's right to compensation or 1127  
benefits under this chapter prior to engaging in the recreation or 1128  
fitness activity; 1129

(4) A condition that pre-existed an injury unless that 1130  
pre-existing condition is substantially aggravated by the injury. 1131  
Such a substantial aggravation must be documented by objective 1132  
diagnostic findings, objective clinical findings, or objective 1133  
test results. Subjective complaints may be evidence of such a 1134  
substantial aggravation. However, subjective complaints without 1135

objective diagnostic findings, objective clinical findings, or 1136  
objective test results are insufficient to substantiate a 1137  
substantial aggravation. 1138

(D) "Child" includes a posthumous child and a child legally 1139  
adopted prior to the injury. 1140

(E) "Family farm corporation" means a corporation founded for 1141  
the purpose of farming agricultural land in which the majority of 1142  
the voting stock is held by and the majority of the stockholders 1143  
are persons or the spouse of persons related to each other within 1144  
the fourth degree of kinship, according to the rules of the civil 1145  
law, and at least one of the related persons is residing on or 1146  
actively operating the farm, and none of whose stockholders are a 1147  
corporation. A family farm corporation does not cease to qualify 1148  
under this division where, by reason of any devise, bequest, or 1149  
the operation of the laws of descent or distribution, the 1150  
ownership of shares of voting stock is transferred to another 1151  
person, as long as that person is within the degree of kinship 1152  
stipulated in this division. 1153

(F) "Occupational disease" means a disease contracted in the 1154  
course of employment, which by its causes and the characteristics 1155  
of its manifestation or the condition of the employment results in 1156  
a hazard which distinguishes the employment in character from 1157  
employment generally, and the employment creates a risk of 1158  
contracting the disease in greater degree and in a different 1159  
manner from the public in general. 1160

(G) "Self-insuring employer" means an employer who is granted 1161  
the privilege of paying compensation and benefits directly under 1162  
section 4123.35 of the Revised Code, including a board of county 1163  
commissioners for the sole purpose of constructing a sports 1164  
facility as defined in section 307.696 of the Revised Code, 1165  
provided that the electors of the county in which the sports 1166  
facility is to be built have approved construction of a sports 1167

facility by ballot election no later than November 6, 1997.	1168
(H) "Private employer" means an employer as defined in	1169
division (B)(2) of this section.	1170
(I) "Professional employer organization" has the same meaning	1171
as in section 4125.01 of the Revised Code.	1172
(J) "Public employer" means an employer as defined in	1173
division (B)(1) of this section.	1174
(K) "Sexual conduct" means vaginal intercourse between a male	1175
and female; anal intercourse, fellatio, and cunnilingus between	1176
persons regardless of gender; and, without privilege to do so, the	1177
insertion, however slight, of any part of the body or any	1178
instrument, apparatus, or other object into the vaginal or anal	1179
cavity of another. Penetration, however slight, is sufficient to	1180
complete vaginal or anal intercourse.	1181
(L) "Other-states' insurer" means an insurance company that	1182
is authorized to provide workers' compensation insurance coverage	1183
in any of the states that permit employers to obtain insurance for	1184
workers' compensation claims through insurance companies.	1185
(M) "Other-states' coverage" means both of the following:	1186
(1) Insurance coverage secured by an eligible employer for	1187
workers' compensation claims of employees who are in employment	1188
relationships localized in a state other than this state or those	1189
employees' dependents;	1190
(2) Insurance coverage secured by an eligible employer for	1191
workers' compensation claims that arise in a state other than this	1192
state where an employer elects to obtain coverage through either	1193
the administrator or an other-states' insurer.	1194
(N) "Limited other-states coverage" means insurance coverage	1195
provided by the administrator to an eligible employer for workers'	1196
compensation claims of employees who are in an employment	1197

relationship localized in this state but are temporarily working 1198  
in a state other than this state, or those employees' dependents. 1199

(O) "Illegal alien" means an alien who is deportable if 1200  
apprehended because of one of the following: 1201

(1) The alien entered the United States illegally without the 1202  
proper authorization and documents. 1203

(2) The alien once entered the United States legally and has 1204  
since violated the terms of the status under which the alien 1205  
entered the United States, making that alien an "out of status" 1206  
alien. 1207

(3) The alien once entered the United States legally but has 1208  
overstayed the time limits of the original legal status. 1209

(P) "Unauthorized alien" means an alien who is not authorized 1210  
to be employed as determined in accordance with section 101(a) of 1211  
the "Immigration Reform and Control Act of 1986," 100 Stat. 3360, 1212  
8 U.S.C. 1324a. 1213

**Sec. 4123.29.** (A) The administrator of workers' compensation, 1214  
subject to the approval of the bureau of workers' compensation 1215  
board of directors, shall do all of the following: 1216

(1) Classify occupations or industries with respect to their 1217  
degree of hazard and determine the risks of the different classes 1218  
according to the categories the national council on compensation 1219  
insurance establishes that are applicable to employers in this 1220  
state; 1221

(2)(a) Fix the rates of premium of the risks of the classes 1222  
based upon the total payroll in each of the classes of occupation 1223  
or industry sufficiently large to provide a fund for the 1224  
compensation provided for in this chapter and to maintain a state 1225  
insurance fund from year to year. The administrator shall set the 1226  
rates at a level that assures the solvency of the fund. Where the 1227



payroll cannot be obtained or, in the opinion of the 1228  
administrator, is not an adequate measure for determining the 1229  
premium to be paid for the degree of hazard, the administrator may 1230  
determine the rates of premium upon such other basis, consistent 1231  
with insurance principles, as is equitable in view of the degree 1232  
of hazard, and whenever in this chapter reference is made to 1233  
payroll or expenditure of wages with reference to fixing premiums, 1234  
the reference shall be construed to have been made also to such 1235  
other basis for fixing the rates of premium as the administrator 1236  
may determine under this section. 1237

(b) If an employer elects to obtain other-states' coverage, 1238  
including limited other-states' coverage, pursuant to section 1239  
4123.292 of the Revised Code through the administrator, if the 1240  
administrator elects to offer such coverage, calculate the 1241  
employer's premium for the state insurance fund in the same manner 1242  
as otherwise required under division (A) of this section and 1243  
section 4123.34 of the Revised Code, except that the administrator 1244  
may establish in rule an alternative calculation of the employer's 1245  
premium to appropriately account for the expenditure of wages, 1246  
payroll, or both attributable to the labor performed and services 1247  
provided by that employer's employees when those employees 1248  
performed labor and provided services in this state and in the 1249  
other state or states for which the employer elects to secure 1250  
other-states' coverage. 1251

(c) If an employer elects to obtain other-states' coverage 1252  
pursuant to section 4123.292 of the Revised Code through an 1253  
other-states' insurer, calculate the employer's premium for the 1254  
state insurance fund in the same manner as otherwise required 1255  
under division (A) of this section and section 4123.34 of the 1256  
Revised Code, except that when the administrator determines the 1257  
expenditure of wages, payroll, or both upon which to base the 1258  
employer's premium, the administrator shall use only the 1259

expenditure of wages, payroll, or both attributable to the labor 1260  
performed and services provided by that employer's employees when 1261  
those employees performed labor and provided services in this 1262  
state only and to which the other-states' coverage does not apply. 1263  
The administrator may adopt rules setting forth the information 1264  
that an employer electing to obtain other-states' coverage through 1265  
an other-states' insurer shall report for purposes of determining 1266  
the expenditure of wages, payroll, or both attributable to the 1267  
labor performed and services provided in this state. 1268

(d) The administrator in setting or revising rates shall 1269  
furnish to employers an adequate explanation of the basis for the 1270  
rates set. 1271

(3) Develop and make available to employers who are paying 1272  
premiums to the state insurance fund alternative premium plans. 1273  
Alternative premium plans shall include retrospective rating 1274  
plans. The administrator may make available plans under which an 1275  
advanced deposit may be applied against a specified deductible 1276  
amount per claim. 1277

(4)(a) Offer to insure the obligations of employers under 1278  
this chapter under a plan that groups, for rating purposes, 1279  
employers, and pools the risk of the employers within the group 1280  
provided that the employers meet all of the following conditions: 1281

(i) All of the employers within the group are members of an 1282  
organization that has been in existence for at least two years 1283  
prior to the date of application for group coverage; 1284

(ii) The organization was formed for purposes other than that 1285  
of obtaining group workers' compensation under this division; 1286

(iii) The employers' business in the organization is 1287  
substantially similar such that the risks which are grouped are 1288  
substantially homogeneous; 1289

(iv) The group of employers consists of at least one hundred 1290

members or the aggregate workers' compensation premiums of the 1291  
members, as determined by the administrator, are estimated to 1292  
exceed one hundred fifty thousand dollars during the coverage 1293  
period; 1294

(v) The formation and operation of the group program in the 1295  
organization will substantially improve accident prevention and 1296  
claims handling for the employers in the group; 1297

(vi) Each employer seeking to enroll in a group for workers' 1298  
compensation coverage has an account in good standing with the 1299  
bureau of workers' compensation. The administrator shall adopt 1300  
rules setting forth the criteria by which the administrator will 1301  
determine whether an employer's account is in good standing. 1302

(b) If an organization sponsors more than one employer group 1303  
to participate in group plans established under this section, that 1304  
organization may submit a single application that supplies all of 1305  
the information necessary for each group of employers that the 1306  
organization wishes to sponsor. 1307

(c) In providing employer group plans under division (A)(4) 1308  
of this section, the administrator shall consider an employer 1309  
group as a single employing entity for purposes of group rating. 1310  
No employer may be a member of more than one group for the purpose 1311  
of obtaining workers' compensation coverage under this division. 1312

(d) At the time the administrator revises premium rates 1313  
pursuant to this section and section 4123.34 of the Revised Code, 1314  
if the premium rate of an employer who participates in a group 1315  
plan established under this section changes from the rate 1316  
established for the previous year, the administrator, in addition 1317  
to sending the invoice with the rate revision to that employer, 1318  
shall ~~send a copy of that invoice~~ provide an explanation of the 1319  
rate revision to the third-party administrator that administers 1320  
the group plan for that employer's group. 1321

(e) In providing employer group plans under division (A)(4) 1322  
of this section, the administrator shall establish a program 1323  
designed to mitigate the impact of a significant claim that would 1324  
come into the experience of a private, state fund group-rated 1325  
employer or a taxing district employer for the first time and be a 1326  
contributing factor in that employer being excluded from a 1327  
group-rated plan. The administrator shall establish eligibility 1328  
criteria and requirements that such employers must satisfy in 1329  
order to participate in this program. For purposes of this 1330  
program, the administrator shall establish a discount on premium 1331  
rates applicable to employers who qualify for the program. 1332

(f) In no event shall division (A)(4) of this section be 1333  
construed as granting to an employer status as a self-insuring 1334  
employer. 1335

(g) The administrator shall develop classifications of 1336  
occupations or industries that are sufficiently distinct so as not 1337  
to group employers in classifications that unfairly represent the 1338  
risks of employment with the employer. 1339

(5) Generally promote employer participation in the state 1340  
insurance fund through the regular dissemination of information to 1341  
all classes of employers describing the advantages and benefits of 1342  
opting to make premium payments to the fund. To that end, the 1343  
administrator shall regularly make employers aware of the various 1344  
workers' compensation premium packages developed and offered 1345  
pursuant to this section. 1346

(6) Make available to every employer who is paying premiums 1347  
to the state insurance fund a program whereby the employer or the 1348  
employer's agent pays to the claimant or on behalf of the claimant 1349  
the first fifteen thousand dollars of a compensable workers' 1350  
compensation medical-only claim filed by that claimant that is 1351  
related to the same injury or occupational disease. No formal 1352  
application is required; however, an employer must elect to 1353

participate by telephoning the bureau after July 1, 1995. Once an 1354  
employer has elected to participate in the program, the employer 1355  
will be responsible for all bills in all medical-only claims with 1356  
a date of injury the same or later than the election date, unless 1357  
the employer notifies the bureau within fourteen days of receipt 1358  
of the notification of a claim being filed that it does not wish 1359  
to pay the bills in that claim, or the employer notifies the 1360  
bureau that the fifteen thousand dollar maximum has been paid, or 1361  
the employer notifies the bureau of the last day of service on 1362  
which it will be responsible for the bills in a particular 1363  
medical-only claim. If an employer elects to enter the program, 1364  
the administrator shall not reimburse the employer for such 1365  
amounts paid and shall not charge the first fifteen thousand 1366  
dollars of any medical-only claim paid by an employer to the 1367  
employer's experience or otherwise use it in merit rating or 1368  
determining the risks of any employer for the purpose of payment 1369  
of premiums under this chapter. A certified health care provider 1370  
shall extend to an employer who participates in this program the 1371  
same rates for services rendered to an employee of that employer 1372  
as the provider bills the administrator for the same type of 1373  
medical claim processed by the bureau and shall not charge, 1374  
assess, or otherwise attempt to collect from an employee any 1375  
amount for covered services or supplies that is in excess of that 1376  
rate. If an employer elects to enter the program and the employer 1377  
fails to pay a bill for a medical-only claim included in the 1378  
program, the employer shall be liable for that bill and the 1379  
employee for whom the employer failed to pay the bill shall not be 1380  
liable for that bill. The administrator shall adopt rules to 1381  
implement and administer division (A)(6) of this section. Upon 1382  
written request from the bureau, the employer shall provide 1383  
documentation to the bureau of all medical-only bills that they 1384  
are paying directly. Such requests from the bureau may not be made 1385  
more frequently than on a semiannual basis. Failure to provide 1386

such documentation to the bureau within thirty days of receipt of 1387  
the request may result in the employer's forfeiture of 1388  
participation in the program for such injury. The provisions of 1389  
this section shall not apply to claims in which an employer with 1390  
knowledge of a claimed compensable injury or occupational disease, 1391  
has paid wages in lieu of compensation or total disability. 1392

(B) The administrator, with the advice and consent of the 1393  
board, by rule, may do both of the following: 1394

(1) Grant an employer who pays the employer's annual 1395  
estimated premium in full prior to the start of the policy year 1396  
for which the estimated premium is due, a discount as the 1397  
administrator fixes from time to time; 1398

(2) Levy a minimum annual administrative charge upon risks 1399  
where premium reports develop a charge less than the administrator 1400  
considers adequate to offset administrative costs of processing. 1401

**Sec. 4123.343.** This section shall be construed liberally to 1402  
the end that employers shall be encouraged to employ and retain in 1403  
their employment handicapped employees as defined in this section. 1404

(A) As used in this section, "handicapped employee" means an 1405  
employee who is afflicted with or subject to any physical or 1406  
mental impairment, or both, whether congenital or due to an injury 1407  
or disease of such character that the impairment constitutes a 1408  
handicap in obtaining employment or would constitute a handicap in 1409  
obtaining reemployment if the employee should become unemployed 1410  
and whose handicap is due to any of the following diseases or 1411  
conditions: 1412

(1) Epilepsy; 1413

(2) Diabetes; 1414

(3) Cardiac disease; 1415

(4) Arthritis; 1416

(5) Amputated foot, leg, arm, or hand;	1417
(6) Loss of sight of one or both eyes or a partial loss of uncorrected vision of more than seventy-five per cent bilaterally;	1418 1419
(7) Residual disability from poliomyelitis;	1420
(8) Cerebral palsy;	1421
(9) Multiple sclerosis;	1422
(10) Parkinson's disease;	1423
(11) Cerebral vascular accident;	1424
(12) Tuberculosis;	1425
(13) Silicosis;	1426
(14) Psycho-neurotic disability following treatment in a recognized medical or mental institution;	1427 1428
(15) Hemophilia;	1429
(16) Chronic osteomyelitis;	1430
(17) Ankylosis of joints;	1431
(18) Hyper insulinism;	1432
(19) Muscular dystrophies;	1433
(20) Arterio-sclerosis;	1434
(21) Thrombo-phlebitis;	1435
(22) Varicose veins;	1436
(23) Cardiovascular, pulmonary, or respiratory diseases of a firefighter or police officer employed by a municipal corporation or township as a regular member of a lawfully constituted police department or fire department;	1437 1438 1439 1440
(24) Coal miners' pneumoconiosis, commonly referred to as "black lung disease";	1441 1442
(25) Disability with respect to which an individual has	1443

completed a rehabilitation program conducted pursuant to sections 1444  
4121.61 to 4121.69 of the Revised Code. 1445

(B) Under the circumstances set forth in this section all or 1446  
such portion as the administrator determines of the compensation 1447  
and benefits paid in any claim arising hereafter shall be charged 1448  
to and paid from the statutory surplus fund created under section 1449  
4123.34 of the Revised Code and only the portion remaining shall 1450  
be merit-rated or otherwise treated as part of the accident or 1451  
occupational disease experience of the employer. The provisions of 1452  
this section apply only in cases of death, total disability, 1453  
whether temporary or permanent, and all disabilities compensated 1454  
under division (B) of section 4123.57 of the Revised Code. The 1455  
administrator shall adopt rules specifying the grounds upon which 1456  
charges to the statutory surplus fund are to be made. The 1457  
administrator, in those rules, shall prohibit as a grounds any 1458  
agreement between employer and claimant as to the merits of a 1459  
claim and the amount of the charge require that a settlement 1460  
agreement approved pursuant to section 4123.65 of the Revised Code 1461  
or a settlement agreement approved by a court of competent 1462  
jurisdiction in this state be treated as an award of compensation 1463  
granted by the administrator for the purpose of making a 1464  
determination under this section. 1465

(C) Any employer who has in its employ a handicapped employee 1466  
is entitled, in the event the person is injured, to a 1467  
determination under this section. 1468

An employer shall file an application under this section for 1469  
a determination with the bureau or commission in the same manner 1470  
as other claims. An application only may be made in cases where a 1471  
handicapped employee or a handicapped employee's dependents claim 1472  
or are receiving an award of compensation as a result of an injury 1473  
or occupational disease occurring or contracted on or after the 1474  
date on which division (A) of this section first included the 1475



handicap of such employee. 1476

(D) The circumstances under and the manner in which an 1477  
apportionment under this section shall be made are: 1478

(1) Whenever a handicapped employee is injured or disabled or 1479  
dies as the result of an injury or occupational disease sustained 1480  
in the course of and arising out of a handicapped employee's 1481  
employment in this state and the administrator awards compensation 1482  
therefor and when it appears to the satisfaction of the 1483  
administrator that the injury or occupational disease or the death 1484  
resulting therefrom would not have occurred but for the 1485  
pre-existing physical or mental impairment of the handicapped 1486  
employee, all compensation and benefits payable on account of the 1487  
disability or death shall be paid from the surplus fund. 1488

