

**As Passed by the Senate**

**132nd General Assembly**

**Regular Session**

**2017-2018**

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

**Representative Brinkman**

**Cosponsors: Representatives Brenner, Antani, Blessing, Butler, Conditt,  
Hambley, Henne, Huffman, Pelanda, Perales, Reineke, Retherford, Riedel,  
Roegner, Schaffer, Seitz, Smith, R., Stein**

**Senators Hottinger, Hackett, Beagle, Terhar, Eklund, Hite, Hoagland,  
Huffman, Oelslager, Peterson, Wilson**

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**A B I L L**

To amend sections 742.38, 4113.21, 4121.125, 4121.44, 1  
4123.29, 4123.343, 4123.512, 4123.53, 4123.54, 2  
4123.56, 4123.57, 4123.66, 4123.68, 4123.71, 3  
4123.84, 4125.05, 4125.051, 4125.07, 4167.01, 4  
4167.02, and 4167.10 and to repeal sections 5  
4123.72 and 4167.19 of the Revised Code to make 6  
changes to the Workers' Compensation Law, to 7  
prohibit a public employer from requiring an 8  
employee to pay for a medical examination as a 9  
condition of continued employment, to make 10  
appropriations for the Bureau of Workers' 11  
Compensation for the biennium beginning July 1, 12  
2017, and ending June 30, 2019, and to provide 13  
authorization and conditions for the operation of 14  
the Bureau's programs. 15

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

**Section 101.01.** That sections 742.38, 4113.21, 4121.125, 16

4121.44, 4123.29, 4123.343, 4123.512, 4123.53, 4123.54, 4123.56, 17  
4123.57, 4123.66, 4123.68, 4123.71, 4123.84, 4125.05, 4125.051, 18  
4125.07, 4167.01, 4167.02, and 4167.10 of the Revised Code be 19  
amended to read as follows: 20

**Sec. 742.38.** (A)(1) The board of trustees of the Ohio police 21  
and fire pension fund shall adopt rules establishing minimum 22  
medical testing and diagnostic standards or procedures to be 23  
incorporated into physical examinations administered by physicians 24  
to prospective members of the fund. The standards or procedures 25  
shall include diagnosis and evaluation of the existence of any 26  
heart disease, cardiovascular disease, or respiratory disease. The 27  
rules shall specify the form of the physician's report and the 28  
information to be included in it. 29

The board shall notify all employers of the establishment of 30  
the minimum standards or procedures and shall include with the 31  
notice a copy of the standards or procedures. The board shall 32  
notify all employers of any changes made to the standards or 33  
procedures. Once the standards or procedures take effect, 34  
employers shall cause each prospective member of the fund to 35  
submit to a physical examination that incorporates the standards 36  
or procedures. 37

(2) Division (A)(2) of this section applies to an employee 38  
who becomes a member of the fund on or after the date the minimum 39  
standards or procedures described in division (A)(1) of this 40  
section take effect. For each employee described in division 41  
(A)(2) of this section, the employer shall forward to the board a 42  
copy of the physician's report of a physical examination that 43  
incorporates the standards or procedures described in division 44  
(A)(1) of this section. If an employer fails to forward the report 45  
in the form required by the board on or before the date that is 46  
sixty days after the employee becomes a member of the fund, the 47

board shall assess against the employer a penalty determined under 48  
section 742.353 of the Revised Code. 49

(B) Application for a disability benefit may be made by a 50  
member of the fund or, if the member is incapacitated as defined 51  
in rules adopted by the board, by a person acting on the member's 52  
behalf. Not later than fourteen days after receiving an 53  
application for a disability benefit from a member or a person 54  
acting on behalf of a member, the board shall notify the member's 55  
employer that an application has been filed. The notice shall 56  
state the member's position or rank. Not later than twenty-eight 57  
days after receiving the notice or filing an application on behalf 58  
of a member, the employer shall forward to the board a statement 59  
certifying the member's job description and any other information 60  
required by the board to process the application. 61

If the member applying for a disability benefit becomes a 62  
member of the fund prior to the date the minimum standards or 63  
procedures described in division (A)(1) of this section take 64  
effect, the board may request from the member's employer a copy of 65  
the physician's report of the member's physical examination taken 66  
on entry into the police or fire department or, if the employer 67  
does not have a copy of the report, a written statement certifying 68  
that the employer does not have a copy of the report. If an 69  
employer fails to forward the report or statement in the form 70  
required by the board on or before the date that is twenty-eight 71  
days after the date of the request, the board shall assess against 72  
the employer a penalty determined under section 742.353 of the 73  
Revised Code. The board shall maintain the information submitted 74  
under this division and division (A)(2) of this section in the 75  
member's file. 76

(C) For purposes of determining under division (D) of this 77  
section whether a member of the fund is disabled, the board shall 78  
adopt rules establishing objective criteria under which the board 79

shall make the determination. The rules shall include standards	80
that provide for all of the following:	81
(1) Evaluating a member's illness or injury on which an	82
application for disability benefits is based;	83
(2) Defining the occupational duties of a police officer or	84
firefighter;	85
(3) Providing for the board to assign competent and	86
disinterested physicians and vocational evaluators to conduct	87
examinations of a member;	88
(4) Requiring a written report for each disability	89
application that includes a summary of findings, medical opinions,	90
including an opinion on whether the illness or injury upon which	91
the member's application for disability benefits is based was	92
caused or induced by the actual performance of the member's	93
official duties, and any recommendations or comments based on the	94
medical opinions;	95
(5) Providing for the board to consider the member's	96
potential for retraining or reemployment.	97
(D) This division does not apply to members of the fund who	98
have elected to receive benefits and pensions in accordance with	99
division (A) or (B) of section 742.37 of the Revised Code or from	100
a police relief and pension fund or a firemen's relief and pension	101
fund in accordance with the rules of that fund in force on April	102
1, 1947.	103
As used in this division:	104
"Totally disabled" means a member of the fund is unable to	105
perform the duties of any gainful occupation for which the member	106
is reasonably fitted by training, experience, and accomplishments.	107
Absolute helplessness is not a prerequisite of being totally	108
disabled.	109

"Permanently disabled" means a condition of disability from 110  
which there is no present indication of recovery. 111

"Hazardous duty" has the same meaning as in 5 C.F.R. 550.902, 112  
as amended. 113

(1) A member of the fund who is permanently and totally 114  
disabled as the result of the performance of the member's official 115  
duties as a member of a police or fire department shall be paid 116  
annual disability benefits in accordance with division (A) of 117  
section 742.39 of the Revised Code. In determining whether a 118  
member of the fund is permanently and totally disabled, the board 119  
shall consider standards adopted under division (C) of this 120  
section applicable to the determination. 121

(2) A member of the fund who is permanently and partially 122  
disabled as the result of the performance of the member's official 123  
duties as a member of a police or fire department shall, if the 124  
disability prevents the member from performing those duties and 125  
impairs the member's earning capacity, receive annual disability 126  
benefits in accordance with division (B) of section 742.39 of the 127  
Revised Code. In determining whether a member of the fund is 128  
permanently and partially disabled, the board shall consider 129  
standards adopted under division (C) of this section applicable to 130  
the determination. 131

(3)(a) A member of the fund who is permanently disabled as a 132  
result of heart disease or any cardiovascular or respiratory 133  
disease of a chronic nature, which disease or any evidence of 134  
which disease was not revealed by the physical examination passed 135  
by the member on entry into the department or another examination 136  
specified in rules the board adopts under section 742.10 of the 137  
Revised Code, is presumed to have incurred the disease while 138  
performing the member's official duties, unless the contrary is 139  
shown by competent evidence. The board may waive the requirement 140  
that the absence of disease be evidenced by a physical examination 141

if competent medical evidence of a type specified in rules adopted 142  
under section 742.10 of the Revised Code is submitted documenting 143  
that the disease was not evident prior to or at the time of entry 144  
into the department. 145

(b) A member of the fund who is a member of a fire 146  
department, has been assigned to at least six years of hazardous 147  
duty as a member of a fire department, and is disabled as a result 148  
of cancer, is presumed to have incurred the cancer while 149  
performing the member's official duties if the member was exposed 150  
to an agent classified by the international agency for research on 151  
cancer or its successor agency as a group 1 or 2A carcinogen. 152

(c) The presumption described in division (D)(3)(b) of this 153  
section is rebuttable in any of the following situations: 154

(i) There is evidence that the member incurred the type of 155  
cancer being alleged before becoming a member of the department. 156

(ii) There is evidence that the member's exposure, outside 157  
the scope of the member's official duties, to cigarettes, tobacco 158  
products, or other conditions presenting an extremely high risk 159  
for the development of the cancer alleged, was probably a 160  
significant factor in the cause or progression of the cancer. 161

(iii) There is evidence that shows, by a preponderance of 162  
competent scientific evidence, that exposure to the type of 163  
carcinogen alleged did not or could not have caused the cancer 164  
being alleged. 165

(iv) There is evidence that the member was not exposed to an 166  
agent classified by the international agency for research on 167  
cancer or its successor agency as a group 1 or 2A carcinogen. 168

~~(iv)~~(v) The member is seventy years of age or older. 169

(d) The presumption described in division (D)(3)(b) of this 170  
section does not apply if it has been more than ~~twenty~~ fifteen 171

years since the member was last assigned to hazardous duty as a 172  
member of a fire department. 173

(4) A member of the fund who has five or more years of 174  
service credit and has incurred a permanent disability not caused 175  
or induced by the actual performance of the member's official 176  
duties as a member of the department, or by the member's own 177  
negligence, shall if the disability prevents the member from 178  
performing those duties and impairs the member's earning capacity, 179  
receive annual disability benefits in accordance with division (C) 180  
of section 742.39 of the Revised Code. In determining whether a 181  
member of the fund is permanently disabled, the board shall 182  
consider standards adopted under division (C) of this section 183  
applicable to the determination. 184

(5) The board shall notify a member of its final action 185  
awarding a disability benefit to the member within thirty days of 186  
the final action. The notice shall be sent by certified mail, 187  
return receipt requested. Not later than ninety days after receipt 188  
of notice from the board, the member shall elect, on a form 189  
provided by the board, either to accept or waive the disability 190  
benefit award. If the member elects to waive the disability 191  
benefit award or fails to make an election within the time period, 192  
the award is rescinded. A member who later seeks a disability 193  
benefit award shall be required to make a new application, which 194  
shall be dealt with in accordance with the procedures used for 195  
original disability benefit applications. 196

A person is not eligible to apply for or receive disability 197  
benefits under this division, section 742.39 of the Revised Code, 198  
or division (C)(2), (3), (4), or (5) of former section 742.37 of 199  
the Revised Code unless the person is a member of the fund on the 200  
date on which the application for disability benefits is submitted 201  
to the fund. 202

With the exception of persons who may make application for 203

increased benefits as provided in division (D)(2) or (4) of this 204  
section or division (C)(3) or (5) of former section 742.37 of the 205  
Revised Code on or after July 24, 1986, or persons who may make 206  
application for benefits as provided in section 742.26 of the 207  
Revised Code, no person receiving a pension or benefit under this 208  
section or division (C) of former section 742.37 of the Revised 209  
Code may apply for any new, changed, or different benefit. 210

(E) Notwithstanding the requirement of section 742.41 of the 211  
Revised Code that all medical reports and recommendations required 212  
are privileged, the board shall submit to the administrator of 213  
workers' compensation any data necessary for the report required 214  
under section 4123.86 of the Revised Code. 215

**Sec. 4113.21.** (A) No private employer shall require any 216  
prospective employee or applicant for employment to pay the cost 217  
of a medical examination required by the employer as a condition 218  
of employment. 219

(B) No public employer shall require any employee, 220  
prospective employee, or applicant for employment to pay the cost 221  
of a medical examination required by the public employer as a 222  
condition of employment or continued employment. 223

(C) As used in this section: 224

~~(A)~~ "Employer (1) "Private employer" means any individual, 225  
partnership, trust, estate, joint-stock company, insurance 226  
company, common carrier, public utility, or corporation, whether 227  
domestic or foreign, or the receiver, trustee in bankruptcy, 228  
trustee, or the successor thereof, who has in employment three or 229  
more individuals at any one time within a calendar year. 230

~~(B)~~ (2) "Public employer" means the United States, the state, 231  
any political subdivision of the state, and any agency of the 232  
United States, the state, or a political subdivision of the state. 233



(3) "Employee" means any person who may be permitted, 234  
required, or directed by any employer in consideration of direct 235  
or indirect gain or profit, to engage in any employment. 236

(D) Any employer who violates this section shall forfeit not 237  
more than one hundred dollars for each violation. The bureau of 238  
workers' compensation and the public utilities commission shall 239  
enforce this section. 240

**Sec. 4121.125.** (A) The bureau of workers' compensation board 241  
of directors, based upon recommendations of the workers' 242  
compensation actuarial committee, may contract with one or more 243  
outside actuarial firms and other professional persons, as the 244  
board determines necessary, to assist the board in ~~measuring~~ 245  
maintaining and monitoring the performance of Ohio's workers' 246  
compensation system ~~and in comparing Ohio's workers' compensation~~ 247  
~~system to other state and private workers' compensation systems.~~ 248  
The board, actuarial firm or firms, and professional persons shall 249  
~~make such measurements and comparisons~~ perform analyses using 250  
accepted insurance industry standards, including, but not limited 251  
to, standards promulgated by the actuarial standards board of the 252  
American academy of actuaries or techniques used by the National 253  
Council on Compensation Insurance. 254

(B) The board may contract with one or more outside firms to 255  
conduct management and financial audits of the workers' 256  
compensation system, including ~~audits~~ analyses of the reserve fund 257  
belonging to the state insurance fund, and to establish objective 258  
quality management principles and methods by which to review the 259  
performance of the workers' compensation system. 260

(C) The board shall do all of the following: 261

(1) Contract to have prepared annually by or under the 262  
supervision of an actuary a report that meets the requirements 263  
specified under division (E) of this section and that consists of 264

an actuarial ~~valuation of the assets,~~ estimate of the unpaid 265  
liabilities, ~~and funding requirements~~ of the state insurance fund 266  
and all other funds specified in this chapter and Chapters 4123., 267  
4127., and 4131. of the Revised Code; 268

(2) Require that the actuary or person supervised by an 269  
actuary referred to in division (C)(1) of this section complete 270  
the ~~valuation~~ estimate of unpaid liabilities in accordance with 271  
the actuarial standards of practice promulgated by the actuarial 272  
standards board of the American academy of actuaries; 273

(3) Submit the report referred to in division (C)(1) of this 274  
section to the standing committees of the house of representatives 275  
and the senate with primary responsibility for workers' 276  
compensation legislation on or before the first day of November 277  
following the year for which the ~~valuation~~ estimate of unpaid 278  
liabilities was made; 279

(4) Have an actuary or a person who provides actuarial 280  
services under the supervision of an actuary, at such time as the 281  
board determines, and at least once during the five-year period 282  
that commences on September 10, 2007, and once within each 283  
five-year period thereafter, conduct an actuarial ~~investigation of~~ 284  
~~the experience of employers,~~ analysis of the mortality, ~~service,~~ 285  
~~and injury rate of employees,~~ and the payment of temporary total 286  
~~disability, permanent partial disability,~~ experience used in 287  
estimating the future costs of awards for survivor benefits and 288  
permanent total disability under sections 4123.56 to 4123.58 of 289  
the Revised Code to be used in the experience rating of an 290  
employer for purposes of premium calculation and to update the 291  
~~actuarial assumptions~~ claim level reserves used in the report 292  
required by division (C)(1) of this section; 293

(5) Submit the report required under division (F) of this 294  
section to the standing committees of the house of representatives 295  
and the senate with primary responsibility for workers' 296

compensation legislation not later than the first day of November	297
following the fifth year of the period that the report covers;	298
(6) Have prepared by or under the supervision of an actuary	299
an actuarial analysis of any introduced legislation expected to	300
have a measurable financial impact on the workers' compensation	301
system;	302
(7) Submit the report required under division (G) of this	303
section to the legislative service commission and the standing	304
committees of the house of representatives and the senate with	305
primary responsibility for workers' compensation legislation not	306
later than sixty days after the date of introduction of the	307
legislation.	308
(D) The administrator of workers' compensation and the	309
industrial commission shall compile information and provide access	310
to records of the bureau and the industrial commission to the	311
board to the extent necessary for fulfillment of both of the	312
following requirements:	313
(1) Conduct of the <del>measurements and comparisons</del> <u>monitoring</u>	314
described in division (A) of this section;	315
(2) Conduct of the management and financial audits and	316
establishment of the principles and methods described in division	317
(B) of this section.	318
(E) The firm or person with whom the board contracts pursuant	319
to division (C)(1) of this section shall prepare a report of the	320
<del>valuation</del> <u>analysis of the unpaid liabilities</u> and submit the report	321
to the board. The firm or person shall include all of the	322
following information in the report that is required under	323
division (C)(1) of this section:	324
(1) A summary of the <del>compensation and benefit provisions</del>	325
<u>funds and components</u> evaluated;	326

(2) A description of the actuarial methods and assumptions 327  
~~and actuarial cost method~~ used in the valuation analysis of the 328  
unpaid liabilities; 329

(3) A schedule showing the ~~effect~~ impact of ~~any~~ changes in 330  
the ~~compensation and benefit provisions, actuarial assumptions, or~~ 331  
~~cost methods~~ estimates of the unpaid liabilities since the 332  
previous annual actuarial ~~valuation~~ analysis report was submitted 333  
to the board. 334

(F) The actuary or person whom the board designates to 335  
conduct an actuarial investigation under division (C)(4) of this 336  
section shall prepare a report of the actuarial investigation and 337  
shall submit the report to the board. The actuary or person shall 338  
prepare the report and make any recommended changes ~~in~~ to the 339  
actuarial mortality assumptions in accordance with the actuarial 340  
standards of practice promulgated by the actuarial standards board 341  
of the American academy of actuaries. ~~The actuary or person shall~~ 342  
~~include all of the following information in the report:~~ 343

~~(1) A summary of relevant decrement and economic assumption~~ 344  
~~experience;~~ 345

~~(2) Recommended changes in actuarial assumptions to be used~~ 346  
~~in subsequent actuarial valuations required by division (C)(1) of~~ 347  
~~this section;~~ 348

~~(3) A measurement of the financial effect of the recommended~~ 349  
~~changes in actuarial assumptions.~~ 350

(G) The actuary or person whom the board designates to 351  
conduct the actuarial analysis under division (C)(6) of this 352  
section shall prepare a report of the actuarial analysis and shall 353  
submit that report to the board. The actuary or person shall 354  
complete the analysis in accordance with the actuarial standards 355  
of practice promulgated by the actuarial standards board of the 356  
American academy of actuaries. The actuary or person shall include 357

all of the following information in the report:	358
(1) A summary of the statutory changes being evaluated;	359
(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;	360 361
(3) <del>A description of the participant group or groups included in the report;</del>	362 363
(4) A statement of the financial impact of the legislation, including the resulting increase, if any, in employer premiums, <u>and in actuarial accrued current estimates of unpaid liabilities,</u> and, <del>if an increase in actuarial accrued liabilities is predicted,</del> 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.	364 365 366 367 368 369 370
(5) <del>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.</del>	371 372 373 374
(H) The board may, at any time, request an actuary to <del>make any studies or</del> <u>perform</u> actuarial <del>valuations</del> <u>analyses</u> to determine the adequacy of the premium rates established by the administrator in accordance with sections 4123.29 and 4123.34 of the Revised Code, and may adjust those rates as recommended by the actuary.	375 376 377 378 379
(I) The board shall have an independent auditor, at least once every ten years, conduct a fiduciary performance audit of the investment program of the bureau of workers' compensation. That audit shall include an audit of the investment policies approved by the board and investment procedures of the bureau. The board shall submit a copy of that audit to the auditor of state.	380 381 382 383 384 385
(J) The administrator, with the advice and consent of the board, shall employ an internal auditor who shall report findings	386 387

directly to the board, workers' compensation audit committee, and 388  
administrator, except that the internal auditor shall not report 389  
findings directly to the administrator when those findings involve 390  
malfeasance, misfeasance, or nonfeasance on the part of the 391  
administrator. The board and the workers' compensation audit 392  
committee may request and review internal audits conducted by the 393  
internal auditor. 394

(K) The administrator shall pay the expenses incurred by the 395  
board to effectively fulfill its duties and exercise its powers 396  
under this section as the administrator pays other operating 397  
expenses of the bureau. 398

**Sec. 4121.44.** (A) The administrator of workers' compensation 399  
shall oversee the implementation of the Ohio workers' compensation 400  
qualified health plan system as established under section 4121.442 401  
of the Revised Code. 402

