

As Passed by the House

134th General Assembly

Regular Session

2021-2022

Sub. H. B. No. 75

Representative Oelslager

Cosponsors: Representatives Baldrige, Callender, Carruthers, Edwards, Fraizer, Galonski, Holmes, Householder, John, Jones, Lanese, Lepore-Hagan, Miller, J., O'Brien, Plummer, Richardson, Riedel, Russo, White, Young, T.

A BILL

To amend sections 4121.43, 4123.57, 4123.58, and 1
4123.85 of the Revised Code to make 2
appropriations for the Bureau of Workers' 3
Compensation for the biennium beginning July 1, 4
2021, and ending June 30, 2023, to provide 5
authorization and conditions for the operation 6
of the Bureau's programs, and to make changes to 7
the Workers' Compensation Law. 8

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

Section 1. All items in this act are hereby appropriated 9
out of any moneys in the state treasury to the credit of the 10
designated fund. For all appropriations made in this act, those 11
in the first column are for fiscal year 2022, and those in the 12
second column are for fiscal year 2023. The appropriations made 13
in this act are in addition to any other appropriations made for 14
the biennium beginning July 1, 2021, and ending June 30, 2023. 15

	1	2	3	4	5
A			BWC BUREAU OF WORKERS' COMPENSATION		
B			Dedicated Purpose Fund Group		
C	7023	855407	Claims, Risk and Medical Management	\$118,006,090	\$121,583,115
D	7023	855408	Fraud Prevention	\$15,936,735	\$18,011,577
E	7023	855409	Administrative Services	\$124,325,665	\$129,108,432
F	7023	855410	Attorney General Payments	\$6,080,080	\$6,080,080
G	8220	855606	Coal Workers' Fund	\$190,090	\$190,100
H	8230	855608	Marine Industry	\$79,273	\$79,276
I	8250	855605	Disabled Workers Relief Fund	\$197,612	\$197,621
J	8260	855609	Safety and Hygiene Operating	\$25,343,000	\$25,085,000
K	8260	855610	Safety Grants	\$35,000,000	\$35,000,000
L	8260	855611	Health and Safety Initiative	\$3,000,000	\$3,000,000
M	8260	855612	Safety Campaign	\$1,500,000	\$1,500,000
N	8260	855613	Research Grants	\$3,000,000	\$1,000,000

O	8260	855618	Substance Use Recovery and Workplace Safety Program	\$3,500,000	\$4,000,000
P	8260	855619	Safety and Health Center of Excellence	\$15,000,000	\$15,000,000
Q	TOTAL DPF Dedicated Purpose Fund Group			\$351,158,545	\$359,835,201
R	Federal Fund Group				
S	3490	855601	OSHA Enforcement	\$1,869,212	\$1,876,338
T	3FW0	855614	BLS SOII Grant	\$195,104	\$195,104
U	TOTAL FED Federal Fund Group			\$2,064,316	\$2,071,442
V	TOTAL ALL BUDGET FUND GROUPS			\$353,222,861	\$361,906,643

WORKERS' COMPENSATION FRAUD UNIT 17

Of the foregoing appropriation item 855410, Attorney 18
 General Payments, \$828,200 in each fiscal year shall be used to 19
 fund the expenses of the Workers' Compensation Fraud Unit within 20
 the Attorney General's Office. These payments shall be processed 21
 at the beginning of each quarter of each fiscal year and 22
 deposited into the Workers' Compensation Section Fund (Fund 23
 1950) used by the Attorney General. 24

SAFETY AND HYGIENE 25

Notwithstanding section 4121.37 of the Revised Code, the 26
 Treasurer of State shall remit \$25,343,000 cash in fiscal year 27
 2022 and \$25,085,000 cash in fiscal year 2023 from the State 28
 Insurance Fund to the state treasury to the credit of the Safety 29