(2) Whenever a handicapped employee is injured or disabled or 1489  
dies as a result of an injury or occupational disease and the 1490  
administrator finds that the injury or occupational disease would 1491  
have been sustained or suffered without regard to the employee's 1492  
pre-existing impairment but that the resulting disability or death 1493  
was caused at least in part through aggravation of the employee's 1494  
pre-existing disability, the administrator shall determine in a 1495  
manner that is equitable and reasonable and based upon medical 1496  
evidence the amount of disability or proportion of the cost of the 1497  
death award that is attributable to the employee's pre-existing 1498  
disability and the amount found shall be charged to the statutory 1499  
surplus fund. 1500

(E) The benefits and provisions of this section apply only to 1501  
employers who have complied with this chapter through insurance 1502  
with the state fund. 1503

(F) No employer shall in any year receive credit under this 1504  
section in an amount greater than the premium the employer paid. 1505

(G) An order issued by the administrator pursuant to this 1506

section is appealable under section 4123.511 of the Revised Code 1507  
but is not appealable to court under section 4123.512 of the 1508  
Revised Code. 1509

**Sec. 4123.511.** (A) Within seven days after receipt of any 1510  
claim under this chapter, the bureau of workers' compensation 1511  
shall notify the claimant and the employer of the claimant of the 1512  
receipt of the claim and of the facts alleged therein. If the 1513  
bureau receives from a person other than the claimant written or 1514  
facsimile information or information communicated verbally over 1515  
the telephone indicating that an injury or occupational disease 1516  
has occurred or been contracted which may be compensable under 1517  
this chapter, the bureau shall notify the employee and the 1518  
employer of the information. If the information is provided 1519  
verbally over the telephone, the person providing the information 1520  
shall provide written verification of the information to the 1521  
bureau according to division (E) of section 4123.84 of the Revised 1522  
Code. The receipt of the information in writing or facsimile, or 1523  
if initially by telephone, the subsequent written verification, 1524  
and the notice by the bureau shall be considered an application 1525  
for compensation under section 4123.84 or 4123.85 of the Revised 1526  
Code, provided that the conditions of division (E) of section 1527  
4123.84 of the Revised Code apply to information provided verbally 1528  
over the telephone. Upon receipt of a claim, the bureau shall 1529  
advise the claimant of the claim number assigned and the 1530  
claimant's right to representation in the processing of a claim or 1531  
to elect no representation. ~~¶~~ 1532

To be considered eligible for compensation or benefits paid 1533  
under this chapter or Chapter 4121., 4127., or 4131. of the 1534  
Revised Code other than medical benefits as described in section 1535  
4123.66 of the Revised Code, the claimant shall submit to the 1536  
administrator of workers' compensation a signed attestation that 1537  
the claimant is an eligible "employee" as that term is defined in 1538

section 4123.01 of the Revised Code or, if the claimant is a 1539  
dependent of an individual who died as a result of suffering an 1540  
injury or contracting an occupational disease, that the individual 1541  
who is the subject of the claim was such an employee. The 1542  
administrator shall not pay compensation or benefits, other than 1543  
medical benefits described in section 4123.66 of the Revised Code, 1544  
unless the administrator receives the signed attestation. The 1545  
administrator, if the administrator has reason to believe that a 1546  
submitted attestation is not valid, may request the claimant to 1547  
submit proof to the administrator that the attestation is valid. 1548  
The administrator shall make the request in writing and shall 1549  
state in the request the type of proof necessary to determine 1550  
validity and the date by which the claimant shall submit the 1551  
proof. If a claimant fails to comply with the request, the 1552  
administrator shall deny the claim for compensation or benefits 1553  
other than medical benefits and the claimant is barred from 1554  
refiling that claim for compensation or benefits. A denial of a 1555  
claim for compensation or benefits for failing to comply with the 1556  
written request may be appealed under this section and section 1557  
4123.512 of the Revised Code. In the event a claimant provides a 1558  
signed attestation required under this division and it is later 1559  
determined that the claimant is or the deceased individual who is 1560  
the subject of the claim was an illegal or unauthorized alien, the 1561  
claimant shall be subject to prosecution for a violation of 1562  
section 2913.48 of the Revised Code. 1563

If the bureau determines that a claim is determined to be a 1564  
compensable lost-time claim, the bureau shall notify the claimant 1565  
and the employer of the availability of rehabilitation services. 1566  
No bureau or industrial commission employee shall directly or 1567  
indirectly convey any information in derogation of this right. 1568  
This section shall in no way abrogate the bureau's responsibility 1569  
to aid and assist a claimant in the filing of a claim and to 1570  
advise the claimant of the claimant's rights under the law. 1571

The administrator ~~of workers' compensation~~ shall assign all 1572  
claims and investigations to the bureau service office from which 1573  
investigation and determination may be made most expeditiously. 1574

The bureau shall investigate the facts concerning an injury 1575  
or occupational disease and ascertain such facts in whatever 1576  
manner is most appropriate and may obtain statements of the 1577  
employee, employer, attending physician, and witnesses in whatever 1578  
manner is most appropriate. 1579

The administrator, with the advice and consent of the bureau 1580  
of workers' compensation board of directors, may adopt rules that 1581  
identify specified medical conditions that have a historical 1582  
record of being allowed whenever included in a claim. The 1583  
administrator may grant immediate allowance of any medical 1584  
condition identified in those rules upon the filing of a claim 1585  
involving that medical condition and may make immediate payment of 1586  
medical bills for any medical condition identified in those rules 1587  
that is included in a claim. If an employer contests the allowance 1588  
of a claim involving any medical condition identified in those 1589  
rules, and the claim is disallowed, payment for the medical 1590  
condition included in that claim shall be charged to and paid from 1591  
the surplus fund account created under section 4123.34 of the 1592  
Revised Code. 1593

(B)(1) Except as provided in division (B)(2) of this section, 1594  
in claims other than those in which the employer is a 1595  
self-insuring employer, if the administrator determines under 1596  
division (A) of this section that a claimant is or is not entitled 1597  
to an award of compensation or benefits, the administrator shall 1598  
issue an order no later than twenty-eight days after the sending 1599  
of the notice under division (A) of this section, granting or 1600  
denying the payment of the compensation or benefits, or both as is 1601  
appropriate to the claimant. Notwithstanding the time limitation 1602  
specified in this division for the issuance of an order, if a 1603

medical examination of the claimant is required by statute, the 1604  
administrator promptly shall schedule the claimant for that 1605  
examination and shall issue an order no later than twenty-eight 1606  
days after receipt of the report of the examination. The 1607  
administrator shall notify the claimant and the employer of the 1608  
claimant and their respective representatives in writing of the 1609  
nature of the order and the amounts of compensation and benefit 1610  
payments involved. The employer or claimant may appeal the order 1611  
pursuant to division (C) of this section within fourteen days 1612  
after the date of the receipt of the order. The employer and 1613  
claimant may waive, in writing, their rights to an appeal under 1614  
this division. 1615

(2) Notwithstanding the time limitation specified in division 1616  
(B)(1) of this section for the issuance of an order, if the 1617  
employer certifies a claim for payment of compensation or 1618  
benefits, or both, to a claimant, and the administrator has 1619  
completed the investigation of the claim, the payment of benefits 1620  
or compensation, or both, as is appropriate, shall commence upon 1621  
the later of the date of the certification or completion of the 1622  
investigation and issuance of the order by the administrator, 1623  
provided that the administrator shall issue the order no later 1624  
than the time limitation specified in division (B)(1) of this 1625  
section. 1626

(3) If an appeal is made under division (B)(1) or (2) of this 1627  
section, the administrator shall forward the claim file to the 1628  
appropriate district hearing officer within seven days of the 1629  
appeal. In contested claims other than state fund claims, the 1630  
administrator shall forward the claim within seven days of the 1631  
administrator's receipt of the claim to the industrial commission, 1632  
which shall refer the claim to an appropriate district hearing 1633  
officer for a hearing in accordance with division (C) of this 1634  
section. 1635

(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 of the order. Any party may appeal an order issued under this division pursuant to division (D) of this section within fourteen days after receipt of the order under this division.

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

(E) Upon the filing of a timely appeal of the order of the staff hearing officer issued under division (D) of this section, the commission or a designated staff hearing officer, on behalf of

the commission, shall determine whether the commission will hear 1668  
the appeal. If the commission or the designated staff hearing 1669  
officer decides to hear the appeal, the commission or the 1670  
designated staff hearing officer shall notify the parties and 1671  
their respective representatives in writing of the time and place 1672  
of the hearing. The commission shall hold the hearing within 1673  
forty-five days after the filing of the notice of appeal and, 1674  
within seven days after the conclusion of the hearing, the 1675  
commission shall issue its order affirming, modifying, or 1676  
reversing the order issued under division (D) of this section. The 1677  
commission shall notify the parties and their respective 1678  
representatives in writing of the order. If the commission or the 1679  
designated staff hearing officer determines not to hear the 1680  
appeal, within fourteen days after the expiration of the period in 1681  
which an appeal of the order of the staff hearing officer may be 1682  
filed as provided in division (D) of this section, the commission 1683  
or the designated staff hearing officer shall issue an order to 1684  
that effect and notify the parties and their respective 1685  
representatives in writing of that order. 1686

Except as otherwise provided in this chapter and Chapters 1687  
4121., 4127., and 4131. of the Revised Code, any party may appeal 1688  
an order issued under this division to the court pursuant to 1689  
section 4123.512 of the Revised Code within sixty days after 1690  
receipt of the order, subject to the limitations contained in that 1691  
section. 1692

(F) Every notice of an appeal from an order issued under 1693  
divisions (B), (C), (D), and (E) of this section shall state the 1694  
names of the claimant and employer, the number of the claim, the 1695  
date of the decision appealed from, and the fact that the 1696  
appellant appeals therefrom. 1697

(G) All of the following apply to the proceedings under 1698  
divisions (C), (D), and (E) of this section: 1699

(1) The parties shall proceed promptly and without 1700  
continuances except for good cause; 1701

(2) The parties, in good faith, shall engage in the free 1702  
exchange of information relevant to the claim prior to the conduct 1703  
of a hearing according to the rules the commission adopts under 1704  
section 4121.36 of the Revised Code; 1705

(3) The administrator is a party and may appear and 1706  
participate at all administrative proceedings on behalf of the 1707  
state insurance fund. However, in cases in which the employer is 1708  
represented, the administrator shall neither present arguments nor 1709  
introduce testimony that is cumulative to that presented or 1710  
introduced by the employer or the employer's representative. The 1711  
administrator may file an appeal under this section on behalf of 1712  
the state insurance fund; however, except in cases arising under 1713  
section 4123.343 of the Revised Code, the administrator only may 1714  
appeal questions of law or issues of fraud when the employer 1715  
appears in person or by representative. 1716

(H) Except as provided in section 4121.63 of the Revised Code 1717  
and division (K) of this section, payments of compensation to a 1718  
claimant or on behalf of a claimant as a result of any order 1719  
issued under this chapter shall commence upon the earlier of the 1720  
following: 1721

(1) Fourteen days after the date the administrator issues an 1722  
order under division (B) of this section, unless that order is 1723  
appealed; 1724

(2) The date when the employer has waived the right to appeal 1725  
a decision issued under division (B) of this section; 1726

(3) If no appeal of an order has been filed under this 1727  
section or to a court under section 4123.512 of the Revised Code, 1728  
the expiration of the time limitations for the filing of an appeal 1729  
of an order; 1730



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

(I) Except as otherwise provided in division (B) of section 4123.66 of the Revised Code, payments of medical benefits payable under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code shall commence upon the earlier of the following:

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

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

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

(K) Upon the final administrative or judicial determination under this section or section 4123.512 of the Revised Code of an appeal of an order to pay compensation, if a claimant is found to have received compensation pursuant to a prior order which is reversed upon subsequent appeal, the claimant's employer, if a self-insuring employer, or the bureau, shall withhold from any amount to which the claimant becomes entitled pursuant to any claim, past, present, or future, under Chapter 4121., 4123., 4127., or 4131. of the Revised Code, the amount of previously paid compensation to the claimant which, due to reversal upon appeal,

the claimant is not entitled, pursuant to the following criteria: 1762

(1) No withholding for the first twelve weeks of temporary 1763  
total disability compensation pursuant to section 4123.56 of the 1764  
Revised Code shall be made; 1765

(2) Forty per cent of all awards of compensation paid 1766  
pursuant to sections 4123.56 and 4123.57 of the Revised Code, 1767  
until the amount overpaid is refunded; 1768

(3) Twenty-five per cent of any compensation paid pursuant to 1769  
section 4123.58 of the Revised Code until the amount overpaid is 1770  
refunded; 1771

(4) If, pursuant to an appeal under section 4123.512 of the 1772  
Revised Code, the court of appeals or the supreme court reverses 1773  
the allowance of the claim, then no amount of any compensation 1774  
will be withheld. 1775

The administrator and self-insuring employers, as 1776  
appropriate, are subject to the repayment schedule of this 1777  
division only with respect to an order to pay compensation that 1778  
was properly paid under a previous order, but which is 1779  
subsequently reversed upon an administrative or judicial appeal. 1780  
The administrator and self-insuring employers are not subject to, 1781  
but may utilize, the repayment schedule of this division, or any 1782  
other lawful means, to collect payment of compensation made to a 1783  
person who was not entitled to the compensation due to fraud as 1784  
determined by the administrator or the industrial commission. 1785

(L) If a staff hearing officer or the commission fails to 1786  
issue a decision or the commission fails to refuse to hear an 1787  
appeal within the time periods required by this section, payments 1788  
to a claimant shall cease until the staff hearing officer or 1789  
commission issues a decision or hears the appeal, unless the 1790  
failure was due to the fault or neglect of the employer or the 1791  
employer agrees that the payments should continue for a longer 1792

period of time.	1793
(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.	1794 1795 1796 1797
(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.	1798 1799 1800
(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 time frame within which claims and appeals of claims set forth in this section must be filed upon a finding that the applicant was unable to comply with a filing deadline due to an emergency or a disaster.	1801 1802 1803 1804 1805 1806 1807
As used in this division:	1808
(1) "Emergency" means any occasion or instance for which the governor of Ohio or the president of the United States publicly declares an emergency and orders state or federal assistance to save lives and protect property, the public health and safety, or to lessen or avert the threat of a catastrophe.	1809 1810 1811 1812 1813
(2) "Disaster" means any natural catastrophe or fire, flood, or explosion, regardless of the cause, that causes damage of sufficient magnitude that the governor of Ohio or the president of the United States, through a public declaration, orders state or federal assistance to alleviate damage, loss, hardship, or suffering that results from the occurrence.	1814 1815 1816 1817 1818 1819
<b>Sec. 4123.512.</b> (A) The claimant or the employer may appeal an order of the industrial commission made under division (E) of section 4123.511 of the Revised Code in any injury or occupational	1820 1821 1822

disease case, other than a decision as to the extent of disability 1823  
to the court of common pleas of the county in which the injury was 1824  
inflicted or in which the contract of employment was made if the 1825  
injury occurred outside the state, or in which the contract of 1826  
employment was made if the exposure occurred outside the state. If 1827  
no common pleas court has jurisdiction for the purposes of an 1828  
appeal by the use of the jurisdictional requirements described in 1829  
this division, the appellant may use the venue provisions in the 1830  
Rules of Civil Procedure to vest jurisdiction in a court. If the 1831  
claim is for an occupational disease, the appeal shall be to the 1832  
court of common pleas of the county in which the exposure which 1833  
caused the disease occurred. Like appeal may be taken from an 1834  
order of a staff hearing officer made under division (D) of 1835  
section 4123.511 of the Revised Code from which the commission has 1836  
refused to hear an appeal. The Except as otherwise provided in 1837  
this division, the appellant shall file the notice of appeal with 1838  
a court of common pleas within sixty days after the date of the 1839  
receipt of the order appealed from or the date of receipt of the 1840  
order of the commission refusing to hear an appeal of a staff 1841  
hearing officer's decision under division (D) of section 4123.511 1842  
of the Revised Code. The Either the claimant or the employer may 1843  
file a notice of an intent to settle the claim within thirty days 1844  
after the date of the receipt of the order appealed from or of the 1845  
order of the commission refusing to hear an appeal of a staff 1846  
hearing officer's decision. The claimant or employer shall file 1847  
notice of intent to settle with the administrator of workers' 1848  
compensation, and the notice shall be served on the opposing party 1849  
and the party's representative. The filing of the notice of intent 1850  
to settle extends the time to file an appeal to one hundred fifty 1851  
days, unless the opposing party files an objection to the notice 1852  
of intent to settle within fourteen days after the date of the 1853  
receipt of the notice of intent to settle. The party shall file 1854  
the objection with the administrator, and the objection shall be 1855

served on the party that filed the notice of intent to settle and 1856  
the party's representative. The filing of the notice of the appeal 1857  
with the court is the only act required to perfect the appeal. 1858

If an action has been commenced in a court of a county other 1859  
than a court of a county having jurisdiction over the action, the 1860  
court, upon notice by any party or upon its own motion, shall 1861  
transfer the action to a court of a county having jurisdiction. 1862

Notwithstanding anything to the contrary in this section, if 1863  
the commission determines under section 4123.522 of the Revised 1864  
Code that an employee, employer, or their respective 1865  
representatives have not received written notice of an order or 1866  
decision which is appealable to a court under this section and 1867  
which grants relief pursuant to section 4123.522 of the Revised 1868  
Code, the party granted the relief has sixty days from receipt of 1869  
the order under section 4123.522 of the Revised Code to file a 1870  
notice of appeal under this section. 1871

(B) The notice of appeal shall state the names of the 1872  
administrator of workers' compensation, the claimant, and the 1873  
employer; the number of the claim; the date of the order appealed 1874  
from; and the fact that the appellant appeals therefrom. 1875

The administrator, the claimant, and the employer shall be 1876  
parties to the appeal and the court, upon the application of the 1877  
commission, shall make the commission a party. The party filing 1878  
the appeal shall serve a copy of the notice of appeal on the 1879  
administrator at the central office of the bureau of workers' 1880  
compensation in Columbus. The administrator shall notify the 1881  
employer that if the employer fails to become an active party to 1882  
the appeal, then the administrator may act on behalf of the 1883  
employer and the results of the appeal could have an adverse 1884  
effect upon the employer's premium rates or may result in a 1885  
recovery from the employer if the employer is determined to be a 1886  
noncomplying employer under section 4123.75 of the Revised Code. 1887

