

As Passed by the House

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Sub. H. B. No. 27

Representative Brinkman

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

A B I L L

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

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

Section 101.01. That sections 742.38, 2743.02, 2744.02, 19
4113.21, 4121.125, 4121.44, 4123.01, 4123.29, 4123.343, 4123.511, 20
4123.512, 4123.53, 4123.54, 4123.56, 4123.57, 4123.66, 4123.68, 21
4123.71, 4123.84, 4125.07, 4167.01, 4167.02, and 4167.10 be 22
amended and sections 1.481, 2307.82, and 4123.513 of the Revised 23
Code be enacted to read as follows: 24

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

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

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

(2) Division (A)(2) of this section applies to an employee 48

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

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

If the member applying for a disability benefit becomes a member of the fund prior to the date the minimum standards or procedures described in division (A)(1) of this section take effect, the board may request from the member's employer a copy of the physician's report of the member's physical examination taken on entry into the police or fire department or, if the employer does not have a copy of the report, a written statement certifying that the employer does not have a copy of the report. If an employer fails to forward the report or statement in the form

required by the board on or before the date that is twenty-eight 81
days after the date of the request, the board shall assess against 82
the employer a penalty determined under section 742.353 of the 83
Revised Code. The board shall maintain the information submitted 84
under this division and division (A)(2) of this section in the 85
member's file. 86

(C) For purposes of determining under division (D) of this 87
section whether a member of the fund is disabled, the board shall 88
adopt rules establishing objective criteria under which the board 89
shall make the determination. The rules shall include standards 90
that provide for all of the following: 91

(1) Evaluating a member's illness or injury on which an 92
application for disability benefits is based; 93

(2) Defining the occupational duties of a police officer or 94
firefighter; 95

(3) Providing for the board to assign competent and 96
disinterested physicians and vocational evaluators to conduct 97
examinations of a member; 98

(4) Requiring a written report for each disability 99
application that includes a summary of findings, medical opinions, 100
including an opinion on whether the illness or injury upon which 101
the member's application for disability benefits is based was 102
caused or induced by the actual performance of the member's 103
official duties, and any recommendations or comments based on the 104
medical opinions; 105

(5) Providing for the board to consider the member's 106
potential for retraining or reemployment. 107

(D) This division does not apply to members of the fund who 108
have elected to receive benefits and pensions in accordance with 109
division (A) or (B) of section 742.37 of the Revised Code or from 110
a police relief and pension fund or a firemen's relief and pension 111

fund in accordance with the rules of that fund in force on April 1, 1947. 112
113

As used in this division: 114

"Totally disabled" means a member of the fund is unable to 115
perform the duties of any gainful occupation for which the member 116
is reasonably fitted by training, experience, and accomplishments. 117
Absolute helplessness is not a prerequisite of being totally 118
disabled. 119

"Permanently disabled" means a condition of disability from 120
which there is no present indication of recovery. 121

"Hazardous duty" has the same meaning as in 5 C.F.R. 550.902, 122
as amended. 123

(1) A member of the fund who is permanently and totally 124
disabled as the result of the performance of the member's official 125
duties as a member of a police or fire department shall be paid 126
annual disability benefits in accordance with division (A) of 127
section 742.39 of the Revised Code. In determining whether a 128
member of the fund is permanently and totally disabled, the board 129
shall consider standards adopted under division (C) of this 130
section applicable to the determination. 131

(2) A member of the fund who is permanently and partially 132
disabled as the result of the performance of the member's official 133
duties as a member of a police or fire department shall, if the 134
disability prevents the member from performing those duties and 135
impairs the member's earning capacity, receive annual disability 136
benefits in accordance with division (B) of section 742.39 of the 137
Revised Code. In determining whether a member of the fund is 138
permanently and partially disabled, the board shall consider 139
standards adopted under division (C) of this section applicable to 140
the determination. 141

(3)(a) A member of the fund who is permanently disabled as a 142

result of heart disease or any cardiovascular or respiratory 143
disease of a chronic nature, which disease or any evidence of 144
which disease was not revealed by the physical examination passed 145
by the member on entry into the department or another examination 146
specified in rules the board adopts under section 742.10 of the 147
Revised Code, is presumed to have incurred the disease while 148
performing the member's official duties, unless the contrary is 149
shown by competent evidence. The board may waive the requirement 150
that the absence of disease be evidenced by a physical examination 151
if competent medical evidence of a type specified in rules adopted 152
under section 742.10 of the Revised Code is submitted documenting 153
that the disease was not evident prior to or at the time of entry 154
into the department. 155

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

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

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

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

(iii) There is evidence that shows, by a preponderance of 172
competent scientific evidence, that exposure to the type of 173

carcinogen alleged did not or could not have caused the cancer 174
being alleged. 175

(iv) There is evidence that the member was not exposed to an 176
agent classified by the international agency for research on 177
cancer or its successor agency as a group 1 or 2A carcinogen. 178

~~(iv)~~(v) The member is seventy years of age or older. 179

(d) The presumption described in division (D)(3)(b) of this 180
section does not apply if it has been more than ~~twenty~~ fifteen 181
years since the member was last assigned to hazardous duty as a 182
member of a fire department. 183

(4) A member of the fund who has five or more years of 184
service credit and has incurred a permanent disability not caused 185
or induced by the actual performance of the member's official 186
duties as a member of the department, or by the member's own 187
negligence, shall if the disability prevents the member from 188
performing those duties and impairs the member's earning capacity, 189
receive annual disability benefits in accordance with division (C) 190
of section 742.39 of the Revised Code. In determining whether a 191
member of the fund is permanently disabled, the board shall 192
consider standards adopted under division (C) of this section 193
applicable to the determination. 194

(5) The board shall notify a member of its final action 195
awarding a disability benefit to the member within thirty days of 196
the final action. The notice shall be sent by certified mail, 197
return receipt requested. Not later than ninety days after receipt 198
of notice from the board, the member shall elect, on a form 199
provided by the board, either to accept or waive the disability 200
benefit award. If the member elects to waive the disability 201
benefit award or fails to make an election within the time period, 202
the award is rescinded. A member who later seeks a disability 203
benefit award shall be required to make a new application, which 204

shall be dealt with in accordance with the procedures used for 205
original disability benefit applications. 206

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

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

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

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

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

an illegal alien or unauthorized alien assumes the risk of 236
incurring such injury or contracting an occupational disease, and 237
that assumption is a complete bar to a recovery of damages for 238
such injury or occupational disease. 239

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

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

Sec. 2743.02. (A)(1) The state hereby waives its immunity 261
from liability, except as provided for the office of the state 262
fire marshal in division (G)(1) of section 9.60 and division (B) 263
of section 3737.221 of the Revised Code, except as provided in 264
division (I) of this section, and subject to division (H) of this 265
section, and consents to be sued, and have its liability 266

determined, in the court of claims created in this chapter in 267
accordance with the same rules of law applicable to suits between 268
private parties, except that the determination of liability is 269
subject to the limitations set forth in this chapter and, in the 270
case of state universities or colleges, in section 3345.40 of the 271
Revised Code, and except as provided in division (A)(2) or (3) of 272
this section. To the extent that the state has previously 273
consented to be sued, this chapter has no applicability. 274

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

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

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

(b) The state immunity provided in division (A)(3)(a) of this 298

section does not apply to any action of the state under 299
circumstances in which a special relationship can be established 300
between the state and an injured party. A special relationship 301
under this division is demonstrated if all of the following 302
elements exist: 303

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

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

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

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

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

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

liability arising out of, or claimed to have arisen out of, the 330
death, disease, or injury of any person as a result of the 331
negligence, malpractice, or other action or inaction of the 332
indemnified person while acting within the scope of the 333
indemnified person's duties or engaged in activities at the 334
request or direction, or for the benefit, of the hospital. Any 335
hospital electing to indemnify those persons, or to agree to so 336
indemnify, shall reserve any funds that are necessary, in the 337
exercise of sound and prudent actuarial judgment, to cover the 338
potential expense, fees, damage, loss, or other liability. The 339
superintendent of insurance may recommend, or, if the hospital 340
requests the superintendent to do so, the superintendent shall 341
recommend, a specific amount for any period that, in the 342
superintendent's opinion, represents such a judgment. This 343
authority is in addition to any authorization otherwise provided 344
or permitted by law. 345

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

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

(F) A civil action against an officer or employee, as defined 357
in section 109.36 of the Revised Code, that alleges that the 358
officer's or employee's conduct was manifestly outside the scope 359
of the officer's or employee's employment or official 360
responsibilities, or that the officer or employee acted with 361

malicious purpose, in bad faith, or in a wanton or reckless manner 362
shall first be filed against the state in the court of claims that 363
has exclusive, original jurisdiction to determine, initially, 364
whether the officer or employee is entitled to personal immunity 365
under section 9.86 of the Revised Code and whether the courts of 366
common pleas have jurisdiction over the civil action. The officer 367
or employee may participate in the immunity determination 368
proceeding before the court of claims to determine whether the 369
officer or employee is entitled to personal immunity under section 370
9.86 of the Revised Code. 371

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

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

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

not compromise the claim at least sixty days prior to expiration 394
of the time allowed for commencement of a civil action based upon 395
the loss or damage under section 2743.16 of the Revised Code, the 396
inmate may commence an action in the court of claims under this 397
chapter to recover damages for the loss or damage. 398

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

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

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

Sec. 2744.02. (A)(1) For the purposes of this chapter, the 421
functions of political subdivisions are hereby classified as 422
governmental functions and proprietary functions. Except as 423
provided in division (B) of this section, a political subdivision 424

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

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

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

(3) Subject to statutory limitations upon their monetary jurisdiction, the courts of common pleas, the municipal courts, and the county courts have jurisdiction to hear and determine

civil actions governed by or brought pursuant to this chapter. 457

(B) Subject to sections 2744.03 and 2744.05 of the Revised 458
Code, a political subdivision is liable in damages in a civil 459
action for injury, death, or loss to person or property allegedly 460
caused by an act or omission of the political subdivision or of 461
any of its employees in connection with a governmental or 462
proprietary function, as follows: 463