and Hygiene Fund (Fund 8260).	30
SAFETY GRANTS	31
Notwithstanding section 4121.37 of the Revised Code, the	32
Treasurer of State shall remit \$35,000,000 cash in fiscal year	33
2022 and \$35,000,000 cash in fiscal year 2023 from the State	34
Insurance Fund to the state treasury to the credit of the Safety	35
and Hygiene Fund (Fund 8260) to be used for Safety Grants.	36
HEALTH AND SAFETY INITIATIVE	37
Notwithstanding section 4121.37 of Revised Code, the	38
Treasurer of State shall remit \$3,000,000 cash in fiscal year	39
2022 and \$3,000,000 cash in fiscal year 2023 from the State	40
Insurance Fund to the state treasury to the credit of the Safety	41
and Hygiene Fund (Fund 8260). These amounts shall be used under	42
appropriation item 855611, Health and Safety Initiative, for the	43
purpose of creating and operating a health and wellness program.	44
SAFETY CAMPAIGN	45
Notwithstanding section 4121.37 of the Revised Code, the	46
Treasurer of State shall remit \$1,500,000 cash in fiscal year	47
2022 and \$1,500,000 cash in fiscal year 2023 from the State	48
Insurance Fund to the state treasury to the credit of the Safety	49
and Hygiene Fund (Fund 8260). These amounts shall be used under	50
appropriation item 855612, Safety Campaign, for the purpose of	51
creating and operating a statewide safety awareness and	52
education campaign.	53
FEDERAL GRANT PROGRAMS	54
The foregoing appropriation item 855609, Safety and	55
Hygiene Operating, may be used to provide the state match for	56
federal grant funding received by the Division of Safety and	57

Hygiene.	58
VOCATIONAL REHABILITATION	59
The Bureau of Workers' Compensation and the Opportunities for Ohioans with Disabilities Agency may enter into an interagency agreement for the provision of vocational rehabilitation services and staff to mutually eligible clients. The Bureau may provide funds from the State Insurance Fund to fund vocational rehabilitation services and staff in accordance with the interagency agreement.	60 61 62 63 64 65 66
RESEARCH GRANTS	67
Notwithstanding section 4121.37 of the Revised Code, the Treasurer of State shall remit \$3,000,000 cash in fiscal year 2022 and \$1,000,000 cash in fiscal year 2023 from the State Insurance Fund to the state treasury to the credit of the Safety and Hygiene Fund (Fund 8260). These amounts shall be used under appropriation item 855613, Research Grants, for the purpose of creating and operating the occupational safety and health research program.	68 69 70 71 72 73 74 75
SUBSTANCE USE RECOVERY AND WORKPLACE SAFETY PROGRAM	76
Notwithstanding section 4121.37 of the Revised Code, the Treasurer of State shall remit \$3,500,000 cash in fiscal year 2022 and \$4,000,000 cash in fiscal year 2023 from the State Insurance Fund to the state treasury to the credit of the Safety and Hygiene Fund (Fund 8260). These amounts shall be used under appropriation item 855618, Substance Use Recovery and Workplace Safety Program, for the purpose of creating and operating the opioid workplace safety program.	77 78 79 80 81 82 83 84
SAFETY AND HEALTH CENTER OF EXCELLENCE	85

Notwithstanding section 4121.37 of the Revised Code, the
Treasurer of State shall remit \$15,000,000 cash in fiscal year
2022 and \$15,000,000 cash in fiscal year 2023 from the State
Insurance Fund to the state treasury to the credit of the Safety
and Hygiene Fund (Fund 8260). These amounts shall be used under
appropriation item 855619, Safety and Health Center of
Excellence, for the purpose of creating a center of excellence
at the Ohio Center of Occupational Safety and Health.

ADMINISTRATIVE COST FUND 94

Notwithstanding section 4123.341 of the Revised Code, the
Treasurer of State shall remit up to \$25,000,000 cash in fiscal
year 2022 and \$25,000,000 cash in fiscal year 2023 from the
State Insurance Fund to the state treasury to the credit of the
Workers' Compensation Fund (Fund 7023).

Section 2. DEPUTY INSPECTOR GENERAL FOR BWC AND OIC 100
FUNDING 101

To pay for the FY 2022 costs related to the Deputy
Inspector General for the Bureau of Workers' Compensation and
Industrial Commission, on July 1, 2021, and January 1, 2022, or
as soon as possible thereafter, the Director of Budget and
Management shall transfer \$212,500 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).