(B) The administrator shall direct the implementation of the 403  
health partnership program administered by the bureau as set forth 404  
in section 4121.441 of the Revised Code. To implement the health 405  
partnership program and to ensure the efficiency and effectiveness 406  
of the public services provided through the program, the bureau: 407

(1) Shall certify one or more external vendors, which shall 408  
be known as "managed care organizations," to provide medical 409  
management and cost containment services in the health partnership 410  
program for a period of two years beginning on the date of 411  
certification, consistent with the standards established under 412  
this section; 413

(2) May recertify managed care organizations for additional 414  
periods of two years; and 415

(3) May integrate the certified managed care organizations 416  
with bureau staff and existing bureau services for purposes of 417

operation and training to allow the bureau to assume operation of 418  
the health partnership program at the conclusion of the 419  
certification periods set forth in division (B)(1) or (2) of this 420  
section; 421

(4) May enter into a contract with any managed care 422  
organization that is certified by the bureau, pursuant to division 423  
(B)(1) or (2) of this section, to provide medical management and 424  
cost containment services in the health partnership program. 425

(C) A contract entered into pursuant to division (B)(4) of 426  
this section shall include both of the following: 427

(1) Incentives that may be awarded by the administrator, at 428  
the administrator's discretion, based on compliance and 429  
performance of the managed care organization; 430

(2) Penalties that may be imposed by the administrator, at 431  
the administrator's discretion, based on the failure of the 432  
managed care organization to reasonably comply with or perform 433  
terms of the contract, which may include termination of the 434  
contract. 435

(D) Notwithstanding section 119.061 of the Revised Code, a 436  
contract entered into pursuant to division (B)(4) of this section 437  
may include provisions limiting, restricting, or regulating any 438  
marketing or advertising by the managed care organization, or by 439  
any individual or entity that is affiliated with or acting on 440  
behalf of the managed care organization, under the health 441  
partnership program. 442

(E) No managed care organization shall receive compensation 443  
under the health partnership program unless the managed care 444  
organization has entered into a contract with the bureau pursuant 445  
to division (B)(4) of this section. 446

(F) Any managed care organization selected shall demonstrate 447  
all of the following: 448

(1) Arrangements and reimbursement agreements with a	449
substantial number of the medical, professional and pharmacy	450
providers currently being utilized by claimants.	451
(2) Ability to accept a common format of medical bill data in	452
an electronic fashion from any provider who wishes to submit	453
medical bill data in that form.	454
(3) A computer system able to handle the volume of medical	455
bills and willingness to customize that system to the bureau's	456
needs and to be operated by the managed care organization's staff,	457
bureau staff, or some combination of both staffs.	458
(4) A prescription drug system where pharmacies on a	459
statewide basis have access to the eligibility and pricing, at a	460
discounted rate, of all prescription drugs.	461
(5) A tracking system to record all telephone calls from	462
claimants and providers regarding the status of submitted medical	463
bills so as to be able to track each inquiry.	464
(6) Data processing capacity to absorb all of the bureau's	465
medical bill processing or at least that part of the processing	466
which the bureau arranges to delegate.	467
(7) Capacity to store, retrieve, array, simulate, and model	468
in a relational mode all of the detailed medical bill data so that	469
analysis can be performed in a variety of ways and so that the	470
bureau and its governing authority can make informed decisions.	471
(8) Wide variety of software programs which translate medical	472
terminology into standard codes, and which reveal if a provider is	473
manipulating the procedures codes, commonly called "unbundling."	474
(9) Necessary professional staff to conduct, at a minimum,	475
authorizations for treatment, medical necessity, utilization	476
review, concurrent review, post-utilization review, and have the	477
attendant computer system which supports such activity and	478



measures the outcomes and the savings. 479

(10) Management experience and flexibility to be able to 480  
react quickly to the needs of the bureau in the case of required 481  
change in federal or state requirements. 482

(G)(1) The administrator may decertify a managed care 483  
organization if the managed care organization does any of the 484  
following: 485

(a) Fails to maintain any of the requirements set forth in 486  
division (F) of this section; 487

(b) Fails to reasonably comply with or to perform in 488  
accordance with the terms of a contract entered into under 489  
division (B)(4) of this section; 490

(c) Violates a rule adopted under section 4121.441 of the 491  
Revised Code. 492

(2) The administrator shall provide each managed care 493  
organization that is being decertified pursuant to division (G)(1) 494  
of this section with written notice of the pending decertification 495  
and an opportunity for a hearing pursuant to rules adopted by the 496  
administrator. 497

(H)(1) Information contained in a managed care organization's 498  
application for certification in the health partnership program, 499  
and other information furnished to the bureau by a managed care 500  
organization for purposes of obtaining certification or to comply 501  
with performance and financial auditing requirements established 502  
by the administrator, is for the exclusive use and information of 503  
the bureau in the discharge of its official duties, and shall not 504  
be open to the public or be used in any court in any proceeding 505  
pending therein, unless the bureau is a party to the action or 506  
proceeding, but the information may be tabulated and published by 507  
the bureau in statistical form for the use and information of 508  
other state departments and the public. No employee of the bureau, 509

except as otherwise authorized by the administrator, shall divulge 510  
any information secured by the employee while in the employ of the 511  
bureau in respect to a managed care organization's application for 512  
certification or in respect to the business or other trade 513  
processes of any managed care organization to any person other 514  
than the administrator or to the employee's superior. 515

(2) Notwithstanding the restrictions imposed by division 516  
(H)(1) of this section, the governor, members of select or 517  
standing committees of the senate or house of representatives, the 518  
auditor of state, the attorney general, or their designees, 519  
pursuant to the authority granted in this chapter and Chapter 520  
4123. of the Revised Code, may examine any managed care 521  
organization application or other information furnished to the 522  
bureau by the managed care organization. None of those individuals 523  
shall divulge any information secured in the exercise of that 524  
authority in respect to a managed care organization's application 525  
for certification or in respect to the business or other trade 526  
processes of any managed care organization to any person. 527

(I) On and after January 1, 2001, a managed care organization 528  
shall not be an insurance company holding a certificate of 529  
authority issued pursuant to Title XXXIX of the Revised Code or a 530  
health insuring corporation holding a certificate of authority 531  
under Chapter 1751. of the Revised Code. 532

(J) The administrator may limit freedom of choice of health 533  
care provider or supplier by requiring, beginning with the period 534  
set forth in division (B)(1) or (2) of this section, that 535  
claimants shall pay an appropriate out-of-plan copayment for 536  
selecting a medical provider not within the health partnership 537  
program as provided for in this section. 538

(K) The administrator, six months prior to the expiration of 539  
the bureau's certification or recertification of the managed care 540  
organizations as set forth in division (B)(1) or (2) of this 541

section, may certify and provide evidence to the governor, the 542  
speaker of the house of representatives, and the president of the 543  
senate that the existing bureau staff is able to match or exceed 544  
the performance and outcomes of the managed care organizations and 545  
that the bureau should be permitted to internally administer the 546  
health partnership program upon the expiration of the 547  
certification or recertification as set forth in division (B)(1) 548  
or (2) of this section. 549

(L) The administrator shall establish and operate a bureau of 550  
workers' compensation health care data program. The administrator 551  
shall develop reporting requirements from all employees, 552  
employers, medical providers, managed care organizations, and 553  
plans that participate in the workers' compensation system. The 554  
administrator shall do all of the following: 555

(1) Utilize the collected data to measure and perform 556  
comparison analyses of costs, quality, appropriateness of medical 557  
care, and effectiveness of medical care delivered by all 558  
components of the workers' compensation system. 559

(2) Compile data to support activities of the selected 560  
managed care organizations and to measure the outcomes and savings 561  
of the health partnership program. 562

(3) Publish and report compiled data on the measures of 563  
outcomes and savings of the health partnership program and submit 564  
the report to the president of the senate, the speaker of the 565  
house of representatives, and the governor with the annual report 566  
prepared under division (F)(3) of section 4121.12 of the Revised 567  
Code. The administrator shall protect the confidentiality of all 568  
proprietary pricing data. 569

(M) Any rehabilitation facility the bureau operates is 570  
eligible for inclusion in the Ohio workers' compensation qualified 571  
health plan system or the health partnership program under the 572

same terms as other providers within health care plans or the 573  
program. 574

(N) In areas outside the state or within the state where no 575  
qualified health plan or an inadequate number of providers within 576  
the health partnership program exist, the administrator shall 577  
permit employees to use a nonplan or nonprogram health care 578  
provider and shall pay the provider for the services or supplies 579  
provided to or on behalf of an employee for an injury or 580  
occupational disease that is compensable under this chapter or 581  
Chapter 4123., 4127., or 4131. of the Revised Code on a fee 582  
schedule the administrator adopts. 583

(O) No health care provider, whether certified or not, shall 584  
charge, assess, or otherwise attempt to collect from an employee, 585  
employer, a managed care organization, or the bureau any amount 586  
for covered services or supplies that is in excess of the allowed 587  
amount paid by a managed care organization, the bureau, or a 588  
qualified health plan. 589

(P) The administrator shall permit any employer or group of 590  
employers who agree to abide by the rules adopted under this 591  
section and sections 4121.441 and 4121.442 of the Revised Code to 592  
provide services or supplies to or on behalf of an employee for an 593  
injury or occupational disease that is compensable under this 594  
chapter or Chapter 4123., 4127., or 4131. of the Revised Code 595  
through qualified health plans of the Ohio workers' compensation 596  
qualified health plan system pursuant to section 4121.442 of the 597  
Revised Code or through the health partnership program pursuant to 598  
section 4121.441 of the Revised Code. No amount paid under the 599  
qualified health plan system pursuant to section 4121.442 of the 600  
Revised Code by an employer who is a state fund employer shall be 601  
charged to the employer's experience or otherwise be used in 602  
merit-rating or determining the risk of that employer for the 603  
purpose of the payment of premiums under this chapter, and if the 604

employer is a self-insuring employer, the employer shall not 605  
include that amount in the paid compensation the employer reports 606  
under section 4123.35 of the Revised Code. 607

(Q) The administrator, in consultation with the health care 608  
quality assurance advisory committee created by the administrator 609  
or its successor committee, shall develop and periodically revise 610  
standards for maintaining an adequate number of providers 611  
certified by the bureau for each service currently being used by 612  
claimants. The standards shall ensure both of the following: 613

(1) That a claimant has access to a choice of providers for 614  
similar services within the geographic area that the claimant 615  
resides; 616

(2) That the providers within a geographic area are actively 617  
accepting new claimants as required in rules adopted by the 618  
administrator. 619

**Sec. 4123.29.** (A) The administrator of workers' compensation, 620  
subject to the approval of the bureau of workers' compensation 621  
board of directors, shall do all of the following: 622

(1) Classify occupations or industries with respect to their 623  
degree of hazard and determine the risks of the different classes 624  
according to the categories the national council on compensation 625  
insurance establishes that are applicable to employers in this 626  
state; 627

(2)(a) Fix the rates of premium of the risks of the classes 628  
based upon the total payroll in each of the classes of occupation 629  
or industry sufficiently large to provide a fund for the 630  
compensation provided for in this chapter and to maintain a state 631  
insurance fund from year to year. The administrator shall set the 632  
rates at a level that assures the solvency of the fund. Where the 633  
payroll cannot be obtained or, in the opinion of the 634

administrator, is not an adequate measure for determining the 635  
premium to be paid for the degree of hazard, the administrator may 636  
determine the rates of premium upon such other basis, consistent 637  
with insurance principles, as is equitable in view of the degree 638  
of hazard, and whenever in this chapter reference is made to 639  
payroll or expenditure of wages with reference to fixing premiums, 640  
the reference shall be construed to have been made also to such 641  
other basis for fixing the rates of premium as the administrator 642  
may determine under this section. 643

(b) If an employer elects to obtain other-states' coverage, 644  
including limited other-states' coverage, pursuant to section 645  
4123.292 of the Revised Code through the administrator, if the 646  
administrator elects to offer such coverage, calculate the 647  
employer's premium for the state insurance fund in the same manner 648  
as otherwise required under division (A) of this section and 649  
section 4123.34 of the Revised Code, except that the administrator 650  
may establish in rule an alternative calculation of the employer's 651  
premium to appropriately account for the expenditure of wages, 652  
payroll, or both attributable to the labor performed and services 653  
provided by that employer's employees when those employees 654  
performed labor and provided services in this state and in the 655  
other state or states for which the employer elects to secure 656  
other-states' coverage. 657

(c) If an employer elects to obtain other-states' coverage 658  
pursuant to section 4123.292 of the Revised Code through an 659  
other-states' insurer, calculate the employer's premium for the 660  
state insurance fund in the same manner as otherwise required 661  
under division (A) of this section and section 4123.34 of the 662  
Revised Code, except that when the administrator determines the 663  
expenditure of wages, payroll, or both upon which to base the 664  
employer's premium, the administrator shall use only the 665  
expenditure of wages, payroll, or both attributable to the labor 666

performed and services provided by that employer's employees when 667  
those employees performed labor and provided services in this 668  
state only and to which the other-states' coverage does not apply. 669  
The administrator may adopt rules setting forth the information 670  
that an employer electing to obtain other-states' coverage through 671  
an other-states' insurer shall report for purposes of determining 672  
the expenditure of wages, payroll, or both attributable to the 673  
labor performed and services provided in this state. 674

(d) The administrator in setting or revising rates shall 675  
furnish to employers an adequate explanation of the basis for the 676  
rates set. 677

(3) Develop and make available to employers who are paying 678  
premiums to the state insurance fund alternative premium plans. 679  
Alternative premium plans shall include retrospective rating 680  
plans. The administrator may make available plans under which an 681  
advanced deposit may be applied against a specified deductible 682  
amount per claim. 683

(4)(a) Offer to insure the obligations of employers under 684  
this chapter under a plan that groups, for rating purposes, 685  
employers, and pools the risk of the employers within the group 686  
provided that the employers meet all of the following conditions: 687

(i) All of the employers within the group are members of an 688  
organization that has been in existence for at least two years 689  
prior to the date of application for group coverage; 690

(ii) The organization was formed for purposes other than that 691  
of obtaining group workers' compensation under this division; 692

(iii) The employers' business in the organization is 693  
substantially similar such that the risks which are grouped are 694  
substantially homogeneous; 695

(iv) The group of employers consists of at least one hundred 696  
members or the aggregate workers' compensation premiums of the 697

members, as determined by the administrator, are estimated to 698  
exceed one hundred fifty thousand dollars during the coverage 699  
period; 700

(v) The formation and operation of the group program in the 701  
organization will substantially improve accident prevention and 702  
claims handling for the employers in the group; 703

(vi) Each employer seeking to enroll in a group for workers' 704  
compensation coverage has an account in good standing with the 705  
bureau of workers' compensation. The administrator shall adopt 706  
rules setting forth the criteria by which the administrator will 707  
determine whether an employer's account is in good standing. 708

(b) If an organization sponsors more than one employer group 709  
to participate in group plans established under this section, that 710  
organization may submit a single application that supplies all of 711  
the information necessary for each group of employers that the 712  
organization wishes to sponsor. 713

(c) In providing employer group plans under division (A)(4) 714  
of this section, the administrator shall consider an employer 715  
group as a single employing entity for purposes of group rating. 716  
No employer may be a member of more than one group for the purpose 717  
of obtaining workers' compensation coverage under this division. 718

(d) At the time the administrator revises premium rates 719  
pursuant to this section and section 4123.34 of the Revised Code, 720  
if the premium rate of an employer who participates in a group 721  
plan established under this section changes from the rate 722  
established for the previous year, the administrator, in addition 723  
to sending the invoice with the rate revision to that employer, 724  
shall ~~send a copy of that invoice~~ provide an explanation of the 725  
rate revision to the third-party administrator that administers 726  
the group plan for that employer's group. 727

(e) In providing employer group plans under division (A)(4) 728



of this section, the administrator shall establish a program 729  
designed to mitigate the impact of a significant claim that would 730  
come into the experience of a private, state fund group-rated 731  
employer or a taxing district employer for the first time and be a 732  
contributing factor in that employer being excluded from a 733  
group-rated plan. The administrator shall establish eligibility 734  
criteria and requirements that such employers must satisfy in 735  
order to participate in this program. For purposes of this 736  
program, the administrator shall establish a discount on premium 737  
rates applicable to employers who qualify for the program. 738

(f) In no event shall division (A)(4) of this section be 739  
construed as granting to an employer status as a self-insuring 740  
employer. 741

(g) The administrator shall develop classifications of 742  
occupations or industries that are sufficiently distinct so as not 743  
to group employers in classifications that unfairly represent the 744  
risks of employment with the employer. 745

(5) Generally promote employer participation in the state 746  
insurance fund through the regular dissemination of information to 747  
all classes of employers describing the advantages and benefits of 748  
opting to make premium payments to the fund. To that end, the 749  
administrator shall regularly make employers aware of the various 750  
workers' compensation premium packages developed and offered 751  
pursuant to this section. 752

(6) Make available to every employer who is paying premiums 753  
to the state insurance fund a program whereby the employer or the 754  
employer's agent pays to the claimant or on behalf of the claimant 755  
the first fifteen thousand dollars of a compensable workers' 756  
compensation medical-only claim filed by that claimant that is 757  
related to the same injury or occupational disease. No formal 758  
application is required; however, an employer must elect to 759  
participate by telephoning the bureau after July 1, 1995. Once an 760

employer has elected to participate in the program, the employer 761  
will be responsible for all bills in all medical-only claims with 762  
a date of injury the same or later than the election date, unless 763  
the employer notifies the bureau within fourteen days of receipt 764  
of the notification of a claim being filed that it does not wish 765  
to pay the bills in that claim, or the employer notifies the 766  
bureau that the fifteen thousand dollar maximum has been paid, or 767  
the employer notifies the bureau of the last day of service on 768  
which it will be responsible for the bills in a particular 769  
medical-only claim. If an employer elects to enter the program, 770  
the administrator shall not reimburse the employer for such 771  
amounts paid and shall not charge the first fifteen thousand 772  
dollars of any medical-only claim paid by an employer to the 773  
employer's experience or otherwise use it in merit rating or 774  
determining the risks of any employer for the purpose of payment 775  
of premiums under this chapter. A certified health care provider 776  
shall extend to an employer who participates in this program the 777  
same rates for services rendered to an employee of that employer 778  
as the provider bills the administrator for the same type of 779  
medical claim processed by the bureau and shall not charge, 780  
assess, or otherwise attempt to collect from an employee any 781  
amount for covered services or supplies that is in excess of that 782  
rate. If an employer elects to enter the program and the employer 783  
fails to pay a bill for a medical-only claim included in the 784  
program, the employer shall be liable for that bill and the 785  
employee for whom the employer failed to pay the bill shall not be 786  
liable for that bill. The administrator shall adopt rules to 787  
implement and administer division (A)(6) of this section. Upon 788  
written request from the bureau, the employer shall provide 789  
documentation to the bureau of all medical-only bills that they 790  
are paying directly. Such requests from the bureau may not be made 791  
more frequently than on a semiannual basis. Failure to provide 792  
such documentation to the bureau within thirty days of receipt of 793

the request may result in the employer's forfeiture of 794  
participation in the program for such injury. The provisions of 795  
this section shall not apply to claims in which an employer with 796  
knowledge of a claimed compensable injury or occupational disease, 797  
has paid wages in lieu of compensation or total disability. 798

(B) The administrator, with the advice and consent of the 799  
board, by rule, may do both of the following: 800

(1) Grant an employer who pays the employer's annual 801  
estimated premium in full prior to the start of the policy year 802  
for which the estimated premium is due, a discount as the 803  
administrator fixes from time to time; 804

(2) Levy a minimum annual administrative charge upon risks 805  
where premium reports develop a charge less than the administrator 806  
considers adequate to offset administrative costs of processing. 807

**Sec. 4123.343.** This section shall be construed liberally to 808  
the end that employers shall be encouraged to employ and retain in 809  
their employment handicapped employees as defined in this section. 810

(A) As used in this section, "handicapped employee" means an 811  
employee who is afflicted with or subject to any physical or 812  
mental impairment, or both, whether congenital or due to an injury 813  
or disease of such character that the impairment constitutes a 814  
handicap in obtaining employment or would constitute a handicap in 815  
obtaining reemployment if the employee should become unemployed 816  
and whose handicap is due to any of the following diseases or 817  
conditions: 818