(C) The attorney general or one or more of the attorney 1888  
general's assistants or special counsel designated by the attorney 1889  
general shall represent the administrator and the commission. In 1890  
the event the attorney general or the attorney general's 1891  
designated assistants or special counsel are absent, the 1892  
administrator or the commission shall select one or more of the 1893  
attorneys in the employ of the administrator or the commission as 1894  
the administrator's attorney or the commission's attorney in the 1895  
appeal. Any attorney so employed shall continue the representation 1896  
during the entire period of the appeal and in all hearings thereof 1897  
except where the continued representation becomes impractical. 1898

(D) Upon receipt of notice of appeal, the clerk of courts 1899  
shall provide notice to all parties who are appellees and to the 1900  
commission. 1901

The claimant shall, within thirty days after the filing of 1902  
the notice of appeal, file a petition containing a statement of 1903  
facts in ordinary and concise language showing a cause of action 1904  
to participate or to continue to participate in the fund and 1905  
setting forth the basis for the jurisdiction of the court over the 1906  
action. Further pleadings shall be had in accordance with the 1907  
Rules of Civil Procedure, provided that service of summons on such 1908  
petition shall not be required and provided that the claimant may 1909  
not dismiss the complaint without the employer's consent if the 1910  
employer is the party that filed the notice of appeal to court 1911  
pursuant to this section. The clerk of the court shall, upon 1912  
receipt thereof, transmit by certified mail a copy thereof to each 1913  
party named in the notice of appeal other than the claimant. Any 1914  
party may file with the clerk prior to the trial of the action a 1915  
deposition of any physician taken in accordance with the 1916  
provisions of the Revised Code, which deposition may be read in 1917  
the trial of the action even though the physician is a resident of 1918  
or subject to service in the county in which the trial is had. The 1919

bureau of workers' compensation shall pay the cost of the 1920  
stenographic deposition filed in court and of copies of the 1921  
stenographic deposition for each party from the surplus fund and 1922  
charge the costs thereof against the unsuccessful party if the 1923  
claimant's right to participate or continue to participate is 1924  
finally sustained or established in the appeal. In the event the 1925  
deposition is taken and filed, the physician whose deposition is 1926  
taken is not required to respond to any subpoena issued in the 1927  
trial of the action. The court, or the jury under the instructions 1928  
of the court, if a jury is demanded, shall determine the right of 1929  
the claimant to participate or to continue to participate in the 1930  
fund upon the evidence adduced at the hearing of the action. 1931

(E) The court shall certify its decision to the commission 1932  
and the certificate shall be entered in the records of the court. 1933  
Appeals from the judgment are governed by the law applicable to 1934  
the appeal of civil actions. 1935

(F) The cost of any legal proceedings authorized by this 1936  
section, including an attorney's fee to the claimant's attorney to 1937  
be fixed by the trial judge, based upon the effort expended, in 1938  
the event the claimant's right to participate or to continue to 1939  
participate in the fund is established upon the final 1940  
determination of an appeal, shall be taxed against the employer or 1941  
the commission if the commission or the administrator rather than 1942  
the employer contested the right of the claimant to participate in 1943  
the fund. The attorney's fee shall not exceed ~~forty-two hundred~~ 1944  
five thousand dollars. 1945

(G) If the finding of the court or the verdict of the jury is 1946  
in favor of the claimant's right to participate in the fund, the 1947  
commission and the administrator shall thereafter proceed in the 1948  
matter of the claim as if the judgment were the decision of the 1949  
commission, subject to the power of modification provided by 1950  
section 4123.52 of the Revised Code. 1951

(H)(1) An appeal from an order issued under division (E) of section 4123.511 of the Revised Code or any action filed in court in a case in which an award of compensation or medical benefits has been made shall not stay the payment of compensation or medical benefits under the award, or payment for subsequent periods of total disability or medical benefits during the pendency of the appeal. If, in a final administrative or judicial action, it is determined that payments of compensation or benefits, or both, made to or on behalf of a claimant should not have been made, the amount thereof shall be charged to the surplus fund account under division (B) of section 4123.34 of the Revised Code. In the event the employer is a state risk, the amount shall not be charged to the employer's experience, and the administrator shall adjust the employer's account accordingly. In the event the employer is a self-insuring employer, the self-insuring employer shall deduct the amount from the paid compensation the self-insuring employer reports to the administrator under division (L) of section 4123.35 of the Revised Code. If an employer is a state risk and has paid an assessment for a violation of a specific safety requirement, and, in a final administrative or judicial action, it is determined that the employer did not violate the specific safety requirement, the administrator shall reimburse the employer from the surplus fund account under division (B) of section 4123.34 of the Revised Code for the amount of the assessment the employer paid for the violation.

(2)(a) Notwithstanding a final determination that payments of benefits made to or on behalf of a claimant should not have been made, the administrator or self-insuring employer shall award payment of medical or vocational rehabilitation services submitted for payment after the date of the final determination if all of the following apply:

(i) The services were approved and were rendered by the



provider in good faith prior to the date of the final 1984  
determination. 1985

(ii) The services were payable under division (I) of section 1986  
4123.511 of the Revised Code prior to the date of the final 1987  
determination. 1988

(iii) The request for payment is submitted within the time 1989  
limit set forth in section 4123.52 of the Revised Code. 1990

(b) Payments made under division (H)(1) of this section shall 1991  
be charged to the surplus fund account under division (B) of 1992  
section 4123.34 of the Revised Code. If the employer of the 1993  
employee who is the subject of a claim described in division 1994  
(H)(2)(a) of this section is a state fund employer, the payments 1995  
made under that division shall not be charged to the employer's 1996  
experience. If that employer is a self-insuring employer, the 1997  
self-insuring employer shall deduct the amount from the paid 1998  
compensation the self-insuring employer reports to the 1999  
administrator under division (L) of section 4123.35 of the Revised 2000  
Code. 2001

(c) Division (H)(2) of this section shall apply only to a 2002  
claim under this chapter or Chapter 4121., 4127., or 4131. of the 2003  
Revised Code arising on or after July 29, 2011. 2004

(3) A self-insuring employer may elect to pay compensation 2005  
and benefits under this section directly to an employee or an 2006  
employee's dependents by filing an application with the bureau of 2007  
workers' compensation not more than one hundred eighty days and 2008  
not less than ninety days before the first day of the employer's 2009  
next six-month coverage period. If the self-insuring employer 2010  
timely files the application, the application is effective on the 2011  
first day of the employer's next six-month coverage period, 2012  
provided that the administrator shall compute the employer's 2013  
assessment for the surplus fund account due with respect to the 2014

period during which that application was filed without regard to 2015  
the filing of the application. On and after the effective date of 2016  
the employer's election, the self-insuring employer shall pay 2017  
directly to an employee or to an employee's dependents 2018  
compensation and benefits under this section regardless of the 2019  
date of the injury or occupational disease, and the employer shall 2020  
receive no money or credits from the surplus fund account on 2021  
account of those payments and shall not be required to pay any 2022  
amounts into the surplus fund account on account of this section. 2023  
The election made under this division is irrevocable. 2024

(I) All actions and proceedings under this section which are 2025  
the subject of an appeal to the court of common pleas or the court 2026  
of appeals shall be preferred over all other civil actions except 2027  
election causes, irrespective of position on the calendar. 2028

This section applies to all decisions of the commission or 2029  
the administrator on November 2, 1959, and all claims filed 2030  
thereafter are governed by sections 4123.511 and 4123.512 of the 2031  
Revised Code. 2032

Any action pending in common pleas court or any other court 2033  
on January 1, 1986, under this section is governed by former 2034  
sections 4123.514, 4123.515, 4123.516, and 4123.519 and section 2035  
4123.522 of the Revised Code. 2036

Sec. 4123.513. (A) Except as otherwise provided in divisions 2037  
(B) and (C) of this section, if a claim is denied because the 2038  
claimant is, or if the claimant is a dependent of an individual 2039  
who died as a result of suffering an injury or contracting an 2040  
occupational disease, that individual was an unauthorized alien, 2041  
the claimant's employer or the individual's employer is not liable 2042  
to that claimant for damages suffered by reason of personal injury 2043  
sustained or occupational disease contracted in the course of 2044  
employment caused by the wrongful act or omission or neglect of 2045

the employer. For such a claimant, filing a claim under Chapter 2046  
4121., 4123., 4127., or 4131. of the Revised Code is the exclusive 2047  
remedy against the employer on account of injury, disease, or 2048  
death in the course of and arising out of the claimant's or 2049  
deceased employee's employment. Notwithstanding section 4123.77 of 2050  
the Revised Code and except as provided in division (B) of this 2051  
section, an irrebuttable presumption exists that the individual 2052  
assumed the risk of incurring an injury or contracting an 2053  
occupational disease at the workplace, or dying as a result of 2054  
such an injury or occupational disease, when performing services 2055  
or providing labor for that employer. 2056

(B) An employer is liable to a claimant whose claim is denied 2057  
because the claimant is or the deceased individual who is the 2058  
subject of the claim was an unauthorized alien for damages 2059  
suffered by reason of personal injury sustained or occupational 2060  
disease contracted in the course of employment caused by the 2061  
wrongful act or omission or neglect of the employer if the 2062  
claimant establishes, by clear and convincing evidence, that the 2063  
employer hired the claimant or the deceased individual knowing 2064  
that the claimant or deceased individual was not authorized to 2065  
work under section 101(a) of the "Immigration Reform and Control 2066  
Act of 1986," 100 Stat. 3360, 8 U.S.C. 1324a. There is a 2067  
rebuttable presumption that an employer did not hire a person 2068  
knowing the person was an illegal alien or unauthorized alien if 2069  
the employer has complied with the requirements of section 101(a) 2070  
of the "Immigration Reform and Control Act of 1986," 100 Stat. 2071  
3360, 8 U.S.C. 1324a. An employer may not assert any of the common 2072  
law defenses listed in section 4123.77 of the Revised Code in an 2073  
action brought against the employer pursuant to this section. 2074

(C) Nothing in this section shall be construed to prevent a 2075  
claimant whose claim is denied because the claimant is or the 2076  
deceased individual who is the subject of the claim was an 2077

unauthorized alien from bringing a claim against an employer in a 2078  
court of competent jurisdiction for an intentional tort allegedly 2079  
committed by the employer against the claimant or deceased 2080  
individual who was the subject of the claim. 2081

**Sec. 4123.53.** (A) The administrator of workers' compensation 2082  
or the industrial commission may require any employee claiming the 2083  
right to receive compensation to submit to a medical examination, 2084  
vocational evaluation, or vocational questionnaire at any time, 2085  
and from time to time, at a place reasonably convenient for the 2086  
employee, and as provided by the rules of the commission or the 2087  
administrator of workers' compensation. A claimant required by the 2088  
commission or administrator to submit to a medical examination or 2089  
vocational evaluation, at a point outside of the place of 2090  
permanent or temporary residence of the claimant, as provided in 2091  
this section, is entitled to have paid to the claimant by the 2092  
bureau of workers' compensation the necessary and actual expenses 2093  
on account of the attendance for the medical examination or 2094  
vocational evaluation after approval of the expense statement by 2095  
the bureau. Under extraordinary circumstances and with the 2096  
unanimous approval of the commission, if the commission requires 2097  
the medical examination or vocational evaluation, or with the 2098  
approval of the administrator, if the administrator requires the 2099  
medical examination or vocational evaluation, the bureau shall pay 2100  
an injured or diseased employee the necessary, actual, and 2101  
authorized expenses of treatment at a point outside the place of 2102  
permanent or temporary residence of the claimant. 2103

(B) ~~When~~ (1) Except as provided in divisions (B)(2) and (3) 2104  
of this section, when an employee initially receives temporary 2105  
total disability compensation pursuant to section 4123.56 of the 2106  
Revised Code for a consecutive ninety-day period, the 2107  
administrator shall refer the employee to the bureau medical 2108  
section ~~for~~ to schedule a medical examination to determine the 2109

employee's continued entitlement to such compensation, the 2110  
employee's rehabilitation potential, and the appropriateness of 2111  
the medical treatment the employee is receiving. The bureau 2112  
medical section shall ~~conduct~~ schedule the examination for a date 2113  
not later than thirty days following the end of the initial 2114  
ninety-day period. If the medical examiner, upon an initial or any 2115  
subsequent examination recommended by the medical examiner under 2116  
this division, determines that the employee is temporarily and 2117  
totally impaired, the medical examiner shall recommend a date when 2118  
the employee should be reexamined. Upon the issuance of the 2119  
medical examination report containing a recommendation for 2120  
reexamination, the administrator shall schedule an examination 2121  
and, if at the date of reexamination the employee is receiving 2122  
temporary total disability compensation, the employee shall be 2123  
examined. ~~The~~ 2124

(2) The administrator, for good cause, may waive the 2125  
scheduling of a medical examination under division (B)(1) of this 2126  
section. If the employee's employer objects to the administrator's 2127  
waiver, the administrator shall refer the employee to the bureau 2128  
medical section to schedule the examination or the administrator 2129  
shall schedule the examination. 2130

(3) The administrator shall adopt a rule, pursuant to Chapter 2131  
119. of the Revised Code, permitting employers to waive the 2132  
administrator's scheduling of any such examinations. 2133

(C) If an employee refuses to submit to any medical 2134  
examination or vocational evaluation scheduled pursuant to this 2135  
section or obstructs the same, or refuses to complete and submit 2136  
to the bureau or commission a vocational questionnaire within 2137  
thirty days after the bureau or commission mails the request to 2138  
complete and submit the questionnaire the employee's right to have 2139  
~~his or her~~ the employee's claim for compensation considered, if 2140  
the claim is pending before the bureau or commission, or to 2141

receive any payment for compensation theretofore granted, is 2142  
suspended during the period of the refusal or obstruction. 2143  
Notwithstanding this section, an employee's failure to submit to a 2144  
medical examination or vocational evaluation, or to complete and 2145  
submit a vocational questionnaire, shall not result in the 2146  
dismissal of the employee's claim. 2147

(D) Medical examinations scheduled under this section do not 2148  
limit medical examinations provided for in other provisions of 2149  
this chapter or Chapter 4121. of the Revised Code. 2150

**Sec. 4123.54.** (A) Except as otherwise provided in this 2151  
division or divisions (I) and (K) of this section, every employee, 2152  
who is injured or who contracts an occupational disease, and the 2153  
dependents of each employee who is killed, or dies as the result 2154  
of an occupational disease contracted in the course of employment, 2155  
wherever the injury has occurred or occupational disease has been 2156  
contracted, is entitled to receive the compensation for loss 2157  
sustained on account of the injury, occupational disease, or 2158  
death, and the medical, nurse, and hospital services and 2159  
medicines, and the amount of funeral expenses in case of death, as 2160  
are provided by this chapter. The compensation and benefits shall 2161  
be provided, as applicable, directly from the employee's 2162  
self-insuring employer as provided in section 4123.35 of the 2163  
Revised Code or from the state insurance fund. An employee or 2164  
dependent is not entitled to receive compensation or benefits 2165  
under this division if the employee's injury or occupational 2166  
disease is either of the following: 2167

(1) Purposely self-inflicted; 2168

(2) Caused by the employee being intoxicated, under the 2169  
influence of a controlled substance not prescribed by a physician, 2170  
or under the influence of marihuana if being intoxicated, under 2171  
the influence of a controlled substance not prescribed by a 2172

physician, or under the influence of marihuana was the proximate 2173  
cause of the injury. 2174

(B) For the purpose of this section, provided that an 2175  
employer has posted written notice to employees that the results 2176  
of, or the employee's refusal to submit to, any chemical test 2177  
described under this division may affect the employee's 2178  
eligibility for compensation and benefits pursuant to this chapter 2179  
and Chapter 4121. of the Revised Code, there is a rebuttable 2180  
presumption that an employee is intoxicated, under the influence 2181  
of a controlled substance not prescribed by the employee's 2182  
physician, or under the influence of marihuana and that being 2183  
intoxicated, under the influence of a controlled substance not 2184  
prescribed by the employee's physician, or under the influence of 2185  
marihuana is the proximate cause of an injury under either of the 2186  
following conditions: 2187

(1) When ~~any one or more~~ either of the following is true: 2188

(a) The employee, through a qualifying chemical test 2189  
administered within eight hours of an injury, is determined to 2190  
have an alcohol concentration level equal to or in excess of the 2191  
levels established in divisions (A)(1)(b) to (i) of section 2192  
4511.19 of the Revised Code: 2193

(b) The employee, through a qualifying chemical test 2194  
administered within thirty-two hours of an injury, is determined 2195  
to have ~~one of the following~~ a controlled substances substance not 2196  
prescribed by the employee's physician or marihuana in the 2197  
employee's system ~~that tests above the following levels in an~~ 2198  
~~enzyme multiplied immunoassay technique screening test and above~~ 2199  
~~the levels established in division (B)(1)(c) of this section in a~~ 2200  
~~gas chromatography mass spectrometry test:~~ 2201

(i) ~~For amphetamines, one thousand nanograms per milliliter~~ 2202  
~~of urine:~~ 2203

<del>(ii) For cannabinoids, fifty nanograms per milliliter of urine;</del>	2204
	2205
<del>(iii) For cocaine, including crack cocaine, three hundred nanograms per milliliter of urine;</del>	2206
	2207
<del>(iv) For opiates, two thousand nanograms per milliliter of urine;</del>	2208
	2209
<del>(v) For phencyclidine, twenty five nanograms per milliliter of urine.</del>	2210
	2211
<del>(c) The employee, through a qualifying chemical test administered within thirty two hours of an injury, is determined to have one of the following controlled substances not prescribed by the employee's physician or marihuana in the employee's system that tests above the following levels by a gas chromatography mass spectrometry test:</del>	2212
	2213
	2214
	2215
	2216
	2217
<del>(i) For amphetamines, five hundred nanograms per milliliter of urine;</del>	2218
	2219
<del>(ii) For cannabinoids, fifteen nanograms per milliliter of urine;</del>	2220
	2221
<del>(iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine;</del>	2222
	2223
<del>(iv) For opiates, two thousand nanograms per milliliter of urine;</del>	2224
	2225
<del>(v) For phencyclidine, twenty five nanograms per milliliter of urine.</del>	2226
	2227
<del>(d) <u>at a level equal to or in excess of the cutoff concentration level for the particular substance as provided in section 40.87 of Title 49 of the Code of Federal Regulations, 49 C.F.R. 40.87, as amended.</u></del>	2228
	2229
	2230
	2231
<del>(c) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined</del>	2232
	2233



to have barbiturates, benzodiazepines, or methadone, ~~or~~ 2234  
~~propoxyphene~~ in the employee's system that tests above levels 2235  
established by laboratories certified by the United States 2236  
department of health and human services. 2237