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

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

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

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

section 4511.03 of the Revised Code. 488

(2) Except as otherwise provided in sections 3314.07 and 489
3746.24 of the Revised Code, political subdivisions are liable for 490
injury, death, or loss to person or property caused by the 491
negligent performance of acts by their employees with respect to 492
proprietary functions of the political subdivisions. 493

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

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

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

or mandatory duty upon a political subdivision, because that 520
section provides for a criminal penalty, because of a general 521
authorization in that section that a political subdivision may sue 522
and be sued, or because that section uses the term "shall" in a 523
provision pertaining to a political subdivision. 524

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

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

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

(C) As used in this section: 537

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

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

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

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

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

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

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

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

4127., and 4131. of the Revised Code; 581

(2) Require that the actuary or person supervised by an 582
actuary referred to in division (C)(1) of this section complete 583
the ~~valuation~~ estimate of unpaid liabilities in accordance with 584
the actuarial standards of practice promulgated by the actuarial 585
standards board of the American academy of actuaries; 586

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

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

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

(6) Have prepared by or under the supervision of an actuary 612
an actuarial analysis of any introduced legislation expected to 613
have a measurable financial impact on the workers' compensation 614
system; 615

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

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

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

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

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

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

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

(3) A schedule showing the ~~effect~~ impact of any changes in 643
the ~~compensation and benefit provisions, actuarial assumptions, or~~ 644
~~cost methods~~ estimates of the unpaid liabilities since the 645
previous annual actuarial ~~valuation~~ analysis report was submitted 646
to the board. 647

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

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

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

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

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

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

(2) A description of or reference to the actuarial 673

assumptions and actuarial cost method used in the report; 674

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

~~(4) A statement of the financial impact of the legislation, 677
including the resulting increase, if any, in employer premiums, 678
and in actuarial accrued current estimates of unpaid liabilities, 679
~~and, if an increase in actuarial accrued liabilities is predicted,~~ 680
~~the per cent of premium increase that would be required to~~ 681
~~amortize the increase in those liabilities as a level per cent of~~ 682
~~employer premiums over a period not to exceed thirty years.~~ 683~~

~~(5) A statement of whether the employer premiums paid to the 684
bureau of workers' compensation after the proposed change is 685
enacted are expected to be sufficient to satisfy the funding 686
objectives established by the board.~~ 687

(H) The board may, at any time, request an actuary to ~~make~~ 688
~~any studies or~~ perform actuarial ~~valuations~~ analyses to determine 689
the adequacy of the premium rates established by the administrator 690
in accordance with sections 4123.29 and 4123.34 of the Revised 691
Code, and may adjust those rates as recommended by the actuary. 692

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

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

administrator. The board and the workers' compensation audit 705
committee may request and review internal audits conducted by the 706
internal auditor. 707

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Ability to accept a common format of medical bill data in 765
an electronic fashion from any provider who wishes to submit 766
medical bill data in that form. 767

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

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

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

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

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

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

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

(10) Management experience and flexibility to be able to 793
react quickly to the needs of the bureau in the case of required 794

change in federal or state requirements. 795

(G)(1) The administrator may decertify a managed care 796
organization if the managed care organization does any of the 797
following: 798

(a) Fails to maintain any of the requirements set forth in 799
division (F) of this section; 800

(b) Fails to reasonably comply with or to perform in 801
accordance with the terms of a contract entered into under 802
division (B)(4) of this section; 803

(c) Violates a rule adopted under section 4121.441 of the 804
Revised Code. 805

(2) The administrator shall provide each managed care 806
organization that is being decertified pursuant to division (G)(1) 807
of this section with written notice of the pending decertification 808
and an opportunity for a hearing pursuant to rules adopted by the 809
administrator. 810

(H)(1) Information contained in a managed care organization's 811
application for certification in the health partnership program, 812
and other information furnished to the bureau by a managed care 813
organization for purposes of obtaining certification or to comply 814
with performance and financial auditing requirements established 815
by the administrator, is for the exclusive use and information of 816
the bureau in the discharge of its official duties, and shall not 817
be open to the public or be used in any court in any proceeding 818
pending therein, unless the bureau is a party to the action or 819
proceeding, but the information may be tabulated and published by 820
the bureau in statistical form for the use and information of 821
other state departments and the public. No employee of the bureau, 822
except as otherwise authorized by the administrator, shall divulge 823
any information secured by the employee while in the employ of the 824
bureau in respect to a managed care organization's application for 825

certification or in respect to the business or other trade 826
processes of any managed care organization to any person other 827
than the administrator or to the employee's superior. 828

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

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

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

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

the performance and outcomes of the managed care organizations and 858
that the bureau should be permitted to internally administer the 859
health partnership program upon the expiration of the 860
certification or recertification as set forth in division (B)(1) 861
or (2) of this section. 862

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

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

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

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

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

(N) In areas outside the state or within the state where no 888

qualified health plan or an inadequate number of providers within 889
the health partnership program exist, the administrator shall 890
permit employees to use a nonplan or nonprogram health care 891
provider and shall pay the provider for the services or supplies 892
provided to or on behalf of an employee for an injury or 893
occupational disease that is compensable under this chapter or 894
Chapter 4123., 4127., or 4131. of the Revised Code on a fee 895
schedule the administrator adopts. 896

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

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

(O) The administrator, in consultation with the health care quality assurance advisory committee created by the administrator or its successor committee, shall develop and periodically revise standards for maintaining an adequate number of providers certified by the bureau for each service currently being used by claimants. The standards shall ensure both of the following: 921
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(1) That a claimant has access to a choice of providers for similar services within the geographic area that the claimant resides; 927
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(2) That the providers within a geographic area are actively accepting new claimants as required in rules adopted by the administrator. 930
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Sec. 4123.01. As used in this chapter: 933

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

(a) Every person in the service of the state, or of any county, municipal corporation, township, or school district therein, including regular members of lawfully constituted police and fire departments of municipal corporations and townships, whether paid or volunteer, and wherever serving within the state or on temporary assignment outside thereof, and executive officers of boards of education, under any appointment or contract of hire, express or implied, oral or written, including any elected official of the state, or of any county, municipal corporation, or township, or members of boards of education. 935
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As used in division (A)(1)(a) of this section, the term "employee" includes the following persons when responding to an inherently dangerous situation that calls for an immediate response on the part of the person, regardless of whether the person is within the limits of the jurisdiction of the person's regular employment or voluntary service when responding, on the 945
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condition that the person responds to the situation as the person 951
otherwise would if the person were on duty in the person's 952
jurisdiction: 953

(i) Off-duty peace officers. As used in division (A)(1)(a)(i) 954
of this section, "peace officer" has the same meaning as in 955
section 2935.01 of the Revised Code. 956

(ii) Off-duty firefighters, whether paid or volunteer, of a 957
lawfully constituted fire department. 958

(iii) Off-duty first responders, emergency medical 959
technicians-basic, emergency medical technicians-intermediate, or 960
emergency medical technicians-paramedic, whether paid or 961
volunteer, of an ambulance service organization or emergency 962
medical service organization pursuant to Chapter 4765. of the 963
Revised Code. 964

(b) Every person in the service of any person, firm, or 965
private corporation, including any public service corporation, 966
that (i) employs one or more persons regularly in the same 967
business or in or about the same establishment under any contract 968
of hire, express or implied, oral or written, including aliens ~~and~~ 969
authorized to work by the United States department of homeland 970
security or its successors; minors; household workers who earn 971
one hundred sixty dollars or more in cash in any calendar quarter 972
from a single household; and casual workers who earn one hundred 973
sixty dollars or more in cash in any calendar quarter from a 974
single employer; or (ii) is bound by any such contract of hire or 975
by any other written contract, to pay into the state insurance 976
fund the premiums provided by this chapter. 977

(c) Every person who performs labor or provides services 978
pursuant to a construction contract, as defined in section 4123.79 979
of the Revised Code, if at least ten of the following criteria 980
apply: 981

(i) The person is required to comply with instructions from the other contracting party regarding the manner or method of performing services;	982 983 984
(ii) The person is required by the other contracting party to have particular training;	985 986
(iii) The person's services are integrated into the regular functioning of the other contracting party;	987 988
(iv) The person is required to perform the work personally;	989
(v) The person is hired, supervised, or paid by the other contracting party;	990 991
(vi) A continuing relationship exists between the person and the other contracting party that contemplates continuing or recurring work even if the work is not full time;	992 993 994
(vii) The person's hours of work are established by the other contracting party;	995 996
(viii) The person is required to devote full time to the business of the other contracting party;	997 998
(ix) The person is required to perform the work on the premises of the other contracting party;	999 1000
(x) The person is required to follow the order of work set by the other contracting party;	1001 1002
(xi) The person is required to make oral or written reports of progress to the other contracting party;	1003 1004
(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;	1005 1006
(xiii) The person's expenses are paid for by the other contracting party;	1007 1008
(xiv) The person's tools and materials are furnished by the other contracting party;	1009 1010

(xv) The person is provided with the facilities used to perform services;	1011 1012
(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;	1013 1014
(xvii) The person is not performing services for a number of employers at the same time;	1015 1016
(xviii) The person does not make the same services available to the general public;	1017 1018
(xix) The other contracting party has a right to discharge the person;	1019 1020
(xx) The person has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.	1021 1022 1023
Every person in the service of any independent contractor or subcontractor who has failed to pay into the state insurance fund the amount of premium determined and fixed by the administrator of workers' compensation for the person's employment or occupation or if a self-insuring employer has failed to pay compensation and benefits directly to the employer's injured and to the dependents of the employer's killed employees as required by section 4123.35 of the Revised Code, shall be considered as the employee of the person who has entered into a contract, whether written or verbal, with such independent contractor unless such employees or their legal representatives or beneficiaries elect, after injury or death, to regard such independent contractor as the employer.	1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035
(2) "Employee" does not mean any of the following:	1036
(a) A duly ordained, commissioned, or licensed minister or assistant or associate minister of a church in the exercise of ministry;	1037 1038 1039
(b) Any officer of a family farm corporation;	1040

(c) An individual incorporated as a corporation; 1041

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

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

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

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

In the event of an election, the employer or person electing 1068
coverage shall serve upon the bureau of workers' compensation 1069
written notice naming the person to be covered and include the 1070
person's remuneration for premium purposes in all future payroll 1071

reports. No partner, sole proprietor, or person excluded from the 1072
definition of "employee" pursuant to division (A)(2)(a), (b), (c), 1073
or (e) of this section, shall receive benefits or compensation 1074
under this chapter until the bureau receives written notice of the 1075
election permitted by this section. 1076

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

(B) "Employer" means: 1090

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

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

All such employers are subject to this chapter. Any member of
a firm or association, who regularly performs manual labor in or
about a mine, factory, or other establishment, including a
household establishment, shall be considered an employee in
determining whether such person, firm, or private corporation, or
public service corporation, has in its service, one or more
employees and the employer shall report the income derived from
such labor to the bureau as part of the payroll of such employer,
and such member shall thereupon be entitled to all the benefits of
an employee.