(1) Epilepsy; 819

(2) Diabetes; 820

(3) Cardiac disease; 821

(4) Arthritis; 822

(5) Amputated foot, leg, arm, or hand;	823
(6) Loss of sight of one or both eyes or a partial loss of uncorrected vision of more than seventy-five per cent bilaterally;	824 825
(7) Residual disability from poliomyelitis;	826
(8) Cerebral palsy;	827
(9) Multiple sclerosis;	828
(10) Parkinson's disease;	829
(11) Cerebral vascular accident;	830
(12) Tuberculosis;	831
(13) Silicosis;	832
(14) Psycho-neurotic disability following treatment in a recognized medical or mental institution;	833 834
(15) Hemophilia;	835
(16) Chronic osteomyelitis;	836
(17) Ankylosis of joints;	837
(18) Hyper insulinism;	838
(19) Muscular dystrophies;	839
(20) Arterio-sclerosis;	840
(21) Thrombo-phlebitis;	841
(22) Varicose veins;	842
(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;	843 844 845 846
(24) Coal miners' pneumoconiosis, commonly referred to as "black lung disease";	847 848
(25) Disability with respect to which an individual has	849

completed a rehabilitation program conducted pursuant to sections 850  
4121.61 to 4121.69 of the Revised Code. 851

(B) Under the circumstances set forth in this section all or 852  
such portion as the administrator determines of the compensation 853  
and benefits paid in any claim arising hereafter shall be charged 854  
to and paid from the statutory surplus fund created under section 855  
4123.34 of the Revised Code and only the portion remaining shall 856  
be merit-rated or otherwise treated as part of the accident or 857  
occupational disease experience of the employer. The provisions of 858  
this section apply only in cases of death, total disability, 859  
whether temporary or permanent, and all disabilities compensated 860  
under division (B) of section 4123.57 of the Revised Code. The 861  
administrator shall adopt rules specifying the grounds upon which 862  
charges to the statutory surplus fund are to be made. The 863  
administrator, in those rules, shall prohibit as a grounds any 864  
agreement between employer and claimant as to the merits of a 865  
claim and the amount of the charge require that a settlement 866  
agreement approved pursuant to section 4123.65 of the Revised Code 867  
or a settlement agreement approved by a court of competent 868  
jurisdiction in this state be treated as an award of compensation 869  
granted by the administrator for the purpose of making a 870  
determination under this section. 871

(C) Any employer who has in its employ a handicapped employee 872  
is entitled, in the event the person is injured, to a 873  
determination under this section. 874

An employer shall file an application under this section for 875  
a determination with the bureau or commission in the same manner 876  
as other claims. An application only may be made in cases where a 877  
handicapped employee or a handicapped employee's dependents claim 878  
or are receiving an award of compensation as a result of an injury 879  
or occupational disease occurring or contracted on or after the 880  
date on which division (A) of this section first included the 881

handicap of such employee. 882

(D) The circumstances under and the manner in which an 883  
apportionment under this section shall be made are: 884

(1) Whenever a handicapped employee is injured or disabled or 885  
dies as the result of an injury or occupational disease sustained 886  
in the course of and arising out of a handicapped employee's 887  
employment in this state and the administrator awards compensation 888  
therefor and when it appears to the satisfaction of the 889  
administrator that the injury or occupational disease or the death 890  
resulting therefrom would not have occurred but for the 891  
pre-existing physical or mental impairment of the handicapped 892  
employee, all compensation and benefits payable on account of the 893  
disability or death shall be paid from the surplus fund. 894

(2) Whenever a handicapped employee is injured or disabled or 895  
dies as a result of an injury or occupational disease and the 896  
administrator finds that the injury or occupational disease would 897  
have been sustained or suffered without regard to the employee's 898  
pre-existing impairment but that the resulting disability or death 899  
was caused at least in part through aggravation of the employee's 900  
pre-existing disability, the administrator shall determine in a 901  
manner that is equitable and reasonable and based upon medical 902  
evidence the amount of disability or proportion of the cost of the 903  
death award that is attributable to the employee's pre-existing 904  
disability and the amount found shall be charged to the statutory 905  
surplus fund. 906

(E) The benefits and provisions of this section apply only to 907  
employers who have complied with this chapter through insurance 908  
with the state fund. 909

(F) No employer shall in any year receive credit under this 910  
section in an amount greater than the premium the employer paid. 911

(G) An order issued by the administrator pursuant to this 912

section is appealable under section 4123.511 of the Revised Code 913  
but is not appealable to court under section 4123.512 of the 914  
Revised Code. 915

**Sec. 4123.512.** (A) The claimant or the employer may appeal an 916  
order of the industrial commission made under division (E) of 917  
section 4123.511 of the Revised Code in any injury or occupational 918  
disease case, other than a decision as to the extent of disability 919  
to the court of common pleas of the county in which the injury was 920  
inflicted or in which the contract of employment was made if the 921  
injury occurred outside the state, or in which the contract of 922  
employment was made if the exposure occurred outside the state. If 923  
no common pleas court has jurisdiction for the purposes of an 924  
appeal by the use of the jurisdictional requirements described in 925  
this division, the appellant may use the venue provisions in the 926  
Rules of Civil Procedure to vest jurisdiction in a court. If the 927  
claim is for an occupational disease, the appeal shall be to the 928  
court of common pleas of the county in which the exposure which 929  
caused the disease occurred. Like appeal may be taken from an 930  
order of a staff hearing officer made under division (D) of 931  
section 4123.511 of the Revised Code from which the commission has 932  
refused to hear an appeal. The Except as otherwise provided in 933  
this division, the appellant shall file the notice of appeal with 934  
a court of common pleas within sixty days after the date of the 935  
receipt of the order appealed from or the date of receipt of the 936  
order of the commission refusing to hear an appeal of a staff 937  
hearing officer's decision under division (D) of section 4123.511 938  
of the Revised Code. The Either the claimant or the employer may 939  
file a notice of an intent to settle the claim within thirty days 940  
after the date of the receipt of the order appealed from or of the 941  
order of the commission refusing to hear an appeal of a staff 942  
hearing officer's decision. The claimant or employer shall file 943  
notice of intent to settle with the administrator of workers' 944

compensation, and the notice shall be served on the opposing party 945  
and the party's representative. The filing of the notice of intent 946  
to settle extends the time to file an appeal to one hundred fifty 947  
days, unless the opposing party files an objection to the notice 948  
of intent to settle within fourteen days after the date of the 949  
receipt of the notice of intent to settle. The party shall file 950  
the objection with the administrator, and the objection shall be 951  
served on the party that filed the notice of intent to settle and 952  
the party's representative. The filing of the notice of the appeal 953  
with the court is the only act required to perfect the appeal. 954

If an action has been commenced in a court of a county other 955  
than a court of a county having jurisdiction over the action, the 956  
court, upon notice by any party or upon its own motion, shall 957  
transfer the action to a court of a county having jurisdiction. 958

Notwithstanding anything to the contrary in this section, if 959  
the commission determines under section 4123.522 of the Revised 960  
Code that an employee, employer, or their respective 961  
representatives have not received written notice of an order or 962  
decision which is appealable to a court under this section and 963  
which grants relief pursuant to section 4123.522 of the Revised 964  
Code, the party granted the relief has sixty days from receipt of 965  
the order under section 4123.522 of the Revised Code to file a 966  
notice of appeal under this section. 967

(B) The notice of appeal shall state the names of the 968  
administrator of workers' compensation, the claimant, and the 969  
employer; the number of the claim; the date of the order appealed 970  
from; and the fact that the appellant appeals therefrom. 971

The administrator, the claimant, and the employer shall be 972  
parties to the appeal and the court, upon the application of the 973  
commission, shall make the commission a party. The party filing 974  
the appeal shall serve a copy of the notice of appeal on the 975  
administrator at the central office of the bureau of workers' 976



compensation in Columbus. The administrator shall notify the 977  
employer that if the employer fails to become an active party to 978  
the appeal, then the administrator may act on behalf of the 979  
employer and the results of the appeal could have an adverse 980  
effect upon the employer's premium rates or may result in a 981  
recovery from the employer if the employer is determined to be a 982  
noncomplying employer under section 4123.75 of the Revised Code. 983

(C) The attorney general or one or more of the attorney 984  
general's assistants or special counsel designated by the attorney 985  
general shall represent the administrator and the commission. In 986  
the event the attorney general or the attorney general's 987  
designated assistants or special counsel are absent, the 988  
administrator or the commission shall select one or more of the 989  
attorneys in the employ of the administrator or the commission as 990  
the administrator's attorney or the commission's attorney in the 991  
appeal. Any attorney so employed shall continue the representation 992  
during the entire period of the appeal and in all hearings thereof 993  
except where the continued representation becomes impractical. 994

(D) Upon receipt of notice of appeal, the clerk of courts 995  
shall provide notice to all parties who are appellees and to the 996  
commission. 997

The claimant shall, within thirty days after the filing of 998  
the notice of appeal, file a petition containing a statement of 999  
facts in ordinary and concise language showing a cause of action 1000  
to participate or to continue to participate in the fund and 1001  
setting forth the basis for the jurisdiction of the court over the 1002  
action. Further pleadings shall be had in accordance with the 1003  
Rules of Civil Procedure, provided that service of summons on such 1004  
petition shall not be required and provided that the claimant may 1005  
not dismiss the complaint without the employer's consent if the 1006  
employer is the party that filed the notice of appeal to court 1007  
pursuant to this section. The clerk of the court shall, upon 1008

receipt thereof, transmit by certified mail a copy thereof to each 1009  
party named in the notice of appeal other than the claimant. Any 1010  
party may file with the clerk prior to the trial of the action a 1011  
deposition of any physician taken in accordance with the 1012  
provisions of the Revised Code, which deposition may be read in 1013  
the trial of the action even though the physician is a resident of 1014  
or subject to service in the county in which the trial is had. The 1015  
bureau of workers' compensation shall pay the cost of the 1016  
stenographic deposition filed in court and of copies of the 1017  
stenographic deposition for each party from the surplus fund and 1018  
charge the costs thereof against the unsuccessful party if the 1019  
claimant's right to participate or continue to participate is 1020  
finally sustained or established in the appeal. In the event the 1021  
deposition is taken and filed, the physician whose deposition is 1022  
taken is not required to respond to any subpoena issued in the 1023  
trial of the action. The court, or the jury under the instructions 1024  
of the court, if a jury is demanded, shall determine the right of 1025  
the claimant to participate or to continue to participate in the 1026  
fund upon the evidence adduced at the hearing of the action. 1027

(E) The court shall certify its decision to the commission 1028  
and the certificate shall be entered in the records of the court. 1029  
Appeals from the judgment are governed by the law applicable to 1030  
the appeal of civil actions. 1031

(F) The cost of any legal proceedings authorized by this 1032  
section, including an attorney's fee to the claimant's attorney to 1033  
be fixed by the trial judge, based upon the effort expended, in 1034  
the event the claimant's right to participate or to continue to 1035  
participate in the fund is established upon the final 1036  
determination of an appeal, shall be taxed against the employer or 1037  
the commission if the commission or the administrator rather than 1038  
the employer contested the right of the claimant to participate in 1039  
the fund. The attorney's fee shall not exceed ~~forty-two hundred~~ 1040

five thousand dollars. 1041

(G) If the finding of the court or the verdict of the jury is 1042  
in favor of the claimant's right to participate in the fund, the 1043  
commission and the administrator shall thereafter proceed in the 1044  
matter of the claim as if the judgment were the decision of the 1045  
commission, subject to the power of modification provided by 1046  
section 4123.52 of the Revised Code. 1047

(H)(1) An appeal from an order issued under division (E) of 1048  
section 4123.511 of the Revised Code or any action filed in court 1049  
in a case in which an award of compensation or medical benefits 1050  
has been made shall not stay the payment of compensation or 1051  
medical benefits under the award, or payment for subsequent 1052  
periods of total disability or medical benefits during the 1053  
pendency of the appeal. If, in a final administrative or judicial 1054  
action, it is determined that payments of compensation or 1055  
benefits, or both, made to or on behalf of a claimant should not 1056  
have been made, the amount thereof shall be charged to the surplus 1057  
fund account under division (B) of section 4123.34 of the Revised 1058  
Code. In the event the employer is a state risk, the amount shall 1059  
not be charged to the employer's experience, and the administrator 1060  
shall adjust the employer's account accordingly. In the event the 1061  
employer is a self-insuring employer, the self-insuring employer 1062  
shall deduct the amount from the paid compensation the 1063  
self-insuring employer reports to the administrator under division 1064  
(L) of section 4123.35 of the Revised Code. If an employer is a 1065  
state risk and has paid an assessment for a violation of a 1066  
specific safety requirement, and, in a final administrative or 1067  
judicial action, it is determined that the employer did not 1068  
violate the specific safety requirement, the administrator shall 1069  
reimburse the employer from the surplus fund account under 1070  
division (B) of section 4123.34 of the Revised Code for the amount 1071  
of the assessment the employer paid for the violation. 1072

(2)(a) Notwithstanding a final determination that payments of 1073  
benefits made to or on behalf of a claimant should not have been 1074  
made, the administrator or self-insuring employer shall award 1075  
payment of medical or vocational rehabilitation services submitted 1076  
for payment after the date of the final determination if all of 1077  
the following apply: 1078

(i) The services were approved and were rendered by the 1079  
provider in good faith prior to the date of the final 1080  
determination. 1081

(ii) The services were payable under division (I) of section 1082  
4123.511 of the Revised Code prior to the date of the final 1083  
determination. 1084

(iii) The request for payment is submitted within the time 1085  
limit set forth in section 4123.52 of the Revised Code. 1086

(b) Payments made under division (H)(1) of this section shall 1087  
be charged to the surplus fund account under division (B) of 1088  
section 4123.34 of the Revised Code. If the employer of the 1089  
employee who is the subject of a claim described in division 1090  
(H)(2)(a) of this section is a state fund employer, the payments 1091  
made under that division shall not be charged to the employer's 1092  
experience. If that employer is a self-insuring employer, the 1093  
self-insuring employer shall deduct the amount from the paid 1094  
compensation the self-insuring employer reports to the 1095  
administrator under division (L) of section 4123.35 of the Revised 1096  
Code. 1097

(c) Division (H)(2) of this section shall apply only to a 1098  
claim under this chapter or Chapter 4121., 4127., or 4131. of the 1099  
Revised Code arising on or after July 29, 2011. 1100

(3) A self-insuring employer may elect to pay compensation 1101  
and benefits under this section directly to an employee or an 1102  
employee's dependents by filing an application with the bureau of 1103

workers' compensation not more than one hundred eighty days and 1104  
not less than ninety days before the first day of the employer's 1105  
next six-month coverage period. If the self-insuring employer 1106  
timely files the application, the application is effective on the 1107  
first day of the employer's next six-month coverage period, 1108  
provided that the administrator shall compute the employer's 1109  
assessment for the surplus fund account due with respect to the 1110  
period during which that application was filed without regard to 1111  
the filing of the application. On and after the effective date of 1112  
the employer's election, the self-insuring employer shall pay 1113  
directly to an employee or to an employee's dependents 1114  
compensation and benefits under this section regardless of the 1115  
date of the injury or occupational disease, and the employer shall 1116  
receive no money or credits from the surplus fund account on 1117  
account of those payments and shall not be required to pay any 1118  
amounts into the surplus fund account on account of this section. 1119  
The election made under this division is irrevocable. 1120

(I) All actions and proceedings under this section which are 1121  
the subject of an appeal to the court of common pleas or the court 1122  
of appeals shall be preferred over all other civil actions except 1123  
election causes, irrespective of position on the calendar. 1124

This section applies to all decisions of the commission or 1125  
the administrator on November 2, 1959, and all claims filed 1126  
thereafter are governed by sections 4123.511 and 4123.512 of the 1127  
Revised Code. 1128

Any action pending in common pleas court or any other court 1129  
on January 1, 1986, under this section is governed by former 1130  
sections 4123.514, 4123.515, 4123.516, and 4123.519 and section 1131  
4123.522 of the Revised Code. 1132

**Sec. 4123.53.** (A) The administrator of workers' compensation 1133  
or the industrial commission may require any employee claiming the 1134

right to receive compensation to submit to a medical examination, 1135  
vocational evaluation, or vocational questionnaire at any time, 1136  
and from time to time, at a place reasonably convenient for the 1137  
employee, and as provided by the rules of the commission or the 1138  
administrator of workers' compensation. A claimant required by the 1139  
commission or administrator to submit to a medical examination or 1140  
vocational evaluation, at a point outside of the place of 1141  
permanent or temporary residence of the claimant, as provided in 1142  
this section, is entitled to have paid to the claimant by the 1143  
bureau of workers' compensation the necessary and actual expenses 1144  
on account of the attendance for the medical examination or 1145  
vocational evaluation after approval of the expense statement by 1146  
the bureau. Under extraordinary circumstances and with the 1147  
unanimous approval of the commission, if the commission requires 1148  
the medical examination or vocational evaluation, or with the 1149  
approval of the administrator, if the administrator requires the 1150  
medical examination or vocational evaluation, the bureau shall pay 1151  
an injured or diseased employee the necessary, actual, and 1152  
authorized expenses of treatment at a point outside the place of 1153  
permanent or temporary residence of the claimant. 1154

(B) ~~When~~ (1) Except as provided in divisions (B)(2) and (3) 1155  
of this section, when an employee initially receives temporary 1156  
total disability compensation pursuant to section 4123.56 of the 1157  
Revised Code for a consecutive ninety-day period, the 1158  
administrator shall refer the employee to the bureau medical 1159  
section ~~for~~ to schedule a medical examination to determine the 1160  
employee's continued entitlement to such compensation, the 1161  
employee's rehabilitation potential, and the appropriateness of 1162  
the medical treatment the employee is receiving. The bureau 1163  
medical section shall ~~conduct~~ schedule the examination for a date 1164  
not later than thirty days following the end of the initial 1165  
ninety-day period. If the medical examiner, upon an initial or any 1166  
subsequent examination recommended by the medical examiner under 1167

this division, determines that the employee is temporarily and 1168  
totally impaired, the medical examiner shall recommend a date when 1169  
the employee should be reexamined. Upon the issuance of the 1170  
medical examination report containing a recommendation for 1171  
reexamination, the administrator shall schedule an examination 1172  
and, if at the date of reexamination the employee is receiving 1173  
temporary total disability compensation, the employee shall be 1174  
examined. ~~The~~ 1175

(2) The administrator, for good cause, may waive the 1176  
scheduling of a medical examination under division (B)(1) of this 1177  
section. If the employee's employer objects to the administrator's 1178  
waiver, the administrator shall refer the employee to the bureau 1179  
medical section to schedule the examination or the administrator 1180  
shall schedule the examination. 1181

(3) The administrator shall adopt a rule, pursuant to Chapter 1182  
119. of the Revised Code, permitting employers to waive the 1183  
administrator's scheduling of any such examinations. 1184

(C) If an employee refuses to submit to any medical 1185  
examination or vocational evaluation scheduled pursuant to this 1186  
section or obstructs the same, or refuses to complete and submit 1187  
to the bureau or commission a vocational questionnaire within 1188  
thirty days after the bureau or commission mails the request to 1189  
complete and submit the questionnaire the employee's right to have 1190  
~~his or her~~ the employee's claim for compensation considered, if 1191  
the claim is pending before the bureau or commission, or to 1192  
receive any payment for compensation theretofore granted, is 1193  
suspended during the period of the refusal or obstruction. 1194  
Notwithstanding this section, an employee's failure to submit to a 1195  
medical examination or vocational evaluation, or to complete and 1196  
submit a vocational questionnaire, shall not result in the 1197  
dismissal of the employee's claim. 1198

(D) Medical examinations scheduled under this section do not 1199

limit medical examinations provided for in other provisions of 1200  
this chapter or Chapter 4121. of the Revised Code. 1201

**Sec. 4123.54.** (A) Except as otherwise provided in this 1202  
division or divisions (I) and (K) of this section, every employee, 1203  
who is injured or who contracts an occupational disease, and the 1204  
dependents of each employee who is killed, or dies as the result 1205  
of an occupational disease contracted in the course of employment, 1206  
wherever the injury has occurred or occupational disease has been 1207  
contracted, is entitled to receive the compensation for loss 1208  
sustained on account of the injury, occupational disease, or 1209  
death, and the medical, nurse, and hospital services and 1210  
medicines, and the amount of funeral expenses in case of death, as 1211  
are provided by this chapter. The compensation and benefits shall 1212  
be provided, as applicable, directly from the employee's 1213  
self-insuring employer as provided in section 4123.35 of the 1214  
Revised Code or from the state insurance fund. An employee or 1215  
dependent is not entitled to receive compensation or benefits 1216  
under this division if the employee's injury or occupational 1217  
disease is either of the following: 1218