(2) When the employee refuses to submit to a requested 2238  
chemical test, on the condition that that employee is or was given 2239  
notice that the refusal to submit to any chemical test described 2240  
in division (B)(1) of this section may affect the employee's 2241  
eligibility for compensation and benefits under this chapter and 2242  
Chapter 4121. of the Revised Code. 2243

(C)(1) For purposes of division (B) of this section, a 2244  
chemical test is a qualifying chemical test if it is administered 2245  
to an employee after an injury under at least one of the following 2246  
conditions: 2247

(a) When the employee's employer had reasonable cause to 2248  
suspect that the employee may be intoxicated, under the influence 2249  
of a controlled substance not prescribed by the employee's 2250  
physician, or under the influence of marihuana; 2251

(b) At the request of a police officer pursuant to section 2252  
4511.191 of the Revised Code, and not at the request of the 2253  
employee's employer; 2254

(c) At the request of a licensed physician who is not 2255  
employed by the employee's employer, and not at the request of the 2256  
employee's employer. 2257

(2) As used in division (C)(1)(a) of this section, 2258  
"reasonable cause" means, but is not limited to, evidence that an 2259  
employee is or was using alcohol, a controlled substance, or 2260  
marihuana drawn from specific, objective facts and reasonable 2261  
inferences drawn from these facts in light of experience and 2262  
training. These facts and inferences may be based on, but are not 2263  
limited to, any of the following: 2264

(a) Observable phenomena, such as direct observation of use, 2265  
possession, or distribution of alcohol, a controlled substance, or 2266  
marihuana, or of the physical symptoms of being under the 2267  
influence of alcohol, a controlled substance, or marihuana, such 2268  
as but not limited to slurred speech; dilated pupils; odor of 2269  
alcohol, a controlled substance, or marihuana; changes in affect; 2270  
or dynamic mood swings; 2271

(b) A pattern of abnormal conduct, erratic or aberrant 2272  
behavior, or deteriorating work performance such as frequent 2273  
absenteeism, excessive tardiness, or recurrent accidents, that 2274  
appears to be related to the use of alcohol, a controlled 2275  
substance, or marihuana, and does not appear to be attributable to 2276  
other factors; 2277

(c) The identification of an employee as the focus of a 2278  
criminal investigation into unauthorized possession, use, or 2279  
trafficking of a controlled substance or marihuana; 2280

(d) A report of use of alcohol, a controlled substance, or 2281  
marihuana provided by a reliable and credible source; 2282

(e) Repeated or flagrant violations of the safety or work 2283  
rules of the employee's employer, that are determined by the 2284  
employee's supervisor to pose a substantial risk of physical 2285  
injury or property damage and that appear to be related to the use 2286  
of alcohol, a controlled substance, or marihuana and that do not 2287  
appear attributable to other factors. 2288

(D) Nothing in this section shall be construed to affect the 2289  
rights of an employer to test employees for alcohol or controlled 2290  
substance abuse. 2291

(E) For the purpose of this section, laboratories certified 2292  
by the United States department of health and human services or 2293  
laboratories that meet or exceed the standards of that department 2294  
for laboratory certification shall be used for processing the test 2295

results of a qualifying chemical test. 2296

(F) The written notice required by division (B) of this 2297  
section shall be the same size or larger than the proof of 2298  
workers' compensation coverage furnished by the bureau of workers' 2299  
compensation and shall be posted by the employer in the same 2300  
location as the proof of workers' compensation coverage or the 2301  
certificate of self-insurance. 2302

(G) If a condition that pre-existed an injury is 2303  
substantially aggravated by the injury, and that substantial 2304  
aggravation is documented by objective diagnostic findings, 2305  
objective clinical findings, or objective test results, no 2306  
compensation or benefits are payable because of the pre-existing 2307  
condition once that condition has returned to a level that would 2308  
have existed without the injury. 2309

(H)(1) Whenever, with respect to an employee of an employer 2310  
who is subject to and has complied with this chapter, there is 2311  
possibility of conflict with respect to the application of 2312  
workers' compensation laws because the contract of employment is 2313  
entered into and all or some portion of the work is or is to be 2314  
performed in a state or states other than Ohio, the employer and 2315  
the employee may agree to be bound by the laws of this state or by 2316  
the laws of some other state in which all or some portion of the 2317  
work of the employee is to be performed. The agreement shall be in 2318  
writing and shall be filed with the bureau of workers' 2319  
compensation within ten days after it is executed and shall remain 2320  
in force until terminated or modified by agreement of the parties 2321  
similarly filed. If the agreement is to be bound by the laws of 2322  
this state and the employer has complied with this chapter, then 2323  
the employee is entitled to compensation and benefits regardless 2324  
of where the injury occurs or the disease is contracted and the 2325  
rights of the employee and the employee's dependents under the 2326  
laws of this state are the exclusive remedy against the employer 2327

on account of injury, disease, or death in the course of and 2328  
arising out of the employee's employment. If the agreement is to 2329  
be bound by the laws of another state and the employer has 2330  
complied with the laws of that state, the rights of the employee 2331  
and the employee's dependents under the laws of that state are the 2332  
exclusive remedy against the employer on account of injury, 2333  
disease, or death in the course of and arising out of the 2334  
employee's employment without regard to the place where the injury 2335  
was sustained or the disease contracted. If an employer and an 2336  
employee enter into an agreement under this division, the fact 2337  
that the employer and the employee entered into that agreement 2338  
shall not be construed to change the status of an employee whose 2339  
continued employment is subject to the will of the employer or the 2340  
employee, unless the agreement contains a provision that expressly 2341  
changes that status. 2342

(2) If an employee or the employee's dependents receive an 2343  
award of compensation or benefits under this chapter or Chapter 2344  
4121., 4127., or 4131. of the Revised Code for the same injury, 2345  
occupational disease, or death for which the employee or the 2346  
employee's dependents previously pursued or otherwise elected to 2347  
accept workers' compensation benefits and received a decision on 2348  
the merits as defined in section 4123.542 of the Revised Code 2349  
under the laws of another state or recovered damages under the 2350  
laws of another state, the claim shall be disallowed and the 2351  
administrator or any self-insuring employer, by any lawful means, 2352  
may collect from the employee or the employee's dependents any of 2353  
the following: 2354

(a) The amount of compensation or benefits paid to or on 2355  
behalf of the employee or the employee's dependents by the 2356  
administrator or a self-insuring employer pursuant to this chapter 2357  
or Chapter 4121., 4127., or 4131. of the Revised Code for that 2358  
award; 2359

(b) Any interest, attorney's fees, and costs the 2360  
administrator or the self-insuring employer incurs in collecting 2361  
that payment. 2362

(3) If an employee or the employee's dependents receive an 2363  
award of compensation or benefits under this chapter or Chapter 2364  
4121., 4127., or 4131. of the Revised Code and subsequently pursue 2365  
or otherwise elect to accept workers' compensation benefits or 2366  
damages under the laws of another state for the same injury, 2367  
occupational disease, or death the claim under this chapter or 2368  
Chapter 4121., 4127., or 4131. of the Revised Code shall be 2369  
disallowed. The administrator or a self-insuring employer, by any 2370  
lawful means, may collect from the employee or the employee's 2371  
dependents or other-states' insurer any of the following: 2372

(a) The amount of compensation or benefits paid to or on 2373  
behalf of the employee or the employee's dependents by the 2374  
administrator or the self-insuring employer pursuant to this 2375  
chapter or Chapter 4121., 4127., or 4131. of the Revised Code for 2376  
that award; 2377

(b) Any interest, costs, and attorney's fees the 2378  
administrator or the self-insuring employer incurs in collecting 2379  
that payment; 2380

(c) Any costs incurred by an employer in contesting or 2381  
responding to any claim filed by the employee or the employee's 2382  
dependents for the same injury, occupational disease, or death 2383  
that was filed after the original claim for which the employee or 2384  
the employee's dependents received a decision on the merits as 2385  
described in section 4123.542 of the Revised Code. 2386

(4) If the employee's employer pays premiums into the state 2387  
insurance fund, the administrator shall not charge the amount of 2388  
compensation or benefits the administrator collects pursuant to 2389  
division (H)(2) or (3) of this section to the employer's 2390

experience. If the administrator collects any costs incurred by an employer in contesting or responding to any claim pursuant to division (H)(2) or (3) of this section, the administrator shall forward the amount collected to that employer. If the employee's employer is a self-insuring employer, the self-insuring employer shall deduct the amount of compensation or benefits the self-insuring employer collects pursuant to this division from the paid compensation the self-insuring employer reports to the administrator under division (L) of section 4123.35 of the Revised Code.

(5) If an employee is a resident of a state other than this state and is insured under the workers' compensation law or similar laws of a state other than this state, the employee and the employee's dependents are not entitled to receive compensation or benefits under this chapter, on account of injury, disease, or death arising out of or in the course of employment while temporarily within this state, and the rights of the employee and the employee's dependents under the laws of the other state are the exclusive remedy against the employer on account of the injury, disease, or death.

(6) An employee, or the dependent of an employee, who elects to receive compensation and benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for a claim may not receive compensation and benefits under the workers' compensation laws of any state other than this state for that same claim. For each claim submitted by or on behalf of an employee, the administrator or, if the employee is employed by a self-insuring employer, the self-insuring employer, shall request the employee or the employee's dependent to sign an election that affirms the employee's or employee's dependent's acceptance of electing to receive compensation and benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for that claim that

also affirmatively waives and releases the employee's or the 2423  
employee's dependent's right to file for and receive compensation 2424  
and benefits under the laws of any state other than this state for 2425  
that claim. The employee or employee's dependent shall sign the 2426  
election form within twenty-eight days after the administrator or 2427  
self-insuring employer submits the request or the administrator or 2428  
self-insuring employer shall dismiss that claim. 2429

In the event a workers' compensation claim has been filed in 2430  
another jurisdiction on behalf of an employee or the dependents of 2431  
an employee, and the employee or dependents subsequently elect to 2432  
receive compensation, benefits, or both under this chapter or 2433  
Chapter 4121., 4127., or 4131. of the Revised Code, the employee 2434  
or dependent shall withdraw or refuse acceptance of the workers' 2435  
compensation claim filed in the other jurisdiction in order to 2436  
pursue compensation or benefits under the laws of this state. If 2437  
the employee or dependents were awarded workers' compensation 2438  
benefits or had recovered damages under the laws of the other 2439  
state, any compensation and benefits awarded under this chapter or 2440  
Chapter 4121., 4127., or 4131. of the Revised Code shall be paid 2441  
only to the extent to which those payments exceed the amounts paid 2442  
under the laws of the other state. If the employee or dependent 2443  
fails to withdraw or to refuse acceptance of the workers' 2444  
compensation claim in the other jurisdiction within twenty-eight 2445  
days after a request made by the administrator or a self-insuring 2446  
employer, the administrator or self-insuring employer shall 2447  
dismiss the employee's or employee's dependents' claim made in 2448  
this state. 2449

(I) If an employee who is covered under the federal 2450  
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 2451  
33 U.S.C. 901 et seq., is injured or contracts an occupational 2452  
disease or dies as a result of an injury or occupational disease, 2453  
and if that employee's or that employee's dependents' claim for 2454

compensation or benefits for that injury, occupational disease, or death is subject to the jurisdiction of that act, the employee or the employee's dependents are not entitled to apply for and shall not receive compensation or benefits under this chapter and Chapter 4121. of the Revised Code. The rights of such an employee and the employee's dependents under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., are the exclusive remedy against the employer for that injury, occupational disease, or death.

(J) Compensation or benefits are not payable to a claimant or a dependent during the period of confinement of the claimant or dependent in any state or federal correctional institution, or in any county jail in lieu of incarceration in a state or federal correctional institution, whether in this or any other state for conviction of violation of any state or federal criminal law.

(K) An employer, upon the approval of the administrator, may provide for workers' compensation coverage for the employer's employees who are professional athletes and coaches by submitting to the administrator proof of coverage under a league policy issued under the laws of another state under either of the following circumstances:

(1) The employer administers the payroll and workers' compensation insurance for a professional sports team subject to a collective bargaining agreement, and the collective bargaining agreement provides for the uniform administration of workers' compensation benefits and compensation for professional athletes.

(2) The employer is a professional sports league, or is a member team of a professional sports league, and all of the following apply:

(a) The professional sports league operates as a single entity, whereby all of the players and coaches of the sports



league are employees of the sports league and not of the 2486  
individual member teams. 2487

(b) The professional sports league at all times maintains 2488  
workers' compensation insurance that provides coverage for the 2489  
players and coaches of the sports league. 2490

(c) Each individual member team of the professional sports 2491  
league, pursuant to the organizational or operating documents of 2492  
the sports league, is obligated to the sports league to pay to the 2493  
sports league any workers' compensation claims that are not 2494  
covered by the workers' compensation insurance maintained by the 2495  
sports league. 2496

If the administrator approves the employer's proof of 2497  
coverage submitted under division (K) of this section, a 2498  
professional athlete or coach who is an employee of the employer 2499  
and the dependents of the professional athlete or coach are not 2500  
entitled to apply for and shall not receive compensation or 2501  
benefits under this chapter and Chapter 4121. of the Revised Code. 2502  
The rights of such an athlete or coach and the dependents of such 2503  
an athlete or coach under the laws of the state where the policy 2504  
was issued are the exclusive remedy against the employer for the 2505  
athlete or coach if the athlete or coach suffers an injury or 2506  
contracts an occupational disease in the course of employment, or 2507  
for the dependents of the athlete or the coach if the athlete or 2508  
coach is killed as a result of an injury or dies as a result of an 2509  
occupational disease, regardless of the location where the injury 2510  
was suffered or the occupational disease was contracted. 2511

**Sec. 4123.56.** (A) Except as provided in division (D) of this 2512  
section, in the case of temporary disability, an employee shall 2513  
receive sixty-six and two-thirds per cent of the employee's 2514  
average weekly wage so long as such disability is total, not to 2515  
exceed a maximum amount of weekly compensation which is equal to 2516

the statewide average weekly wage as defined in division (C) of 2517  
section 4123.62 of the Revised Code, and not less than a minimum 2518  
amount of compensation which is equal to thirty-three and 2519  
one-third per cent of the statewide average weekly wage as defined 2520  
in division (C) of section 4123.62 of the Revised Code unless the 2521  
employee's wage is less than thirty-three and one-third per cent 2522  
of the minimum statewide average weekly wage, in which event the 2523  
employee shall receive compensation equal to the employee's full 2524  
wages; provided that for the first twelve weeks of total 2525  
disability the employee shall receive seventy-two per cent of the 2526  
employee's full weekly wage, but not to exceed a maximum amount of 2527  
weekly compensation which is equal to the lesser of the statewide 2528  
average weekly wage as defined in division (C) of section 4123.62 2529  
of the Revised Code or one hundred per cent of the employee's net 2530  
take-home weekly wage. In the case of a self-insuring employer, 2531  
payments shall be for a duration based upon the medical reports of 2532  
the attending physician. If the employer disputes the attending 2533  
physician's report, payments may be terminated only upon 2534  
application and hearing by a district hearing officer pursuant to 2535  
division (C) of section 4123.511 of the Revised Code. Payments 2536  
shall continue pending the determination of the matter, however 2537  
payment shall not be made for the period when any employee has 2538  
returned to work, when an employee's treating physician has made a 2539  
written statement that the employee is capable of returning to the 2540  
employee's former position of employment, when work within the 2541  
physical capabilities of the employee is made available by the 2542  
employer or another employer, or when the employee has reached the 2543  
maximum medical improvement. Where the employee is capable of work 2544  
activity, but the employee's employer is unable to offer the 2545  
employee any employment, the employee shall register with the 2546  
director of job and family services, who shall assist the employee 2547  
in finding suitable employment. The termination of temporary total 2548  
disability, whether by order or otherwise, does not preclude the 2549

commencement of temporary total disability at another point in 2550  
time if the employee again becomes temporarily totally disabled. 2551

After two hundred weeks of temporary total disability 2552  
benefits, the medical section of the bureau of workers' 2553  
compensation shall schedule the claimant for an examination for an 2554  
evaluation to determine whether or not the temporary disability 2555  
has become permanent. A self-insuring employer shall notify the 2556  
bureau immediately after payment of two hundred weeks of temporary 2557  
total disability and request that the bureau schedule the claimant 2558  
for such an examination. 2559

When the employee is awarded compensation for temporary total 2560  
disability for a period for which the employee has received 2561  
benefits under Chapter 4141. of the Revised Code, the bureau shall 2562  
pay an amount equal to the amount received from the award to the 2563  
director of job and family services and the director shall credit 2564  
the amount to the accounts of the employers to whose accounts the 2565  
payment of benefits was charged or is chargeable to the extent it 2566  
was charged or is chargeable. 2567

If any compensation under this section has been paid for the 2568  
same period or periods for which temporary nonoccupational 2569  
accident and sickness insurance is or has been paid pursuant to an 2570  
insurance policy or program to which the employer has made the 2571  
entire contribution or payment for providing insurance or under a 2572  
nonoccupational accident and sickness program fully funded by the 2573  
employer, except as otherwise provided in this division 2574  
compensation paid under this section for the period or periods 2575  
shall be paid only to the extent by which the payment or payments 2576  
exceeds the amount of the nonoccupational insurance or program 2577  
paid or payable. Offset of the compensation shall be made only 2578  
upon the prior order of the bureau or industrial commission or 2579  
agreement of the claimant. If an employer provides supplemental 2580  
sick leave benefits in addition to temporary total disability 2581

compensation paid under this section, and if the employer and an 2582  
employee agree in writing to the payment of the supplemental sick 2583  
leave benefits, temporary total disability benefits may be paid 2584  
without an offset for those supplemental sick leave benefits. 2585

As used in this division, "net take-home weekly wage" means 2586  
the amount obtained by dividing an employee's total remuneration, 2587  
as defined in section 4141.01 of the Revised Code, paid to or 2588  
earned by the employee during the first four of the last five 2589  
completed calendar quarters which immediately precede the first 2590  
day of the employee's entitlement to benefits under this division, 2591  
by the number of weeks during which the employee was paid or 2592  
earned remuneration during those four quarters, less the amount of 2593  
local, state, and federal income taxes deducted for each such 2594  
week. 2595

(B)(1) If an employee in a claim allowed under this chapter 2596  
suffers a wage loss as a result of returning to employment other 2597  
than the employee's former position of employment due to an injury 2598  
or occupational disease, the employee shall receive compensation 2599  
at sixty-six and two-thirds per cent of the difference between the 2600  
employee's average weekly wage and the employee's present earnings 2601  
not to exceed the statewide average weekly wage. The payments may 2602  
continue for up to a maximum of two hundred weeks, but the 2603  
payments shall be reduced by the corresponding number of weeks in 2604  
which the employee receives payments pursuant to division (A)(2) 2605  
of section 4121.67 of the Revised Code. 2606