To pay for the FY 2023 costs related to the Deputy
Inspector General for the Bureau of Workers' Compensation and
Industrial Commission, on July 1, 2022, and January 1, 2023, or
as soon as possible thereafter, the Director of Budget and
Management shall transfer \$212,500 cash from the Workers'

Compensation Fund (Fund 7023) to the Deputy Inspector General 115
for the Bureau of Workers' Compensation and Industrial 116
Commission Fund (Fund 5FT0). 117

If additional amounts are needed, the Inspector General 118
may seek Controlling Board approval for additional transfers of 119
cash and to increase the amount appropriated in appropriation 120
item 965604, Deputy Inspector General for the Bureau of Workers' 121
Compensation and Industrial Commission. 122

Section 3. Law contained in the Main Operating 123
Appropriations Act of the 134th General Assembly that applies 124
generally to the appropriations made in that act also applies 125
generally to the appropriations made in this act. 126

Section 4. The provisions of law contained in this act, 127
and their applications, are severable. If any provision of law 128
contained in this act, or if any application of any provision of 129
law contained in this act, is held invalid, the invalidity does 130
not affect other provisions of law contained in this act and 131
their applications that can be given effect without the invalid 132
provision or application. 133

Section 5. Sections 1 to 5 of this act are exempt from the 134
referendum under Ohio Constitution, Article II, Section 1d and 135
section 1.471 of the Revised Code and therefore take effect 136
immediately when this act becomes law. 137

Section 6. That sections 4121.43, 4123.57, 4123.58, and 138
4123.85 of the Revised Code be amended to read as follows: 139

Sec. 4121.43. The administrator of workers' compensation 140
shall: 141

(A) Adopt rules to ensure that all compensation payments 142
are accompanied by information which clearly indicates the 143

source of payment, type of payment, method of computation, 144
inclusive days of payment, reason for changes in payment, and 145
telephone number or address for inquiries; 146

(B) Adopt rules to govern the method of issuing and 147
delivering checks, including time limits for issuance of checks; 148

(C) Set standards and inform claimant of procedure for 149
attorney or other representative pick-up of compensation payment 150
check, and ensure that claimant has recently executed a proper 151
authorization to pick up the check; 152

(D) Prohibit any power of attorney allowing an attorney to 153
cash or endorse a check on behalf of a claimant, unless the 154
power of attorney is narrowly tailored to apply to a specific 155
check; 156

(E) Prohibit any power of attorney allowing an ~~attorney or~~ 157
employee to cash or endorse a check on behalf of a claimant; 158

~~(E)~~ (F) Implement a written procedure for effectively 159
obtaining notices of death of claimant and terminating 160
compensation payments; 161

~~(F)~~ (G) Adopt rules to require that a claimant of whom 162
medical examinations have been requested by ~~his~~ the claimant's 163
employer shall submit to such examinations and shall be 164
reimbursed by ~~his~~ the employer for reasonable expenses incurred 165
in submitting to the examination and provide that the claimant 166
shall be reimbursed by ~~his~~ the employer in an amount equal to 167
the wages lost during the time required to attend any such 168
examination, in the event said claimant sustains lost wages as a 169
result of any such examination. 170

Sec. 4123.57. Partial disability compensation shall be 171
paid as follows. 172

Except as provided in this section, not earlier than 173
twenty-six weeks after the date of termination of the latest 174
period of payments under section 4123.56 of the Revised Code or 175
twenty-six weeks after the termination of wages in lieu of those 176
payments, or not earlier than twenty-six weeks after the date of 177
the injury or contraction of an occupational disease in the 178
absence of payments under section 4123.56 of the Revised Code or 179
wages in lieu of those payments, the employee may file an 180
application with the bureau of workers' compensation for the 181
determination of the percentage of the employee's permanent 182
partial disability resulting from an injury or occupational 183
disease. 184

Whenever the application is filed, the bureau shall send a 185
copy of the application to the employee's employer or the 186
employer's representative and shall schedule the employee for a 187
medical examination by the bureau medical section. The bureau 188
shall send a copy of the report of the medical examination to 189
the employee, the employer, and their representatives. 190
Thereafter, the administrator of workers' compensation shall 191
review the employee's claim file and make a tentative order as 192
the evidence before the administrator at the time of the making 193
of the order warrants. If the administrator determines that 194
there is a conflict of evidence, the administrator shall send 195
the application, along with the claimant's file, to the district 196
hearing officer who shall set the application for a hearing. 197