(1) Purposely self-inflicted; 1219

(2) Caused by the employee being intoxicated, under the 1220  
influence of a controlled substance not prescribed by a physician, 1221  
or under the influence of marihuana if being intoxicated, under 1222  
the influence of a controlled substance not prescribed by a 1223  
physician, or under the influence of marihuana was the proximate 1224  
cause of the injury. 1225

(B) For the purpose of this section, provided that an 1226  
employer has posted written notice to employees that the results 1227  
of, or the employee's refusal to submit to, any chemical test 1228  
described under this division may affect the employee's 1229  
eligibility for compensation and benefits pursuant to this chapter 1230



and Chapter 4121. of the Revised Code, there is a rebuttable 1231  
presumption that an employee is intoxicated, under the influence 1232  
of a controlled substance not prescribed by the employee's 1233  
physician, or under the influence of marihuana and that being 1234  
intoxicated, under the influence of a controlled substance not 1235  
prescribed by the employee's physician, or under the influence of 1236  
marihuana is the proximate cause of an injury under either of the 1237  
following conditions: 1238

(1) When any one or more of the following is true: 1239

(a) The employee, through a qualifying chemical test 1240  
administered within eight hours of an injury, is determined to 1241  
have an alcohol concentration level equal to or in excess of the 1242  
levels established in divisions (A)(1)(b) to (i) of section 1243  
4511.19 of the Revised Code. 1244

(b) The employee, through a qualifying chemical test 1245  
administered within thirty-two hours of an injury, is determined 1246  
to have ~~one of the following~~ a controlled ~~substances~~ substance not 1247  
prescribed by the employee's physician or marihuana in the 1248  
employee's system ~~that tests above the following levels in an~~ 1249  
~~enzyme multiplied immunoassay technique screening test and above~~ 1250  
~~the levels established in division (B)(1)(c) of this section in a~~ 1251  
~~gas chromatography mass spectrometry test:~~ 1252

~~(i) For amphetamines, one thousand nanograms per milliliter~~ 1253  
~~of urine;~~ 1254

~~(ii) For cannabinoids, fifty nanograms per milliliter of~~ 1255  
~~urine;~~ 1256

~~(iii) For cocaine, including crack cocaine, three hundred~~ 1257  
~~nanograms per milliliter of urine;~~ 1258

~~(iv) For opiates, two thousand nanograms per milliliter of~~ 1259  
~~urine;~~ 1260

<del>(v) For phencyclidine, twenty five nanograms per milliliter of urine.</del>	1261 1262
<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>	1263 1264 1265 1266 1267 1268
<del>(i) For amphetamines, five hundred nanograms per milliliter of urine;</del>	1269 1270
<del>(ii) For cannabinoids, fifteen nanograms per milliliter of urine;</del>	1271 1272
<del>(iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine;</del>	1273 1274
<del>(iv) For opiates, two thousand nanograms per milliliter of urine;</del>	1275 1276
<del>(v) For phencyclidine, twenty five nanograms per milliliter of urine.</del>	1277 1278
<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>	1279 1280 1281 1282
<del>(c) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have barbiturates, benzodiazepines, <u>or</u> methadone, <del>or propoxyphene</del> in the employee's system that tests above levels established by laboratories certified by the United States department of health and human services.</del>	1283 1284 1285 1286 1287 1288
<del>(2) When the employee refuses to submit to a requested chemical test, on the condition that that employee is or was given</del>	1289 1290

notice that the refusal to submit to any chemical test described 1291  
in division (B)(1) of this section may affect the employee's 1292  
eligibility for compensation and benefits under this chapter and 1293  
Chapter 4121. of the Revised Code. 1294

(C)(1) For purposes of division (B) of this section, a 1295  
chemical test is a qualifying chemical test if it is administered 1296  
to an employee after an injury under at least one of the following 1297  
conditions: 1298

(a) When the employee's employer had reasonable cause to 1299  
suspect that the employee may be intoxicated, under the influence 1300  
of a controlled substance not prescribed by the employee's 1301  
physician, or under the influence of marihuana; 1302

(b) At the request of a police officer pursuant to section 1303  
4511.191 of the Revised Code, and not at the request of the 1304  
employee's employer; 1305

(c) At the request of a licensed physician who is not 1306  
employed by the employee's employer, and not at the request of the 1307  
employee's employer. 1308

(2) As used in division (C)(1)(a) of this section, 1309  
"reasonable cause" means, but is not limited to, evidence that an 1310  
employee is or was using alcohol, a controlled substance, or 1311  
marihuana drawn from specific, objective facts and reasonable 1312  
inferences drawn from these facts in light of experience and 1313  
training. These facts and inferences may be based on, but are not 1314  
limited to, any of the following: 1315

(a) Observable phenomena, such as direct observation of use, 1316  
possession, or distribution of alcohol, a controlled substance, or 1317  
marihuana, or of the physical symptoms of being under the 1318  
influence of alcohol, a controlled substance, or marihuana, such 1319  
as but not limited to slurred speech; dilated pupils; odor of 1320  
alcohol, a controlled substance, or marihuana; changes in affect; 1321

or dynamic mood swings; 1322

(b) A pattern of abnormal conduct, erratic or aberrant 1323  
behavior, or deteriorating work performance such as frequent 1324  
absenteeism, excessive tardiness, or recurrent accidents, that 1325  
appears to be related to the use of alcohol, a controlled 1326  
substance, or marihuana, and does not appear to be attributable to 1327  
other factors; 1328

(c) The identification of an employee as the focus of a 1329  
criminal investigation into unauthorized possession, use, or 1330  
trafficking of a controlled substance or marihuana; 1331

(d) A report of use of alcohol, a controlled substance, or 1332  
marihuana provided by a reliable and credible source; 1333

(e) Repeated or flagrant violations of the safety or work 1334  
rules of the employee's employer, that are determined by the 1335  
employee's supervisor to pose a substantial risk of physical 1336  
injury or property damage and that appear to be related to the use 1337  
of alcohol, a controlled substance, or marihuana and that do not 1338  
appear attributable to other factors. 1339

(D) Nothing in this section shall be construed to affect the 1340  
rights of an employer to test employees for alcohol or controlled 1341  
substance abuse. 1342

(E) For the purpose of this section, laboratories certified 1343  
by the United States department of health and human services or 1344  
laboratories that meet or exceed the standards of that department 1345  
for laboratory certification shall be used for processing the test 1346  
results of a qualifying chemical test. 1347

(F) The written notice required by division (B) of this 1348  
section shall be the same size or larger than the proof of 1349  
workers' compensation coverage furnished by the bureau of workers' 1350  
compensation and shall be posted by the employer in the same 1351  
location as the proof of workers' compensation coverage or the 1352

certificate of self-insurance. 1353

(G) If a condition that pre-existed an injury is 1354  
substantially aggravated by the injury, and that substantial 1355  
aggravation is documented by objective diagnostic findings, 1356  
objective clinical findings, or objective test results, no 1357  
compensation or benefits are payable because of the pre-existing 1358  
condition once that condition has returned to a level that would 1359  
have existed without the injury. 1360

(H)(1) Whenever, with respect to an employee of an employer 1361  
who is subject to and has complied with this chapter, there is 1362  
possibility of conflict with respect to the application of 1363  
workers' compensation laws because the contract of employment is 1364  
entered into and all or some portion of the work is or is to be 1365  
performed in a state or states other than Ohio, the employer and 1366  
the employee may agree to be bound by the laws of this state or by 1367  
the laws of some other state in which all or some portion of the 1368  
work of the employee is to be performed. The agreement shall be in 1369  
writing and shall be filed with the bureau of workers' 1370  
compensation within ten days after it is executed and shall remain 1371  
in force until terminated or modified by agreement of the parties 1372  
similarly filed. If the agreement is to be bound by the laws of 1373  
this state and the employer has complied with this chapter, then 1374  
the employee is entitled to compensation and benefits regardless 1375  
of where the injury occurs or the disease is contracted and the 1376  
rights of the employee and the employee's dependents under the 1377  
laws of this state are the exclusive remedy against the employer 1378  
on account of injury, disease, or death in the course of and 1379  
arising out of the employee's employment. If the agreement is to 1380  
be bound by the laws of another state and the employer has 1381  
complied with the laws of that state, the rights of the employee 1382  
and the employee's dependents under the laws of that state are the 1383  
exclusive remedy against the employer on account of injury, 1384

disease, or death in the course of and arising out of the 1385  
employee's employment without regard to the place where the injury 1386  
was sustained or the disease contracted. If an employer and an 1387  
employee enter into an agreement under this division, the fact 1388  
that the employer and the employee entered into that agreement 1389  
shall not be construed to change the status of an employee whose 1390  
continued employment is subject to the will of the employer or the 1391  
employee, unless the agreement contains a provision that expressly 1392  
changes that status. 1393

(2) If an employee or the employee's dependents receive an 1394  
award of compensation or benefits under this chapter or Chapter 1395  
4121., 4127., or 4131. of the Revised Code for the same injury, 1396  
occupational disease, or death for which the employee or the 1397  
employee's dependents previously pursued or otherwise elected to 1398  
accept workers' compensation benefits and received a decision on 1399  
the merits as defined in section 4123.542 of the Revised Code 1400  
under the laws of another state or recovered damages under the 1401  
laws of another state, the claim shall be disallowed and the 1402  
administrator or any self-insuring employer, by any lawful means, 1403  
may collect from the employee or the employee's dependents any of 1404  
the following: 1405

(a) The amount of compensation or benefits paid to or on 1406  
behalf of the employee or the employee's dependents by the 1407  
administrator or a self-insuring employer pursuant to this chapter 1408  
or Chapter 4121., 4127., or 4131. of the Revised Code for that 1409  
award; 1410

(b) Any interest, attorney's fees, and costs the 1411  
administrator or the self-insuring employer incurs in collecting 1412  
that payment. 1413

(3) If an employee or the employee's dependents receive an 1414  
award of compensation or benefits under this chapter or Chapter 1415  
4121., 4127., or 4131. of the Revised Code and subsequently pursue 1416

or otherwise elect to accept workers' compensation benefits or 1417  
damages under the laws of another state for the same injury, 1418  
occupational disease, or death the claim under this chapter or 1419  
Chapter 4121., 4127., or 4131. of the Revised Code shall be 1420  
disallowed. The administrator or a self-insuring employer, by any 1421  
lawful means, may collect from the employee or the employee's 1422  
dependents or other-states' insurer any of the following: 1423

(a) The amount of compensation or benefits paid to or on 1424  
behalf of the employee or the employee's dependents by the 1425  
administrator or the self-insuring employer pursuant to this 1426  
chapter or Chapter 4121., 4127., or 4131. of the Revised Code for 1427  
that award; 1428

(b) Any interest, costs, and attorney's fees the 1429  
administrator or the self-insuring employer incurs in collecting 1430  
that payment; 1431

(c) Any costs incurred by an employer in contesting or 1432  
responding to any claim filed by the employee or the employee's 1433  
dependents for the same injury, occupational disease, or death 1434  
that was filed after the original claim for which the employee or 1435  
the employee's dependents received a decision on the merits as 1436  
described in section 4123.542 of the Revised Code. 1437

(4) If the employee's employer pays premiums into the state 1438  
insurance fund, the administrator shall not charge the amount of 1439  
compensation or benefits the administrator collects pursuant to 1440  
division (H)(2) or (3) of this section to the employer's 1441  
experience. If the administrator collects any costs incurred by an 1442  
employer in contesting or responding to any claim pursuant to 1443  
division (H)(2) or (3) of this section, the administrator shall 1444  
forward the amount collected to that employer. If the employee's 1445  
employer is a self-insuring employer, the self-insuring employer 1446  
shall deduct the amount of compensation or benefits the 1447  
self-insuring employer collects pursuant to this division from the 1448

paid compensation the self-insuring employer reports to the 1449  
administrator under division (L) of section 4123.35 of the Revised 1450  
Code. 1451

(5) If an employee is a resident of a state other than this 1452  
state and is insured under the workers' compensation law or 1453  
similar laws of a state other than this state, the employee and 1454  
the employee's dependents are not entitled to receive compensation 1455  
or benefits under this chapter, on account of injury, disease, or 1456  
death arising out of or in the course of employment while 1457  
temporarily within this state, and the rights of the employee and 1458  
the employee's dependents under the laws of the other state are 1459  
the exclusive remedy against the employer on account of the 1460  
injury, disease, or death. 1461

(6) An employee, or the dependent of an employee, who elects 1462  
to receive compensation and benefits under this chapter or Chapter 1463  
4121., 4127., or 4131. of the Revised Code for a claim may not 1464  
receive compensation and benefits under the workers' compensation 1465  
laws of any state other than this state for that same claim. For 1466  
each claim submitted by or on behalf of an employee, the 1467  
administrator or, if the employee is employed by a self-insuring 1468  
employer, the self-insuring employer, shall request the employee 1469  
or the employee's dependent to sign an election that affirms the 1470  
employee's or employee's dependent's acceptance of electing to 1471  
receive compensation and benefits under this chapter or Chapter 1472  
4121., 4127., or 4131. of the Revised Code for that claim that 1473  
also affirmatively waives and releases the employee's or the 1474  
employee's dependent's right to file for and receive compensation 1475  
and benefits under the laws of any state other than this state for 1476  
that claim. The employee or employee's dependent shall sign the 1477  
election form within twenty-eight days after the administrator or 1478  
self-insuring employer submits the request or the administrator or 1479  
self-insuring employer shall dismiss that claim. 1480



In the event a workers' compensation claim has been filed in 1481  
another jurisdiction on behalf of an employee or the dependents of 1482  
an employee, and the employee or dependents subsequently elect to 1483  
receive compensation, benefits, or both under this chapter or 1484  
Chapter 4121., 4127., or 4131. of the Revised Code, the employee 1485  
or dependent shall withdraw or refuse acceptance of the workers' 1486  
compensation claim filed in the other jurisdiction in order to 1487  
pursue compensation or benefits under the laws of this state. If 1488  
the employee or dependents were awarded workers' compensation 1489  
benefits or had recovered damages under the laws of the other 1490  
state, any compensation and benefits awarded under this chapter or 1491  
Chapter 4121., 4127., or 4131. of the Revised Code shall be paid 1492  
only to the extent to which those payments exceed the amounts paid 1493  
under the laws of the other state. If the employee or dependent 1494  
fails to withdraw or to refuse acceptance of the workers' 1495  
compensation claim in the other jurisdiction within twenty-eight 1496  
days after a request made by the administrator or a self-insuring 1497  
employer, the administrator or self-insuring employer shall 1498  
dismiss the employee's or employee's dependents' claim made in 1499  
this state. 1500

(I) If an employee who is covered under the federal 1501  
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 1502  
33 U.S.C. 901 et seq., is injured or contracts an occupational 1503  
disease or dies as a result of an injury or occupational disease, 1504  
and if that employee's or that employee's dependents' claim for 1505  
compensation or benefits for that injury, occupational disease, or 1506  
death is subject to the jurisdiction of that act, the employee or 1507  
the employee's dependents are not entitled to apply for and shall 1508  
not receive compensation or benefits under this chapter and 1509  
Chapter 4121. of the Revised Code. The rights of such an employee 1510  
and the employee's dependents under the federal "Longshore and 1511  
Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et 1512  
seq., are the exclusive remedy against the employer for that 1513

injury, occupational disease, or death. 1514

(J) Compensation or benefits are not payable to a claimant or 1515  
a dependent during the period of confinement of the claimant or 1516  
dependent in any state or federal correctional institution, or in 1517  
any county jail in lieu of incarceration in a state or federal 1518  
correctional institution, whether in this or any other state for 1519  
conviction of violation of any state or federal criminal law. 1520

(K) An employer, upon the approval of the administrator, may 1521  
provide for workers' compensation coverage for the employer's 1522  
employees who are professional athletes and coaches by submitting 1523  
to the administrator proof of coverage under a league policy 1524  
issued under the laws of another state under either of the 1525  
following circumstances: 1526

(1) The employer administers the payroll and workers' 1527  
compensation insurance for a professional sports team subject to a 1528  
collective bargaining agreement, and the collective bargaining 1529  
agreement provides for the uniform administration of workers' 1530  
compensation benefits and compensation for professional athletes. 1531

(2) The employer is a professional sports league, or is a 1532  
member team of a professional sports league, and all of the 1533  
following apply: 1534

(a) The professional sports league operates as a single 1535  
entity, whereby all of the players and coaches of the sports 1536  
league are employees of the sports league and not of the 1537  
individual member teams. 1538

(b) The professional sports league at all times maintains 1539  
workers' compensation insurance that provides coverage for the 1540  
players and coaches of the sports league. 1541

(c) Each individual member team of the professional sports 1542  
league, pursuant to the organizational or operating documents of 1543  
the sports league, is obligated to the sports league to pay to the 1544

sports league any workers' compensation claims that are not 1545  
covered by the workers' compensation insurance maintained by the 1546  
sports league. 1547

If the administrator approves the employer's proof of 1548  
coverage submitted under division (K) of this section, a 1549  
professional athlete or coach who is an employee of the employer 1550  
and the dependents of the professional athlete or coach are not 1551  
entitled to apply for and shall not receive compensation or 1552  
benefits under this chapter and Chapter 4121. of the Revised Code. 1553  
The rights of such an athlete or coach and the dependents of such 1554  
an athlete or coach under the laws of the state where the policy 1555  
was issued are the exclusive remedy against the employer for the 1556  
athlete or coach if the athlete or coach suffers an injury or 1557  
contracts an occupational disease in the course of employment, or 1558  
for the dependents of the athlete or the coach if the athlete or 1559  
coach is killed as a result of an injury or dies as a result of an 1560  
occupational disease, regardless of the location where the injury 1561  
was suffered or the occupational disease was contracted. 1562

**Sec. 4123.56.** (A) Except as provided in division (D) of this 1563  
section, in the case of temporary disability, an employee shall 1564  
receive sixty-six and two-thirds per cent of the employee's 1565  
average weekly wage so long as such disability is total, not to 1566  
exceed a maximum amount of weekly compensation which is equal to 1567  
the statewide average weekly wage as defined in division (C) of 1568  
section 4123.62 of the Revised Code, and not less than a minimum 1569  
amount of compensation which is equal to thirty-three and 1570  
one-third per cent of the statewide average weekly wage as defined 1571  
in division (C) of section 4123.62 of the Revised Code unless the 1572  
employee's wage is less than thirty-three and one-third per cent 1573  
of the minimum statewide average weekly wage, in which event the 1574  
employee shall receive compensation equal to the employee's full 1575  
wages; provided that for the first twelve weeks of total 1576

disability the employee shall receive seventy-two per cent of the 1577  
employee's full weekly wage, but not to exceed a maximum amount of 1578  
weekly compensation which is equal to the lesser of the statewide 1579  
average weekly wage as defined in division (C) of section 4123.62 1580  
of the Revised Code or one hundred per cent of the employee's net 1581  
take-home weekly wage. In the case of a self-insuring employer, 1582  
payments shall be for a duration based upon the medical reports of 1583  
the attending physician. If the employer disputes the attending 1584  
physician's report, payments may be terminated only upon 1585  
application and hearing by a district hearing officer pursuant to 1586  
division (C) of section 4123.511 of the Revised Code. Payments 1587  
shall continue pending the determination of the matter, however 1588  
payment shall not be made for the period when any employee has 1589  
returned to work, when an employee's treating physician has made a 1590  
written statement that the employee is capable of returning to the 1591  
employee's former position of employment, when work within the 1592  
physical capabilities of the employee is made available by the 1593  
employer or another employer, or when the employee has reached the 1594  
maximum medical improvement. Where the employee is capable of work 1595  
activity, but the employee's employer is unable to offer the 1596  
employee any employment, the employee shall register with the 1597  
director of job and family services, who shall assist the employee 1598  
in finding suitable employment. The termination of temporary total 1599  
disability, whether by order or otherwise, does not preclude the 1600  
commencement of temporary total disability at another point in 1601  
time if the employee again becomes temporarily totally disabled. 1602

After two hundred weeks of temporary total disability 1603  
benefits, the medical section of the bureau of workers' 1604  
compensation shall schedule the claimant for an examination for an 1605  
evaluation to determine whether or not the temporary disability 1606  
has become permanent. A self-insuring employer shall notify the 1607  
bureau immediately after payment of two hundred weeks of temporary 1608  
total disability and request that the bureau schedule the claimant 1609

for such an examination. 1610

When the employee is awarded compensation for temporary total 1611  
disability for a period for which the employee has received 1612  
benefits under Chapter 4141. of the Revised Code, the bureau shall 1613  
pay an amount equal to the amount received from the award to the 1614  
director of job and family services and the director shall credit 1615  
the amount to the accounts of the employers to whose accounts the 1616  
payment of benefits was charged or is chargeable to the extent it 1617  
was charged or is chargeable. 1618