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

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

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

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

(4) A condition that pre-existed an injury unless that
pre-existing condition is substantially aggravated by the injury.
Such a substantial aggravation must be documented by objective
diagnostic findings, objective clinical findings, or objective

test results. Subjective complaints may be evidence of such a 1134
substantial aggravation. However, subjective complaints without 1135
objective diagnostic findings, objective clinical findings, or 1136
objective test results are insufficient to substantiate a 1137
substantial aggravation. 1138

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

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

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

(G) "Self-insuring employer" means an employer who is granted 1161
the privilege of paying compensation and benefits directly under 1162
section 4123.35 of the Revised Code, including a board of county 1163
commissioners for the sole purpose of constructing a sports 1164
facility as defined in section 307.696 of the Revised Code, 1165

provided that the electors of the county in which the sports 1166
facility is to be built have approved construction of a sports 1167
facility by ballot election no later than November 6, 1997. 1168

(H) "Private employer" means an employer as defined in 1169
division (B)(2) of this section. 1170

(I) "Professional employer organization" has the same meaning 1171
as in section 4125.01 of the Revised Code. 1172

(J) "Public employer" means an employer as defined in 1173
division (B)(1) of this section. 1174

(K) "Sexual conduct" means vaginal intercourse between a male 1175
and female; anal intercourse, fellatio, and cunnilingus between 1176
persons regardless of gender; and, without privilege to do so, the 1177
insertion, however slight, of any part of the body or any 1178
instrument, apparatus, or other object into the vaginal or anal 1179
cavity of another. Penetration, however slight, is sufficient to 1180
complete vaginal or anal intercourse. 1181

(L) "Other-states' insurer" means an insurance company that 1182
is authorized to provide workers' compensation insurance coverage 1183
in any of the states that permit employers to obtain insurance for 1184
workers' compensation claims through insurance companies. 1185

(M) "Other-states' coverage" means both of the following: 1186

(1) Insurance coverage secured by an eligible employer for 1187
workers' compensation claims of employees who are in employment 1188
relationships localized in a state other than this state or those 1189
employees' dependents; 1190

(2) Insurance coverage secured by an eligible employer for 1191
workers' compensation claims that arise in a state other than this 1192
state where an employer elects to obtain coverage through either 1193
the administrator or an other-states' insurer. 1194

(N) "Limited other-states coverage" means insurance coverage 1195

provided by the administrator to an eligible employer for workers' 1196
compensation claims of employees who are in an employment 1197
relationship localized in this state but are temporarily working 1198
in a state other than this state, or those employees' dependents. 1199

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

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

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

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

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

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

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

(2)(a) Fix the rates of premium of the risks of the classes 1222
based upon the total payroll in each of the classes of occupation 1223
or industry sufficiently large to provide a fund for the 1224
compensation provided for in this chapter and to maintain a state 1225

insurance fund from year to year. The administrator shall set the 1226
rates at a level that assures the solvency of the fund. Where the 1227
payroll cannot be obtained or, in the opinion of the 1228
administrator, is not an adequate measure for determining the 1229
premium to be paid for the degree of hazard, the administrator may 1230
determine the rates of premium upon such other basis, consistent 1231
with insurance principles, as is equitable in view of the degree 1232
of hazard, and whenever in this chapter reference is made to 1233
payroll or expenditure of wages with reference to fixing premiums, 1234
the reference shall be construed to have been made also to such 1235
other basis for fixing the rates of premium as the administrator 1236
may determine under this section. 1237

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

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

expenditure of wages, payroll, or both upon which to base the 1258
employer's premium, the administrator shall use only the 1259
expenditure of wages, payroll, or both attributable to the labor 1260
performed and services provided by that employer's employees when 1261
those employees performed labor and provided services in this 1262
state only and to which the other-states' coverage does not apply. 1263
The administrator may adopt rules setting forth the information 1264
that an employer electing to obtain other-states' coverage through 1265
an other-states' insurer shall report for purposes of determining 1266
the expenditure of wages, payroll, or both attributable to the 1267
labor performed and services provided in this state. 1268

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

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

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

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

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

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

substantially homogeneous; 1289

(iv) The group of employers consists of at least one hundred 1290
members or the aggregate workers' compensation premiums of the 1291
members, as determined by the administrator, are estimated to 1292
exceed one hundred fifty thousand dollars during the coverage 1293
period; 1294

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

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

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

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

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

rate revision to the third-party administrator that administers 1320
the group plan for that employer's group. 1321

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

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

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

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

(6) Make available to every employer who is paying premiums 1347
to the state insurance fund a program whereby the employer or the 1348
employer's agent pays to the claimant or on behalf of the claimant 1349
the first fifteen thousand dollars of a compensable workers' 1350

compensation medical-only claim filed by that claimant that is 1351
related to the same injury or occupational disease. No formal 1352
application is required; however, an employer must elect to 1353
participate by telephoning the bureau after July 1, 1995. Once an 1354
employer has elected to participate in the program, the employer 1355
will be responsible for all bills in all medical-only claims with 1356
a date of injury the same or later than the election date, unless 1357
the employer notifies the bureau within fourteen days of receipt 1358
of the notification of a claim being filed that it does not wish 1359
to pay the bills in that claim, or the employer notifies the 1360
bureau that the fifteen thousand dollar maximum has been paid, or 1361
the employer notifies the bureau of the last day of service on 1362
which it will be responsible for the bills in a particular 1363
medical-only claim. If an employer elects to enter the program, 1364
the administrator shall not reimburse the employer for such 1365
amounts paid and shall not charge the first fifteen thousand 1366
dollars of any medical-only claim paid by an employer to the 1367
employer's experience or otherwise use it in merit rating or 1368
determining the risks of any employer for the purpose of payment 1369
of premiums under this chapter. A certified health care provider 1370
shall extend to an employer who participates in this program the 1371
same rates for services rendered to an employee of that employer 1372
as the provider bills the administrator for the same type of 1373
medical claim processed by the bureau and shall not charge, 1374
assess, or otherwise attempt to collect from an employee any 1375
amount for covered services or supplies that is in excess of that 1376
rate. If an employer elects to enter the program and the employer 1377
fails to pay a bill for a medical-only claim included in the 1378
program, the employer shall be liable for that bill and the 1379
employee for whom the employer failed to pay the bill shall not be 1380
liable for that bill. The administrator shall adopt rules to 1381
implement and administer division (A)(6) of this section. Upon 1382
written request from the bureau, the employer shall provide 1383

documentation to the bureau of all medical-only bills that they 1384
are paying directly. Such requests from the bureau may not be made 1385
more frequently than on a semiannual basis. Failure to provide 1386
such documentation to the bureau within thirty days of receipt of 1387
the request may result in the employer's forfeiture of 1388
participation in the program for such injury. The provisions of 1389
this section shall not apply to claims in which an employer with 1390
knowledge of a claimed compensable injury or occupational disease, 1391
has paid wages in lieu of compensation or total disability. 1392

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

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

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

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

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

(1) Epilepsy; 1413

(2) Diabetes;	1414
(3) Cardiac disease;	1415
(4) Arthritis;	1416
(5) Amputated foot, leg, arm, or hand;	1417
(6) Loss of sight of one or both eyes or a partial loss of uncorrected vision of more than seventy-five per cent bilaterally;	1418 1419
(7) Residual disability from poliomyelitis;	1420
(8) Cerebral palsy;	1421
(9) Multiple sclerosis;	1422
(10) Parkinson's disease;	1423
(11) Cerebral vascular accident;	1424
(12) Tuberculosis;	1425
(13) Silicosis;	1426
(14) Psycho-neurotic disability following treatment in a recognized medical or mental institution;	1427 1428
(15) Hemophilia;	1429
(16) Chronic osteomyelitis;	1430
(17) Ankylosis of joints;	1431
(18) Hyper insulinism;	1432
(19) Muscular dystrophies;	1433
(20) Arterio-sclerosis;	1434
(21) Thrombo-phlebitis;	1435
(22) Varicose veins;	1436
(23) Cardiovascular, pulmonary, or respiratory diseases of a firefighter or police officer employed by a municipal corporation or township as a regular member of a lawfully constituted police department or fire department;	1437 1438 1439 1440

(24) Coal miners' pneumoconiosis, commonly referred to as 1441
"black lung disease"; 1442

(25) Disability with respect to which an individual has 1443
completed a rehabilitation program conducted pursuant to sections 1444
4121.61 to 4121.69 of the Revised Code. 1445

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

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

An employer shall file an application under this section for 1469
a determination with the bureau or commission in the same manner 1470
as other claims. An application only may be made in cases where a 1471
handicapped employee or a handicapped employee's dependents claim 1472

or are receiving an award of compensation as a result of an injury 1473
or occupational disease occurring or contracted on or after the 1474
date on which division (A) of this section first included the 1475
handicap of such employee. 1476

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

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

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

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

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

(G) An order issued by the administrator pursuant to this 1506
section is appealable under section 4123.511 of the Revised Code 1507
but is not appealable to court under section 4123.512 of the 1508
Revised Code. 1509

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

To be considered eligible for compensation or benefits paid 1533
under this chapter or Chapter 4121., 4127., or 4131. of the 1534