If an employee fails to respond to an attempt to schedule 198
a medical examination by the bureau medical section, or fails to 199
attend a medical examination scheduled under this section 200
without notice or explanation, the employee's application for a 201
finding shall be dismissed without prejudice. The employee may 202
refile the application. A dismissed application does not toll 203

the continuing jurisdiction of the industrial commission under 204
section 4123.52 of the Revised Code. The administrator shall 205
adopt rules addressing the manner in which an employee will be 206
notified of a possible dismissal and how an employee may refile 207
an application for a determination. 208

The administrator shall notify the employee, the employer, 209
and their representatives, in writing, of the tentative order 210
and of the parties' right to request a hearing. Unless the 211
employee, the employer, or their representative notifies the 212
administrator, in writing, of an objection to the tentative 213
order within twenty days after receipt of the notice thereof, 214
the tentative order shall go into effect and the employee shall 215
receive the compensation provided in the order. In no event 216
shall there be a reconsideration of a tentative order issued 217
under this division. 218

If the employee, the employer, or their representatives 219
timely notify the administrator of an objection to the tentative 220
order, the matter shall be referred to a district hearing 221
officer who shall set the application for hearing with written 222
notices to all interested persons. Upon referral to a district 223
hearing officer, the employer may obtain a medical examination 224
of the employee, pursuant to rules of the industrial commission. 225

(A) The district hearing officer, upon the application, 226
shall determine the percentage of the employee's permanent 227
disability, except as is subject to division (B) of this 228
section, based upon that condition of the employee resulting 229
from the injury or occupational disease and causing permanent 230
impairment evidenced by medical or clinical findings reasonably 231
demonstrable. The employee shall receive sixty-six and two- 232
thirds per cent of the employee's average weekly wage, but not 233

more than a maximum of thirty-three and one-third per cent of 234
the statewide average weekly wage as defined in division (C) of 235
section 4123.62 of the Revised Code, per week regardless of the 236
average weekly wage, for the number of weeks which equals the 237
percentage of two hundred weeks. Except on application for 238
reconsideration, review, or modification, which is filed within 239
ten days after the date of receipt of the decision of the 240
district hearing officer, in no instance shall the former award 241
be modified unless it is found from medical or clinical findings 242
that the condition of the claimant resulting from the injury has 243
so progressed as to have increased the percentage of permanent 244
partial disability. A staff hearing officer shall hear an 245
application for reconsideration filed and the staff hearing 246
officer's decision is final. An employee may file an application 247
for a subsequent determination of the percentage of the 248
employee's permanent disability. If such an application is 249
filed, the bureau shall send a copy of the application to the 250
employer or the employer's representative. No sooner than sixty 251
days from the date of the mailing of the application to the 252
employer or the employer's representative, the administrator 253
shall review the application. The administrator may require a 254
medical examination or medical review of the employee. The 255
administrator shall issue a tentative order based upon the 256
evidence before the administrator, provided that if the 257
administrator requires a medical examination or medical review, 258
the administrator shall not issue the tentative order until the 259
completion of the examination or review. 260

The employer may obtain a medical examination of the 261
employee and may submit medical evidence at any stage of the 262
process up to a hearing before the district hearing officer, 263
pursuant to rules of the commission. The administrator shall 264

notify the employee, the employer, and their representatives, in 265
writing, of the nature and amount of any tentative order issued 266
on an application requesting a subsequent determination of the 267
percentage of an employee's permanent disability. An employee, 268
employer, or their representatives may object to the tentative 269
order within twenty days after the receipt of the notice 270
thereof. If no timely objection is made, the tentative order 271
shall go into effect. In no event shall there be a 272
reconsideration of a tentative order issued under this division. 273
If an objection is timely made, the application for a subsequent 274
determination shall be referred to a district hearing officer 275
who shall set the application for a hearing with written notice 276
to all interested persons. No application for subsequent 277
percentage determinations on the same claim for injury or 278
occupational disease shall be accepted for review by the 279
district hearing officer unless supported by substantial 280
evidence of new and changed circumstances developing since the 281
time of the hearing on the original or last determination. 282