If any compensation under this section has been paid for the 1619  
same period or periods for which temporary nonoccupational 1620  
accident and sickness insurance is or has been paid pursuant to an 1621  
insurance policy or program to which the employer has made the 1622  
entire contribution or payment for providing insurance or under a 1623  
nonoccupational accident and sickness program fully funded by the 1624  
employer, except as otherwise provided in this division 1625  
compensation paid under this section for the period or periods 1626  
shall be paid only to the extent by which the payment or payments 1627  
exceeds the amount of the nonoccupational insurance or program 1628  
paid or payable. Offset of the compensation shall be made only 1629  
upon the prior order of the bureau or industrial commission or 1630  
agreement of the claimant. If an employer provides supplemental 1631  
sick leave benefits in addition to temporary total disability 1632  
compensation paid under this section, and if the employer and an 1633  
employee agree in writing to the payment of the supplemental sick 1634  
leave benefits, temporary total disability benefits may be paid 1635  
without an offset for those supplemental sick leave benefits. 1636

As used in this division, "net take-home weekly wage" means 1637  
the amount obtained by dividing an employee's total remuneration, 1638  
as defined in section 4141.01 of the Revised Code, paid to or 1639  
earned by the employee during the first four of the last five 1640  
completed calendar quarters which immediately precede the first 1641

day of the employee's entitlement to benefits under this division, 1642  
by the number of weeks during which the employee was paid or 1643  
earned remuneration during those four quarters, less the amount of 1644  
local, state, and federal income taxes deducted for each such 1645  
week. 1646

(B)(1) If an employee in a claim allowed under this chapter 1647  
suffers a wage loss as a result of returning to employment other 1648  
than the employee's former position of employment due to an injury 1649  
or occupational disease, the employee shall receive compensation 1650  
at sixty-six and two-thirds per cent of the difference between the 1651  
employee's average weekly wage and the employee's present earnings 1652  
not to exceed the statewide average weekly wage. The payments may 1653  
continue for up to a maximum of two hundred weeks, but the 1654  
payments shall be reduced by the corresponding number of weeks in 1655  
which the employee receives payments pursuant to division (A)(2) 1656  
of section 4121.67 of the Revised Code. 1657

(2) If an employee in a claim allowed under this chapter 1658  
suffers a wage loss as a result of being unable to find employment 1659  
consistent with the employee's disability resulting from the 1660  
employee's injury or occupational disease, the employee shall 1661  
receive compensation at sixty-six and two-thirds per cent of the 1662  
difference between the employee's average weekly wage and the 1663  
employee's present earnings, not to exceed the statewide average 1664  
weekly wage. The payments may continue for up to a maximum of 1665  
fifty-two weeks. The first twenty-six weeks of payments under 1666  
division (B)(2) of this section shall be in addition to the 1667  
maximum of two hundred weeks of payments allowed under division 1668  
(B)(1) of this section. If an employee in a claim allowed under 1669  
this chapter receives compensation under division (B)(2) of this 1670  
section in excess of twenty-six weeks, the number of weeks of 1671  
compensation allowable under division (B)(1) of this section shall 1672  
be reduced by the corresponding number of weeks in excess of 1673

twenty-six, and up to fifty-two, that is allowable under division 1674  
(B)(1) of this section. 1675

(3) The number of weeks of wage loss payable to an employee 1676  
under divisions (B)(1) and (2) of this section shall not exceed 1677  
two hundred and twenty-six weeks in the aggregate. 1678

(C) In the event an employee of a professional sports 1679  
franchise domiciled in this state is disabled as the result of an 1680  
injury or occupational disease, the total amount of payments made 1681  
under a contract of hire or collective bargaining agreement to the 1682  
employee during a period of disability is deemed an advanced 1683  
payment of compensation payable under sections 4123.56 to 4123.58 1684  
of the Revised Code. The employer shall be reimbursed the total 1685  
amount of the advanced payments out of any award of compensation 1686  
made pursuant to sections 4123.56 to 4123.58 of the Revised Code. 1687

(D) If an employee receives temporary total disability 1688  
benefits pursuant to division (A) of this section and social 1689  
security retirement benefits pursuant to the "Social Security 1690  
Act," the weekly benefit amount under division (A) of this section 1691  
shall not exceed sixty-six and two-thirds per cent of the 1692  
statewide average weekly wage as defined in division (C) of 1693  
section 4123.62 of the Revised Code. 1694

(E) If an employee is eligible for compensation under 1695  
division (A) of this section, but the employee's full weekly wage 1696  
has not been determined at the time payments are to commence under 1697  
division (H) of section 4123.511 of the Revised Code, the employee 1698  
shall receive thirty-three and one-third per cent of the statewide 1699  
average weekly wage as defined in division (C) of section 4123.62 1700  
of the Revised Code. On determination of the employee's full 1701  
weekly wage, the compensation an employee receives shall be 1702  
adjusted pursuant to division (A) of this section. 1703

If the amount of compensation an employee receives under this 1704

division is greater than the adjusted amount the employee receives 1705  
under division (A) of this section that is based on the employee's 1706  
full weekly wage, the excess amount shall be recovered in the 1707  
manner provided in division (K) of section 4123.511 of the Revised 1708  
Code. If the amount of compensation an employee receives under 1709  
this division is less than the adjusted amount the employee 1710  
receives under that division that is based on the employee's full 1711  
weekly wage, the employee shall receive the difference between 1712  
those two amounts. 1713

**Sec. 4123.57.** Partial disability compensation shall be paid 1714  
as follows. 1715

Except as provided in this section, not earlier than 1716  
twenty-six weeks after the date of termination of the latest 1717  
period of payments under section 4123.56 of the Revised Code, or 1718  
not earlier than twenty-six weeks after the date of the injury or 1719  
contraction of an occupational disease in the absence of payments 1720  
under section 4123.56 of the Revised Code, the employee may file 1721  
an application with the bureau of workers' compensation for the 1722  
determination of the percentage of the employee's permanent 1723  
partial disability resulting from an injury or occupational 1724  
disease. 1725

Whenever the application is filed, the bureau shall send a 1726  
copy of the application to the employee's employer or the 1727  
employer's representative and shall schedule the employee for a 1728  
medical examination by the bureau medical section. The bureau 1729  
shall send a copy of the report of the medical examination to the 1730  
employee, the employer, and their representatives. Thereafter, the 1731  
administrator of workers' compensation shall review the employee's 1732  
claim file and make a tentative order as the evidence before the 1733  
administrator at the time of the making of the order warrants. If 1734  
the administrator determines that there is a conflict of evidence, 1735



the administrator shall send the application, along with the 1736  
claimant's file, to the district hearing officer who shall set the 1737  
application for a hearing. 1738

If an employee fails to respond to an attempt to schedule a 1739  
medical examination by the bureau medical section, or fails to 1740  
attend a medical examination scheduled under this section without 1741  
notice or explanation, the employee's application for a finding 1742  
shall be dismissed without prejudice. The employee may refile the 1743  
application. A dismissed application does not toll the continuing 1744  
jurisdiction of the industrial commission under section 4123.52 of 1745  
the Revised Code. The administrator shall adopt rules addressing 1746  
the manner in which an employee will be notified of a possible 1747  
dismissal and how an employee may refile an application for a 1748  
determination. 1749

The administrator shall notify the employee, the employer, 1750  
and their representatives, in writing, of the tentative order and 1751  
of the parties' right to request a hearing. Unless the employee, 1752  
the employer, or their representative notifies the administrator, 1753  
in writing, of an objection to the tentative order within twenty 1754  
days after receipt of the notice thereof, the tentative order 1755  
shall go into effect and the employee shall receive the 1756  
compensation provided in the order. In no event shall there be a 1757  
reconsideration of a tentative order issued under this division. 1758

If the employee, the employer, or their representatives 1759  
timely notify the administrator of an objection to the tentative 1760  
order, the matter shall be referred to a district hearing officer 1761  
who shall set the application for hearing with written notices to 1762  
all interested persons. Upon referral to a district hearing 1763  
officer, the employer may obtain a medical examination of the 1764  
employee, pursuant to rules of the industrial commission. 1765

(A) The district hearing officer, upon the application, shall 1766  
determine the percentage of the employee's permanent disability, 1767

except as is subject to division (B) of this section, based upon 1768  
that condition of the employee resulting from the injury or 1769  
occupational disease and causing permanent impairment evidenced by 1770  
medical or clinical findings reasonably demonstrable. The employee 1771  
shall receive sixty-six and two-thirds per cent of the employee's 1772  
average weekly wage, but not more than a maximum of thirty-three 1773  
and one-third per cent of the statewide average weekly wage as 1774  
defined in division (C) of section 4123.62 of the Revised Code, 1775  
per week regardless of the average weekly wage, for the number of 1776  
weeks which equals the percentage of two hundred weeks. Except on 1777  
application for reconsideration, review, or modification, which is 1778  
filed within ten days after the date of receipt of the decision of 1779  
the district hearing officer, in no instance shall the former 1780  
award be modified unless it is found from medical or clinical 1781  
findings that the condition of the claimant resulting from the 1782  
injury has so progressed as to have increased the percentage of 1783  
permanent partial disability. A staff hearing officer shall hear 1784  
an application for reconsideration filed and the staff hearing 1785  
officer's decision is final. An employee may file an application 1786  
for a subsequent determination of the percentage of the employee's 1787  
permanent disability. If such an application is filed, the bureau 1788  
shall send a copy of the application to the employer or the 1789  
employer's representative. No sooner than sixty days from the date 1790  
of the mailing of the application to the employer or the 1791  
employer's representative, the administrator shall review the 1792  
application. The administrator may require a medical examination 1793  
or medical review of the employee. The administrator shall issue a 1794  
tentative order based upon the evidence before the administrator, 1795  
provided that if the administrator requires a medical examination 1796  
or medical review, the administrator shall not issue the tentative 1797  
order until the completion of the examination or review. 1798

The employer may obtain a medical examination of the employee 1799  
and may submit medical evidence at any stage of the process up to 1800

a hearing before the district hearing officer, pursuant to rules 1801  
of the commission. The administrator shall notify the employee, 1802  
the employer, and their representatives, in writing, of the nature 1803  
and amount of any tentative order issued on an application 1804  
requesting a subsequent determination of the percentage of an 1805  
employee's permanent disability. An employee, employer, or their 1806  
representatives may object to the tentative order within twenty 1807  
days after the receipt of the notice thereof. If no timely 1808  
objection is made, the tentative order shall go into effect. In no 1809  
event shall there be a reconsideration of a tentative order issued 1810  
under this division. If an objection is timely made, the 1811  
application for a subsequent determination shall be referred to a 1812  
district hearing officer who shall set the application for a 1813  
hearing with written notice to all interested persons. No 1814  
application for subsequent percentage determinations on the same 1815  
claim for injury or occupational disease shall be accepted for 1816  
review by the district hearing officer unless supported by 1817  
substantial evidence of new and changed circumstances developing 1818  
since the time of the hearing on the original or last 1819  
determination. 1820

No award shall be made under this division based upon a 1821  
percentage of disability which, when taken with all other 1822  
percentages of permanent disability, exceeds one hundred per cent. 1823  
If the percentage of the permanent disability of the employee 1824  
equals or exceeds ninety per cent, compensation for permanent 1825  
partial disability shall be paid for two hundred weeks. 1826

Compensation payable under this division accrues and is 1827  
payable to the employee from the date of last payment of 1828  
compensation, or, in cases where no previous compensation has been 1829  
paid, from the date of the injury or the date of the diagnosis of 1830  
the occupational disease. 1831

When an award under this division has been made prior to the 1832

death of an employee, all unpaid installments accrued or to accrue 1833  
under the provisions of the award are payable to the surviving 1834  
spouse, or if there is no surviving spouse, to the dependent 1835  
children of the employee, and if there are no children surviving, 1836  
then to other dependents as the administrator determines. 1837

(B) For purposes of this division, "payable per week" means 1838  
the seven-consecutive-day period in which compensation is paid in 1839  
installments according to the schedule associated with the 1840  
applicable injury as set forth in this division. 1841

Compensation paid in weekly installments according to the 1842  
schedule described in this division may only be commuted to one or 1843  
more lump sum payments pursuant to the procedure set forth in 1844  
section 4123.64 of the Revised Code. 1845

In cases included in the following schedule the compensation 1846  
payable per week to the employee is the statewide average weekly 1847  
wage as defined in division (C) of section 4123.62 of the Revised 1848  
Code per week and shall be paid in installments according to the 1849  
following schedule: 1850

For the loss of a first finger, commonly known as a thumb, 1851  
sixty weeks. 1852

For the loss of a second finger, commonly called index 1853  
finger, thirty-five weeks. 1854

For the loss of a third finger, thirty weeks. 1855

For the loss of a fourth finger, twenty weeks. 1856

For the loss of a fifth finger, commonly known as the little 1857  
finger, fifteen weeks. 1858

The loss of a second, or distal, phalange of the thumb is 1859  
considered equal to the loss of one half of such thumb; the loss 1860  
of more than one half of such thumb is considered equal to the 1861  
loss of the whole thumb. 1862

The loss of the third, or distal, phalange of any finger is considered equal to the loss of one-third of the finger.	1863 1864
The loss of the middle, or second, phalange of any finger is considered equal to the loss of two-thirds of the finger.	1865 1866
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.	1867 1868 1869 1870
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.	1871 1872 1873
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.	1874 1875 1876 1877
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 administrator may take that fact into consideration and increase the award of compensation accordingly, but the award made shall not exceed the amount of compensation for loss of a hand.	1878 1879 1880 1881 1882 1883 1884 1885 1886 1887
For the loss of a hand, one hundred seventy-five weeks.	1888
For the loss of an arm, two hundred twenty-five weeks.	1889
For the loss of a great toe, thirty weeks.	1890
For the loss of one of the toes other than the great toe, ten weeks.	1891 1892

The loss of more than two-thirds of any toe is considered 1893  
equal to the loss of the whole toe. 1894

The loss of less than two-thirds of any toe is considered no 1895  
loss, except as to the great toe; the loss of the great toe up to 1896  
the interphalangeal joint is co-equal to the loss of one-half of 1897  
the great toe; the loss of the great toe beyond the 1898  
interphalangeal joint is considered equal to the loss of the whole 1899  
great toe. 1900

For the loss of a foot, one hundred fifty weeks. 1901

For the loss of a leg, two hundred weeks. 1902

For the loss of the sight of an eye, one hundred twenty-five 1903  
weeks. 1904

For the permanent partial loss of sight of an eye, the 1905  
portion of one hundred twenty-five weeks as the administrator in 1906  
each case determines, based upon the percentage of vision actually 1907  
lost as a result of the injury or occupational disease, but, in no 1908  
case shall an award of compensation be made for less than 1909  
twenty-five per cent loss of uncorrected vision. "Loss of 1910  
uncorrected vision" means the percentage of vision actually lost 1911  
as the result of the injury or occupational disease. 1912

For the permanent and total loss of hearing of one ear, 1913  
twenty-five weeks; but in no case shall an award of compensation 1914  
be made for less than permanent and total loss of hearing of one 1915  
ear. 1916

For the permanent and total loss of hearing, one hundred 1917  
twenty-five weeks; but, except pursuant to the next preceding 1918  
paragraph, in no case shall an award of compensation be made for 1919  
less than permanent and total loss of hearing. 1920

In case an injury or occupational disease results in serious 1921  
facial or head disfigurement which either impairs or may in the 1922

future impair the opportunities to secure or retain employment, 1923  
the administrator shall make an award of compensation as it deems 1924  
proper and equitable, in view of the nature of the disfigurement, 1925  
and not to exceed the sum of ten thousand dollars. For the purpose 1926  
of making the award, it is not material whether the employee is 1927  
gainfully employed in any occupation or trade at the time of the 1928  
administrator's determination. 1929

When an award under this division has been made prior to the 1930  
death of an employee all unpaid installments accrued or to accrue 1931  
under the provisions of the award shall be payable to the 1932  
surviving spouse, or if there is no surviving spouse, to the 1933  
dependent children of the employee and if there are no such 1934  
children, then to such dependents as the administrator determines. 1935

When an employee has sustained the loss of a member by 1936  
severance, but no award has been made on account thereof prior to 1937  
the employee's death, the administrator shall make an award in 1938  
accordance with this division for the loss which shall be payable 1939  
to the surviving spouse, or if there is no surviving spouse, to 1940  
the dependent children of the employee and if there are no such 1941  
children, then to such dependents as the administrator determines. 1942

(C) Compensation for partial impairment under divisions (A) 1943  
and (B) of this section is in addition to the compensation paid 1944  
the employee pursuant to section 4123.56 of the Revised Code. A 1945  
claimant may receive compensation under divisions (A) and (B) of 1946  
this section. 1947

In all cases arising under division (B) of this section, if 1948  
it is determined by any one of the following: (1) the amputee 1949  
clinic at University hospital, Ohio state university; (2) the 1950  
opportunities for Ohioans with disabilities agency; (3) an amputee 1951  
clinic or prescribing physician approved by the administrator or 1952  
the administrator's designee, that an injured or disabled employee 1953  
is in need of an artificial appliance, or in need of a repair 1954

thereof, regardless of whether the appliance or its repair will be 1955  
serviceable in the vocational rehabilitation of the injured 1956  
employee, and regardless of whether the employee has returned to 1957  
or can ever again return to any gainful employment, the bureau 1958  
shall pay the cost of the artificial appliance or its repair out 1959  
of the surplus created by division (B) of section 4123.34 of the 1960  
Revised Code. 1961

In those cases where an opportunities for Ohioans with 1962  
disabilities agency's recommendation that an injured or disabled 1963  
employee is in need of an artificial appliance would conflict with 1964  
their state plan, adopted pursuant to the "Rehabilitation Act of 1965  
1973," 87 Stat. 355, 29 U.S.C.A. 701, the administrator or the 1966  
administrator's designee or the bureau may obtain a recommendation 1967  
from an amputee clinic or prescribing physician that they 1968  
determine appropriate. 1969

(D) If an employee of a state fund employer makes application 1970  
for a finding and the administrator finds that the employee has 1971  
contracted silicosis as defined in division (Y), or coal miners' 1972  
pneumoconiosis as defined in division (Z), or asbestosis as 1973  
defined in division (BB) of section 4123.68 of the Revised Code, 1974  
and that a change of such employee's occupation is medically 1975  
advisable in order to decrease substantially further exposure to 1976  
silica dust, asbestos, or coal dust and if the employee, after the 1977  
finding, has changed or shall change the employee's occupation to 1978  
an occupation in which the exposure to silica dust, asbestos, or 1979  
coal dust is substantially decreased, the administrator shall 1980  
allow to the employee an amount equal to fifty per cent of the 1981  
statewide average weekly wage per week for a period of thirty 1982  
weeks, commencing as of the date of the discontinuance or change, 1983  
and for a period of one hundred weeks immediately following the 1984  
expiration of the period of thirty weeks, the employee shall 1985  
receive sixty-six and two-thirds per cent of the loss of wages 1986



resulting directly and solely from the change of occupation but 1987  
not to exceed a maximum of an amount equal to fifty per cent of 1988  
the statewide average weekly wage per week. No such employee is 1989  
entitled to receive more than one allowance on account of 1990  
discontinuance of employment or change of occupation and benefits 1991  
shall cease for any period during which the employee is employed 1992  
in an occupation in which the exposure to silica dust, asbestos, 1993  
or coal dust is not substantially less than the exposure in the 1994  
occupation in which the employee was formerly employed or for any 1995  
period during which the employee may be entitled to receive 1996  
compensation or benefits under section 4123.68 of the Revised Code 1997  
on account of disability from silicosis, asbestosis, or coal 1998  
miners' pneumoconiosis. An award for change of occupation for a 1999  
coal miner who has contracted coal miners' pneumoconiosis may be 2000  
granted under this division even though the coal miner continues 2001  
employment with the same employer, so long as the coal miner's 2002  
employment subsequent to the change is such that the coal miner's 2003  
exposure to coal dust is substantially decreased and a change of 2004  
occupation is certified by the claimant as permanent. The 2005  
administrator may accord to the employee medical and other 2006  
benefits in accordance with section 4123.66 of the Revised Code. 2007

(E) If a firefighter or police officer makes application for 2008  
a finding and the administrator finds that the firefighter or 2009  
police officer has contracted a cardiovascular and pulmonary 2010  
disease as defined in division (W) of section 4123.68 of the 2011  
Revised Code, and that a change of the firefighter's or police 2012  
officer's occupation is medically advisable in order to decrease 2013  
substantially further exposure to smoke, toxic gases, chemical 2014  
fumes, and other toxic vapors, and if the firefighter, or police 2015  
officer, after the finding, has changed or changes occupation to 2016  
an occupation in which the exposure to smoke, toxic gases, 2017  
chemical fumes, and other toxic vapors is substantially decreased, 2018  
the administrator shall allow to the firefighter or police officer 2019

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 court under section 4123.512 of the Revised Code.