Revised Code other than medical benefits as described in section 1535
4123.66 of the Revised Code, the claimant shall submit to the 1536
administrator of workers' compensation a signed attestation that 1537
the claimant is an eligible "employee" as that term is defined in 1538
section 4123.01 of the Revised Code or, if the claimant is a 1539
dependent of an individual who died as a result of suffering an 1540
injury or contracting an occupational disease, that the individual 1541
who is the subject of the claim was such an employee. The 1542
administrator shall not pay compensation or benefits, other than 1543
medical benefits described in section 4123.66 of the Revised Code, 1544
unless the administrator receives the signed attestation. The 1545
administrator, if the administrator has reason to believe that a 1546
submitted attestation is not valid, may request the claimant to 1547
submit proof to the administrator that the attestation is valid. 1548
The administrator shall make the request in writing and shall 1549
state in the request the type of proof necessary to determine 1550
validity and the date by which the claimant shall submit the 1551
proof. If a claimant fails to comply with the request, the 1552
administrator shall deny the claim for compensation or benefits 1553
other than medical benefits and the claimant is barred from 1554
refiling that claim for compensation or benefits. A denial of a 1555
claim for compensation or benefits for failing to comply with the 1556
written request may be appealed under this section and section 1557
4123.512 of the Revised Code. In the event a claimant provides a 1558
signed attestation required under this division and it is later 1559
determined that the claimant is or the deceased individual who is 1560
the subject of the claim was an illegal or unauthorized alien, the 1561
claimant shall be subject to prosecution for a violation of 1562
section 2913.48 of the Revised Code. 1563

If the bureau determines that a claim is determined to be a 1564
compensable lost-time claim, the bureau shall notify the claimant 1565
and the employer of the availability of rehabilitation services. 1566
No bureau or industrial commission employee shall directly or 1567

indirectly convey any information in derogation of this right. 1568
This section shall in no way abrogate the bureau's responsibility 1569
to aid and assist a claimant in the filing of a claim and to 1570
advise the claimant of the claimant's rights under the law. 1571

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

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

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

(B)(1) Except as provided in division (B)(2) of this section, 1594
in claims other than those in which the employer is a 1595
self-insuring employer, if the administrator determines under 1596
division (A) of this section that a claimant is or is not entitled 1597
to an award of compensation or benefits, the administrator shall 1598
issue an order no later than twenty-eight days after the sending 1599

of the notice under division (A) of this section, granting or 1600
denying the payment of the compensation or benefits, or both as is 1601
appropriate to the claimant. Notwithstanding the time limitation 1602
specified in this division for the issuance of an order, if a 1603
medical examination of the claimant is required by statute, the 1604
administrator promptly shall schedule the claimant for that 1605
examination and shall issue an order no later than twenty-eight 1606
days after receipt of the report of the examination. The 1607
administrator shall notify the claimant and the employer of the 1608
claimant and their respective representatives in writing of the 1609
nature of the order and the amounts of compensation and benefit 1610
payments involved. The employer or claimant may appeal the order 1611
pursuant to division (C) of this section within fourteen days 1612
after the date of the receipt of the order. The employer and 1613
claimant may waive, in writing, their rights to an appeal under 1614
this division. 1615

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

(3) If an appeal is made under division (B)(1) or (2) of this 1627
section, the administrator shall forward the claim file to the 1628
appropriate district hearing officer within seven days of the 1629
appeal. In contested claims other than state fund claims, the 1630
administrator shall forward the claim within seven days of the 1631

administrator's receipt of the claim to the industrial commission, 1632
which shall refer the claim to an appropriate district hearing 1633
officer for a hearing in accordance with division (C) of this 1634
section. 1635

(C) If an employer or claimant timely appeals the order of 1636
the administrator issued under division (B) of this section or in 1637
the case of other contested claims other than state fund claims, 1638
the commission shall refer the claim to an appropriate district 1639
hearing officer according to rules the commission adopts under 1640
section 4121.36 of the Revised Code. The district hearing officer 1641
shall notify the parties and their respective representatives of 1642
the time and place of the hearing. 1643

The district hearing officer shall hold a hearing on a 1644
disputed issue or claim within forty-five days after the filing of 1645
the appeal under this division and issue a decision within seven 1646
days after holding the hearing. The district hearing officer shall 1647
notify the parties and their respective representatives in writing 1648
of the order. Any party may appeal an order issued under this 1649
division pursuant to division (D) of this section within fourteen 1650
days after receipt of the order under this division. 1651

(D) Upon the timely filing of an appeal of the order of the 1652
district hearing officer issued under division (C) of this 1653
section, the commission shall refer the claim file to an 1654
appropriate staff hearing officer according to its rules adopted 1655
under section 4121.36 of the Revised Code. The staff hearing 1656
officer shall hold a hearing within forty-five days after the 1657
filing of an appeal under this division and issue a decision 1658
within seven days after holding the hearing under this division. 1659
The staff hearing officer shall notify the parties and their 1660
respective representatives in writing of the staff hearing 1661
officer's order. Any party may appeal an order issued under this 1662
division pursuant to division (E) of this section within fourteen 1663

days after receipt of the order under this division. 1664

(E) Upon the filing of a timely appeal of the order of the 1665
staff hearing officer issued under division (D) of this section, 1666
the commission or a designated staff hearing officer, on behalf of 1667
the commission, shall determine whether the commission will hear 1668
the appeal. If the commission or the designated staff hearing 1669
officer decides to hear the appeal, the commission or the 1670
designated staff hearing officer shall notify the parties and 1671
their respective representatives in writing of the time and place 1672
of the hearing. The commission shall hold the hearing within 1673
forty-five days after the filing of the notice of appeal and, 1674
within seven days after the conclusion of the hearing, the 1675
commission shall issue its order affirming, modifying, or 1676
reversing the order issued under division (D) of this section. The 1677
commission shall notify the parties and their respective 1678
representatives in writing of the order. If the commission or the 1679
designated staff hearing officer determines not to hear the 1680
appeal, within fourteen days after the expiration of the period in 1681
which an appeal of the order of the staff hearing officer may be 1682
filed as provided in division (D) of this section, the commission 1683
or the designated staff hearing officer shall issue an order to 1684
that effect and notify the parties and their respective 1685
representatives in writing of that order. 1686

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

(F) Every notice of an appeal from an order issued under 1693
divisions (B), (C), (D), and (E) of this section shall state the 1694
names of the claimant and employer, the number of the claim, the 1695

date of the decision appealed from, and the fact that the 1696
appellant appeals therefrom. 1697

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

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

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

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

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

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

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

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

(4) The date of receipt by the employer of an order of a 1731
district hearing officer, a staff hearing officer, or the 1732
industrial commission issued under division (C), (D), or (E) of 1733
this section. 1734

(I) Except as otherwise provided in division (B) of section 1735
4123.66 of the Revised Code, payments of medical benefits payable 1736
under this chapter or Chapter 4121., 4127., or 4131. of the 1737
Revised Code shall commence upon the earlier of the following: 1738

(1) The date of the issuance of the staff hearing officer's 1739
order under division (D) of this section; 1740

(2) The date of the final administrative or judicial 1741
determination. 1742

(J) The administrator shall charge the compensation payments 1743
made in accordance with division (H) of this section or medical 1744
benefits payments made in accordance with division (I) of this 1745
section to an employer's experience immediately after the employer 1746
has exhausted the employer's administrative appeals as provided in 1747
this section or has waived the employer's right to an 1748
administrative appeal under division (B) of this section, subject 1749
to the adjustment specified in division (H) of section 4123.512 of 1750
the Revised Code. 1751

(K) Upon the final administrative or judicial determination 1752
under this section or section 4123.512 of the Revised Code of an 1753
appeal of an order to pay compensation, if a claimant is found to 1754
have received compensation pursuant to a prior order which is 1755
reversed upon subsequent appeal, the claimant's employer, if a 1756
self-insuring employer, or the bureau, shall withhold from any 1757

amount to which the claimant becomes entitled pursuant to any 1758
claim, past, present, or future, under Chapter 4121., 4123., 1759
4127., or 4131. of the Revised Code, the amount of previously paid 1760
compensation to the claimant which, due to reversal upon appeal, 1761
the claimant is not entitled, pursuant to the following criteria: 1762

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

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

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

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

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

(L) If a staff hearing officer or the commission fails to 1786
issue a decision or the commission fails to refuse to hear an 1787
appeal within the time periods required by this section, payments 1788

to a claimant shall cease until the staff hearing officer or 1789
commission issues a decision or hears the appeal, unless the 1790
failure was due to the fault or neglect of the employer or the 1791
employer agrees that the payments should continue for a longer 1792
period of time. 1793

(M) Except as otherwise provided in this section or section 1794
4123.522 of the Revised Code, no appeal is timely filed under this 1795
section unless the appeal is filed with the time limits set forth 1796
in this section. 1797

(N) No person who is not an employee of the bureau or 1798
commission or who is not by law given access to the contents of a 1799
claims file shall have a file in the person's possession. 1800

(O) Upon application of a party who resides in an area in 1801
which an emergency or disaster is declared, the industrial 1802
commission and hearing officers of the commission may waive the 1803
time frame within which claims and appeals of claims set forth in 1804
this section must be filed upon a finding that the applicant was 1805
unable to comply with a filing deadline due to an emergency or a 1806
disaster. 1807

As used in this division: 1808

(1) "Emergency" means any occasion or instance for which the 1809
governor of Ohio or the president of the United States publicly 1810
declares an emergency and orders state or federal assistance to 1811
save lives and protect property, the public health and safety, or 1812
to lessen or avert the threat of a catastrophe. 1813

(2) "Disaster" means any natural catastrophe or fire, flood, 1814
or explosion, regardless of the cause, that causes damage of 1815
sufficient magnitude that the governor of Ohio or the president of 1816
the United States, through a public declaration, orders state or 1817
federal assistance to alleviate damage, loss, hardship, or 1818
suffering that results from the occurrence. 1819