No award shall be made under this division based upon a 283
percentage of disability which, when taken with all other 284
percentages of permanent disability, exceeds one hundred per 285
cent. If the percentage of the permanent disability of the 286
employee equals or exceeds ninety per cent, compensation for 287
permanent partial disability shall be paid for two hundred 288
weeks. 289

Compensation payable under this division accrues and is 290
payable to the employee from the date of last payment of 291
compensation, or, in cases where no previous compensation has 292
been paid, from the date of the injury or the date of the 293
diagnosis of the occupational disease. 294

When an award under this division has been made prior to 295
the death of an employee, all unpaid installments accrued or to 296
accrue under the provisions of the award are payable to the 297
surviving spouse, or if there is no surviving spouse, to the 298
dependent children of the employee, and if there are no children 299
surviving, then to other dependents as the administrator 300
determines. 301

(B) For purposes of this division, "payable per week" 302
means the seven-consecutive-day period in which compensation is 303
paid in installments according to the schedule associated with 304
the applicable injury as set forth in this division. 305

Compensation paid in weekly installments according to the 306
schedule described in this division may only be commuted to one 307
or more lump sum payments pursuant to the procedure set forth in 308
section 4123.64 of the Revised Code. 309

In cases included in the following schedule the 310
compensation payable per week to the employee is the statewide 311
average weekly wage as defined in division (C) of section 312
4123.62 of the Revised Code per week and shall be paid in 313
installments according to the following schedule: 314

For the loss of a first finger, commonly known as a thumb, 315
sixty weeks. 316

For the loss of a second finger, commonly called index 317
finger, thirty-five weeks. 318

For the loss of a third finger, thirty weeks. 319

For the loss of a fourth finger, twenty weeks. 320

For the loss of a fifth finger, commonly known as the 321
little finger, fifteen weeks. 322

The loss of a second, or distal, phalange of the thumb is 323
considered equal to the loss of one half of such thumb; the loss 324
of more than one half of such thumb is considered equal to the 325
loss of the whole thumb. 326

The loss of the third, or distal, phalange of any finger 327
is considered equal to the loss of one-third of the finger. 328

The loss of the middle, or second, phalange of any finger 329
is considered equal to the loss of two-thirds of the finger. 330

The loss of more than the middle and distal phalanges of 331
any finger is considered equal to the loss of the whole finger. 332
In no case shall the amount received for more than one finger 333
exceed the amount provided in this schedule for the loss of a 334
hand. 335

For the loss of the metacarpal bone (bones of the palm) 336
for the corresponding thumb, or fingers, add ten weeks to the 337
number of weeks under this division. 338

For ankylosis (total stiffness of) or contractures (due to 339
scars or injuries) which makes any of the fingers, thumbs, or 340
parts of either useless, the same number of weeks apply to the 341
members or parts thereof as given for the loss thereof. 342

If the claimant has suffered the loss of two or more 343
fingers by amputation or ankylosis and the nature of the 344
claimant's employment in the course of which the claimant was 345
working at the time of the injury or occupational disease is 346
such that the handicap or disability resulting from the loss of 347
fingers, or loss of use of fingers, exceeds the normal handicap 348
or disability resulting from the loss of fingers, or loss of use 349
of fingers, the administrator may take that fact into 350
consideration and increase the award of compensation 351

accordingly, but the award made shall not exceed the amount of	352
compensation for loss of a hand.	353
For the loss of a hand, one hundred seventy-five weeks.	354
For the loss of an arm, two hundred twenty-five weeks.	355
For the loss of a great toe, thirty weeks.	356
For the loss of one of the toes other than the great toe,	357
ten weeks.	358
The loss of more than two-thirds of any toe is considered	359
equal to the loss of the whole toe.	360
The loss of less than two-thirds of any toe is considered	361
no loss, except as to the great toe; the loss of the great toe	362
up to the interphalangeal joint is co-equal to the loss of one-	363
half of the great toe; the loss of the great toe beyond the	364
interphalangeal joint is considered equal to the loss of the	365
whole great toe.	366
For the loss of a foot, one hundred fifty weeks.	367
For the loss of a leg, two hundred weeks.	368
For the loss of the sight of an eye, one hundred twenty-	369
five weeks.	370
For the permanent partial loss of sight of an eye, the	371
portion of one hundred twenty-five weeks as the administrator in	372
each case determines, based upon the percentage of vision	373
actually lost as a result of the injury or occupational disease,	374
but, in no case shall an award of compensation be made for less	375
than twenty-five per cent loss of uncorrected vision. "Loss of	376
uncorrected vision" means the percentage of vision actually lost	377
as the result of the injury or occupational disease.	378