**Sec. 4123.66.** (A) In addition to the compensation provided for in this chapter, the administrator of workers' compensation shall disburse and pay from the state insurance fund the amounts for medical, nurse, and hospital services and medicine as the administrator deems proper and, in case death ensues from the injury or occupational disease, the administrator shall disburse

and pay from the fund reasonable funeral expenses in an amount not 2052  
to exceed fifty-five hundred dollars. The bureau of workers' 2053  
compensation shall reimburse anyone, whether dependent, volunteer, 2054  
or otherwise, who pays the funeral expenses of any employee whose 2055  
death ensues from any injury or occupational disease as provided 2056  
in this section. The administrator may adopt rules, with the 2057  
advice and consent of the bureau of workers' compensation board of 2058  
directors, with respect to furnishing medical, nurse, and hospital 2059  
service and medicine to injured or disabled employees entitled 2060  
thereto, and for the payment therefor. In case an injury or 2061  
industrial accident that injures an employee also causes damage to 2062  
the employee's eyeglasses, artificial teeth or other denture, or 2063  
hearing aid, or in the event an injury or occupational disease 2064  
makes it necessary or advisable to replace, repair, or adjust the 2065  
same, the bureau shall disburse and pay a reasonable amount to 2066  
repair or replace the same. 2067

(B) The administrator, in the rules the administrator adopts 2068  
pursuant to division (A) of this section, may adopt rules 2069  
specifying the circumstances under which the bureau may make 2070  
immediate payment for the first fill of prescription drugs for 2071  
medical conditions identified in an application for compensation 2072  
or benefits under section 4123.84 or 4123.85 of the Revised Code 2073  
that occurs prior to the date the administrator issues an initial 2074  
determination order under division (B) of section 4123.511 of the 2075  
Revised Code. If the claim is ultimately disallowed in a final 2076  
administrative or judicial order, and if the employer is a state 2077  
fund employer who pays assessments into the surplus fund account 2078  
created under section 4123.34 of the Revised Code, the payments 2079  
for medical services made pursuant to this division for the first 2080  
fill of prescription drugs shall be charged to and paid from the 2081  
surplus fund account and not charged through the state insurance 2082  
fund to the employer against whom the claim was filed. 2083

(C)(1) If an employer or a welfare plan has provided to or on behalf of an employee any benefits or compensation for an injury or occupational disease and that injury or occupational disease is determined compensable under this chapter, the employer or a welfare plan may request that the administrator reimburse the employer or welfare plan for the amount the employer or welfare plan paid to or on behalf of the employee in compensation or benefits. The administrator shall reimburse the employer or welfare plan for the compensation and benefits paid if, at the time the employer or welfare plan provides the benefits or compensation to or on behalf of employee, the injury or occupational disease had not been determined to be compensable under this chapter and if the employee was not receiving compensation or benefits under this chapter for that injury or occupational disease. The administrator shall reimburse the employer or welfare plan in the amount that the administrator would have paid to or on behalf of the employee under this chapter if the injury or occupational disease originally would have been determined compensable under this chapter. If the employer is a merit-rated employer, the administrator shall adjust the amount of premium next due from the employer according to the amount the administrator pays the employer. The administrator shall adopt rules, in accordance with Chapter 119. of the Revised Code, to implement this division.

(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. 2116  
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(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: 2123  
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(a) The payment is for reimbursement of benefits for an injury or occupational disease. 2126  
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(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. 2128  
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(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. 2131  
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(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. 2134  
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(5) The administrator may adopt rules, with the advice and consent of the bureau of workers' compensation board of directors, to implement this division. 2138  
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**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 2141  
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modifications relating to occupational diseases contained in this 2146  
chapter. An order of the administrator issued under this section 2147  
is appealable pursuant to sections 4123.511 and 4123.512 of the 2148  
Revised Code. 2149

The following diseases are occupational diseases and 2150  
compensable as such when contracted by an employee in the course 2151  
of the employment in which such employee was engaged and due to 2152  
the nature of any process described in this section. A disease 2153  
which meets the definition of an occupational disease is 2154  
compensable pursuant to this chapter though it is not specifically 2155  
listed in this section. 2156

SCHEDULE 2157

Description of disease or injury and description of process: 2158

(A) Anthrax: Handling of wool, hair, bristles, hides, and 2159  
skins. 2160

(B) Glanders: Care of any equine animal suffering from 2161  
glanders; handling carcass of such animal. 2162

(C) Lead poisoning: Any industrial process involving the use 2163  
of lead or its preparations or compounds. 2164

(D) Mercury poisoning: Any industrial process involving the 2165  
use of mercury or its preparations or compounds. 2166

(E) Phosphorous poisoning: Any industrial process involving 2167  
the use of phosphorous or its preparations or compounds. 2168

(F) Arsenic poisoning: Any industrial process involving the 2169  
use of arsenic or its preparations or compounds. 2170

(G) Poisoning by benzol or by nitro-derivatives and 2171  
amido-derivatives of benzol (dinitro-benzol, anilin, and others): 2172  
Any industrial process involving the use of benzol or 2173  
nitro-derivatives or amido-derivatives of benzol or its 2174  
preparations or compounds. 2175

(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.	2176 2177 2178 2179
(I) Poisoning by carbon bisulphide: Any industrial process involving the use of carbon bisulphide or its preparations or compounds.	2180 2181 2182
(J) Poisoning by wood alcohol: Any industrial process involving the use of wood alcohol or its preparations.	2183 2184
(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.	2185 2186 2187 2188 2189
(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.	2190 2191 2192 2193
(M) Compressed air illness: Any industrial process carried on in compressed air.	2194 2195
(N) Carbon dioxide poisoning: Any process involving the evolution or resulting in the escape of carbon dioxide.	2196 2197
(O) Brass or zinc poisoning: Any process involving the manufacture, founding, or refining of brass or the melting or smelting of zinc.	2198 2199 2200
(P) Manganese dioxide poisoning: Any process involving the grinding or milling of manganese dioxide or the escape of manganese dioxide dust.	2201 2202 2203
(Q) Radium poisoning: Any industrial process involving the use of radium and other radioactive substances in luminous paint.	2204 2205

(R) Tenosynovitis and prepatellar bursitis: Primary	2206
tenosynovitis characterized by a passive effusion or crepitus into	2207
the tendon sheath of the flexor or extensor muscles of the hand,	2208
due to frequently repetitive motions or vibrations, or prepatellar	2209
bursitis due to continued pressure.	2210
(S) Chrome ulceration of the skin or nasal passages: Any	2211
industrial process involving the use of or direct contact with	2212
chromic acid or bichromates of ammonium, potassium, or sodium or	2213
their preparations.	2214
(T) Potassium cyanide poisoning: Any industrial process	2215
involving the use of or direct contact with potassium cyanide.	2216
(U) Sulphur dioxide poisoning: Any industrial process in	2217
which sulphur dioxide gas is evolved by the expansion of liquid	2218
sulphur dioxide.	2219
(V) Berylliosis: Berylliosis means a disease of the lungs	2220
caused by breathing beryllium in the form of dust or fumes,	2221
producing characteristic changes in the lungs and demonstrated by	2222
x-ray examination, by biopsy or by autopsy.	2223
This chapter does not entitle an employee or the employee's	2224
dependents to compensation, medical treatment, or payment of	2225
funeral expenses for disability or death from berylliosis unless	2226
the employee has been subjected to injurious exposure to beryllium	2227
dust or fumes in the employee's employment in this state preceding	2228
the employee's disablement and only in the event of such	2229
disability or death resulting within eight years after the last	2230
injurious exposure; provided that such eight-year limitation does	2231
not apply to disability or death from exposure occurring after	2232
January 1, 1976. In the event of death following continuous total	2233
disability commencing within eight years after the last injurious	2234
exposure, the requirement of death within eight years after the	2235
last injurious exposure does not apply.	2236



Before awarding compensation for partial or total disability 2237  
or death due to berylliosis, the administrator of workers' 2238  
compensation shall refer the claim to a qualified medical 2239  
specialist for examination and recommendation with regard to the 2240  
diagnosis, the extent of the disability, the nature of the 2241  
disability, whether permanent or temporary, the cause of death, 2242  
and other medical questions connected with the claim. An employee 2243  
shall submit to such examinations, including clinical and x-ray 2244  
examinations, as the administrator requires. In the event that an 2245  
employee refuses to submit to examinations, including clinical and 2246  
x-ray examinations, after notice from the administrator, or in the 2247  
event that a claimant for compensation for death due to 2248  
berylliosis fails to produce necessary consents and permits, after 2249  
notice from the administrator, so that such autopsy examination 2250  
and tests may be performed, then all rights for compensation are 2251  
forfeited. The reasonable compensation of such specialist and the 2252  
expenses of examinations and tests shall be paid, if the claim is 2253  
allowed, as part of the expenses of the claim, otherwise they 2254  
shall be paid from the surplus fund. 2255

(W) Cardiovascular, pulmonary, or respiratory diseases 2256  
incurred by firefighters or police officers following exposure to 2257  
heat, smoke, toxic gases, chemical fumes and other toxic 2258  
substances: Any cardiovascular, pulmonary, or respiratory disease 2259  
of a firefighter or police officer caused or induced by the 2260  
cumulative effect of exposure to heat, the inhalation of smoke, 2261  
toxic gases, chemical fumes and other toxic substances in the 2262  
performance of the firefighter's or police officer's duty 2263  
constitutes a presumption, which may be refuted by affirmative 2264  
evidence, that such occurred in the course of and arising out of 2265  
the firefighter's or police officer's employment. For the purpose 2266  
of this section, "firefighter" means any regular member of a 2267  
lawfully constituted fire department of a municipal corporation or 2268  
township, whether paid or volunteer, and "police officer" means 2269

any regular member of a lawfully constituted police department of 2270  
a municipal corporation, township or county, whether paid or 2271  
volunteer. 2272

This chapter does not entitle a firefighter, or police 2273  
officer, or the firefighter's or police officer's dependents to 2274  
compensation, medical treatment, or payment of funeral expenses 2275  
for disability or death from a cardiovascular, pulmonary, or 2276  
respiratory disease, unless the firefighter or police officer has 2277  
been subject to injurious exposure to heat, smoke, toxic gases, 2278  
chemical fumes, and other toxic substances in the firefighter's or 2279  
police officer's employment in this state preceding the 2280  
firefighter's or police officer's disablement, some portion of 2281  
which has been after January 1, 1967, except as provided in 2282  
division (E) of section 4123.57 of the Revised Code. 2283

Compensation on account of cardiovascular, pulmonary, or 2284  
respiratory diseases of firefighters and police officers is 2285  
payable only in the event of temporary total disability, permanent 2286  
total disability, or death, in accordance with section 4123.56, 2287  
4123.58, or 4123.59 of the Revised Code. Medical, hospital, and 2288  
nursing expenses are payable in accordance with this chapter. 2289  
Compensation, medical, hospital, and nursing expenses are payable 2290  
only in the event of such disability or death resulting within 2291  
eight years after the last injurious exposure; provided that such 2292  
eight-year limitation does not apply to disability or death from 2293  
exposure occurring after January 1, 1976. In the event of death 2294  
following continuous total disability commencing within eight 2295  
years after the last injurious exposure, the requirement of death 2296  
within eight years after the last injurious exposure does not 2297  
apply. 2298

This chapter does not entitle a firefighter or police 2299  
officer, or the firefighter's or police officer's dependents, to 2300  
compensation, medical, hospital, and nursing expenses, or payment 2301

of funeral expenses for disability or death due to a 2302  
cardiovascular, pulmonary, or respiratory disease in the event of 2303  
failure or omission on the part of the firefighter or police 2304  
officer truthfully to state, when seeking employment, the place, 2305  
duration, and nature of previous employment in answer to an 2306  
inquiry made by the employer. 2307

Before awarding compensation for disability or death under 2308  
this division, the administrator shall refer the claim to a 2309  
qualified medical specialist for examination and recommendation 2310  
with regard to the diagnosis, the extent of disability, the cause 2311  
of death, and other medical questions connected with the claim. A 2312  
firefighter or police officer shall submit to such examinations, 2313  
including clinical and x-ray examinations, as the administrator 2314  
requires. In the event that a firefighter or police officer 2315  
refuses to submit to examinations, including clinical and x-ray 2316  
examinations, after notice from the administrator, or in the event 2317  
that a claimant for compensation for death under this division 2318  
fails to produce necessary consents and permits, after notice from 2319  
the administrator, so that such autopsy examination and tests may 2320  
be performed, then all rights for compensation are forfeited. The 2321  
reasonable compensation of such specialists and the expenses of 2322  
examination and tests shall be paid, if the claim is allowed, as 2323  
part of the expenses of the claim, otherwise they shall be paid 2324  
from the surplus fund. 2325

(X)(1) Cancer contracted by a firefighter: Cancer contracted 2326  
by a firefighter who has been assigned to at least six years of 2327  
hazardous duty as a firefighter constitutes a presumption that the 2328  
cancer was contracted in the course of and arising out of the 2329  
firefighter's employment if the firefighter was exposed to an 2330  
agent classified by the international agency for research on 2331  
cancer or its successor organization as a group 1 or 2A 2332  
carcinogen. 2333

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

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

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

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

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

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

(3) The presumption described in division (X)(1) of this section does not apply if it has been more than ~~twenty~~ fifteen years since the firefighter was last assigned to hazardous duty as a firefighter.

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

(5) As used in division (X) of this section, "hazardous duty"

has the same meaning as in 5 C.F.R. 550.902, as amended. 2364

(Y) Silicosis: Silicosis means a disease of the lungs caused 2365  
by breathing silica dust (silicon dioxide) producing fibrous 2366  
nodules distributed through the lungs and demonstrated by x-ray 2367  
examination, by biopsy or by autopsy. 2368

(Z) Coal miners' pneumoconiosis: Coal miners' pneumoconiosis, 2369  
commonly referred to as "black lung disease," resulting from 2370  
working in the coal mine industry and due to exposure to the 2371  
breathing of coal dust, and demonstrated by x-ray examination, 2372  
biopsy, autopsy or other medical or clinical tests. 2373

This chapter does not entitle an employee or the employee's 2374  
dependents to compensation, medical treatment, or payment of 2375  
funeral expenses for disability or death from silicosis, 2376  
asbestosis, or coal miners' pneumoconiosis unless the employee has 2377  
been subject to injurious exposure to silica dust (silicon 2378  
dioxide), asbestos, or coal dust in the employee's employment in 2379  
this state preceding the employee's disablement, some portion of 2380  
which has been after October 12, 1945, except as provided in 2381  
division (E) of section 4123.57 of the Revised Code. 2382

Compensation on account of silicosis, asbestosis, or coal 2383  
miners' pneumoconiosis are payable only in the event of temporary 2384  
total disability, permanent total disability, or death, in 2385  
accordance with sections 4123.56, 4123.58, and 4123.59 of the 2386  
Revised Code. Medical, hospital, and nursing expenses are payable 2387  
in accordance with this chapter. Compensation, medical, hospital, 2388  
and nursing expenses are payable only in the event of such 2389  
disability or death resulting within eight years after the last 2390  
injurious exposure; provided that such eight-year limitation does 2391  
not apply to disability or death occurring after January 1, 1976, 2392  
and further provided that such eight-year limitation does not 2393  
apply to any asbestosis cases. In the event of death following 2394  
continuous total disability commencing within eight years after 2395

the last injurious exposure, the requirement of death within eight 2396  
years after the last injurious exposure does not apply. 2397

This chapter does not entitle an employee or the employee's 2398  
dependents to compensation, medical, hospital and nursing 2399  
expenses, or payment of funeral expenses for disability or death 2400  
due to silicosis, asbestosis, or coal miners' pneumoconiosis in 2401  
the event of the failure or omission on the part of the employee 2402  
truthfully to state, when seeking employment, the place, duration, 2403  
and nature of previous employment in answer to an inquiry made by 2404  
the employer. 2405

Before awarding compensation for disability or death due to 2406  
silicosis, asbestosis, or coal miners' pneumoconiosis, the 2407  
administrator shall refer the claim to a qualified medical 2408  
specialist for examination and recommendation with regard to the 2409  
diagnosis, the extent of disability, the cause of death, and other 2410  
medical questions connected with the claim. An employee shall 2411  
submit to such examinations, including clinical and x-ray 2412  
examinations, as the administrator requires. In the event that an 2413  
employee refuses to submit to examinations, including clinical and 2414  
x-ray examinations, after notice from the administrator, or in the 2415  
event that a claimant for compensation for death due to silicosis, 2416  
asbestosis, or coal miners' pneumoconiosis fails to produce 2417  
necessary consents and permits, after notice from the commission, 2418  
so that such autopsy examination and tests may be performed, then 2419  
all rights for compensation are forfeited. The reasonable 2420  
compensation of such specialist and the expenses of examinations 2421  
and tests shall be paid, if the claim is allowed, as a part of the 2422  
expenses of the claim, otherwise they shall be paid from the 2423  
surplus fund. 2424

(AA) Radiation illness: Any industrial process involving the 2425  
use of radioactive materials. 2426

Claims for compensation and benefits due to radiation illness 2427

are payable only in the event death or disability occurred within 2428  
eight years after the last injurious exposure provided that such 2429  
eight-year limitation does not apply to disability or death from 2430  
exposure occurring after January 1, 1976. In the event of death 2431  
following continuous disability which commenced within eight years 2432  
of the last injurious exposure the requirement of death within 2433  
eight years after the last injurious exposure does not apply. 2434

(BB) Asbestosis: Asbestosis means a disease caused by 2435  
inhalation or ingestion of asbestos, demonstrated by x-ray 2436  
examination, biopsy, autopsy, or other objective medical or 2437  
clinical tests. 2438

All conditions, restrictions, limitations, and other 2439  
provisions of this section, with reference to the payment of 2440  
compensation or benefits on account of silicosis or coal miners' 2441  
pneumoconiosis apply to the payment of compensation or benefits on 2442  
account of any other occupational disease of the respiratory tract 2443  
resulting from injurious exposures to dust. 2444

The refusal to produce the necessary consents and permits for 2445  
autopsy examination and testing shall not result in forfeiture of 2446  
compensation provided the administrator finds that such refusal 2447  
was the result of bona fide religious convictions or teachings to 2448  
which the claimant for compensation adhered prior to the death of 2449  
the decedent. 2450

**Sec. 4123.71.** Every physician in this state attending on or 2451  
called in to visit a patient whom ~~he~~ the physician believes to be 2452  
suffering from an occupational disease as defined in section 2453  
4123.68 of the Revised Code shall, within forty-eight hours from 2454  
the time of making such diagnosis, send to the bureau of workers' 2455  
compensation a report stating: 2456

(A) Name, address, and occupation of patient; 2457

(B) Name and address of business in which employed;	2458
(C) Nature of disease;	2459
(D) Name and address of employer of patient;	2460
(E) Such other information as is reasonably required by the bureau.	2461 2462
The reports shall be made on blanks to be furnished by the bureau. <del>The mailing of A physician who sends</del> the report within the time stated, <del>in a stamped envelope addressed to the office of the</del> bureau is a <u>in</u> compliance with this section.	2463 2464 2465 2466
Reports made under this section shall not be evidence of the facts therein stated in any action arising out of a disease therein reported.	2467 2468 2469
The bureau shall, within twenty-four hours after the receipt of the report, send a copy thereof to the employer of the patient named in the report.	2470 2471 2472
<b>Sec. 4123.84.</b> (A) In all cases of injury or death, claims for compensation or benefits for the specific part or parts of the body injured shall be forever barred unless, within <del>two years</del> <u>one</u> <u>year</u> after the injury or death:	2473 2474 2475 2476
(1) Written or facsimile notice of the specific part or parts of the body claimed to have been injured has been made to the industrial commission or the bureau of workers' compensation;	2477 2478 2479
(2) The employer, with knowledge of a claimed compensable injury or occupational disease, has paid wages in lieu of compensation for total disability;	2480 2481 2482
(3) In the event the employer is a self-insuring employer, one of the following has occurred:	2483 2484
(a) Written or facsimile notice of the specific part or parts of the body claimed to have been injured has been given to the	2485 2486



commission or bureau or the employer has furnished treatment by a 2487  
licensed physician in the employ of an employer, provided, 2488  
however, that the furnishing of such treatment shall not 2489  
constitute a recognition of a claim as compensable, but shall do 2490  
no more than satisfy the requirements of this section; 2491