(2) If an employee in a claim allowed under this chapter 2607  
suffers a wage loss as a result of being unable to find employment 2608  
consistent with the employee's disability resulting from the 2609  
employee's injury or occupational disease, the employee shall 2610  
receive compensation at sixty-six and two-thirds per cent of the 2611  
difference between the employee's average weekly wage and the 2612  
employee's present earnings, not to exceed the statewide average 2613

weekly wage. The payments may continue for up to a maximum of 2614  
fifty-two weeks. The first twenty-six weeks of payments under 2615  
division (B)(2) of this section shall be in addition to the 2616  
maximum of two hundred weeks of payments allowed under division 2617  
(B)(1) of this section. If an employee in a claim allowed under 2618  
this chapter receives compensation under division (B)(2) of this 2619  
section in excess of twenty-six weeks, the number of weeks of 2620  
compensation allowable under division (B)(1) of this section shall 2621  
be reduced by the corresponding number of weeks in excess of 2622  
twenty-six, and up to fifty-two, that is allowable under division 2623  
(B)(1) of this section. 2624

(3) The number of weeks of wage loss payable to an employee 2625  
under divisions (B)(1) and (2) of this section shall not exceed 2626  
two hundred and twenty-six weeks in the aggregate. 2627

(C) In the event an employee of a professional sports 2628  
franchise domiciled in this state is disabled as the result of an 2629  
injury or occupational disease, the total amount of payments made 2630  
under a contract of hire or collective bargaining agreement to the 2631  
employee during a period of disability is deemed an advanced 2632  
payment of compensation payable under sections 4123.56 to 4123.58 2633  
of the Revised Code. The employer shall be reimbursed the total 2634  
amount of the advanced payments out of any award of compensation 2635  
made pursuant to sections 4123.56 to 4123.58 of the Revised Code. 2636

(D) If an employee receives temporary total disability 2637  
benefits pursuant to division (A) of this section and social 2638  
security retirement benefits pursuant to the "Social Security 2639  
Act," the weekly benefit amount under division (A) of this section 2640  
shall not exceed sixty-six and two-thirds per cent of the 2641  
statewide average weekly wage as defined in division (C) of 2642  
section 4123.62 of the Revised Code. 2643

(E) If an employee is eligible for compensation under 2644  
division (A) of this section, but the employee's full weekly wage 2645

has not been determined at the time payments are to commence under 2646  
division (H) of section 4123.511 of the Revised Code, the employee 2647  
shall receive thirty-three and one-third per cent of the statewide 2648  
average weekly wage as defined in division (C) of section 4123.62 2649  
of the Revised Code. On determination of the employee's full 2650  
weekly wage, the compensation an employee receives shall be 2651  
adjusted pursuant to division (A) of this section. 2652

If the amount of compensation an employee receives under this 2653  
division is greater than the adjusted amount the employee receives 2654  
under division (A) of this section that is based on the employee's 2655  
full weekly wage, the excess amount shall be recovered in the 2656  
manner provided in division (K) of section 4123.511 of the Revised 2657  
Code. If the amount of compensation an employee receives under 2658  
this division is less than the adjusted amount the employee 2659  
receives under that division that is based on the employee's full 2660  
weekly wage, the employee shall receive the difference between 2661  
those two amounts. 2662

**Sec. 4123.57.** Partial disability compensation shall be paid 2663  
as follows. 2664

Except as provided in this section, not earlier than 2665  
twenty-six weeks after the date of termination of the latest 2666  
period of payments under section 4123.56 of the Revised Code, or 2667  
not earlier than twenty-six weeks after the date of the injury or 2668  
contraction of an occupational disease in the absence of payments 2669  
under section 4123.56 of the Revised Code, the employee may file 2670  
an application with the bureau of workers' compensation for the 2671  
determination of the percentage of the employee's permanent 2672  
partial disability resulting from an injury or occupational 2673  
disease. 2674

Whenever the application is filed, the bureau shall send a 2675  
copy of the application to the employee's employer or the 2676

employer's representative and shall schedule the employee for a 2677  
medical examination by the bureau medical section. The bureau 2678  
shall send a copy of the report of the medical examination to the 2679  
employee, the employer, and their representatives. Thereafter, the 2680  
administrator of workers' compensation shall review the employee's 2681  
claim file and make a tentative order as the evidence before the 2682  
administrator at the time of the making of the order warrants. If 2683  
the administrator determines that there is a conflict of evidence, 2684  
the administrator shall send the application, along with the 2685  
claimant's file, to the district hearing officer who shall set the 2686  
application for a hearing. 2687

If an employee fails to respond to an attempt to schedule a 2688  
medical examination by the bureau medical section, or fails to 2689  
attend a medical examination scheduled under this section without 2690  
notice or explanation, the employee's application for a finding 2691  
shall be dismissed without prejudice. The employee may refile the 2692  
application. A dismissed application does not toll the continuing 2693  
jurisdiction of the industrial commission under section 4123.52 of 2694  
the Revised Code. The administrator shall adopt rules addressing 2695  
the manner in which an employee will be notified of a possible 2696  
dismissal and how an employee may refile an application for a 2697  
determination. 2698

The administrator shall notify the employee, the employer, 2699  
and their representatives, in writing, of the tentative order and 2700  
of the parties' right to request a hearing. Unless the employee, 2701  
the employer, or their representative notifies the administrator, 2702  
in writing, of an objection to the tentative order within twenty 2703  
days after receipt of the notice thereof, the tentative order 2704  
shall go into effect and the employee shall receive the 2705  
compensation provided in the order. In no event shall there be a 2706  
reconsideration of a tentative order issued under this division. 2707

If the employee, the employer, or their representatives 2708

timely notify the administrator of an objection to the tentative 2709  
order, the matter shall be referred to a district hearing officer 2710  
who shall set the application for hearing with written notices to 2711  
all interested persons. Upon referral to a district hearing 2712  
officer, the employer may obtain a medical examination of the 2713  
employee, pursuant to rules of the industrial commission. 2714

(A) The district hearing officer, upon the application, shall 2715  
determine the percentage of the employee's permanent disability, 2716  
except as is subject to division (B) of this section, based upon 2717  
that condition of the employee resulting from the injury or 2718  
occupational disease and causing permanent impairment evidenced by 2719  
medical or clinical findings reasonably demonstrable. The employee 2720  
shall receive sixty-six and two-thirds per cent of the employee's 2721  
average weekly wage, but not more than a maximum of thirty-three 2722  
and one-third per cent of the statewide average weekly wage as 2723  
defined in division (C) of section 4123.62 of the Revised Code, 2724  
per week regardless of the average weekly wage, for the number of 2725  
weeks which equals the percentage of two hundred weeks. Except on 2726  
application for reconsideration, review, or modification, which is 2727  
filed within ten days after the date of receipt of the decision of 2728  
the district hearing officer, in no instance shall the former 2729  
award be modified unless it is found from medical or clinical 2730  
findings that the condition of the claimant resulting from the 2731  
injury has so progressed as to have increased the percentage of 2732  
permanent partial disability. A staff hearing officer shall hear 2733  
an application for reconsideration filed and the staff hearing 2734  
officer's decision is final. An employee may file an application 2735  
for a subsequent determination of the percentage of the employee's 2736  
permanent disability. If such an application is filed, the bureau 2737  
shall send a copy of the application to the employer or the 2738  
employer's representative. No sooner than sixty days from the date 2739  
of the mailing of the application to the employer or the 2740  
employer's representative, the administrator shall review the 2741



application. The administrator may require a medical examination 2742  
or medical review of the employee. The administrator shall issue a 2743  
tentative order based upon the evidence before the administrator, 2744  
provided that if the administrator requires a medical examination 2745  
or medical review, the administrator shall not issue the tentative 2746  
order until the completion of the examination or review. 2747

The employer may obtain a medical examination of the employee 2748  
and may submit medical evidence at any stage of the process up to 2749  
a hearing before the district hearing officer, pursuant to rules 2750  
of the commission. The administrator shall notify the employee, 2751  
the employer, and their representatives, in writing, of the nature 2752  
and amount of any tentative order issued on an application 2753  
requesting a subsequent determination of the percentage of an 2754  
employee's permanent disability. An employee, employer, or their 2755  
representatives may object to the tentative order within twenty 2756  
days after the receipt of the notice thereof. If no timely 2757  
objection is made, the tentative order shall go into effect. In no 2758  
event shall there be a reconsideration of a tentative order issued 2759  
under this division. If an objection is timely made, the 2760  
application for a subsequent determination shall be referred to a 2761  
district hearing officer who shall set the application for a 2762  
hearing with written notice to all interested persons. No 2763  
application for subsequent percentage determinations on the same 2764  
claim for injury or occupational disease shall be accepted for 2765  
review by the district hearing officer unless supported by 2766  
substantial evidence of new and changed circumstances developing 2767  
since the time of the hearing on the original or last 2768  
determination. 2769

No award shall be made under this division based upon a 2770  
percentage of disability which, when taken with all other 2771  
percentages of permanent disability, exceeds one hundred per cent. 2772  
If the percentage of the permanent disability of the employee 2773

equals or exceeds ninety per cent, compensation for permanent 2774  
partial disability shall be paid for two hundred weeks. 2775

Compensation payable under this division accrues and is 2776  
payable to the employee from the date of last payment of 2777  
compensation, or, in cases where no previous compensation has been 2778  
paid, from the date of the injury or the date of the diagnosis of 2779  
the occupational disease. 2780

When an award under this division has been made prior to the 2781  
death of an employee, all unpaid installments accrued or to accrue 2782  
under the provisions of the award are payable to the surviving 2783  
spouse, or if there is no surviving spouse, to the dependent 2784  
children of the employee, and if there are no children surviving, 2785  
then to other dependents as the administrator determines. 2786

(B) For purposes of this division, "payable per week" means 2787  
the seven-consecutive-day period in which compensation is paid in 2788  
installments according to the schedule associated with the 2789  
applicable injury as set forth in this division. 2790

Compensation paid in weekly installments according to the 2791  
schedule described in this division may only be commuted to one or 2792  
more lump sum payments pursuant to the procedure set forth in 2793  
section 4123.64 of the Revised Code. 2794

In cases included in the following schedule the compensation 2795  
payable per week to the employee is the statewide average weekly 2796  
wage as defined in division (C) of section 4123.62 of the Revised 2797  
Code per week and shall be paid in installments according to the 2798  
following schedule: 2799

For the loss of a first finger, commonly known as a thumb, 2800  
sixty weeks. 2801

For the loss of a second finger, commonly called index 2802  
finger, thirty-five weeks. 2803

For the loss of a third finger, thirty weeks.	2804
For the loss of a fourth finger, twenty weeks.	2805
For the loss of a fifth finger, commonly known as the little finger, fifteen weeks.	2806 2807
The loss of a second, or distal, phalange of the thumb is considered equal to the loss of one half of such thumb; the loss of more than one half of such thumb is considered equal to the loss of the whole thumb.	2808 2809 2810 2811
The loss of the third, or distal, phalange of any finger is considered equal to the loss of one-third of the finger.	2812 2813
The loss of the middle, or second, phalange of any finger is considered equal to the loss of two-thirds of the finger.	2814 2815
The loss of more than the middle and distal phalanges of any finger is considered equal to the loss of the whole finger. In no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.	2816 2817 2818 2819
For the loss of the metacarpal bone (bones of the palm) for the corresponding thumb, or fingers, add ten weeks to the number of weeks under this division.	2820 2821 2822
For ankylosis (total stiffness of) or contractures (due to scars or injuries) which makes any of the fingers, thumbs, or parts of either useless, the same number of weeks apply to the members or parts thereof as given for the loss thereof.	2823 2824 2825 2826
If the claimant has suffered the loss of two or more fingers by amputation or ankylosis and the nature of the claimant's employment in the course of which the claimant was working at the time of the injury or occupational disease is such that the handicap or disability resulting from the loss of fingers, or loss of use of fingers, exceeds the normal handicap or disability resulting from the loss of fingers, or loss of use of fingers, the	2827 2828 2829 2830 2831 2832 2833

administrator may take that fact into consideration and increase	2834
the award of compensation accordingly, but the award made shall	2835
not exceed the amount of compensation for loss of a hand.	2836
For the loss of a hand, one hundred seventy-five weeks.	2837
For the loss of an arm, two hundred twenty-five weeks.	2838
For the loss of a great toe, thirty weeks.	2839
For the loss of one of the toes other than the great toe, ten	2840
weeks.	2841
The loss of more than two-thirds of any toe is considered	2842
equal to the loss of the whole toe.	2843
The loss of less than two-thirds of any toe is considered no	2844
loss, except as to the great toe; the loss of the great toe up to	2845
the interphalangeal joint is co-equal to the loss of one-half of	2846
the great toe; the loss of the great toe beyond the	2847
interphalangeal joint is considered equal to the loss of the whole	2848
great toe.	2849
For the loss of a foot, one hundred fifty weeks.	2850
For the loss of a leg, two hundred weeks.	2851
For the loss of the sight of an eye, one hundred twenty-five	2852
weeks.	2853
For the permanent partial loss of sight of an eye, the	2854
portion of one hundred twenty-five weeks as the administrator in	2855
each case determines, based upon the percentage of vision actually	2856
lost as a result of the injury or occupational disease, but, in no	2857
case shall an award of compensation be made for less than	2858
twenty-five per cent loss of uncorrected vision. "Loss of	2859
uncorrected vision" means the percentage of vision actually lost	2860
as the result of the injury or occupational disease.	2861
For the permanent and total loss of hearing of one ear,	2862
twenty-five weeks; but in no case shall an award of compensation	2863

be made for less than permanent and total loss of hearing of one 2864  
ear. 2865

For the permanent and total loss of hearing, one hundred 2866  
twenty-five weeks; but, except pursuant to the next preceding 2867  
paragraph, in no case shall an award of compensation be made for 2868  
less than permanent and total loss of hearing. 2869

In case an injury or occupational disease results in serious 2870  
facial or head disfigurement which either impairs or may in the 2871  
future impair the opportunities to secure or retain employment, 2872  
the administrator shall make an award of compensation as it deems 2873  
proper and equitable, in view of the nature of the disfigurement, 2874  
and not to exceed the sum of ten thousand dollars. For the purpose 2875  
of making the award, it is not material whether the employee is 2876  
gainfully employed in any occupation or trade at the time of the 2877  
administrator's determination. 2878

When an award under this division has been made prior to the 2879  
death of an employee all unpaid installments accrued or to accrue 2880  
under the provisions of the award shall be payable to the 2881  
surviving spouse, or if there is no surviving spouse, to the 2882  
dependent children of the employee and if there are no such 2883  
children, then to such dependents as the administrator determines. 2884

When an employee has sustained the loss of a member by 2885  
severance, but no award has been made on account thereof prior to 2886  
the employee's death, the administrator shall make an award in 2887  
accordance with this division for the loss which shall be payable 2888  
to the surviving spouse, or if there is no surviving spouse, to 2889  
the dependent children of the employee and if there are no such 2890  
children, then to such dependents as the administrator determines. 2891

(C) Compensation for partial impairment under divisions (A) 2892  
and (B) of this section is in addition to the compensation paid 2893  
the employee pursuant to section 4123.56 of the Revised Code. A 2894

claimant may receive compensation under divisions (A) and (B) of 2895  
this section. 2896

In all cases arising under division (B) of this section, if 2897  
it is determined by any one of the following: (1) the amputee 2898  
clinic at University hospital, Ohio state university; (2) the 2899  
opportunities for Ohioans with disabilities agency; (3) an amputee 2900  
clinic or prescribing physician approved by the administrator or 2901  
the administrator's designee, that an injured or disabled employee 2902  
is in need of an artificial appliance, or in need of a repair 2903  
thereof, regardless of whether the appliance or its repair will be 2904  
serviceable in the vocational rehabilitation of the injured 2905  
employee, and regardless of whether the employee has returned to 2906  
or can ever again return to any gainful employment, the bureau 2907  
shall pay the cost of the artificial appliance or its repair out 2908  
of the surplus created by division (B) of section 4123.34 of the 2909  
Revised Code. 2910

In those cases where an opportunities for Ohioans with 2911  
disabilities agency's recommendation that an injured or disabled 2912  
employee is in need of an artificial appliance would conflict with 2913  
their state plan, adopted pursuant to the "Rehabilitation Act of 2914  
1973," 87 Stat. 355, 29 U.S.C.A. 701, the administrator or the 2915  
administrator's designee or the bureau may obtain a recommendation 2916  
from an amputee clinic or prescribing physician that they 2917  
determine appropriate. 2918

(D) If an employee of a state fund employer makes application 2919  
for a finding and the administrator finds that the employee has 2920  
contracted silicosis as defined in division (Y), or coal miners' 2921  
pneumoconiosis as defined in division (Z), or asbestosis as 2922  
defined in division (BB) of section 4123.68 of the Revised Code, 2923  
and that a change of such employee's occupation is medically 2924  
advisable in order to decrease substantially further exposure to 2925  
silica dust, asbestos, or coal dust and if the employee, after the 2926

finding, has changed or shall change the employee's occupation to 2927  
an occupation in which the exposure to silica dust, asbestos, or 2928  
coal dust is substantially decreased, the administrator shall 2929  
allow to the employee an amount equal to fifty per cent of the 2930  
statewide average weekly wage per week for a period of thirty 2931  
weeks, commencing as of the date of the discontinuance or change, 2932  
and for a period of one hundred weeks immediately following the 2933  
expiration of the period of thirty weeks, the employee shall 2934  
receive sixty-six and two-thirds per cent of the loss of wages 2935  
resulting directly and solely from the change of occupation but 2936  
not to exceed a maximum of an amount equal to fifty per cent of 2937  
the statewide average weekly wage per week. No such employee is 2938  
entitled to receive more than one allowance on account of 2939  
discontinuance of employment or change of occupation and benefits 2940  
shall cease for any period during which the employee is employed 2941  
in an occupation in which the exposure to silica dust, asbestos, 2942  
or coal dust is not substantially less than the exposure in the 2943  
occupation in which the employee was formerly employed or for any 2944  
period during which the employee may be entitled to receive 2945  
compensation or benefits under section 4123.68 of the Revised Code 2946  
on account of disability from silicosis, asbestosis, or coal 2947  
miners' pneumoconiosis. An award for change of occupation for a 2948  
coal miner who has contracted coal miners' pneumoconiosis may be 2949  
granted under this division even though the coal miner continues 2950  
employment with the same employer, so long as the coal miner's 2951  
employment subsequent to the change is such that the coal miner's 2952  
exposure to coal dust is substantially decreased and a change of 2953  
occupation is certified by the claimant as permanent. The 2954  
administrator may accord to the employee medical and other 2955  
benefits in accordance with section 4123.66 of the Revised Code. 2956

(E) If a firefighter or police officer makes application for 2957  
a finding and the administrator finds that the firefighter or 2958  
police officer has contracted a cardiovascular and pulmonary 2959

disease as defined in division (W) of section 4123.68 of the Revised Code, and that a change of the firefighter's or police officer's occupation is medically advisable in order to decrease substantially further exposure to smoke, toxic gases, chemical fumes, and other toxic vapors, and if the firefighter, or police officer, after the finding, has changed or changes occupation to an occupation in which the exposure to smoke, toxic gases, chemical fumes, and other toxic vapors is substantially decreased, the administrator shall allow to the firefighter or police officer an amount equal to fifty per cent of the statewide average weekly wage per week for a period of thirty weeks, commencing as of the date of the discontinuance or change, and for a period of seventy-five weeks immediately following the expiration of the period of thirty weeks the administrator shall allow the firefighter or police officer sixty-six and two-thirds per cent of the loss of wages resulting directly and solely from the change of occupation but not to exceed a maximum of an amount equal to fifty per cent of the statewide average weekly wage per week. No such firefighter or police officer is entitled to receive more than one allowance on account of discontinuance of employment or change of occupation and benefits shall cease for any period during which the firefighter or police officer is employed in an occupation in which the exposure to smoke, toxic gases, chemical fumes, and other toxic vapors is not substantially less than the exposure in the occupation in which the firefighter or police officer was formerly employed or for any period during which the firefighter or police officer may be entitled to receive compensation or benefits under section 4123.68 of the Revised Code on account of disability from a cardiovascular and pulmonary disease. The administrator may accord to the firefighter or police officer medical and other benefits in accordance with section 4123.66 of the Revised Code.