Sec. 4123.512. (A) The claimant or the employer may appeal an 1820
order of the industrial commission made under division (E) of 1821
section 4123.511 of the Revised Code in any injury or occupational 1822
disease case, other than a decision as to the extent of disability 1823
to the court of common pleas of the county in which the injury was 1824
inflicted or in which the contract of employment was made if the 1825
injury occurred outside the state, or in which the contract of 1826
employment was made if the exposure occurred outside the state. If 1827
no common pleas court has jurisdiction for the purposes of an 1828
appeal by the use of the jurisdictional requirements described in 1829
this division, the appellant may use the venue provisions in the 1830
Rules of Civil Procedure to vest jurisdiction in a court. If the 1831
claim is for an occupational disease, the appeal shall be to the 1832
court of common pleas of the county in which the exposure which 1833
caused the disease occurred. Like appeal may be taken from an 1834
order of a staff hearing officer made under division (D) of 1835
section 4123.511 of the Revised Code from which the commission has 1836
refused to hear an appeal. The Except as otherwise provided in 1837
this division, the appellant shall file the notice of appeal with 1838
a court of common pleas within sixty days after the date of the 1839
receipt of the order appealed from or the date of receipt of the 1840
order of the commission refusing to hear an appeal of a staff 1841
hearing officer's decision under division (D) of section 4123.511 1842
of the Revised Code. The Either the claimant or the employer may 1843
file a notice of an intent to settle the claim within thirty days 1844
after the date of the receipt of the order appealed from or of the 1845
order of the commission refusing to hear an appeal of a staff 1846
hearing officer's decision. The claimant or employer shall file 1847
notice of intent to settle with the administrator of workers' 1848
compensation, and the notice shall be served on the opposing party 1849
and the party's representative. The filing of the notice of intent 1850
to settle extends the time to file an appeal to one hundred fifty 1851

days, unless the opposing party files an objection to the notice 1852
of intent to settle within fourteen days after the date of the 1853
receipt of the notice of intent to settle. The party shall file 1854
the objection with the administrator, and the objection shall be 1855
served on the party that filed the notice of intent to settle and 1856
the party's representative. The filing of the notice of the appeal 1857
with the court is the only act required to perfect the appeal. 1858

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

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

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

The administrator, the claimant, and the employer shall be 1876
parties to the appeal and the court, upon the application of the 1877
commission, shall make the commission a party. The party filing 1878
the appeal shall serve a copy of the notice of appeal on the 1879
administrator at the central office of the bureau of workers' 1880
compensation in Columbus. The administrator shall notify the 1881
employer that if the employer fails to become an active party to 1882
the appeal, then the administrator may act on behalf of the 1883

employer and the results of the appeal could have an adverse 1884
effect upon the employer's premium rates or may result in a 1885
recovery from the employer if the employer is determined to be a 1886
noncomplying employer under section 4123.75 of the Revised Code. 1887

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

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

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

deposition of any physician taken in accordance with the 1916
provisions of the Revised Code, which deposition may be read in 1917
the trial of the action even though the physician is a resident of 1918
or subject to service in the county in which the trial is had. The 1919
bureau of workers' compensation shall pay the cost of the 1920
stenographic deposition filed in court and of copies of the 1921
stenographic deposition for each party from the surplus fund and 1922
charge the costs thereof against the unsuccessful party if the 1923
claimant's right to participate or continue to participate is 1924
finally sustained or established in the appeal. In the event the 1925
deposition is taken and filed, the physician whose deposition is 1926
taken is not required to respond to any subpoena issued in the 1927
trial of the action. The court, or the jury under the instructions 1928
of the court, if a jury is demanded, shall determine the right of 1929
the claimant to participate or to continue to participate in the 1930
fund upon the evidence adduced at the hearing of the action. 1931

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

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

(G) If the finding of the court or the verdict of the jury is 1946
in favor of the claimant's right to participate in the fund, the 1947

commission and the administrator shall thereafter proceed in the 1948
matter of the claim as if the judgment were the decision of the 1949
commission, subject to the power of modification provided by 1950
section 4123.52 of the Revised Code. 1951

(H)(1) An appeal from an order issued under division (E) of 1952
section 4123.511 of the Revised Code or any action filed in court 1953
in a case in which an award of compensation or medical benefits 1954
has been made shall not stay the payment of compensation or 1955
medical benefits under the award, or payment for subsequent 1956
periods of total disability or medical benefits during the 1957
pendency of the appeal. If, in a final administrative or judicial 1958
action, it is determined that payments of compensation or 1959
benefits, or both, made to or on behalf of a claimant should not 1960
have been made, the amount thereof shall be charged to the surplus 1961
fund account under division (B) of section 4123.34 of the Revised 1962
Code. In the event the employer is a state risk, the amount shall 1963
not be charged to the employer's experience, and the administrator 1964
shall adjust the employer's account accordingly. In the event the 1965
employer is a self-insuring employer, the self-insuring employer 1966
shall deduct the amount from the paid compensation the 1967
self-insuring employer reports to the administrator under division 1968
(L) of section 4123.35 of the Revised Code. If an employer is a 1969
state risk and has paid an assessment for a violation of a 1970
specific safety requirement, and, in a final administrative or 1971
judicial action, it is determined that the employer did not 1972
violate the specific safety requirement, the administrator shall 1973
reimburse the employer from the surplus fund account under 1974
division (B) of section 4123.34 of the Revised Code for the amount 1975
of the assessment the employer paid for the violation. 1976

(2)(a) Notwithstanding a final determination that payments of 1977
benefits made to or on behalf of a claimant should not have been 1978
made, the administrator or self-insuring employer shall award 1979

payment of medical or vocational rehabilitation services submitted 1980
for payment after the date of the final determination if all of 1981
the following apply: 1982

(i) The services were approved and were rendered by the 1983
provider in good faith prior to the date of the final 1984
determination. 1985

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

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

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

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

(3) A self-insuring employer may elect to pay compensation 2005
and benefits under this section directly to an employee or an 2006
employee's dependents by filing an application with the bureau of 2007
workers' compensation not more than one hundred eighty days and 2008
not less than ninety days before the first day of the employer's 2009
next six-month coverage period. If the self-insuring employer 2010

timely files the application, the application is effective on the 2011
first day of the employer's next six-month coverage period, 2012
provided that the administrator shall compute the employer's 2013
assessment for the surplus fund account due with respect to the 2014
period during which that application was filed without regard to 2015
the filing of the application. On and after the effective date of 2016
the employer's election, the self-insuring employer shall pay 2017
directly to an employee or to an employee's dependents 2018
compensation and benefits under this section regardless of the 2019
date of the injury or occupational disease, and the employer shall 2020
receive no money or credits from the surplus fund account on 2021
account of those payments and shall not be required to pay any 2022
amounts into the surplus fund account on account of this section. 2023
The election made under this division is irrevocable. 2024

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

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

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

Sec. 4123.513. (A) Except as otherwise provided in divisions 2037
(B) and (C) of this section, if a claim is denied because the 2038
claimant is, or if the claimant is a dependent of an individual 2039
who died as a result of suffering an injury or contracting an 2040
occupational disease, that individual was an unauthorized alien, 2041

the claimant's employer or the individual's employer is not liable 2042
to that claimant for damages suffered by reason of personal injury 2043
sustained or occupational disease contracted in the course of 2044
employment caused by the wrongful act or omission or neglect of 2045
the employer. For such a claimant, filing a claim under Chapter 2046
4121., 4123., 4127., or 4131. of the Revised Code is the exclusive 2047
remedy against the employer on account of injury, disease, or 2048
death in the course of and arising out of the claimant's or 2049
deceased employee's employment. Notwithstanding section 4123.77 of 2050
the Revised Code and except as provided in division (B) of this 2051
section, an irrebuttable presumption exists that the individual 2052
assumed the risk of incurring an injury or contracting an 2053
occupational disease at the workplace, or dying as a result of 2054
such an injury or occupational disease, when performing services 2055
or providing labor for that employer. 2056

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

(C) Nothing in this section shall be construed to prevent a claimant whose claim is denied because the claimant is or the deceased individual who is the subject of the claim was an unauthorized alien from bringing a claim against an employer in a court of competent jurisdiction for an intentional tort allegedly committed by the employer against the claimant or deceased individual who was the subject of the claim.

Sec. 4123.53. (A) The administrator of workers' compensation or the industrial commission may require any employee claiming the right to receive compensation to submit to a medical examination, vocational evaluation, or vocational questionnaire at any time, and from time to time, at a place reasonably convenient for the employee, and as provided by the rules of the commission or the administrator of workers' compensation. A claimant required by the commission or administrator to submit to a medical examination or vocational evaluation, at a point outside of the place of permanent or temporary residence of the claimant, as provided in this section, is entitled to have paid to the claimant by the bureau of workers' compensation the necessary and actual expenses on account of the attendance for the medical examination or vocational evaluation after approval of the expense statement by the bureau. Under extraordinary circumstances and with the unanimous approval of the commission, if the commission requires the medical examination or vocational evaluation, or with the approval of the administrator, if the administrator requires the medical examination or vocational evaluation, the bureau shall pay an injured or diseased employee the necessary, actual, and authorized expenses of treatment at a point outside the place of permanent or temporary residence of the claimant.