(b) Compensation or benefits have been paid or furnished 2492  
equal to or greater than is provided for in sections 4123.52, 2493  
4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code. 2494

(4) Written or facsimile notice of death has been given to 2495  
the commission or bureau. 2496

(B) The bureau shall provide printed notices quoting in full 2497  
division (A) of this section, and every self-insuring employer 2498  
shall post and maintain at all times one or more of the notices in 2499  
conspicuous places in the workshop or places of employment. 2500

(C) The commission has continuing jurisdiction as set forth 2501  
in section 4123.52 of the Revised Code over a claim which meets 2502  
the requirement of this section, including jurisdiction to award 2503  
compensation or benefits for loss or impairment of bodily 2504  
functions developing in a part or parts of the body not specified 2505  
pursuant to division (A)(1) of this section, if the commission 2506  
finds that the loss or impairment of bodily functions was due to 2507  
and a result of or a residual of the injury to one of the parts of 2508  
the body set forth in the written notice filed pursuant to 2509  
division (A)(1) of this section. 2510

(D) Any claim pending before the administrator, the 2511  
commission, or a court on December 11, 1967, in which the remedy 2512  
is affected by this section is governed by this section. 2513

(E) Notwithstanding the requirement that the notice required 2514  
to be given to the bureau, commission, or employer under this 2515  
section is to be in writing or facsimile, the bureau may accept, 2516  
assign a claim number, and process a claim when notice is provided 2517

verbally over the telephone. Immediately upon receipt of notice 2518  
provided verbally over the telephone, the bureau shall send a 2519  
written or facsimile notice to the employer of the bureau's 2520  
receipt of the verbal notice. Within fifteen days after receipt of 2521  
the bureau's written or facsimile notice, the employer may in 2522  
writing or facsimile either verify or not verify the verbal 2523  
notice. If the bureau does not receive the written or facsimile 2524  
notification from the employer or receives a written or facsimile 2525  
notification verifying the verbal notice within such time period, 2526  
the claim is validly filed and such verbal notice tolls the 2527  
statute of limitations in regard to the claim filed and is 2528  
considered to meet the requirements of written or facsimile notice 2529  
required by this section. 2530

(F) As used in division (A)(3)(b) of this section, "benefits" 2531  
means payments by a self-insuring employer to, or on behalf of, an 2532  
employee for a hospital bill, a medical bill to a licensed 2533  
physician or hospital, or an orthopedic or prosthetic device. 2534

**Sec. 4125.05.** (A) Not later than thirty days after the 2535  
formation of a professional employer organization, a professional 2536  
employer organization operating in this state shall register with 2537  
the administrator of workers' compensation on forms provided by 2538  
the administrator. Following initial registration, each 2539  
professional employer organization shall register with the 2540  
administrator annually on or before the thirty-first day of 2541  
December. Commonly owned or controlled applicants may register as 2542  
a professional employer organization reporting entity or register 2543  
individually. Registration as a part of a professional employer 2544  
organization reporting entity shall not disqualify an individual 2545  
professional employer organization from participating in a 2546  
group-rated plan under division (A)(4) of section 4123.29 of the 2547  
Revised Code. 2548

(B) Initial registration and each annual registration renewal shall include all of the following:	2549 2550
(1) A list of each of the professional employer organization's client employers current as of the date of registration for purposes of initial registration or current as of the date of annual registration renewal, or within fourteen days of adding or releasing a client, that includes the client employer's name, address, federal tax identification number, and bureau of workers' compensation risk number;	2551 2552 2553 2554 2555 2556 2557
(2) A fee as determined by the administrator;	2558
(3) The name or names under which the professional employer organization conducts business;	2559 2560
(4) The address of the professional employer organization's principal place of business and the address of each office it maintains in this state;	2561 2562 2563
(5) The professional employer organization's taxpayer or employer identification number;	2564 2565
(6) A list of each state in which the professional employer organization has operated in the preceding five years, and the name, corresponding with each state, under which the professional employer organization operated in each state, including any alternative names, names of predecessors, and if known, successor business entities;	2566 2567 2568 2569 2570 2571
(7) The most recent financial statement prepared and audited pursuant to division (B) of section 4125.051 of the Revised Code;	2572 2573
(8) If there is any deficit in the working capital required under division (A) of section 4125.051 of the Revised Code, a bond, irrevocable letter of credit, or securities with a minimum market value in an amount sufficient to cover the deficit in accordance with the requirements of that section;	2574 2575 2576 2577 2578

(9) An attestation of the accuracy of the data submissions	2579
from the chief executive officer, <u>president, or other individual</u>	2580
<u>who serves as the controlling person</u> of the professional employer	2581
organization.	2582
(C) Upon terms and for periods that the administrator	2583
considers appropriate, the administrator may issue a limited	2584
registration to a professional employer organization or	2585
professional employer organization reporting entity that provides	2586
all of the following items:	2587
(1) A properly executed request for limited registration on a	2588
form provided by the administrator;	2589
(2) All information and materials required for registration	2590
in divisions (B)(1) to (6) of this section;	2591
(3) Information and documentation necessary to show that the	2592
professional employer organization or professional employer	2593
organization reporting entity satisfies all of the following	2594
criteria:	2595
(a) It is domiciled outside of this state.	2596
(b) It is licensed or registered as a professional employer	2597
organization in another state.	2598
(c) It does not maintain an office in this state.	2599
(d) It does not participate in direct solicitations for	2600
client employers located or domiciled in this state.	2601
(e) It has fifty or fewer shared employees employed or	2602
domiciled in this state on any given day.	2603
(D)(1) The administrator, with the advice and consent of the	2604
bureau of workers' compensation board of directors, may adopt	2605
rules in accordance with Chapter 119. of the Revised Code to	2606
require, in addition to the requirement under division (B)(8) of	2607
this section, a professional employer organization to provide	2608

security in the form of a bond or letter of credit assignable to 2609  
the Ohio bureau of workers' compensation not to exceed an amount 2610  
equal to the premiums and assessments incurred for the most recent 2611  
policy year, prior to any discounts or dividends, to meet the 2612  
financial obligations of the professional employer organization 2613  
pursuant to this chapter and Chapters 4121. and 4123. of the 2614  
Revised Code. 2615

(2) A professional employer organization may appeal the 2616  
amount of the security required pursuant to rules adopted under 2617  
division (D)(1) of this section in accordance with section 2618  
4123.291 of the Revised Code. 2619

(3) A professional employer organization shall pay premiums 2620  
and assessments for purposes of Chapters 4121. and 4123. of the 2621  
Revised Code on a monthly basis pursuant to division (A) of 2622  
section 4123.35 of the Revised Code. 2623

(E) Notwithstanding division (D) of this section, a 2624  
professional employer organization that qualifies for 2625  
self-insurance or retrospective rating under section 4123.29 or 2626  
4123.35 of the Revised Code shall abide by the financial 2627  
disclosure and security requirements pursuant to those sections 2628  
and the rules adopted under those sections in place of the 2629  
requirements specified in division (D) of this section or 2630  
specified in rules adopted pursuant to that division. 2631

(F) Except to the extent necessary for the administrator to 2632  
administer the statutory duties of the administrator and for 2633  
employees of the state to perform their official duties, all 2634  
records, reports, client lists, and other information obtained 2635  
from a professional employer organization and professional 2636  
employer organization reporting entity under divisions (A), (B), 2637  
and (C) of this section are confidential and shall be considered 2638  
trade secrets and shall not be published or open to public 2639  
inspection. 2640

(G) The list described in division (B)(1) of this section 2641  
shall be considered a trade secret. 2642

(H) The administrator shall establish the fee described in 2643  
division (B)(2) of this section in an amount that does not exceed 2644  
the cost of the administration of the initial and renewal 2645  
registration process. 2646

(I) A financial statement required under division (B)(7) of 2647  
this section for initial registration shall be the most recent 2648  
financial statement of the professional employer organization or 2649  
professional employer organization reporting entity of which the 2650  
professional employer organization is a member and shall not be 2651  
older than thirteen months. For each registration renewal, the 2652  
professional employer organization shall file the required 2653  
financial statement within one hundred eighty days after the end 2654  
of the professional employer organization's or professional 2655  
employer organization reporting entity's fiscal year. A 2656  
professional employer organization may apply to the administrator 2657  
for an extension beyond that time if the professional employer 2658  
organization provides the administrator with a letter from the 2659  
professional employer organization's auditor stating the reason 2660  
for delay and the anticipated completion date. 2661

(J) Multiple, unrelated professional employer organizations 2662  
shall not combine together for purposes of obtaining workers' 2663  
compensation coverage or for forming any type of self-insurance 2664  
arrangement available under this chapter. Multiple, unrelated 2665  
professional employer organization reporting entities shall not 2666  
combine together for purposes of obtaining workers' compensation 2667  
coverage or for forming any type of self-insurance arrangement 2668  
available under this chapter. 2669

(K) The administrator shall maintain a list of professional 2670  
employer organizations and professional employer organization 2671  
reporting entities registered under this section that is readily 2672

available to the public by electronic or other means. 2673

**Sec. 4125.051.** (A) A professional employer organization, or a 2674  
professional employer organization reporting entity of which the 2675  
professional employer organization is a member, shall maintain 2676  
positive working capital at initial or annual registration, as 2677  
reflected in the financial statements submitted to the bureau. If 2678  
a deficit in working capital is reflected in the financial 2679  
statements submitted to the bureau, the professional employer 2680  
organization or the professional employer organization reporting 2681  
entity shall do both of the following for that registration 2682  
period: 2683

(1) Obtain a bond, irrevocable letter of credit, or 2684  
securities with a minimum market value in an amount sufficient to 2685  
cover the deficit in working capital; 2686

(2) Submit to the administrator of workers' compensation a 2687  
quarterly financial statement for each calendar quarter during 2688  
which there is a deficit in working capital, accompanied by an 2689  
attestation of the chief executive officer, president, or other 2690  
individual who serves as the controlling person of the 2691  
professional employer organization that all wages, taxes, workers' 2692  
compensation premiums, and employee benefits have been paid by the 2693  
professional employer organization or members of the professional 2694  
employer organization reporting entity. 2695

The bond, letter of credit, or securities required under 2696  
division (A)(1) of this section shall be held by a depository 2697  
designated by the administrator and shall secure payment by the 2698  
professional employer organization or professional employer 2699  
organization reporting entity of all taxes, wages, benefits, or 2700  
other entitlements due or otherwise pertaining to shared 2701  
employees, if the professional employer organization or 2702  
professional employer organization reporting entity does not make 2703

those payments when due. 2704

(B) A professional employer organization, or a professional 2705  
employer organization reporting entity of which the professional 2706  
employer organization is a member, shall prepare financial 2707  
statements in accordance with generally accepted accounting 2708  
principles and submit them for registration and registration 2709  
renewal under section 4125.05 of the Revised Code. 2710

The financial statements shall be audited by an independent 2711  
certified public accountant authorized to practice in the 2712  
jurisdiction in which that accountant is located. 2713

(1) The resulting report of the auditor shall not include 2714  
either of the following: 2715

(a) A qualification or disclaimer of opinion as to adherence 2716  
to generally accepted accounting principles; 2717

(b) A statement expressing substantial doubt about the 2718  
ability of the professional employer organization or professional 2719  
employer organization reporting entity to continue as a going 2720  
concern. 2721

(2) However, if a professional employer organization does not 2722  
have at least twelve months of operating history on which to base 2723  
financial statements, the financial statements shall be reviewed 2724  
by a certified public accountant. 2725

(3) Notwithstanding division (B)(1)(a) of this section, if a 2726  
professional employer organization or professional employer 2727  
organization reporting entity is a subsidiary or is related to a 2728  
variable interest entity, the professional employer organization 2729  
or professional employer organization entity may submit financial 2730  
statements of the professional employer organization or 2731  
professional employer organization reporting entity. 2732

(C) The bureau shall deny initial or annual registration to 2733



an applicant or professional employer organization reporting 2734  
entity that does not meet the requirements of this section. 2735

(D) Professional employer organizations in a professional 2736  
employer organization reporting entity may satisfy the 2737  
requirements of this section on a combined or consolidated basis 2738  
provided that each member of the professional employer 2739  
organization reporting entity guarantees each other members' 2740  
satisfaction of the requirements under division (A) of this 2741  
section. 2742

For purposes of satisfying the registration and registration 2743  
renewal requirements described in division (B)(7) of section 2744  
4125.05 of the Revised Code, a professional employer organization 2745  
reporting entity may submit a combined or consolidated financial 2746  
statement that satisfies the requirements of this section. If the 2747  
combined or consolidated financial statement includes entities 2748  
that are not professional employer organizations or that are not 2749  
in the professional employer organization reporting entity, the 2750  
controlling entity of the professional employer organization 2751  
reporting entity that is submitting the consolidated or combined 2752  
financial statement shall guarantee that the professional employer 2753  
organizations of the professional employer organization reporting 2754  
entity have satisfied the requirements under division (A) of this 2755  
section ~~and shall include supplemental combining schedules to~~ 2756  
~~guarantee that the requirements under division (A) of this section~~ 2757  
~~are satisfied by the professional employer organization or~~ 2758  
~~professional employer organization reporting entity.~~ 2759

**Sec. 4125.07.** (A) As used in this section, "self-insuring 2760  
employer" has the same meaning as in section 4123.01 of the 2761  
Revised Code. 2762

(B) Not later than ~~fourteen~~ thirty calendar days after the 2763  
date on which a professional employer organization agreement is 2764

terminated, the professional employer organization is adjudged 2765  
bankrupt, the professional employer organization ceases operations 2766  
within the state of Ohio, or the registration of the professional 2767  
employer organization is revoked, the professional employer 2768  
organization shall submit to the administrator of workers' 2769  
compensation and each client employer associated with that 2770  
professional employer organization a completed workers' 2771  
compensation lease termination notice form provided by the 2772  
administrator. The completed form shall include all client payroll 2773  
and claim information listed in a format specified by the 2774  
administrator and notice of all workers' compensation claims that 2775  
have been reported to the professional employer organization in 2776  
accordance with its internal reporting policies. 2777

(C)(1) If a professional employer organization that is a 2778  
self-insuring employer is required to submit a workers' 2779  
compensation lease termination notice form under division (B) of 2780  
this section, not later than ~~fourteen~~ thirty calendar days after 2781  
the lease termination the professional employer organization shall 2782  
submit all of the following to the administrator for any years 2783  
necessary for the administrator to develop a state fund experience 2784  
modification factor for each client employer involved in the lease 2785  
termination: 2786

(a) The payroll of each client employer involved in the lease 2787  
termination, organized by manual classification and year; 2788

(b) The medical and indemnity costs of each client employer 2789  
involved in the lease termination, organized by claim; 2790

(c) Any other information the administrator may require to 2791  
develop a state fund experience modification factor for each 2792  
client employer involved in the lease termination. 2793

(2) The administrator may require a professional employer 2794  
organization to submit the information required under division 2795

(C)(1) of this section at additional times after the initial 2796  
submission if the administrator determines that the information is 2797  
necessary for the administrator to develop a state fund experience 2798  
modification factor. 2799

(3) The administrator may revoke or refuse to renew a 2800  
professional employer organization's status as a self-insuring 2801  
employer if the professional employer organization fails to 2802  
provide information requested by the administrator under division 2803  
(C)(1) or (2) of this section. 2804

(D) The administrator shall use the information provided 2805  
under division (C) of this section to develop a state fund 2806  
experience modification factor for each client employer involved 2807  
in a lease termination with a professional employer organization 2808  
that is a self-insuring employer. 2809

(E) A professional employer organization shall report any 2810  
transfer of employees between related professional employer 2811  
organization entities or professional employer organization 2812  
reporting entities to the administrator within fourteen calendar 2813  
days after the date of the transfer on a form prescribed by the 2814  
administrator. The professional employer organization or 2815  
professional employer organization reporting entity shall include 2816  
in the form all client payroll and claim information regarding the 2817  
transferred employees listed in a format specified by the 2818  
administrator and a notice of all workers' compensation claims 2819  
that have been reported to the professional employer organization 2820  
or professional employer organization reporting entity in 2821  
accordance with the internal reporting policies of the 2822  
professional employer organization or professional employer 2823  
organization reporting entity. 2824

(F) Prior to entering into a professional employer 2825  
organization agreement with a client employer, a professional 2826  
employer organization shall disclose in writing to the client 2827

employer the reporting requirements that apply to the professional 2828  
employer organization under division (C) of this section and that 2829  
the administrator must develop a state fund experience 2830  
modification factor for each client employer involved in a lease 2831  
termination with a professional employer organization that is a 2832  
self-insuring employer. 2833

**Sec. 4167.01.** As used in this chapter: 2834

(A) "Public employer" means any of the following: 2835

(1) The state and its instrumentalities; 2836

(2) Any political subdivisions and their instrumentalities, 2837  
including any county, county hospital, municipal corporation, 2838  
city, village, township, park district, school district, state 2839  
institution of higher learning, public or special district, state 2840  
agency, authority, commission, or board; 2841

(3) Any other branch of public employment not mentioned in 2842  
division (A)(1) or (2) of this section. 2843

(B) "Public employee" means any individual who engages to 2844  
furnish services subject to the direction and control of a public 2845  
employer, including those individuals working for a private 2846  
employer who has contracted with a public employer and over whom 2847  
the national labor relations board has declined jurisdiction. 2848

"Public employee" does not mean any of the following: 2849

(1) ~~A firefighter, an emergency medical technician basic, an 2850  
emergency medical technician intermediate, a paramedic, or a peace 2851  
officer employed by a public employer as defined in division 2852  
(A)(2) of this section, or any member of the organized militia 2853  
ordered to duty by state authority pursuant to Chapter 5923. of 2854  
the Revised Code, ~~or a firefighter, an emergency medical 2855  
technician basic, an emergency medical technician intermediate, or 2856  
a paramedic employed by a private employer that is organized as a 2857~~~~

<del>nonprofit fire company or life squad that contracts with a public</del>	2858
<del>employer to provide fire protection or emergency medical services;</del>	2859
<del>(2) Any person employed as a correctional officer in a county</del>	2860
<del>or municipal corporation correctional institution, whether the</del>	2861
<del>county or municipal corporation solely or in conjunction with each</del>	2862
<del>other operates the institution;</del>	2863
<del>(3) Any person who engages to furnish services subject to the</del>	2864
<del>direction and control of a public employer but does not receive</del>	2865
<del>compensation, either directly or indirectly, for those services;</del>	2866
<del>(4)(3) Any forest-fire investigator, natural resources</del>	2867
<del>officer, wildlife officer, or preserve officer.</del>	2868
(C) "Public employee representative" means an employee	2869
organization certified by the state employment relations board	2870
under section 4117.05 of the Revised Code as the exclusive	2871
representative of the public employees in a bargaining unit.	2872
(D) "Employment risk reduction standard" means a standard	2873
which requires conditions, or the adoption or use of one or more	2874
practices, means, methods, operations, or processes, reasonably	2875
necessary or appropriate to provide safe and healthful employment	2876
and places of employment.	2877
(E) "Ohio employment risk reduction standard" means any risk	2878
reduction standard adopted or issued under this chapter.	2879
(F) "Undue hardship" means any requirement imposed under this	2880
chapter or a rule or order issued thereunder that would require a	2881
public employer to take an action with significant difficulty or	2882
expense when considered in light of all of the following factors:	2883
(1) The nature and cost of the action required under this	2884
chapter;	2885
(2) The overall financial resources of the public employer	2886
involved in the action;	2887

(3) The number of persons employed by the public employer at the particular location where the action may be required;	2888 2889
(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;	2890 2891 2892
(5) The overall size of the public employer with respect to the number of its public employees;	2893 2894
(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;	2895 2896 2897
(7) The geographic separateness, administrative, or fiscal relationship of the public employer's operations to the whole public employer.	2898 2899 2900
<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.	2901 2902 2903
(B) The administrator shall do all of the following:	2904
(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>	2905 2906 2907 2908 2909 2910
(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;	2911 2912 2913 2914 2915 2916
(b) <u>Standards and procedures for an effective safety</u>	2917

partnership agreement program for public employers and employees 2918  
that promotes voluntary compliance with this chapter. 2919

(2) Do all things necessary and appropriate for the 2920  
administration and enforcement of this chapter. 2921