(F) An order issued under this section is appealable pursuant



to section 4123.511 of the Revised Code but is not appealable to 2993  
court under section 4123.512 of the Revised Code. 2994

**Sec. 4123.66.** (A) In addition to the compensation provided 2995  
for in this chapter, the administrator of workers' compensation 2996  
shall disburse and pay from the state insurance fund the amounts 2997  
for medical, nurse, and hospital services and medicine as the 2998  
administrator deems proper and, in case death ensues from the 2999  
injury or occupational disease, the administrator shall disburse 3000  
and pay from the fund reasonable funeral expenses in an amount not 3001  
to exceed fifty-five hundred dollars. The bureau of workers' 3002  
compensation shall reimburse anyone, whether dependent, volunteer, 3003  
or otherwise, who pays the funeral expenses of any employee whose 3004  
death ensues from any injury or occupational disease as provided 3005  
in this section. The administrator may adopt rules, with the 3006  
advice and consent of the bureau of workers' compensation board of 3007  
directors, with respect to furnishing medical, nurse, and hospital 3008  
service and medicine to injured or disabled employees entitled 3009  
thereto, and for the payment therefor. In case an injury or 3010  
industrial accident that injures an employee also causes damage to 3011  
the employee's eyeglasses, artificial teeth or other denture, or 3012  
hearing aid, or in the event an injury or occupational disease 3013  
makes it necessary or advisable to replace, repair, or adjust the 3014  
same, the bureau shall disburse and pay a reasonable amount to 3015  
repair or replace the same. 3016

(B) The administrator, in the rules the administrator adopts 3017  
pursuant to division (A) of this section, may adopt rules 3018  
specifying the circumstances under which the bureau may make 3019  
immediate payment for the first fill of prescription drugs for 3020  
medical conditions identified in an application for compensation 3021  
or benefits under section 4123.84 or 4123.85 of the Revised Code 3022  
that occurs prior to the date the administrator issues an initial 3023  
determination order under division (B) of section 4123.511 of the 3024

Revised Code. If the claim is ultimately disallowed in a final 3025  
administrative or judicial order, and if the employer is a state 3026  
fund employer who pays assessments into the surplus fund account 3027  
created under section 4123.34 of the Revised Code, the payments 3028  
for medical services made pursuant to this division for the first 3029  
fill of prescription drugs shall be charged to and paid from the 3030  
surplus fund account and not charged through the state insurance 3031  
fund to the employer against whom the claim was filed. 3032

(C)(1) If an employer or a welfare plan has provided to or on 3033  
behalf of an employee any benefits or compensation for an injury 3034  
or occupational disease and that injury or occupational disease is 3035  
determined compensable under this chapter, the employer or a 3036  
welfare plan may request that the administrator reimburse the 3037  
employer or welfare plan for the amount the employer or welfare 3038  
plan paid to or on behalf of the employee in compensation or 3039  
benefits. The administrator shall reimburse the employer or 3040  
welfare plan for the compensation and benefits paid if, at the 3041  
time the employer or welfare plan provides the benefits or 3042  
compensation to or on behalf of employee, the injury or 3043  
occupational disease had not been determined to be compensable 3044  
under this chapter and if the employee was not receiving 3045  
compensation or benefits under this chapter for that injury or 3046  
occupational disease. The administrator shall reimburse the 3047  
employer or welfare plan in the amount that the administrator 3048  
would have paid to or on behalf of the employee under this chapter 3049  
if the injury or occupational disease originally would have been 3050  
determined compensable under this chapter. If the employer is a 3051  
merit-rated employer, the administrator shall adjust the amount of 3052  
premium next due from the employer according to the amount the 3053  
administrator pays the employer. The administrator shall adopt 3054  
rules, in accordance with Chapter 119. of the Revised Code, to 3055  
implement this division. 3056

(2) As used in this division, "welfare plan" has the same meaning as in division (1) of 29 U.S.C.A. 1002.

(D)(1) Subject to the requirements of division (D)(2) of this section, the administrator may make a payment of up to five hundred dollars to either of the following:

(a) The centers of medicare and medicaid services, for reimbursement of conditional payments made pursuant to the "Medicare Secondary Payer Act," 42 U.S.C. 1395y;

(b) The Ohio department of medicaid, or a medical assistance provider to whom the department has assigned a right of recovery for a claim for which the department has notified the provider that the department intends to recoup the department's prior payment for the claim, for reimbursement under sections 5160.35 to 5160.43 of the Revised Code for the cost of medical assistance paid on behalf of a medical assistance recipient.

(2) The administrator may make a payment under division (D)(1) of this section if the administrator makes a reasonable determination that both of the following apply:

(a) The payment is for reimbursement of benefits for an injury or occupational disease.

(b) The injury or occupational disease is compensable, or is likely to be compensable, under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code.

(3) Any payment made pursuant to this division shall be charged to and paid from the surplus fund account created under section 4123.34 of the Revised Code.

(4) Nothing in this division shall be construed as limiting the centers of medicare and medicaid services, the department, or any other entity with a lawful right to reimbursement from recovering sums greater than five hundred dollars.

(5) The administrator may adopt rules, with the advice and consent of the bureau of workers' compensation board of directors, to implement this division.

**Sec. 4123.68.** Every employee who is disabled because of the contraction of an occupational disease or the dependent of an employee whose death is caused by an occupational disease, is entitled to the compensation provided by sections 4123.55 to 4123.59 and 4123.66 of the Revised Code subject to the modifications relating to occupational diseases contained in this chapter. An order of the administrator issued under this section is appealable pursuant to sections 4123.511 and 4123.512 of the Revised Code.

The following diseases are occupational diseases and compensable as such when contracted by an employee in the course of the employment in which such employee was engaged and due to the nature of any process described in this section. A disease which meets the definition of an occupational disease is compensable pursuant to this chapter though it is not specifically listed in this section.

SCHEDULE

- Description of disease or injury and description of process:
- (A) Anthrax: Handling of wool, hair, bristles, hides, and skins.
  - (B) Glanders: Care of any equine animal suffering from glanders; handling carcass of such animal.
  - (C) Lead poisoning: Any industrial process involving the use of lead or its preparations or compounds.
  - (D) Mercury poisoning: Any industrial process involving the use of mercury or its preparations or compounds.
  - (E) Phosphorous poisoning: Any industrial process involving

the use of phosphorous or its preparations or compounds.	3117
(F) Arsenic poisoning: Any industrial process involving the use of arsenic or its preparations or compounds.	3118 3119
(G) Poisoning by benzol or by nitro-derivatives and amido-derivatives of benzol (dinitro-benzol, anilin, and others): Any industrial process involving the use of benzol or nitro-derivatives or amido-derivatives of benzol or its preparations or compounds.	3120 3121 3122 3123 3124
(H) Poisoning by gasoline, benzine, naphtha, or other volatile petroleum products: Any industrial process involving the use of gasoline, benzine, naphtha, or other volatile petroleum products.	3125 3126 3127 3128
(I) Poisoning by carbon bisulphide: Any industrial process involving the use of carbon bisulphide or its preparations or compounds.	3129 3130 3131
(J) Poisoning by wood alcohol: Any industrial process involving the use of wood alcohol or its preparations.	3132 3133
(K) Infection or inflammation of the skin on contact surfaces due to oils, cutting compounds or lubricants, dust, liquids, fumes, gases, or vapors: Any industrial process involving the handling or use of oils, cutting compounds or lubricants, or involving contact with dust, liquids, fumes, gases, or vapors.	3134 3135 3136 3137 3138
(L) Epithelion cancer or ulceration of the skin or of the corneal surface of the eye due to carbon, pitch, tar, or tarry compounds: Handling or industrial use of carbon, pitch, or tarry compounds.	3139 3140 3141 3142
(M) Compressed air illness: Any industrial process carried on in compressed air.	3143 3144
(N) Carbon dioxide poisoning: Any process involving the evolution or resulting in the escape of carbon dioxide.	3145 3146

(O) Brass or zinc poisoning: Any process involving the manufacture, founding, or refining of brass or the melting or smelting of zinc.	3147 3148 3149
(P) Manganese dioxide poisoning: Any process involving the grinding or milling of manganese dioxide or the escape of manganese dioxide dust.	3150 3151 3152
(Q) Radium poisoning: Any industrial process involving the use of radium and other radioactive substances in luminous paint.	3153 3154
(R) Tenosynovitis and prepatellar bursitis: Primary tenosynovitis characterized by a passive effusion or crepitus into the tendon sheath of the flexor or extensor muscles of the hand, due to frequently repetitive motions or vibrations, or prepatellar bursitis due to continued pressure.	3155 3156 3157 3158 3159
(S) Chrome ulceration of the skin or nasal passages: Any industrial process involving the use of or direct contact with chromic acid or bichromates of ammonium, potassium, or sodium or their preparations.	3160 3161 3162 3163
(T) Potassium cyanide poisoning: Any industrial process involving the use of or direct contact with potassium cyanide.	3164 3165
(U) Sulphur dioxide poisoning: Any industrial process in which sulphur dioxide gas is evolved by the expansion of liquid sulphur dioxide.	3166 3167 3168
(V) Berylliosis: Berylliosis means a disease of the lungs caused by breathing beryllium in the form of dust or fumes, producing characteristic changes in the lungs and demonstrated by x-ray examination, by biopsy or by autopsy.	3169 3170 3171 3172
This chapter does not entitle an employee or the employee's dependents to compensation, medical treatment, or payment of funeral expenses for disability or death from berylliosis unless the employee has been subjected to injurious exposure to beryllium	3173 3174 3175 3176

dust or fumes in the employee's employment in this state preceding 3177  
the employee's disablement and only in the event of such 3178  
disability or death resulting within eight years after the last 3179  
injurious exposure; provided that such eight-year limitation does 3180  
not apply to disability or death from exposure occurring after 3181  
January 1, 1976. In the event of death following continuous total 3182  
disability commencing within eight years after the last injurious 3183  
exposure, the requirement of death within eight years after the 3184  
last injurious exposure does not apply. 3185

Before awarding compensation for partial or total disability 3186  
or death due to berylliosis, the administrator of workers' 3187  
compensation shall refer the claim to a qualified medical 3188  
specialist for examination and recommendation with regard to the 3189  
diagnosis, the extent of the disability, the nature of the 3190  
disability, whether permanent or temporary, the cause of death, 3191  
and other medical questions connected with the claim. An employee 3192  
shall submit to such examinations, including clinical and x-ray 3193  
examinations, as the administrator requires. In the event that an 3194  
employee refuses to submit to examinations, including clinical and 3195  
x-ray examinations, after notice from the administrator, or in the 3196  
event that a claimant for compensation for death due to 3197  
berylliosis fails to produce necessary consents and permits, after 3198  
notice from the administrator, so that such autopsy examination 3199  
and tests may be performed, then all rights for compensation are 3200  
forfeited. The reasonable compensation of such specialist and the 3201  
expenses of examinations and tests shall be paid, if the claim is 3202  
allowed, as part of the expenses of the claim, otherwise they 3203  
shall be paid from the surplus fund. 3204

(W) Cardiovascular, pulmonary, or respiratory diseases 3205  
incurred by firefighters or police officers following exposure to 3206  
heat, smoke, toxic gases, chemical fumes and other toxic 3207  
substances: Any cardiovascular, pulmonary, or respiratory disease 3208

of a firefighter or police officer caused or induced by the 3209  
cumulative effect of exposure to heat, the inhalation of smoke, 3210  
toxic gases, chemical fumes and other toxic substances in the 3211  
performance of the firefighter's or police officer's duty 3212  
constitutes a presumption, which may be refuted by affirmative 3213  
evidence, that such occurred in the course of and arising out of 3214  
the firefighter's or police officer's employment. For the purpose 3215  
of this section, "firefighter" means any regular member of a 3216  
lawfully constituted fire department of a municipal corporation or 3217  
township, whether paid or volunteer, and "police officer" means 3218  
any regular member of a lawfully constituted police department of 3219  
a municipal corporation, township or county, whether paid or 3220  
volunteer. 3221

This chapter does not entitle a firefighter, or police 3222  
officer, or the firefighter's or police officer's dependents to 3223  
compensation, medical treatment, or payment of funeral expenses 3224  
for disability or death from a cardiovascular, pulmonary, or 3225  
respiratory disease, unless the firefighter or police officer has 3226  
been subject to injurious exposure to heat, smoke, toxic gases, 3227  
chemical fumes, and other toxic substances in the firefighter's or 3228  
police officer's employment in this state preceding the 3229  
firefighter's or police officer's disablement, some portion of 3230  
which has been after January 1, 1967, except as provided in 3231  
division (E) of section 4123.57 of the Revised Code. 3232

Compensation on account of cardiovascular, pulmonary, or 3233  
respiratory diseases of firefighters and police officers is 3234  
payable only in the event of temporary total disability, permanent 3235  
total disability, or death, in accordance with section 4123.56, 3236  
4123.58, or 4123.59 of the Revised Code. Medical, hospital, and 3237  
nursing expenses are payable in accordance with this chapter. 3238  
Compensation, medical, hospital, and nursing expenses are payable 3239  
only in the event of such disability or death resulting within 3240



eight years after the last injurious exposure; provided that such 3241  
eight-year limitation does not apply to disability or death from 3242  
exposure occurring after January 1, 1976. In the event of death 3243  
following continuous total disability commencing within eight 3244  
years after the last injurious exposure, the requirement of death 3245  
within eight years after the last injurious exposure does not 3246  
apply. 3247

This chapter does not entitle a firefighter or police 3248  
officer, or the firefighter's or police officer's dependents, to 3249  
compensation, medical, hospital, and nursing expenses, or payment 3250  
of funeral expenses for disability or death due to a 3251  
cardiovascular, pulmonary, or respiratory disease in the event of 3252  
failure or omission on the part of the firefighter or police 3253  
officer truthfully to state, when seeking employment, the place, 3254  
duration, and nature of previous employment in answer to an 3255  
inquiry made by the employer. 3256

Before awarding compensation for disability or death under 3257  
this division, the administrator shall refer the claim to a 3258  
qualified medical specialist for examination and recommendation 3259  
with regard to the diagnosis, the extent of disability, the cause 3260  
of death, and other medical questions connected with the claim. A 3261  
firefighter or police officer shall submit to such examinations, 3262  
including clinical and x-ray examinations, as the administrator 3263  
requires. In the event that a firefighter or police officer 3264  
refuses to submit to examinations, including clinical and x-ray 3265  
examinations, after notice from the administrator, or in the event 3266  
that a claimant for compensation for death under this division 3267  
fails to produce necessary consents and permits, after notice from 3268  
the administrator, so that such autopsy examination and tests may 3269  
be performed, then all rights for compensation are forfeited. The 3270  
reasonable compensation of such specialists and the expenses of 3271  
examination and tests shall be paid, if the claim is allowed, as 3272

part of the expenses of the claim, otherwise they shall be paid 3273  
from the surplus fund. 3274

(X)(1) Cancer contracted by a firefighter: Cancer contracted 3275  
by a firefighter who has been assigned to at least six years of 3276  
hazardous duty as a firefighter constitutes a presumption that the 3277  
cancer was contracted in the course of and arising out of the 3278  
firefighter's employment if the firefighter was exposed to an 3279  
agent classified by the international agency for research on 3280  
cancer or its successor organization as a group 1 or 2A 3281  
carcinogen. 3282

(2) The presumption described in division (X)(1) of this 3283  
section is rebuttable in any of the following situations: 3284

(a) There is evidence that the firefighter's exposure, 3285  
outside the scope of the firefighter's official duties, to 3286  
cigarettes, tobacco products, or other conditions presenting an 3287  
extremely high risk for the development of the cancer alleged, was 3288  
probably a significant factor in the cause or progression of the 3289  
cancer. 3290

(b) There is evidence that shows, by a preponderance of 3291  
competent scientific evidence, that exposure to the type of 3292  
carcinogen alleged did not or could not have caused the cancer 3293  
being alleged. 3294

(c) There is evidence that the firefighter was not exposed to 3295  
an agent classified by the international agency for research on 3296  
cancer as a group 1 or 2A carcinogen. 3297

~~(e)~~(d) There is evidence that the firefighter incurred the 3298  
type of cancer alleged before becoming a member of the fire 3299  
department. 3300

~~(d)~~(e) The firefighter is seventy years of age or older. 3301

(3) The presumption described in division (X)(1) of this 3302

section does not apply if it has been more than ~~twenty~~ fifteen 3303  
years since the firefighter was last assigned to hazardous duty as 3304  
a firefighter. 3305