For the permanent and total loss of hearing of one ear, 379
twenty-five weeks; but in no case shall an award of compensation 380
be made for less than permanent and total loss of hearing of one 381
ear. 382

For the permanent and total loss of hearing, one hundred 383
twenty-five weeks; but, except pursuant to the next preceding 384
paragraph, in no case shall an award of compensation be made for 385
less than permanent and total loss of hearing. 386

In case an injury or occupational disease results in 387
serious facial or head disfigurement which either impairs or may 388
in the future impair the opportunities to secure or retain 389
employment, the administrator shall make an award of 390
compensation as it deems proper and equitable, in view of the 391
nature of the disfigurement, and not to exceed the sum of ten 392
thousand dollars. For the purpose of making the award, it is not 393
material whether the employee is gainfully employed in any 394
occupation or trade at the time of the administrator's 395
determination. 396

When an award under this division has been made prior to 397
the death of an employee all unpaid installments accrued or to 398
accrue under the provisions of the award shall be payable to the 399
surviving spouse, or if there is no surviving spouse, to the 400
dependent children of the employee and if there are no such 401
children, then to such dependents as the administrator 402
determines. 403

When an employee has sustained the loss of a member by 404
severance, but no award has been made on account thereof prior 405
to the employee's death, the administrator shall make an award 406
in accordance with this division for the loss which shall be 407
payable to the surviving spouse, or if there is no surviving 408

spouse, to the dependent children of the employee and if there 409
are no such children, then to such dependents as the 410
administrator determines. 411

(C) Compensation for partial impairment under divisions 412
(A) and (B) of this section is in addition to the compensation 413
paid the employee pursuant to section 4123.56 of the Revised 414
Code. A claimant may receive compensation under divisions (A) 415
and (B) of this section. 416

In all cases arising under division (B) of this section, 417
if it is determined by any one of the following: (1) the amputee 418
clinic at University hospital, Ohio state university; (2) the 419
opportunities for Ohioans with disabilities agency; (3) an 420
amputee clinic or prescribing physician approved by the 421
administrator or the administrator's designee, that an injured 422
or disabled employee is in need of an artificial appliance, or 423
in need of a repair thereof, regardless of whether the appliance 424
or its repair will be serviceable in the vocational 425
rehabilitation of the injured employee, and regardless of 426
whether the employee has returned to or can ever again return to 427
any gainful employment, the bureau shall pay the cost of the 428
artificial appliance or its repair out of the surplus created by 429
division (B) of section 4123.34 of the Revised Code. 430

In those cases where an opportunities for Ohioans with 431
disabilities agency's recommendation that an injured or disabled 432
employee is in need of an artificial appliance would conflict 433
with their state plan, adopted pursuant to the "Rehabilitation 434
Act of 1973," 87 Stat. 355, 29 U.S.C.A. 701, the administrator 435
or the administrator's designee or the bureau may obtain a 436
recommendation from an amputee clinic or prescribing physician 437
that they determine appropriate. 438