(C) In carrying out the responsibilities of this chapter, the 2922  
administrator may use, with the consent of any federal, state, or 2923  
local agency, the services, facilities, and personnel of such 2924  
agency, with or without reimbursement, and may retain or contract 2925  
with experts, consultants, and organizations for services or 2926  
personnel on such terms as the administrator determines 2927  
appropriate. 2928

**Sec. 4167.10.** (A) In order to carry out the purposes of this 2929  
chapter, the administrator of workers' compensation or the 2930  
administrator's designee shall, as provided in this section, enter 2931  
without delay during normal working hours and at other reasonable 2932  
times, to inspect and investigate any plant, facility, 2933  
establishment, construction site, or any other area, workplace, or 2934  
environment where work is being performed by a public employee of 2935  
a public employer, and any place of employment and all pertinent 2936  
conditions, structures, machines, apparatus, devices, equipment, 2937  
and materials therein, and question privately any public employer, 2938  
administrator, department head, operator, agent, or public 2939  
employee. The authority to inspect and investigate includes the 2940  
taking of environmental samples, the taking and obtaining of 2941  
photographs related to the purposes of the inspection or 2942  
investigation, the examination of records required to be kept 2943  
under section 4167.11 of the Revised Code and other documents and 2944  
records relevant to the inspection and investigation, the issuance 2945  
of subpoenas, and the conducting of tests and other studies 2946  
reasonably calculated to serve the purposes of implementing and 2947  
enforcing this chapter. Except as provided in this section, the 2948

administrator or the administrator's designee shall conduct 2949  
scheduled inspections and investigations only pursuant to rules 2950  
adopted under section 4167.02 of the Revised Code, a request to do 2951  
so by a public employee or public employee representative, or the 2952  
notification the administrator receives pursuant to division (B) 2953  
of section 4167.06 of the Revised Code and only if the 2954  
administrator or the administrator's designee complies with this 2955  
section. The administrator or the administrator's designee shall 2956  
conduct all requested or required inspections within a reasonable 2957  
amount of time following receipt of the request or notification. 2958

(B)(1) Any public employee or public employee representative 2959  
who believes that a violation of an Ohio employment risk reduction 2960  
standard exists that threatens physical harm, or that an imminent 2961  
danger exists, may request an inspection by giving written notice 2962  
to the administrator or the administrator's designee of the 2963  
violation or danger. The notice shall set forth with reasonable 2964  
particularity the grounds for the notice, and shall be signed by 2965  
the public employee or public employee representative. The names 2966  
of individual public employees making the notice or referred to 2967  
therein shall not appear in the copy provided to the public 2968  
employer pursuant to division (B)(2) of this section and shall be 2969  
kept confidential. 2970

(2) If, upon receipt of a notification pursuant to division 2971  
(B)(1) of this section, the administrator determines that there 2972  
are no reasonable grounds to believe that a violation or danger 2973  
exists, the administrator shall inform the public employee or 2974  
public employee representative in writing of the determination. 2975  
If, upon receipt of a notification, the administrator determines 2976  
that there are reasonable grounds to believe that a violation or 2977  
danger exists, the administrator shall, within one week, excluding 2978  
Saturdays, Sundays, and any legal holiday as defined in section 2979  
1.14 of the Revised Code, after receipt of the notification, 2980



notify the public employer, by certified mail, return receipt 2981  
requested, of the alleged violation or danger. The notice provided 2982  
to the public employer or the public employer's agent shall 2983  
~~contain a copy of the notice provided to the administrator by the~~ 2984  
~~public employee or the public employee representative under~~ 2985  
~~division (B)(1) of this section and shall~~ inform the public 2986  
employer of the alleged violation or danger and that the 2987  
administrator or the administrator's designee will investigate and 2988  
inspect the public employer's workplace as provided in this 2989  
section. The public employer must respond to the administrator, in 2990  
a method determined by the administrator, concerning the alleged 2991  
violation or danger, within thirty days after receipt of the 2992  
notice. If the public employer does not correct the violation or 2993  
danger within the thirty-day period or if the public employer 2994  
fails to respond within that time period, the administrator or the 2995  
administrator's designee shall investigate and inspect the public 2996  
employer's workplace as provided in this section. The 2997  
administrator or the administrator's designee shall not conduct 2998  
any inspection prior to the end of the thirty-day period unless 2999  
requested or permitted by the public employer. The administrator 3000  
may, at any time upon the request of the public employer, inspect 3001  
and investigate any violation or danger alleged to exist at the 3002  
public employer's place of employment. 3003

(3) The authority of the administrator or the administrator's 3004  
designee to investigate and inspect a premises pursuant to a 3005  
public employee or public employee representative notification is 3006  
not limited to the alleged violation or danger contained in the 3007  
notification. The administrator or the administrator's designee 3008  
may investigate and inspect any other area of the premises where 3009  
there is reason to believe that a violation or danger exists. In 3010  
addition, if the administrator or the administrator's designee 3011  
detects any obvious or apparent violation at any temporary place 3012  
of employment while en route to the premises to be inspected or 3013

investigated, and that violation presents a substantial 3014  
probability that the condition or practice could result in death 3015  
or serious physical harm, the administrator or the administrator's 3016  
designee may use any of the enforcement mechanisms provided in 3017  
this section to correct or remove the condition or practice. 3018

(4) If, during an inspection or investigation, the 3019  
administrator or the administrator's designee finds any condition 3020  
or practice in any place of employment that presents a substantial 3021  
probability that the condition or practice could result in death 3022  
or serious physical harm, after notifying the employer of the 3023  
administrator's intent to issue an order, the administrator shall 3024  
issue an order, or the administrator's designee shall issue an 3025  
order after consultation either by telephone or in person with the 3026  
administrator and upon the recommendation of the administrator, 3027  
which prohibits the employment of any public employee or any 3028  
continuing operation or process under such condition or practice 3029  
until necessary steps are taken to correct or remove the condition 3030  
or practice. The order shall not be effective for more than 3031  
fifteen days, unless a court of competent jurisdiction otherwise 3032  
orders as provided in section 4167.14 of the Revised Code. 3033

(C) In making any inspections or investigations under this 3034  
chapter, the administrator or the administrator's designee may 3035  
administer oaths and require, by subpoena, the attendance and 3036  
testimony of witnesses and the production of evidence under oath. 3037  
Witnesses shall receive the fees and mileage provided for under 3038  
section 119.094 of the Revised Code. In the case of contumacy, 3039  
failure, or refusal of any person to comply with an order or any 3040  
subpoena lawfully issued, or upon the refusal of any witness to 3041  
testify to any matter regarding which the witness may lawfully be 3042  
interrogated, a judge of the court of common pleas of any county 3043  
in this state, on the application of the administrator or the 3044  
administrator's designee, shall issue an order requiring the 3045

person to appear and to produce evidence if, as, and when so 3046  
ordered, and to give testimony relating to the matter under 3047  
investigation or in question. The court may punish any failure to 3048  
obey the order of the court as a contempt thereof. 3049

(D) If, upon inspection or investigation, the administrator 3050  
or the administrator's designee believes that a public employer 3051  
has violated any requirement of this chapter or any rule, Ohio 3052  
employment risk reduction standard, or order adopted or issued 3053  
pursuant thereto, the administrator or the administrator's 3054  
designee shall, with reasonable promptness, issue a citation to 3055  
the public employer. The citation shall be in writing and describe 3056  
with particularity the nature of the alleged violation, including 3057  
a reference to the provision of law, Ohio employment risk 3058  
reduction standard, rule, or order alleged to have been violated. 3059  
In addition, the citation shall fix a time for the abatement of 3060  
the violation, as provided in division (H) of this section. The 3061  
administrator may prescribe procedures for the issuance of a 3062  
notice with respect to minor violations and for enforcement of 3063  
minor violations that have no direct or immediate relationship to 3064  
safety or health. 3065

(E) Upon receipt of any citation under this section, the 3066  
public employer shall immediately post the citation, or a copy 3067  
thereof, at or near each place an alleged violation referred to in 3068  
the citation occurred. 3069

(F) The administrator may not issue a citation under this 3070  
section after the expiration of six months following the final 3071  
occurrence of any violation. 3072

(G) If the administrator issues a citation pursuant to this 3073  
section, the administrator shall mail the citation to the public 3074  
employer by certified mail, return receipt requested. The public 3075  
employer has fourteen days after receipt of the citation within 3076  
which to notify the administrator that the employer wishes to 3077

contest the citation. If the employer notifies the administrator 3078  
within the fourteen days that the employer wishes to contest the 3079  
citation, or if within fourteen days after the issuance of a 3080  
citation a public employee or public employee representative files 3081  
notice that the time period fixed in the citation for the 3082  
abatement of the violation is unreasonable, the administrator 3083  
shall hold an adjudication hearing in accordance with Chapter 119. 3084  
of the Revised Code. 3085

(H) In establishing the time limits in which a public 3086  
employer must abate a violation under this section, the 3087  
administrator shall consider the costs to the public employer, the 3088  
size and financial resources of the public employer, the severity 3089  
of the violation, the technological feasibility of the public 3090  
employer's ability to comply with requirements of the citation, 3091  
the possible present and future detriment to the health and safety 3092  
of any public employee for failure of the public employer to 3093  
comply with requirements of the citation, and such other factors 3094  
as the administrator determines appropriate. The administrator 3095  
may, after considering the above factors, permit the public 3096  
employer to comply with the citation over a period of up to two 3097  
years and may extend that period an additional one year, as the 3098  
administrator determines appropriate. 3099

(I) Any public employer may request the administrator to 3100  
conduct an employment risk reduction inspection of the public 3101  
employer's place of employment. The administrator or the 3102  
administrator's designee shall conduct the inspection within a 3103  
reasonable amount of time following the request. Neither the 3104  
administrator nor any other person may use any information 3105  
obtained from the inspection for a period not to exceed three 3106  
years in any proceeding for a violation of this chapter or any 3107  
rule or order issued thereunder nor in any other action in any 3108  
court in this state. 3109

**Section 101.02.** That existing sections 742.38, 4113.21, 3110  
4121.125, 4121.44, 4123.29, 4123.343, 4123.512, 4123.53, 4123.54, 3111  
4123.56, 4123.57, 4123.66, 4123.68, 4123.71, 4123.84, 4125.05, 3112  
4125.051, 4125.07, 4167.01, 4167.02, and 4167.10 of the Revised 3113  
Code are hereby repealed. 3114

**Section 105.01.** That sections 4123.72 and 4167.19 of the 3115  
Revised Code are hereby repealed. 3116

**Section 201.10.** All items in this section are hereby 3117  
appropriated out of any moneys in the state treasury to the credit 3118  
of the designated fund. For all appropriations made in this act, 3119  
those in the first column are for fiscal year 2018, and those in 3120  
the second column are for fiscal year 2019. 3121

BWC BUREAU OF WORKERS' COMPENSATION 3122

Dedicated Purpose Fund Group 3123

7023 855407 Claims, Risk and \$ 115,598,050 \$ 118,300,550 3124  
Medical Management

7023 855408 Fraud Prevention \$ 12,791,260 \$ 12,791,260 3125

7023 855409 Administrative \$ 109,472,100 \$ 109,472,100 3126  
Services

7023 855410 Attorney General \$ 4,621,850 \$ 4,621,850 3127  
Payments

8220 855606 Coal Workers' Fund \$ 154,000 \$ 154,000 3128

8230 855608 Marine Industry \$ 57,000 \$ 57,000 3129

8250 855605 Disabled Workers \$ 173,000 \$ 173,000 3130  
Relief Fund

8260 855609 Safety and Hygiene \$ 22,000,000 \$ 22,000,000 3131  
Operating

8260 855610 Safety Grants \$ 15,000,000 \$ 15,000,000 3132

8260 855611 Health and Safety \$ 6,000,000 \$ 6,000,000 3133  
Initiative

8260 855612	Safety Campaign	\$	2,500,000	\$	0	3134
TOTAL DPF Dedicated Purpose Fund Group		\$	288,367,260	\$	288,569,760	3135
Federal Fund Group						3136
3490 855601	OSHA Enforcement	\$	1,653,900	\$	1,653,900	3137
3FW0 855614	BLS SOII Grant	\$	195,104	\$	195,104	3138
3FW0 855615	NIOSH Grant	\$	200,000	\$	200,000	3139
TOTAL FED Federal Fund Group		\$	2,049,004	\$	2,049,004	3140
TOTAL ALL BUDGET FUND GROUPS		\$	290,416,264	\$	290,618,764	3141

WORKERS' COMPENSATION FRAUD UNIT 3142

Of the foregoing appropriation item 855410, Attorney General 3143  
 Payments, \$828,200 in each fiscal year shall be used to fund the 3144  
 expenses of the Workers' Compensation Fraud Unit within the 3145  
 Attorney General's Office. These payments shall be processed at 3146  
 the beginning of each quarter of each fiscal year and deposited 3147  
 into the Workers' Compensation Section Fund (Fund 1950) used by 3148  
 the Attorney General. 3149

SAFETY AND HYGIENE 3150

Notwithstanding section 4121.37 of the Revised Code, the 3151  
 Treasurer of State shall remit \$22,000,000 cash in fiscal year 3152  
 2018 and \$22,000,000 cash in fiscal year 2019 from the State 3153  
 Insurance Fund to the state treasury to the credit of the Safety 3154  
 and Hygiene Fund (Fund 8260). 3155

SAFETY GRANTS 3156

Notwithstanding section 4121.37 of the Revised Code, the 3157  
 Treasurer of State shall remit \$15,000,000 in cash in fiscal year 3158  
 2018 and \$15,000,000 in cash in fiscal year 2019 from the State 3159  
 Insurance Fund to the state treasury to the credit of the Safety 3160  
 and Hygiene Fund (Fund 8260) to be used for Safety Grants. 3161

HEALTH AND SAFETY INITIATIVE 3162

Notwithstanding section 4121.37 of Revised Code, the 3163  
Treasurer of State shall remit \$6,000,000 in cash in fiscal year 3164  
2018 and \$6,000,000 in cash in fiscal year 2019 from the State 3165  
Insurance Fund to the state treasury to the credit of the Safety 3166  
and Hygiene Fund (Fund 8260). These amounts shall be used under 3167  
appropriation item 855611, Health and Safety Initiative, for the 3168  
purpose of creating and operating a health and wellness program. 3169

SAFETY CAMPAIGN 3170

Notwithstanding section 4121.37 of the Revised Code, the 3171  
Treasurer of State shall remit \$2,500,000 in cash in fiscal year 3172  
2018 from the State Insurance Fund to the state treasury to the 3173  
credit of the Safety and Hygiene Fund (Fund 8260). These amounts 3174  
shall be used under appropriation item 855612, Safety Campaign, 3175  
for the purpose of creating and operating a statewide safety 3176  
awareness and education campaign. 3177

OSHA ON-SITE CONSULTATION PROGRAM 3178

A portion of the foregoing appropriation item 855609, Safety 3179  
and Hygiene Operating, may be used to provide the state match for 3180  
federal funding of the Occupational Safety and Health 3181  
Administration's On-site Consultation Program operated by the 3182  
Division of Safety and Hygiene. 3183

VOCATIONAL REHABILITATION 3184

The Bureau of Workers' Compensation and the Opportunities for 3185  
Ohioans with Disabilities Agency may enter into an interagency 3186  
agreement for the provision of vocational rehabilitation services 3187  
and staff to mutually eligible clients. The Bureau may provide 3188  
funds from the State Insurance Fund to fund vocational 3189  
rehabilitation services and staff in accordance with the 3190  
interagency agreement. 3191

**Section 201.20.** DEPUTY INSPECTOR GENERAL FOR BWC AND OIC 3192

FUNDING	3193
To pay for the FY 2018 costs related to the Deputy Inspector General for the Bureau of Workers' Compensation and Industrial Commission, on July 1, 2017, and January 1, 2018, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$212,500 in cash from the Workers' Compensation Fund (Fund 7023) to the Deputy Inspector General for the Bureau of Workers' Compensation and Industrial Commission Fund (Fund 5FT0).	3194 3195 3196 3197 3198 3199 3200
To pay for the FY 2019 costs related to the Deputy Inspector General for the Bureau of Workers' Compensation and Industrial Commission, on July 1, 2018, and January 1, 2019, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$212,500 in cash from the Workers' Compensation Fund (Fund 7023) to the Deputy Inspector General for the Bureau of Workers' Compensation and Industrial Commission Fund (Fund 5FT0).	3201 3202 3203 3204 3205 3206 3207
If additional amounts are needed, the Inspector General may seek Controlling Board approval for additional transfers of cash and to increase the amount appropriated in appropriation item 965604, Deputy Inspector General for the Bureau of Workers' Compensation and Industrial Commission.	3208 3209 3210 3211 3212
<b>Section 707.10.</b> The amendment made by this act to section 742.38 of the Revised Code applies only to an application for a disability benefit pursuant to Chapter 742. of the Revised Code that is filed on or after the effective date of this section.	3213 3214 3215 3216
<b>Section 741.10.</b> The amendment by this act to section 4123.57 of the Revised Code applies to any application for a determination of the percentage of permanent partial disability filed on or after the effective date of this section.	3217 3218 3219 3220
<b>Section 741.20.</b> Sections 4123.512 and 4123.84 of the Revised	3221



Code, division (J) of section 4123.54 of the Revised Code, and 3222  
divisions (X)(2) and (3) of section 4123.68 of the Revised Code, 3223  
as amended by this act, apply to a claim under Chapters 4121., 3224  
4123., 4127., and 4131. of the Revised Code arising on or after 3225  
the effective date of this section. 3226

**Section 741.30.** If, on the effective date of this section, an 3227  
employee's application for a determination of the percentage of 3228  
the employee's permanent partial disability filed under section 3229  
4123.57 of the Revised Code has been suspended pursuant to 3230  
division (C) of section 4123.53 of the Revised Code, the 3231  
Administrator of Workers' Compensation shall send a notice to the 3232  
employee's last known address informing the employee that the 3233  
application may be dismissed unless the employee schedules a 3234  
medical examination with the Bureau of Workers' Compensation 3235  
medical section within thirty days after receiving the notice. If 3236  
the employee does not schedule a medical examination with the 3237  
Bureau medical section within thirty days after receiving the 3238  
notice or fails to attend an examination scheduled with the Bureau 3239  
medical section, notwithstanding division (C) of section 4123.53 3240  
of the Revised Code, the Administrator may dismiss the 3241  
application. The employee may refile the application. A dismissed 3242  
application does not toll the continuing jurisdiction of the 3243  
Industrial Commission under section 4123.52 of the Revised Code. 3244

**Section 741.40.** The amendment by this act to division (X)(4) 3245  
of section 4123.68 of the Revised Code applies to any claim 3246  
pending on the effective date of this section and to any claim 3247  
filed on or after that date. 3248

**Section 801.10.** Law contained in the Main Operating 3249  
Appropriations Act of the 132nd General Assembly that applies 3250  
generally to the appropriations made in that act also applies 3251

generally to the appropriations made in this act. 3252

**Section 806.10.** The provisions of law contained in this act, 3253  
and their applications, are severable. If any provision of law 3254  
contained in this act, or if any application of any provision of 3255  
law contained in this act, is held invalid, the invalidity does 3256  
not affect other provisions of law contained in this act and their 3257  
applications that can be given effect without the invalid 3258  
provision or application. 3259

**Section 812.10.** Except as otherwise specifically provided in 3260  
this act, the amendment, enactment, or repeal by this act of a 3261  
section of law is exempt from the referendum under Ohio 3262  
Constitution, Article II, Section 1d and section 1.471 of the 3263  
Revised Code and therefore takes effect immediately when this act 3264  
becomes law. 3265

**Section 812.20.** The amendment, enactment, or repeal by this 3266  
act of the divisions and sections of law listed below are subject 3267  
to the referendum under Ohio Constitution, Article II, Section 1c 3268  
and therefore take effect on the ninety-first day after this act 3269  
is filed with the Secretary of State: 3270

All Revised Code sections in Sections 101.01 and 105.01 of 3271  
this act; 3272

Sections of this act prefixed with the number "707." or 3273  
"741." 3274

**Section 815.10.** Section 4121.125 of the Revised Code is 3275  
presented in this act as a composite of the section as amended by 3276  
Sub. H.B. 123, Am. Sub. H.B. 153, and Sub. S.B. 171 of the 129th 3277  
General Assembly. The General Assembly, applying the principle 3278  
stated in division (B) of section 1.52 of the Revised Code that 3279  
amendments are to be harmonized if reasonably capable of 3280

simultaneous operation, finds that the composite is the resulting	3281
version of the section in effect prior to the effective date of	3282
the section as presented in this act.	3283