(4) Compensation for cancer contracted by a firefighter in 3306  
the course of hazardous duty under division (X) of this section is 3307  
payable only in the event of temporary total disability, working 3308  
wage loss, permanent total disability, or death, in accordance 3309  
with ~~sections~~ division (A) or (B)(1) of section 4123.56, and 3310  
sections 4123.58~~7~~ and 4123.59 of the Revised Code. 3311

(5) As used in division (X) of this section, "hazardous duty" 3312  
has the same meaning as in 5 C.F.R. 550.902, as amended. 3313

(Y) Silicosis: Silicosis means a disease of the lungs caused 3314  
by breathing silica dust (silicon dioxide) producing fibrous 3315  
nodules distributed through the lungs and demonstrated by x-ray 3316  
examination, by biopsy or by autopsy. 3317

(Z) Coal miners' pneumoconiosis: Coal miners' pneumoconiosis, 3318  
commonly referred to as "black lung disease," resulting from 3319  
working in the coal mine industry and due to exposure to the 3320  
breathing of coal dust, and demonstrated by x-ray examination, 3321  
biopsy, autopsy or other medical or clinical tests. 3322

This chapter does not entitle an employee or the employee's 3323  
dependents to compensation, medical treatment, or payment of 3324  
funeral expenses for disability or death from silicosis, 3325  
asbestosis, or coal miners' pneumoconiosis unless the employee has 3326  
been subject to injurious exposure to silica dust (silicon 3327  
dioxide), asbestos, or coal dust in the employee's employment in 3328  
this state preceding the employee's disablement, some portion of 3329  
which has been after October 12, 1945, except as provided in 3330  
division (E) of section 4123.57 of the Revised Code. 3331

Compensation on account of silicosis, asbestosis, or coal 3332  
miners' pneumoconiosis are payable only in the event of temporary 3333

total disability, permanent total disability, or death, in 3334  
accordance with sections 4123.56, 4123.58, and 4123.59 of the 3335  
Revised Code. Medical, hospital, and nursing expenses are payable 3336  
in accordance with this chapter. Compensation, medical, hospital, 3337  
and nursing expenses are payable only in the event of such 3338  
disability or death resulting within eight years after the last 3339  
injurious exposure; provided that such eight-year limitation does 3340  
not apply to disability or death occurring after January 1, 1976, 3341  
and further provided that such eight-year limitation does not 3342  
apply to any asbestosis cases. In the event of death following 3343  
continuous total disability commencing within eight years after 3344  
the last injurious exposure, the requirement of death within eight 3345  
years after the last injurious exposure does not apply. 3346

This chapter does not entitle an employee or the employee's 3347  
dependents to compensation, medical, hospital and nursing 3348  
expenses, or payment of funeral expenses for disability or death 3349  
due to silicosis, asbestosis, or coal miners' pneumoconiosis in 3350  
the event of the failure or omission on the part of the employee 3351  
truthfully to state, when seeking employment, the place, duration, 3352  
and nature of previous employment in answer to an inquiry made by 3353  
the employer. 3354

Before awarding compensation for disability or death due to 3355  
silicosis, asbestosis, or coal miners' pneumoconiosis, the 3356  
administrator shall refer the claim to a qualified medical 3357  
specialist for examination and recommendation with regard to the 3358  
diagnosis, the extent of disability, the cause of death, and other 3359  
medical questions connected with the claim. An employee shall 3360  
submit to such examinations, including clinical and x-ray 3361  
examinations, as the administrator requires. In the event that an 3362  
employee refuses to submit to examinations, including clinical and 3363  
x-ray examinations, after notice from the administrator, or in the 3364  
event that a claimant for compensation for death due to silicosis, 3365

asbestosis, or coal miners' pneumoconiosis fails to produce 3366  
necessary consents and permits, after notice from the commission, 3367  
so that such autopsy examination and tests may be performed, then 3368  
all rights for compensation are forfeited. The reasonable 3369  
compensation of such specialist and the expenses of examinations 3370  
and tests shall be paid, if the claim is allowed, as a part of the 3371  
expenses of the claim, otherwise they shall be paid from the 3372  
surplus fund. 3373

(AA) Radiation illness: Any industrial process involving the 3374  
use of radioactive materials. 3375

Claims for compensation and benefits due to radiation illness 3376  
are payable only in the event death or disability occurred within 3377  
eight years after the last injurious exposure provided that such 3378  
eight-year limitation does not apply to disability or death from 3379  
exposure occurring after January 1, 1976. In the event of death 3380  
following continuous disability which commenced within eight years 3381  
of the last injurious exposure the requirement of death within 3382  
eight years after the last injurious exposure does not apply. 3383

(BB) Asbestosis: Asbestosis means a disease caused by 3384  
inhalation or ingestion of asbestos, demonstrated by x-ray 3385  
examination, biopsy, autopsy, or other objective medical or 3386  
clinical tests. 3387

All conditions, restrictions, limitations, and other 3388  
provisions of this section, with reference to the payment of 3389  
compensation or benefits on account of silicosis or coal miners' 3390  
pneumoconiosis apply to the payment of compensation or benefits on 3391  
account of any other occupational disease of the respiratory tract 3392  
resulting from injurious exposures to dust. 3393

The refusal to produce the necessary consents and permits for 3394  
autopsy examination and testing shall not result in forfeiture of 3395  
compensation provided the administrator finds that such refusal 3396

was the result of bona fide religious convictions or teachings to 3397  
which the claimant for compensation adhered prior to the death of 3398  
the decedent. 3399

**Sec. 4123.71.** Every physician in this state attending on or 3400  
called in to visit a patient whom ~~he~~ the physician believes to be 3401  
suffering from an occupational disease as defined in section 3402  
4123.68 of the Revised Code shall, within forty-eight hours from 3403  
the time of making such diagnosis, send to the bureau of workers' 3404  
compensation a report stating: 3405

(A) Name, address, and occupation of patient; 3406

(B) Name and address of business in which employed; 3407

(C) Nature of disease; 3408

(D) Name and address of employer of patient; 3409

(E) Such other information as is reasonably required by the 3410  
bureau. 3411

The reports shall be made on blanks to be furnished by the 3412  
bureau. ~~The mailing of~~ A physician who sends the report within the 3413  
time stated, ~~in a stamped envelope addressed to the office of the~~ 3414  
bureau is a in compliance with this section. 3415

Reports made under this section shall not be evidence of the 3416  
facts therein stated in any action arising out of a disease 3417  
therein reported. 3418

The bureau shall, within twenty-four hours after the receipt 3419  
of the report, send a copy thereof to the employer of the patient 3420  
named in the report. 3421

**Sec. 4123.84.** (A) In all cases of injury or death, claims for 3422  
compensation or benefits for the specific part or parts of the 3423  
body injured shall be forever barred unless, within ~~two years~~ one 3424  
year after the injury or death: 3425

(1) Written or facsimile notice of the specific part or parts	3426
of the body claimed to have been injured has been made to the	3427
industrial commission or the bureau of workers' compensation;	3428
(2) The employer, with knowledge of a claimed compensable	3429
injury or occupational disease, has paid wages in lieu of	3430
compensation for total disability;	3431
(3) In the event the employer is a self-insuring employer,	3432
one of the following has occurred:	3433
(a) Written or facsimile notice of the specific part or parts	3434
of the body claimed to have been injured has been given to the	3435
commission or bureau or the employer has furnished treatment by a	3436
licensed physician in the employ of an employer, provided,	3437
however, that the furnishing of such treatment shall not	3438
constitute a recognition of a claim as compensable, but shall do	3439
no more than satisfy the requirements of this section;	3440
(b) Compensation or benefits have been paid or furnished	3441
equal to or greater than is provided for in sections 4123.52,	3442
4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code.	3443
(4) Written or facsimile notice of death has been given to	3444
the commission or bureau.	3445
(B) The bureau shall provide printed notices quoting in full	3446
division (A) of this section, and every self-insuring employer	3447
shall post and maintain at all times one or more of the notices in	3448
conspicuous places in the workshop or places of employment.	3449
(C) The commission has continuing jurisdiction as set forth	3450
in section 4123.52 of the Revised Code over a claim which meets	3451
the requirement of this section, including jurisdiction to award	3452
compensation or benefits for loss or impairment of bodily	3453
functions developing in a part or parts of the body not specified	3454
pursuant to division (A)(1) of this section, if the commission	3455
finds that the loss or impairment of bodily functions was due to	3456

and a result of or a residual of the injury to one of the parts of 3457  
the body set forth in the written notice filed pursuant to 3458  
division (A)(1) of this section. 3459

(D) Any claim pending before the administrator, the 3460  
commission, or a court on December 11, 1967, in which the remedy 3461  
is affected by this section is governed by this section. 3462

(E) Notwithstanding the requirement that the notice required 3463  
to be given to the bureau, commission, or employer under this 3464  
section is to be in writing or facsimile, the bureau may accept, 3465  
assign a claim number, and process a claim when notice is provided 3466  
verbally over the telephone. Immediately upon receipt of notice 3467  
provided verbally over the telephone, the bureau shall send a 3468  
written or facsimile notice to the employer of the bureau's 3469  
receipt of the verbal notice. Within fifteen days after receipt of 3470  
the bureau's written or facsimile notice, the employer may in 3471  
writing or facsimile either verify or not verify the verbal 3472  
notice. If the bureau does not receive the written or facsimile 3473  
notification from the employer or receives a written or facsimile 3474  
notification verifying the verbal notice within such time period, 3475  
the claim is validly filed and such verbal notice tolls the 3476  
statute of limitations in regard to the claim filed and is 3477  
considered to meet the requirements of written or facsimile notice 3478  
required by this section. 3479

(F) As used in division (A)(3)(b) of this section, "benefits" 3480  
means payments by a self-insuring employer to, or on behalf of, an 3481  
employee for a hospital bill, a medical bill to a licensed 3482  
physician or hospital, or an orthopedic or prosthetic device. 3483

**Sec. 4125.07.** (A) As used in this section, "self-insuring 3484  
employer" has the same meaning as in section 4123.01 of the 3485  
Revised Code. 3486

(B) Not later than ~~fourteen~~ thirty calendar days after the 3487



date on which a professional employer organization agreement is 3488  
terminated, the professional employer organization is adjudged 3489  
bankrupt, the professional employer organization ceases operations 3490  
within the state of Ohio, or the registration of the professional 3491  
employer organization is revoked, the professional employer 3492  
organization shall submit to the administrator of workers' 3493  
compensation and each client employer associated with that 3494  
professional employer organization a completed workers' 3495  
compensation lease termination notice form provided by the 3496  
administrator. The completed form shall include all client payroll 3497  
and claim information listed in a format specified by the 3498  
administrator and notice of all workers' compensation claims that 3499  
have been reported to the professional employer organization in 3500  
accordance with its internal reporting policies. 3501

(C)(1) If a professional employer organization that is a 3502  
self-insuring employer is required to submit a workers' 3503  
compensation lease termination notice form under division (B) of 3504  
this section, not later than ~~fourteen~~ thirty calendar days after 3505  
the lease termination the professional employer organization shall 3506  
submit all of the following to the administrator for any years 3507  
necessary for the administrator to develop a state fund experience 3508  
modification factor for each client employer involved in the lease 3509  
termination: 3510

(a) The payroll of each client employer involved in the lease 3511  
termination, organized by manual classification and year; 3512

(b) The medical and indemnity costs of each client employer 3513  
involved in the lease termination, organized by claim; 3514

(c) Any other information the administrator may require to 3515  
develop a state fund experience modification factor for each 3516  
client employer involved in the lease termination. 3517

(2) The administrator may require a professional employer 3518

organization to submit the information required under division 3519  
(C)(1) of this section at additional times after the initial 3520  
submission if the administrator determines that the information is 3521  
necessary for the administrator to develop a state fund experience 3522  
modification factor. 3523

(3) The administrator may revoke or refuse to renew a 3524  
professional employer organization's status as a self-insuring 3525  
employer if the professional employer organization fails to 3526  
provide information requested by the administrator under division 3527  
(C)(1) or (2) of this section. 3528

(D) The administrator shall use the information provided 3529  
under division (C) of this section to develop a state fund 3530  
experience modification factor for each client employer involved 3531  
in a lease termination with a professional employer organization 3532  
that is a self-insuring employer. 3533

(E) A professional employer organization shall report any 3534  
transfer of employees between related professional employer 3535  
organization entities or professional employer organization 3536  
reporting entities to the administrator within fourteen calendar 3537  
days after the date of the transfer on a form prescribed by the 3538  
administrator. The professional employer organization or 3539  
professional employer organization reporting entity shall include 3540  
in the form all client payroll and claim information regarding the 3541  
transferred employees listed in a format specified by the 3542  
administrator and a notice of all workers' compensation claims 3543  
that have been reported to the professional employer organization 3544  
or professional employer organization reporting entity in 3545  
accordance with the internal reporting policies of the 3546  
professional employer organization or professional employer 3547  
organization reporting entity. 3548

(F) Prior to entering into a professional employer 3549  
organization agreement with a client employer, a professional 3550

employer organization shall disclose in writing to the client 3551  
employer the reporting requirements that apply to the professional 3552  
employer organization under division (C) of this section and that 3553  
the administrator must develop a state fund experience 3554  
modification factor for each client employer involved in a lease 3555  
termination with a professional employer organization that is a 3556  
self-insuring employer. 3557

**Sec. 4167.01.** As used in this chapter: 3558

(A) "Public employer" means any of the following: 3559

(1) The state and its instrumentalities; 3560

(2) Any political subdivisions and their instrumentalities, 3561  
including any county, county hospital, municipal corporation, 3562  
city, village, township, park district, school district, state 3563  
institution of higher learning, public or special district, state 3564  
agency, authority, commission, or board; 3565

(3) Any other branch of public employment not mentioned in 3566  
division (A)(1) or (2) of this section. 3567

(B) "Public employee" means any individual who engages to 3568  
furnish services subject to the direction and control of a public 3569  
employer, including those individuals working for a private 3570  
employer who has contracted with a public employer and over whom 3571  
the national labor relations board has declined jurisdiction. 3572

"Public employee" does not mean any of the following: 3573

(1) ~~A firefighter, an emergency medical technician basic, an~~ 3574  
~~emergency medical technician intermediate, a paramedic, or a peace~~ 3575  
officer employed by a public employer as defined in division 3576  
(A)(2) of this section, or any member of the organized militia 3577  
ordered to duty by state authority pursuant to Chapter 5923. of 3578  
the Revised Code, ~~or a firefighter, an emergency medical~~ 3579  
~~technician basic, an emergency medical technician intermediate, or~~ 3580

~~a paramedic employed by a private employer that is organized as a 3581  
nonprofit fire company or life squad that contracts with a public 3582  
employer to provide fire protection or emergency medical services; 3583~~

~~(2) Any person employed as a correctional officer in a county 3584  
or municipal corporation correctional institution, whether the 3585  
county or municipal corporation solely or in conjunction with each 3586  
other operates the institution; 3587~~

~~(3) Any person who engages to furnish services subject to the 3588  
direction and control of a public employer but does not receive 3589  
compensation, either directly or indirectly, for those services; 3590~~

~~(4)(3) Any forest-fire investigator, natural resources 3591  
officer, wildlife officer, or preserve officer. 3592~~

(C) "Public employee representative" means an employee 3593  
organization certified by the state employment relations board 3594  
under section 4117.05 of the Revised Code as the exclusive 3595  
representative of the public employees in a bargaining unit. 3596

(D) "Employment risk reduction standard" means a standard 3597  
which requires conditions, or the adoption or use of one or more 3598  
practices, means, methods, operations, or processes, reasonably 3599  
necessary or appropriate to provide safe and healthful employment 3600  
and places of employment. 3601

(E) "Ohio employment risk reduction standard" means any risk 3602  
reduction standard adopted or issued under this chapter. 3603

(F) "Undue hardship" means any requirement imposed under this 3604  
chapter or a rule or order issued thereunder that would require a 3605  
public employer to take an action with significant difficulty or 3606  
expense when considered in light of all of the following factors: 3607

(1) The nature and cost of the action required under this 3608  
chapter; 3609

(2) The overall financial resources of the public employer 3610

involved in the action;	3611
(3) The number of persons employed by the public employer at the particular location where the action may be required;	3612 3613
(4) The effect on expenses and resources or the impact otherwise of the action required upon the operations of the public employer at the location where the action may be required;	3614 3615 3616
(5) The overall size of the public employer with respect to the number of its public employees;	3617 3618
(6) The number, type, and location of the public employer's operations, including the composition, structure, and functions of the workforce of the public entity;	3619 3620 3621
(7) The geographic separateness, administrative, or fiscal relationship of the public employer's operations to the whole public employer.	3622 3623 3624
<b>Sec. 4167.02.</b> (A) The administrator of <del>worker's</del> <u>workers'</u> compensation shall operate and enforce the public employment risk reduction program created by this chapter.	3625 3626 3627
(B) The administrator shall do all of the following:	3628
(1) Adopt rules, with the advice and consent of the bureau of workers' compensation board of directors and in accordance with Chapter 119. of the Revised Code, for the administration and enforcement of this chapter, <del>including rules covering standards.</del> <u>The administrator shall include both of the following in the rules:</u>	3629 3630 3631 3632 3633 3634
(a) <u>Standards</u> the administrator shall follow in issuing an emergency temporary Ohio employment risk reduction standard under section 4167.08 of the Revised Code and <u>in issuing</u> a temporary variance and a variance from an Ohio employment risk reduction standard or part thereof under section 4167.09 of the Revised Code;	3635 3636 3637 3638 3639 3640

(b) Standards and procedures for an effective safety 3641  
partnership agreement program for public employers and employees 3642  
that promotes voluntary compliance with this chapter. 3643

(2) Do all things necessary and appropriate for the 3644  
administration and enforcement of this chapter. 3645

(C) In carrying out the responsibilities of this chapter, the 3646  
administrator may use, with the consent of any federal, state, or 3647  
local agency, the services, facilities, and personnel of such 3648  
agency, with or without reimbursement, and may retain or contract 3649  
with experts, consultants, and organizations for services or 3650  
personnel on such terms as the administrator determines 3651  
appropriate. 3652