(B) ~~When~~ (1) Except as provided in divisions (B)(2) and (3) of this section, when an employee initially receives temporary total disability compensation pursuant to section 4123.56 of the

Revised Code for a consecutive ninety-day period, the 2107
administrator shall refer the employee to the bureau medical 2108
section ~~for~~ to schedule a medical examination to determine the 2109
employee's continued entitlement to such compensation, the 2110
employee's rehabilitation potential, and the appropriateness of 2111
the medical treatment the employee is receiving. The bureau 2112
medical section shall ~~conduct~~ schedule the examination for a date 2113
not later than thirty days following the end of the initial 2114
ninety-day period. If the medical examiner, upon an initial or any 2115
subsequent examination recommended by the medical examiner under 2116
this division, determines that the employee is temporarily and 2117
totally impaired, the medical examiner shall recommend a date when 2118
the employee should be reexamined. Upon the issuance of the 2119
medical examination report containing a recommendation for 2120
reexamination, the administrator shall schedule an examination 2121
and, if at the date of reexamination the employee is receiving 2122
temporary total disability compensation, the employee shall be 2123
examined. ~~The~~ 2124

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

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

(C) If an employee refuses to submit to any medical 2134
examination or vocational evaluation scheduled pursuant to this 2135
section or obstructs the same, or refuses to complete and submit 2136
to the bureau or commission a vocational questionnaire within 2137
thirty days after the bureau or commission mails the request to 2138

complete and submit the questionnaire the employee's right to have 2139
~~his or her~~ the employee's claim for compensation considered, if 2140
the claim is pending before the bureau or commission, or to 2141
receive any payment for compensation theretofore granted, is 2142
suspended during the period of the refusal or obstruction. 2143
Notwithstanding this section, an employee's failure to submit to a 2144
medical examination or vocational evaluation, or to complete and 2145
submit a vocational questionnaire, shall not result in the 2146
dismissal of the employee's claim. 2147

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

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

(1) Purposely self-inflicted; 2168

(2) Caused by the employee being intoxicated, under the 2169

influence of a controlled substance not prescribed by a physician, 2170
or under the influence of marihuana if being intoxicated, under 2171
the influence of a controlled substance not prescribed by a 2172
physician, or under the influence of marihuana was the proximate 2173
cause of the injury. 2174

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

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

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

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

(i) For amphetamines, one thousand nanograms per milliliter of urine;	2202
	2203
(ii) For cannabinoids, fifty nanograms per milliliter of urine;	2204
	2205
(iii) For cocaine, including crack cocaine, three hundred nanograms per milliliter of urine;	2206
	2207
(iv) For opiates, two thousand nanograms per milliliter of urine;	2208
	2209
(v) For phencyclidine, twenty five nanograms per milliliter of urine.	2210
	2211
(e) 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:	2212
	2213
	2214
	2215
	2216
	2217
(i) For amphetamines, five hundred nanograms per milliliter of urine;	2218
	2219
(ii) For cannabinoids, fifteen nanograms per milliliter of urine;	2220
	2221
(iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine;	2222
	2223
(iv) For opiates, two thousand nanograms per milliliter of urine;	2224
	2225
(v) For phencyclidine, twenty five nanograms per milliliter of urine.	2226
	2227
(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>	2228
	2229
	2230
	2231

(c) The employee, through a qualifying chemical test 2232
administered within thirty-two hours of an injury, is determined 2233
to have barbiturates, benzodiazepines, or methadone, ~~or~~ 2234
~~propoxyphene~~ in the employee's system that tests above levels 2235
established by laboratories certified by the United States 2236
department of health and human services. 2237

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

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

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

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

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

(2) As used in division (C)(1)(a) of this section, 2258
"reasonable cause" means, but is not limited to, evidence that an 2259
employee is or was using alcohol, a controlled substance, or 2260
marihuana drawn from specific, objective facts and reasonable 2261
inferences drawn from these facts in light of experience and 2262

training. These facts and inferences may be based on, but are not 2263
limited to, any of the following: 2264

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

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

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

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

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

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

(E) For the purpose of this section, laboratories certified 2292
by the United States department of health and human services or 2293

laboratories that meet or exceed the standards of that department 2294
for laboratory certification shall be used for processing the test 2295
results of a qualifying chemical test. 2296

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

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

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

rights of the employee and the employee's dependents under the 2326
laws of this state are the exclusive remedy against the employer 2327
on account of injury, disease, or death in the course of and 2328
arising out of the employee's employment. If the agreement is to 2329
be bound by the laws of another state and the employer has 2330
complied with the laws of that state, the rights of the employee 2331
and the employee's dependents under the laws of that state are the 2332
exclusive remedy against the employer on account of injury, 2333
disease, or death in the course of and arising out of the 2334
employee's employment without regard to the place where the injury 2335
was sustained or the disease contracted. If an employer and an 2336
employee enter into an agreement under this division, the fact 2337
that the employer and the employee entered into that agreement 2338
shall not be construed to change the status of an employee whose 2339
continued employment is subject to the will of the employer or the 2340
employee, unless the agreement contains a provision that expressly 2341
changes that status. 2342

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

(a) The amount of compensation or benefits paid to or on 2355
behalf of the employee or the employee's dependents by the 2356
administrator or a self-insuring employer pursuant to this chapter 2357

or Chapter 4121., 4127., or 4131. of the Revised Code for that 2358
award; 2359

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

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

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

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

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

(4) If the employee's employer pays premiums into the state 2387
insurance fund, the administrator shall not charge the amount of 2388

compensation or benefits the administrator collects pursuant to 2389
division (H)(2) or (3) of this section to the employer's 2390
experience. If the administrator collects any costs incurred by an 2391
employer in contesting or responding to any claim pursuant to 2392
division (H)(2) or (3) of this section, the administrator shall 2393
forward the amount collected to that employer. If the employee's 2394
employer is a self-insuring employer, the self-insuring employer 2395
shall deduct the amount of compensation or benefits the 2396
self-insuring employer collects pursuant to this division from the 2397
paid compensation the self-insuring employer reports to the 2398
administrator under division (L) of section 4123.35 of the Revised 2399
Code. 2400

(5) If an employee is a resident of a state other than this 2401
state and is insured under the workers' compensation law or 2402
similar laws of a state other than this state, the employee and 2403
the employee's dependents are not entitled to receive compensation 2404
or benefits under this chapter, on account of injury, disease, or 2405
death arising out of or in the course of employment while 2406
temporarily within this state, and the rights of the employee and 2407
the employee's dependents under the laws of the other state are 2408
the exclusive remedy against the employer on account of the 2409
injury, disease, or death. 2410

(6) An employee, or the dependent of an employee, who elects 2411
to receive compensation and benefits under this chapter or Chapter 2412
4121., 4127., or 4131. of the Revised Code for a claim may not 2413
receive compensation and benefits under the workers' compensation 2414
laws of any state other than this state for that same claim. For 2415
each claim submitted by or on behalf of an employee, the 2416
administrator or, if the employee is employed by a self-insuring 2417
employer, the self-insuring employer, shall request the employee 2418
or the employee's dependent to sign an election that affirms the 2419
employee's or employee's dependent's acceptance of electing to 2420

receive compensation and benefits under this chapter or Chapter 2421
4121., 4127., or 4131. of the Revised Code for that claim that 2422
also affirmatively waives and releases the employee's or the 2423
employee's dependent's right to file for and receive compensation 2424
and benefits under the laws of any state other than this state for 2425
that claim. The employee or employee's dependent shall sign the 2426
election form within twenty-eight days after the administrator or 2427
self-insuring employer submits the request or the administrator or 2428
self-insuring employer shall dismiss that claim. 2429

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

(I) If an employee who is covered under the federal 2450
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 2451
33 U.S.C. 901 et seq., is injured or contracts an occupational 2452

disease or dies as a result of an injury or occupational disease, 2453
and if that employee's or that employee's dependents' claim for 2454
compensation or benefits for that injury, occupational disease, or 2455
death is subject to the jurisdiction of that act, the employee or 2456
the employee's dependents are not entitled to apply for and shall 2457
not receive compensation or benefits under this chapter and 2458
Chapter 4121. of the Revised Code. The rights of such an employee 2459
and the employee's dependents under the federal "Longshore and 2460
Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et 2461
seq., are the exclusive remedy against the employer for that 2462
injury, occupational disease, or death. 2463

(J) Compensation or benefits are not payable to a claimant or 2464
a dependent during the period of confinement of the claimant or 2465
dependent in any state or federal correctional institution, or in 2466
any county jail in lieu of incarceration in a state or federal 2467
correctional institution, whether in this or any other state for 2468
conviction of violation of any state or federal criminal law. 2469

(K) An employer, upon the approval of the administrator, may 2470
provide for workers' compensation coverage for the employer's 2471
employees who are professional athletes and coaches by submitting 2472
to the administrator proof of coverage under a league policy 2473
issued under the laws of another state under either of the 2474
following circumstances: 2475

(1) The employer administers the payroll and workers' 2476
compensation insurance for a professional sports team subject to a 2477
collective bargaining agreement, and the collective bargaining 2478
agreement provides for the uniform administration of workers' 2479
compensation benefits and compensation for professional athletes. 2480

(2) The employer is a professional sports league, or is a 2481
member team of a professional sports league, and all of the 2482
following apply: 2483

(a) The professional sports league operates as a single 2484
entity, whereby all of the players and coaches of the sports 2485
league are employees of the sports league and not of the 2486
individual member teams. 2487

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

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

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

Sec. 4123.56. (A) Except as provided in division (D) of this 2512
section, in the case of temporary disability, an employee shall 2513
receive sixty-six and two-thirds per cent of the employee's 2514

average weekly wage so long as such disability is total, not to 2515
exceed a maximum amount of weekly compensation which is equal to 2516
the statewide average weekly wage as defined in division (C) of 2517
section 4123.62 of the Revised Code, and not less than a minimum 2518
amount of compensation which is equal to thirty-three and 2519
one-third per cent of the statewide average weekly wage as defined 2520
in division (C) of section 4123.62 of the Revised Code unless the 2521
employee's wage is less than thirty-three and one-third per cent 2522
of the minimum statewide average weekly wage, in which event the 2523
employee shall receive compensation equal to the employee's full 2524
wages; provided that for the first twelve weeks of total 2525
disability the employee shall receive seventy-two per cent of the 2526
employee's full weekly wage, but not to exceed a maximum amount of 2527
weekly compensation which is equal to the lesser of the statewide 2528
average weekly wage as defined in division (C) of section 4123.62 2529
of the Revised Code or one hundred per cent of the employee's net 2530
take-home weekly wage. In the case of a self-insuring employer, 2531
payments shall be for a duration based upon the medical reports of 2532
the attending physician. If the employer disputes the attending 2533
physician's report, payments may be terminated only upon 2534
application and hearing by a district hearing officer pursuant to 2535
division (C) of section 4123.511 of the Revised Code. Payments 2536
shall continue pending the determination of the matter, however 2537
payment shall not be made for the period when any employee has 2538
returned to work, when an employee's treating physician has made a 2539
written statement that the employee is capable of returning to the 2540
employee's former position of employment, when work within the 2541
physical capabilities of the employee is made available by the 2542
employer or another employer, or when the employee has reached the 2543
maximum medical improvement. Where the employee is capable of work 2544
activity, but the employee's employer is unable to offer the 2545
employee any employment, the employee shall register with the 2546
director of job and family services, who shall assist the employee 2547

in finding suitable employment. The termination of temporary total disability, whether by order or otherwise, does not preclude the commencement of temporary total disability at another point in time if the employee again becomes temporarily totally disabled.