(D) If an employee of a state fund employer makes 439
application for a finding and the administrator finds that the 440
employee has contracted silicosis as defined in division (Y), or 441
coal miners' pneumoconiosis as defined in division (Z), or 442
asbestosis as defined in division (BB) of section 4123.68 of the 443
Revised Code, and that a change of such employee's occupation is 444
medically advisable in order to decrease substantially further 445
exposure to silica dust, asbestos, or coal dust and if the 446
employee, after the finding, has changed or shall change the 447
employee's occupation to an occupation in which the exposure to 448
silica dust, asbestos, or coal dust is substantially decreased, 449
the administrator shall allow to the employee an amount equal to 450
fifty per cent of the statewide average weekly wage per week for 451
a period of thirty weeks, commencing as of the date of the 452
discontinuance or change, and for a period of one hundred weeks 453
immediately following the expiration of the period of thirty 454
weeks, the employee shall receive sixty-six and two-thirds per 455
cent of the loss of wages resulting directly and solely from the 456
change of occupation but not to exceed a maximum of an amount 457
equal to fifty per cent of the statewide average weekly wage per 458
week. No such employee is entitled to receive more than one 459
allowance on account of discontinuance of employment or change 460
of occupation and benefits shall cease for any period during 461
which the employee is employed in an occupation in which the 462
exposure to silica dust, asbestos, or coal dust is not 463
substantially less than the exposure in the occupation in which 464
the employee was formerly employed or for any period during 465
which the employee may be entitled to receive compensation or 466
benefits under section 4123.68 of the Revised Code on account of 467
disability from silicosis, asbestosis, or coal miners' 468
pneumoconiosis. An award for change of occupation for a coal 469
miner who has contracted coal miners' pneumoconiosis may be 470

granted under this division even though the coal miner continues 471
employment with the same employer, so long as the coal miner's 472
employment subsequent to the change is such that the coal 473
miner's exposure to coal dust is substantially decreased and a 474
change of occupation is certified by the claimant as permanent. 475
The administrator may accord to the employee medical and other 476
benefits in accordance with section 4123.66 of the Revised Code. 477

(E) If a firefighter or police officer makes application 478
for a finding and the administrator finds that the firefighter 479
or police officer has contracted a cardiovascular and pulmonary 480
disease as defined in division (W) of section 4123.68 of the 481
Revised Code, and that a change of the firefighter's or police 482
officer's occupation is medically advisable in order to decrease 483
substantially further exposure to smoke, toxic gases, chemical 484
fumes, and other toxic vapors, and if the firefighter, or police 485
officer, after the finding, has changed or changes occupation to 486
an occupation in which the exposure to smoke, toxic gases, 487
chemical fumes, and other toxic vapors is substantially 488
decreased, the administrator shall allow to the firefighter or 489
police officer an amount equal to fifty per cent of the 490
statewide average weekly wage per week for a period of thirty 491
weeks, commencing as of the date of the discontinuance or 492
change, and for a period of seventy-five weeks immediately 493
following the expiration of the period of thirty weeks the 494
administrator shall allow the firefighter or police officer 495
sixty-six and two-thirds per cent of the loss of wages resulting 496
directly and solely from the change of occupation but not to 497
exceed a maximum of an amount equal to fifty per cent of the 498
statewide average weekly wage per week. No such firefighter or 499
police officer is entitled to receive more than one allowance on 500
account of discontinuance of employment or change of occupation 501

and benefits shall cease for any period during which the 502
firefighter or police officer is employed in an occupation in 503
which the exposure to smoke, toxic gases, chemical fumes, and 504
other toxic vapors is not substantially less than the exposure 505
in the occupation in which the firefighter or police officer was 506
formerly employed or for any period during which the firefighter 507
or police officer may be entitled to receive compensation or 508
benefits under section 4123.68 of the Revised Code on account of 509
disability from a cardiovascular and pulmonary disease. The 510
administrator may accord to the firefighter or police officer 511
medical and other benefits in accordance with section 4123.66 of 512
the Revised Code. 513

(F) An order issued under this section is appealable 514
pursuant to section 4123.511 of the Revised Code but is not 515
appealable to court under section 4123.512 of the Revised Code. 516

Sec. 4123.58. (A) In cases of permanent total disability, 517
the employee shall receive an award to continue until the 518
employee's death in the amount of sixty-six and two-thirds per 519
cent of the employee's average weekly wage, but, except as 520
otherwise provided in division (B) of this section, not more 521
than a maximum amount of weekly compensation which is equal to 522
sixty-six and two-thirds per cent of the statewide average 523
weekly wage as defined in division (C) of section 4123.62 of the 524
Revised Code in effect on the date of injury or on the date the 525
disability due to the occupational disease begins, nor not less 526
than a minimum amount of weekly compensation which is equal to 527
fifty per cent of the statewide average weekly wage as defined 528
in division (C) of section 4123.62 of the Revised Code in effect 529
on the date of injury or on the date the disability due to the 530
occupational disease begins, unless the employee's average 531
weekly wage is less than fifty per cent of the statewide average 532

weekly wage at the time of the injury, in which event the 533
employee shall receive compensation in an amount equal to the 534
employee's average weekly wage. 535