**Sec. 4167.10.** (A) In order to carry out the purposes of this 3653  
chapter, the administrator of workers' compensation or the 3654  
administrator's designee shall, as provided in this section, enter 3655  
without delay during normal working hours and at other reasonable 3656  
times, to inspect and investigate any plant, facility, 3657  
establishment, construction site, or any other area, workplace, or 3658  
environment where work is being performed by a public employee of 3659  
a public employer, and any place of employment and all pertinent 3660  
conditions, structures, machines, apparatus, devices, equipment, 3661  
and materials therein, and question privately any public employer, 3662  
administrator, department head, operator, agent, or public 3663  
employee. The authority to inspect and investigate includes the 3664  
taking of environmental samples, the taking and obtaining of 3665  
photographs related to the purposes of the inspection or 3666  
investigation, the examination of records required to be kept 3667  
under section 4167.11 of the Revised Code and other documents and 3668  
records relevant to the inspection and investigation, the issuance 3669  
of subpoenas, and the conducting of tests and other studies 3670  
reasonably calculated to serve the purposes of implementing and 3671

enforcing this chapter. Except as provided in this section, the 3672  
administrator or the administrator's designee shall conduct 3673  
scheduled inspections and investigations only pursuant to rules 3674  
adopted under section 4167.02 of the Revised Code, a request to do 3675  
so by a public employee or public employee representative, or the 3676  
notification the administrator receives pursuant to division (B) 3677  
of section 4167.06 of the Revised Code and only if the 3678  
administrator or the administrator's designee complies with this 3679  
section. The administrator or the administrator's designee shall 3680  
conduct all requested or required inspections within a reasonable 3681  
amount of time following receipt of the request or notification. 3682

(B)(1) Any public employee or public employee representative 3683  
who believes that a violation of an Ohio employment risk reduction 3684  
standard exists that threatens physical harm, or that an imminent 3685  
danger exists, may request an inspection by giving written notice 3686  
to the administrator or the administrator's designee of the 3687  
violation or danger. The notice shall set forth with reasonable 3688  
particularity the grounds for the notice, and shall be signed by 3689  
the public employee or public employee representative. The names 3690  
of individual public employees making the notice or referred to 3691  
therein shall not appear in the copy provided to the public 3692  
employer pursuant to division (B)(2) of this section and shall be 3693  
kept confidential. 3694

(2) If, upon receipt of a notification pursuant to division 3695  
(B)(1) of this section, the administrator determines that there 3696  
are no reasonable grounds to believe that a violation or danger 3697  
exists, the administrator shall inform the public employee or 3698  
public employee representative in writing of the determination. 3699  
If, upon receipt of a notification, the administrator determines 3700  
that there are reasonable grounds to believe that a violation or 3701  
danger exists, the administrator shall, within one week, excluding 3702  
Saturdays, Sundays, and any legal holiday as defined in section 3703

1.14 of the Revised Code, after receipt of the notification, 3704  
notify the public employer, by certified mail, return receipt 3705  
requested, of the alleged violation or danger. The notice provided 3706  
to the public employer or the public employer's agent shall 3707  
~~contain a copy of the notice provided to the administrator by the~~ 3708  
~~public employee or the public employee representative under~~ 3709  
~~division (B)(1) of this section and shall~~ inform the public 3710  
employer of the alleged violation or danger and that the 3711  
administrator or the administrator's designee will investigate and 3712  
inspect the public employer's workplace as provided in this 3713  
section. The public employer must respond to the administrator, in 3714  
a method determined by the administrator, concerning the alleged 3715  
violation or danger, within thirty days after receipt of the 3716  
notice. If the public employer does not correct the violation or 3717  
danger within the thirty-day period or if the public employer 3718  
fails to respond within that time period, the administrator or the 3719  
administrator's designee shall investigate and inspect the public 3720  
employer's workplace as provided in this section. The 3721  
administrator or the administrator's designee shall not conduct 3722  
any inspection prior to the end of the thirty-day period unless 3723  
requested or permitted by the public employer. The administrator 3724  
may, at any time upon the request of the public employer, inspect 3725  
and investigate any violation or danger alleged to exist at the 3726  
public employer's place of employment. 3727

(3) The authority of the administrator or the administrator's 3728  
designee to investigate and inspect a premises pursuant to a 3729  
public employee or public employee representative notification is 3730  
not limited to the alleged violation or danger contained in the 3731  
notification. The administrator or the administrator's designee 3732  
may investigate and inspect any other area of the premises where 3733  
there is reason to believe that a violation or danger exists. In 3734  
addition, if the administrator or the administrator's designee 3735  
detects any obvious or apparent violation at any temporary place 3736



of employment while en route to the premises to be inspected or 3737  
investigated, and that violation presents a substantial 3738  
probability that the condition or practice could result in death 3739  
or serious physical harm, the administrator or the administrator's 3740  
designee may use any of the enforcement mechanisms provided in 3741  
this section to correct or remove the condition or practice. 3742

(4) If, during an inspection or investigation, the 3743  
administrator or the administrator's designee finds any condition 3744  
or practice in any place of employment that presents a substantial 3745  
probability that the condition or practice could result in death 3746  
or serious physical harm, after notifying the employer of the 3747  
administrator's intent to issue an order, the administrator shall 3748  
issue an order, or the administrator's designee shall issue an 3749  
order after consultation either by telephone or in person with the 3750  
administrator and upon the recommendation of the administrator, 3751  
which prohibits the employment of any public employee or any 3752  
continuing operation or process under such condition or practice 3753  
until necessary steps are taken to correct or remove the condition 3754  
or practice. The order shall not be effective for more than 3755  
fifteen days, unless a court of competent jurisdiction otherwise 3756  
orders as provided in section 4167.14 of the Revised Code. 3757

(C) In making any inspections or investigations under this 3758  
chapter, the administrator or the administrator's designee may 3759  
administer oaths and require, by subpoena, the attendance and 3760  
testimony of witnesses and the production of evidence under oath. 3761  
Witnesses shall receive the fees and mileage provided for under 3762  
section 119.094 of the Revised Code. In the case of contumacy, 3763  
failure, or refusal of any person to comply with an order or any 3764  
subpoena lawfully issued, or upon the refusal of any witness to 3765  
testify to any matter regarding which the witness may lawfully be 3766  
interrogated, a judge of the court of common pleas of any county 3767  
in this state, on the application of the administrator or the 3768

administrator's designee, shall issue an order requiring the 3769  
person to appear and to produce evidence if, as, and when so 3770  
ordered, and to give testimony relating to the matter under 3771  
investigation or in question. The court may punish any failure to 3772  
obey the order of the court as a contempt thereof. 3773

(D) If, upon inspection or investigation, the administrator 3774  
or the administrator's designee believes that a public employer 3775  
has violated any requirement of this chapter or any rule, Ohio 3776  
employment risk reduction standard, or order adopted or issued 3777  
pursuant thereto, the administrator or the administrator's 3778  
designee shall, with reasonable promptness, issue a citation to 3779  
the public employer. The citation shall be in writing and describe 3780  
with particularity the nature of the alleged violation, including 3781  
a reference to the provision of law, Ohio employment risk 3782  
reduction standard, rule, or order alleged to have been violated. 3783  
In addition, the citation shall fix a time for the abatement of 3784  
the violation, as provided in division (H) of this section. The 3785  
administrator may prescribe procedures for the issuance of a 3786  
notice with respect to minor violations and for enforcement of 3787  
minor violations that have no direct or immediate relationship to 3788  
safety or health. 3789

(E) Upon receipt of any citation under this section, the 3790  
public employer shall immediately post the citation, or a copy 3791  
thereof, at or near each place an alleged violation referred to in 3792  
the citation occurred. 3793

(F) The administrator may not issue a citation under this 3794  
section after the expiration of six months following the final 3795  
occurrence of any violation. 3796

(G) If the administrator issues a citation pursuant to this 3797  
section, the administrator shall mail the citation to the public 3798  
employer by certified mail, return receipt requested. The public 3799  
employer has fourteen days after receipt of the citation within 3800

which to notify the administrator that the employer wishes to 3801  
contest the citation. If the employer notifies the administrator 3802  
within the fourteen days that the employer wishes to contest the 3803  
citation, or if within fourteen days after the issuance of a 3804  
citation a public employee or public employee representative files 3805  
notice that the time period fixed in the citation for the 3806  
abatement of the violation is unreasonable, the administrator 3807  
shall hold an adjudication hearing in accordance with Chapter 119. 3808  
of the Revised Code. 3809

(H) In establishing the time limits in which a public 3810  
employer must abate a violation under this section, the 3811  
administrator shall consider the costs to the public employer, the 3812  
size and financial resources of the public employer, the severity 3813  
of the violation, the technological feasibility of the public 3814  
employer's ability to comply with requirements of the citation, 3815  
the possible present and future detriment to the health and safety 3816  
of any public employee for failure of the public employer to 3817  
comply with requirements of the citation, and such other factors 3818  
as the administrator determines appropriate. The administrator 3819  
may, after considering the above factors, permit the public 3820  
employer to comply with the citation over a period of up to two 3821  
years and may extend that period an additional one year, as the 3822  
administrator determines appropriate. 3823

(I) Any public employer may request the administrator to 3824  
conduct an employment risk reduction inspection of the public 3825  
employer's place of employment. The administrator or the 3826  
administrator's designee shall conduct the inspection within a 3827  
reasonable amount of time following the request. Neither the 3828  
administrator nor any other person may use any information 3829  
obtained from the inspection for a period not to exceed three 3830  
years in any proceeding for a violation of this chapter or any 3831  
rule or order issued thereunder nor in any other action in any 3832

court in this state. 3833

**Section 101.02.** That existing sections 742.38, 2743.02, 3834  
 2744.02, 4113.21, 4121.125, 4121.44, 4123.01, 4123.29, 4123.343, 3835  
 4123.511, 4123.512, 4123.53, 4123.54, 4123.56, 4123.57, 4123.66, 3836  
 4123.68, 4123.71, 4123.84, 4125.07, 4167.01, 4167.02, and 4167.10 3837  
 of the Revised Code are hereby repealed. 3838

**Section 105.01.** That sections 4123.72 and 4167.19 of the 3839  
 Revised Code are hereby repealed. 3840

**Section 201.10.** All items in this section are hereby 3841  
 appropriated out of any moneys in the state treasury to the credit 3842  
 of the designated fund. For all appropriations made in this act, 3843  
 those in the first column are for fiscal year 2018, and those in 3844  
 the second column are for fiscal year 2019. 3845

BWC BUREAU OF WORKERS' COMPENSATION 3846

Dedicated Purpose Fund Group 3847

7023	855407	Claims, Risk and	\$	115,598,050	\$	118,300,550	3848
		Medical Management					
7023	855408	Fraud Prevention	\$	12,791,260	\$	12,791,260	3849
7023	855409	Administrative	\$	109,472,100	\$	109,472,100	3850
		Services					
7023	855410	Attorney General	\$	4,621,850	\$	4,621,850	3851
		Payments					
8220	855606	Coal Workers' Fund	\$	154,000	\$	154,000	3852
8230	855608	Marine Industry	\$	57,000	\$	57,000	3853
8250	855605	Disabled Workers	\$	173,000	\$	173,000	3854
		Relief Fund					
8260	855609	Safety and Hygiene	\$	22,000,000	\$	22,000,000	3855
		Operating					
8260	855610	Safety Grants	\$	15,000,000	\$	15,000,000	3856
TOTAL	DPF	Dedicated Purpose Fund	\$	279,867,260	\$	282,569,760	3857

Group

Federal Fund Group						3858
3490 855601	OSHA Enforcement	\$	1,653,900	\$	1,653,900	3859
3FW0 855614	BLS SOII Grant	\$	195,104	\$	195,104	3860
3FW0 855615	NIOSH Grant	\$	200,000	\$	200,000	3861
TOTAL FED	Federal Fund Group	\$	2,049,004	\$	2,049,004	3862
TOTAL ALL BUDGET FUND GROUPS		\$	281,916,264	\$	284,618,764	3863

WORKERS' COMPENSATION FRAUD UNIT 3864

Of the foregoing appropriation item 855410, Attorney General 3865  
 Payments, \$828,200 in each fiscal year shall be used to fund the 3866  
 expenses of the Workers' Compensation Fraud Unit within the 3867  
 Attorney General's Office. These payments shall be processed at 3868  
 the beginning of each quarter of each fiscal year and deposited 3869  
 into the Workers' Compensation Section Fund (Fund 1950) used by 3870  
 the Attorney General. 3871

SAFETY AND HYGIENE 3872

Notwithstanding section 4121.37 of the Revised Code, the 3873  
 Treasurer of State shall remit \$22,000,000 cash in fiscal year 3874  
 2018 and \$22,000,000 cash in fiscal year 2019 from the State 3875  
 Insurance Fund to the state treasury to the credit of the Safety 3876  
 and Hygiene Fund (Fund 8260). 3877

OSHA ON-SITE CONSULTATION PROGRAM 3878

A portion of the foregoing appropriation item 855609, Safety 3879  
 and Hygiene Operating, may be used to provide the state match for 3880  
 federal funding of the Occupational Safety and Health 3881  
 Administration's On-site Consultation Program operated by the 3882  
 Division of Safety and Hygiene. 3883

VOCATIONAL REHABILITATION 3884

The Bureau of Workers' Compensation and the Opportunities for 3885  
 Ohioans with Disabilities Agency may enter into an interagency 3886

agreement for the provision of vocational rehabilitation services 3887  
and staff to mutually eligible clients. The Bureau may provide 3888  
funds from the State Insurance Fund to fund vocational 3889  
rehabilitation services and staff in accordance with the 3890  
interagency agreement. 3891

**Section 201.20. DEPUTY INSPECTOR GENERAL FOR BWC AND OIC 3892**  
FUNDING 3893

To pay for the FY 2018 costs related to the Deputy Inspector 3894  
General for the Bureau of Workers' Compensation and Industrial 3895  
Commission, on July 1, 2017, and January 1, 2018, or as soon as 3896  
possible thereafter, the Director of Budget and Management shall 3897  
transfer \$212,500 in cash from the Workers' Compensation Fund 3898  
(Fund 7023) to the Deputy Inspector General for the Bureau of 3899  
Workers' Compensation and Industrial Commission Fund (Fund 5FT0). 3900

To pay for the FY 2019 costs related to the Deputy Inspector 3901  
General for the Bureau of Workers' Compensation and Industrial 3902  
Commission, on July 1, 2018, and January 1, 2019, or as soon as 3903  
possible thereafter, the Director of Budget and Management shall 3904  
transfer \$212,500 in cash from the Workers' Compensation Fund 3905  
(Fund 7023) to the Deputy Inspector General for the Bureau of 3906  
Workers' Compensation and Industrial Commission Fund (Fund 5FT0). 3907

If additional amounts are needed, the Inspector General may 3908  
seek Controlling Board approval for additional transfers of cash 3909  
and to increase the amount appropriated in appropriation item 3910  
965604, Deputy Inspector General for the Bureau of Workers' 3911  
Compensation and Industrial Commission. 3912

**Section 707.10.** The amendment made by this act to section 3913  
742.38 of the Revised Code applies only to an application for a 3914  
disability benefit pursuant to Chapter 742. of the Revised Code 3915  
that is filed on or after the effective date of this section. 3916

**Section 741.10.** The amendment by this act to section 4123.57 3917  
of the Revised Code applies to any application for a determination 3918  
of the percentage of permanent partial disability filed on or 3919  
after the effective date of this section. 3920

**Section 741.20.** Sections 4123.512 and 4123.84 of the Revised 3921  
Code, division (J) of section 4123.54 of the Revised Code, and 3922  
divisions (X)(2) and (3) of section 4123.68 of the Revised Code, 3923  
as amended by this act, apply to a claim under Chapters 4121., 3924  
4123., 4127., and 4131. of the Revised Code arising on or after 3925  
the effective date of this section. 3926

**Section 741.30.** If, on the effective date of this section, an 3927  
employee's application for a determination of the percentage of 3928  
the employee's permanent partial disability filed under section 3929  
4123.57 of the Revised Code has been suspended pursuant to 3930  
division (C) of section 4123.53 of the Revised Code, the 3931  
Administrator of Workers' Compensation shall send a notice to the 3932  
employee's last known address informing the employee that the 3933  
application may be dismissed unless the employee schedules a 3934  
medical examination with the Bureau of Workers' Compensation 3935  
medical section within thirty days after receiving the notice. If 3936  
the employee does not schedule a medical examination with the 3937  
Bureau medical section within thirty days after receiving the 3938  
notice or fails to attend an examination scheduled with the Bureau 3939  
medical section, notwithstanding division (C) of section 4123.53 3940  
of the Revised Code, the Administrator may dismiss the 3941  
application. The employee may refile the application. A dismissed 3942  
application does not toll the continuing jurisdiction of the 3943  
Industrial Commission under section 4123.52 of the Revised Code. 3944

**Section 741.40.** Sections 2743.02, 2744.02, 4123.01, and 3945  
4123.511 of the Revised Code, as amended by this act, and sections 3946

2307.82 and 4123.513 of the Revised Code, as enacted by this act, 3947  
apply to claims arising on or after the effective date of this 3948  
section. 3949

**Section 741.50.** The amendment by this act to division (X)(4) 3950  
of section 4123.68 of the Revised Code applies to any claim 3951  
pending on the effective date of this section and to any claim 3952  
filed on or after that date. 3953

**Section 801.10.** Law contained in the Main Operating 3954  
Appropriations Act of the 132nd General Assembly that applies 3955  
generally to the appropriations made in that act also applies 3956  
generally to the appropriations made in this act. 3957

**Section 806.10.** The provisions of law contained in this act, 3958  
and their applications, are severable. If any provision of law 3959  
contained in this act, or if any application of any provision of 3960  
law contained in this act, is held invalid, the invalidity does 3961  
not affect other provisions of law contained in this act and their 3962  
applications that can be given effect without the invalid 3963  
provision or application. 3964

**Section 812.10.** Except as otherwise specifically provided in 3965  
this act, the amendment, enactment, or repeal by this act of a 3966  
section of law is exempt from the referendum under Ohio 3967  
Constitution, Article II, Section 1d and section 1.471 of the 3968  
Revised Code and therefore takes effect immediately when this act 3969  
becomes law. 3970

**Section 812.20.** The amendment, enactment, or repeal by this 3971  
act of the divisions and sections of law listed below are subject 3972  
to the referendum under Ohio Constitution, Article II, Section 1c 3973  
and therefore take effect on the ninety-first day after this act 3974



is filed with the Secretary of State: 3975

All Revised Code sections in Sections 101.01 and 105.01 of 3976  
this act; 3977

Sections of this act prefixed with the number "707." or 3978  
"741." 3979

**Section 815.10.** Section 4121.125 of the Revised Code is 3980  
presented in this act as a composite of the section as amended by 3981  
Sub. H.B. 123, Am. Sub. H.B. 153, and Sub. S.B. 171 of the 129th 3982  
General Assembly. The General Assembly, applying the principle 3983  
stated in division (B) of section 1.52 of the Revised Code that 3984  
amendments are to be harmonized if reasonably capable of 3985  
simultaneous operation, finds that the composite is the resulting 3986  
version of the section in effect prior to the effective date of 3987  
the section as presented in this act. 3988