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

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

If any compensation under this section has been paid for the same period or periods for which temporary nonoccupational accident and sickness insurance is or has been paid pursuant to an insurance policy or program to which the employer has made the entire contribution or payment for providing insurance or under a nonoccupational accident and sickness program fully funded by the employer, except as otherwise provided in this division compensation paid under this section for the period or periods shall be paid only to the extent by which the payment or payments exceeds the amount of the nonoccupational insurance or program paid or payable. Offset of the compensation shall be made only upon the prior order of the bureau or industrial commission or

agreement of the claimant. If an employer provides supplemental 2580
sick leave benefits in addition to temporary total disability 2581
compensation paid under this section, and if the employer and an 2582
employee agree in writing to the payment of the supplemental sick 2583
leave benefits, temporary total disability benefits may be paid 2584
without an offset for those supplemental sick leave benefits. 2585

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

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

(2) If an employee in a claim allowed under this chapter 2607
suffers a wage loss as a result of being unable to find employment 2608
consistent with the employee's disability resulting from the 2609
employee's injury or occupational disease, the employee shall 2610
receive compensation at sixty-six and two-thirds per cent of the 2611

difference between the employee's average weekly wage and the 2612
employee's present earnings, not to exceed the statewide average 2613
weekly wage. The payments may continue for up to a maximum of 2614
fifty-two weeks. The first twenty-six weeks of payments under 2615
division (B)(2) of this section shall be in addition to the 2616
maximum of two hundred weeks of payments allowed under division 2617
(B)(1) of this section. If an employee in a claim allowed under 2618
this chapter receives compensation under division (B)(2) of this 2619
section in excess of twenty-six weeks, the number of weeks of 2620
compensation allowable under division (B)(1) of this section shall 2621
be reduced by the corresponding number of weeks in excess of 2622
twenty-six, and up to fifty-two, that is allowable under division 2623
(B)(1) of this section. 2624

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

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

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

(E) If an employee is eligible for compensation under 2644
division (A) of this section, but the employee's full weekly wage 2645
has not been determined at the time payments are to commence under 2646
division (H) of section 4123.511 of the Revised Code, the employee 2647
shall receive thirty-three and one-third per cent of the statewide 2648
average weekly wage as defined in division (C) of section 4123.62 2649
of the Revised Code. On determination of the employee's full 2650
weekly wage, the compensation an employee receives shall be 2651
adjusted pursuant to division (A) of this section. 2652

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

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

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

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

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

The administrator shall notify the employee, the employer, and their representatives, in writing, of the tentative order and of the parties' right to request a hearing. Unless the employee, the employer, or their representative notifies the administrator, in writing, of an objection to the tentative order within twenty days after receipt of the notice thereof, the tentative order shall go into effect and the employee shall receive the compensation provided in the order. In no event shall there be a

reconsideration of a tentative order issued under this division. 2707

If the employee, the employer, or their representatives 2708
timely notify the administrator of an objection to the tentative 2709
order, the matter shall be referred to a district hearing officer 2710
who shall set the application for hearing with written notices to 2711
all interested persons. Upon referral to a district hearing 2712
officer, the employer may obtain a medical examination of the 2713
employee, pursuant to rules of the industrial commission. 2714

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

employer's representative. No sooner than sixty days from the date 2739
of the mailing of the application to the employer or the 2740
employer's representative, the administrator shall review the 2741
application. The administrator may require a medical examination 2742
or medical review of the employee. The administrator shall issue a 2743
tentative order based upon the evidence before the administrator, 2744
provided that if the administrator requires a medical examination 2745
or medical review, the administrator shall not issue the tentative 2746
order until the completion of the examination or review. 2747

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

No award shall be made under this division based upon a 2770

percentage of disability which, when taken with all other 2771
percentages of permanent disability, exceeds one hundred per cent. 2772
If the percentage of the permanent disability of the employee 2773
equals or exceeds ninety per cent, compensation for permanent 2774
partial disability shall be paid for two hundred weeks. 2775

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

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

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

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

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

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

For the loss of a second finger, commonly called index finger, thirty-five weeks.	2802 2803
For the loss of a third finger, thirty weeks.	2804
For the loss of a fourth finger, twenty weeks.	2805
For the loss of a fifth finger, commonly known as the little finger, fifteen weeks.	2806 2807
The loss of a second, or distal, phalange of the thumb is considered equal to the loss of one half of such thumb; the loss of more than one half of such thumb is considered equal to the loss of the whole thumb.	2808 2809 2810 2811
The loss of the third, or distal, phalange of any finger is considered equal to the loss of one-third of the finger.	2812 2813
The loss of the middle, or second, phalange of any finger is considered equal to the loss of two-thirds of the finger.	2814 2815
The loss of more than the middle and distal phalanges of any finger is considered equal to the loss of the whole finger. In no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.	2816 2817 2818 2819
For the loss of the metacarpal bone (bones of the palm) for the corresponding thumb, or fingers, add ten weeks to the number of weeks under this division.	2820 2821 2822
For ankylosis (total stiffness of) or contractures (due to scars or injuries) which makes any of the fingers, thumbs, or parts of either useless, the same number of weeks apply to the members or parts thereof as given for the loss thereof.	2823 2824 2825 2826
If the claimant has suffered the loss of two or more fingers by amputation or ankylosis and the nature of the claimant's employment in the course of which the claimant was working at the time of the injury or occupational disease is such that the handicap or disability resulting from the loss of fingers, or loss	2827 2828 2829 2830 2831

of use of fingers, exceeds the normal handicap or disability 2832
resulting from the loss of fingers, or loss of use of fingers, the 2833
administrator may take that fact into consideration and increase 2834
the award of compensation accordingly, but the award made shall 2835
not exceed the amount of compensation for loss of a hand. 2836

For the loss of a hand, one hundred seventy-five weeks. 2837

For the loss of an arm, two hundred twenty-five weeks. 2838

For the loss of a great toe, thirty weeks. 2839

For the loss of one of the toes other than the great toe, ten 2840
weeks. 2841

The loss of more than two-thirds of any toe is considered 2842
equal to the loss of the whole toe. 2843

The loss of less than two-thirds of any toe is considered no 2844
loss, except as to the great toe; the loss of the great toe up to 2845
the interphalangeal joint is co-equal to the loss of one-half of 2846
the great toe; the loss of the great toe beyond the 2847
interphalangeal joint is considered equal to the loss of the whole 2848
great toe. 2849

For the loss of a foot, one hundred fifty weeks. 2850

For the loss of a leg, two hundred weeks. 2851

For the loss of the sight of an eye, one hundred twenty-five 2852
weeks. 2853

For the permanent partial loss of sight of an eye, the 2854
portion of one hundred twenty-five weeks as the administrator in 2855
each case determines, based upon the percentage of vision actually 2856
lost as a result of the injury or occupational disease, but, in no 2857
case shall an award of compensation be made for less than 2858
twenty-five per cent loss of uncorrected vision. "Loss of 2859
uncorrected vision" means the percentage of vision actually lost 2860
as the result of the injury or occupational disease. 2861

For the permanent and total loss of hearing of one ear, 2862
twenty-five weeks; but in no case shall an award of compensation 2863
be made for less than permanent and total loss of hearing of one 2864
ear. 2865

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

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

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

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

(C) Compensation for partial impairment under divisions (A) 2892

and (B) of this section is in addition to the compensation paid 2893
the employee pursuant to section 4123.56 of the Revised Code. A 2894
claimant may receive compensation under divisions (A) and (B) of 2895
this section. 2896

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

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

(D) If an employee of a state fund employer makes application 2919
for a finding and the administrator finds that the employee has 2920
contracted silicosis as defined in division (Y), or coal miners' 2921
pneumoconiosis as defined in division (Z), or asbestosis as 2922
defined in division (BB) of section 4123.68 of the Revised Code, 2923
and that a change of such employee's occupation is medically 2924

advisable in order to decrease substantially further exposure to 2925
silica dust, asbestos, or coal dust and if the employee, after the 2926
finding, has changed or shall change the employee's occupation to 2927
an occupation in which the exposure to silica dust, asbestos, or 2928
coal dust is substantially decreased, the administrator shall 2929
allow to the employee an amount equal to fifty per cent of the 2930
statewide average weekly wage per week for a period of thirty 2931
weeks, commencing as of the date of the discontinuance or change, 2932
and for a period of one hundred weeks immediately following the 2933
expiration of the period of thirty weeks, the employee shall 2934
receive sixty-six and two-thirds per cent of the loss of wages 2935
resulting directly and solely from the change of occupation but 2936
not to exceed a maximum of an amount equal to fifty per cent of 2937
the statewide average weekly wage per week. No such employee is 2938
entitled to receive more than one allowance on account of 2939
discontinuance of employment or change of occupation and benefits 2940
shall cease for any period during which the employee is employed 2941
in an occupation in which the exposure to silica dust, asbestos, 2942
or coal dust is not substantially less than the exposure in the 2943
occupation in which the employee was formerly employed or for any 2944
period during which the employee may be entitled to receive 2945
compensation or benefits under section 4123.68 of the Revised Code 2946
on account of disability from silicosis, asbestosis, or coal 2947
miners' pneumoconiosis. An award for change of occupation for a 2948
coal miner who has contracted coal miners' pneumoconiosis may be 2949
granted under this division even though the coal miner continues 2950
employment with the same employer, so long as the coal miner's 2951
employment subsequent to the change is such that the coal miner's 2952
exposure to coal dust is substantially decreased and a change of 2953
occupation is certified by the claimant as permanent. The 2954
administrator may accord to the employee medical and other 2955
benefits in accordance with section 4123.66 of the Revised Code. 2956