(B) In the event the weekly workers' compensation amount 536
when combined with disability benefits received pursuant to the 537
Social Security Act is less than the statewide average weekly 538
wage as defined in division (C) of section 4123.62 of the 539
Revised Code, then the maximum amount of weekly compensation 540
shall be the statewide average weekly wage as defined in 541
division (C) of section 4123.62 of the Revised Code. At any time 542
that social security disability benefits terminate or are 543
reduced, the workers' compensation award shall be recomputed to 544
pay the maximum amount permitted under this division. 545

(C) Permanent total disability shall be compensated 546
according to this section only when at least one of the 547
following applies to the claimant: 548

(1) The claimant has lost, or lost the use of both hands 549
or both arms, or both feet or both legs, or both eyes, or of any 550
two thereof; however, the loss or loss of use of one limb does 551
not constitute the loss or loss of use of two body parts; 552

(2) The impairment resulting from the employee's injury or 553
occupational disease prevents the employee from engaging in 554
sustained remunerative employment utilizing the employment 555
skills that the employee has or may reasonably be expected to 556
develop. 557

(D) Permanent total disability shall not be compensated 558
when the reason the employee is unable to engage in sustained 559
remunerative employment is due to any of the following reasons, 560
whether individually or in combination: 561

(1) Impairments of the employee that are not the result of an allowed injury or occupational disease;	562 563
(2) Solely the employee's age or aging;	564
(3) The employee retired or otherwise is not working for reasons unrelated to the allowed injury or occupational disease.	565 566
(4) The employee has not engaged in educational or rehabilitative efforts to enhance the employee's employability, unless such efforts are determined to be in vain.	567 568 569
(E) Compensation payable under this section for permanent total disability is in addition to benefits payable under division (B) of section 4123.57 of the Revised Code.	570 571 572
(F) If an employee is awarded compensation for permanent total disability under this section because the employee sustained a traumatic brain injury, the employee is entitled to that compensation regardless of the employee's employment in a sheltered workshop subsequent to the award, on the condition that the employee does not receive income, compensation, or remuneration from that employment in excess of two thousand dollars in any calendar quarter. As used in this division, "sheltered workshop" means a state agency or nonprofit organization established to carry out a program of rehabilitation for handicapped individuals or to provide these individuals with remunerative employment or other occupational rehabilitating activity.	573 574 575 576 577 578 579 580 581 582 583 584 585
<u>(G) If the industrial commission has adjudicated a claimant's application for compensation payable under this section for permanent total disability and issued a final order denying compensation for that application, the claimant shall present evidence of new and changed circumstances before the</u>	586 587 588 589 590

industrial commission may consider a subsequent application 591
filed by the claimant for compensation under this section for 592
the same injury or occupational disease identified in the 593
previous application. 594

Sec. 4123.85. In all cases of occupational disease, or 595
death resulting from occupational disease, claims for 596
compensation or benefits are forever barred unless, within ~~two-~~ 597
~~years~~ one year after the disability due to the disease began, or 598
within such longer period as does not exceed six months after 599
diagnosis of the occupational disease by a licensed physician or 600
within ~~two years~~ one year after death occurs, application is 601
made to the industrial commission or the bureau of workers' 602
compensation or to the employer if ~~he~~ the employer is a self- 603
insuring employer. 604

Section 7. That existing sections 4121.43, 4123.57, 605
4123.58, and 4123.85 of the Revised Code are hereby repealed. 606

Section 8. Sections 4123.57, 4123.58, and 4123.85 of the 607
Revised Code, as amended by this act, apply to all claims 608
pursuant to Chapters 4121., 4123., 4127., and 4131. of the 609
Revised Code arising on or after the effective date of this 610
section. 611