(E) If a firefighter or police officer makes application for 2957

a finding and the administrator finds that the firefighter or 2958
police officer has contracted a cardiovascular and pulmonary 2959
disease as defined in division (W) of section 4123.68 of the 2960
Revised Code, and that a change of the firefighter's or police 2961
officer's occupation is medically advisable in order to decrease 2962
substantially further exposure to smoke, toxic gases, chemical 2963
fumes, and other toxic vapors, and if the firefighter, or police 2964
officer, after the finding, has changed or changes occupation to 2965
an occupation in which the exposure to smoke, toxic gases, 2966
chemical fumes, and other toxic vapors is substantially decreased, 2967
the administrator shall allow to the firefighter or police officer 2968
an amount equal to fifty per cent of the statewide average weekly 2969
wage per week for a period of thirty weeks, commencing as of the 2970
date of the discontinuance or change, and for a period of 2971
seventy-five weeks immediately following the expiration of the 2972
period of thirty weeks the administrator shall allow the 2973
firefighter or police officer sixty-six and two-thirds per cent of 2974
the loss of wages resulting directly and solely from the change of 2975
occupation but not to exceed a maximum of an amount equal to fifty 2976
per cent of the statewide average weekly wage per week. No such 2977
firefighter or police officer is entitled to receive more than one 2978
allowance on account of discontinuance of employment or change of 2979
occupation and benefits shall cease for any period during which 2980
the firefighter or police officer is employed in an occupation in 2981
which the exposure to smoke, toxic gases, chemical fumes, and 2982
other toxic vapors is not substantially less than the exposure in 2983
the occupation in which the firefighter or police officer was 2984
formerly employed or for any period during which the firefighter 2985
or police officer may be entitled to receive compensation or 2986
benefits under section 4123.68 of the Revised Code on account of 2987
disability from a cardiovascular and pulmonary disease. The 2988
administrator may accord to the firefighter or police officer 2989
medical and other benefits in accordance with section 4123.66 of 2990

the Revised Code. 2991

(F) An order issued under this section is appealable pursuant 2992
to section 4123.511 of the Revised Code but is not appealable to 2993
court under section 4123.512 of the Revised Code. 2994

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

(B) The administrator, in the rules the administrator adopts 3017
pursuant to division (A) of this section, may adopt rules 3018
specifying the circumstances under which the bureau may make 3019
immediate payment for the first fill of prescription drugs for 3020
medical conditions identified in an application for compensation 3021

or benefits under section 4123.84 or 4123.85 of the Revised Code 3022
that occurs prior to the date the administrator issues an initial 3023
determination order under division (B) of section 4123.511 of the 3024
Revised Code. If the claim is ultimately disallowed in a final 3025
administrative or judicial order, and if the employer is a state 3026
fund employer who pays assessments into the surplus fund account 3027
created under section 4123.34 of the Revised Code, the payments 3028
for medical services made pursuant to this division for the first 3029
fill of prescription drugs shall be charged to and paid from the 3030
surplus fund account and not charged through the state insurance 3031
fund to the employer against whom the claim was filed. 3032

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

rules, in accordance with Chapter 119. of the Revised Code, to 3055
implement this division. 3056

(2) As used in this division, "welfare plan" has the same 3057
meaning as in division (1) of 29 U.S.C.A. 1002. 3058

(D)(1) Subject to the requirements of division (D)(2) of this 3059
section, the administrator may make a payment of up to five 3060
hundred dollars to either of the following: 3061

(a) The centers of medicare and medicaid services, for 3062
reimbursement of conditional payments made pursuant to the 3063
"Medicare Secondary Payer Act," 42 U.S.C. 1395y; 3064

(b) The Ohio department of medicaid, or a medical assistance 3065
provider to whom the department has assigned a right of recovery 3066
for a claim for which the department has notified the provider 3067
that the department intends to recoup the department's prior 3068
payment for the claim, for reimbursement under sections 5160.35 to 3069
5160.43 of the Revised Code for the cost of medical assistance 3070
paid on behalf of a medical assistance recipient. 3071

(2) The administrator may make a payment under division 3072
(D)(1) of this section if the administrator makes a reasonable 3073
determination that both of the following apply: 3074

(a) The payment is for reimbursement of benefits for an 3075
injury or occupational disease. 3076

(b) The injury or occupational disease is compensable, or is 3077
likely to be compensable, under this chapter or Chapter 4121., 3078
4127., or 4131. of the Revised Code. 3079

(3) Any payment made pursuant to this division shall be 3080
charged to and paid from the surplus fund account created under 3081
section 4123.34 of the Revised Code. 3082

(4) Nothing in this division shall be construed as limiting 3083
the centers of medicare and medicaid services, the department, or 3084

any other entity with a lawful right to reimbursement from 3085
recovering sums greater than five hundred dollars. 3086

(5) The administrator may adopt rules, with the advice and 3087
consent of the bureau of workers' compensation board of directors, 3088
to implement this division. 3089

Sec. 4123.68. Every employee who is disabled because of the 3090
contraction of an occupational disease or the dependent of an 3091
employee whose death is caused by an occupational disease, is 3092
entitled to the compensation provided by sections 4123.55 to 3093
4123.59 and 4123.66 of the Revised Code subject to the 3094
modifications relating to occupational diseases contained in this 3095
chapter. An order of the administrator issued under this section 3096
is appealable pursuant to sections 4123.511 and 4123.512 of the 3097
Revised Code. 3098

The following diseases are occupational diseases and 3099
compensable as such when contracted by an employee in the course 3100
of the employment in which such employee was engaged and due to 3101
the nature of any process described in this section. A disease 3102
which meets the definition of an occupational disease is 3103
compensable pursuant to this chapter though it is not specifically 3104
listed in this section. 3105

SCHEDULE 3106

Description of disease or injury and description of process: 3107

(A) Anthrax: Handling of wool, hair, bristles, hides, and 3108
skins. 3109

(B) Glanders: Care of any equine animal suffering from 3110
glanders; handling carcass of such animal. 3111

(C) Lead poisoning: Any industrial process involving the use 3112
of lead or its preparations or compounds. 3113

(D) Mercury poisoning: Any industrial process involving the 3114

use of mercury or its preparations or compounds.	3115
(E) Phosphorous poisoning: Any industrial process involving the use of phosphorous or its preparations or compounds.	3116 3117
(F) Arsenic poisoning: Any industrial process involving the use of arsenic or its preparations or compounds.	3118 3119
(G) Poisoning by benzol or by nitro-derivatives and amido-derivatives of benzol (dinitro-benzol, anilin, and others): Any industrial process involving the use of benzol or nitro-derivatives or amido-derivatives of benzol or its preparations or compounds.	3120 3121 3122 3123 3124
(H) Poisoning by gasoline, benzine, naphtha, or other volatile petroleum products: Any industrial process involving the use of gasoline, benzine, naphtha, or other volatile petroleum products.	3125 3126 3127 3128
(I) Poisoning by carbon bisulphide: Any industrial process involving the use of carbon bisulphide or its preparations or compounds.	3129 3130 3131
(J) Poisoning by wood alcohol: Any industrial process involving the use of wood alcohol or its preparations.	3132 3133
(K) Infection or inflammation of the skin on contact surfaces due to oils, cutting compounds or lubricants, dust, liquids, fumes, gases, or vapors: Any industrial process involving the handling or use of oils, cutting compounds or lubricants, or involving contact with dust, liquids, fumes, gases, or vapors.	3134 3135 3136 3137 3138
(L) Epithelion cancer or ulceration of the skin or of the corneal surface of the eye due to carbon, pitch, tar, or tarry compounds: Handling or industrial use of carbon, pitch, or tarry compounds.	3139 3140 3141 3142
(M) Compressed air illness: Any industrial process carried on in compressed air.	3143 3144

(N) Carbon dioxide poisoning: Any process involving the evolution or resulting in the escape of carbon dioxide.	3145 3146
(O) Brass or zinc poisoning: Any process involving the manufacture, founding, or refining of brass or the melting or smelting of zinc.	3147 3148 3149
(P) Manganese dioxide poisoning: Any process involving the grinding or milling of manganese dioxide or the escape of manganese dioxide dust.	3150 3151 3152
(Q) Radium poisoning: Any industrial process involving the use of radium and other radioactive substances in luminous paint.	3153 3154
(R) Tenosynovitis and prepatellar bursitis: Primary tenosynovitis characterized by a passive effusion or crepitus into the tendon sheath of the flexor or extensor muscles of the hand, due to frequently repetitive motions or vibrations, or prepatellar bursitis due to continued pressure.	3155 3156 3157 3158 3159
(S) Chrome ulceration of the skin or nasal passages: Any industrial process involving the use of or direct contact with chromic acid or bichromates of ammonium, potassium, or sodium or their preparations.	3160 3161 3162 3163
(T) Potassium cyanide poisoning: Any industrial process involving the use of or direct contact with potassium cyanide.	3164 3165
(U) Sulphur dioxide poisoning: Any industrial process in which sulphur dioxide gas is evolved by the expansion of liquid sulphur dioxide.	3166 3167 3168
(V) Berylliosis: Berylliosis means a disease of the lungs caused by breathing beryllium in the form of dust or fumes, producing characteristic changes in the lungs and demonstrated by x-ray examination, by biopsy or by autopsy.	3169 3170 3171 3172
This chapter does not entitle an employee or the employee's dependents to compensation, medical treatment, or payment of	3173 3174

funeral expenses for disability or death from berylliosis unless 3175
the employee has been subjected to injurious exposure to beryllium 3176
dust or fumes in the employee's employment in this state preceding 3177
the employee's disablement and only in the event of such 3178
disability or death resulting within eight years after the last 3179
injurious exposure; provided that such eight-year limitation does 3180
not apply to disability or death from exposure occurring after 3181
January 1, 1976. In the event of death following continuous total 3182
disability commencing within eight years after the last injurious 3183
exposure, the requirement of death within eight years after the 3184
last injurious exposure does not apply. 3185

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

(W) Cardiovascular, pulmonary, or respiratory diseases 3205
incurred by firefighters or police officers following exposure to 3206

heat, smoke, toxic gases, chemical fumes and other toxic 3207
substances: Any cardiovascular, pulmonary, or respiratory disease 3208
of a firefighter or police officer caused or induced by the 3209
cumulative effect of exposure to heat, the inhalation of smoke, 3210
toxic gases, chemical fumes and other toxic substances in the 3211
performance of the firefighter's or police officer's duty 3212
constitutes a presumption, which may be refuted by affirmative 3213
evidence, that such occurred in the course of and arising out of 3214
the firefighter's or police officer's employment. For the purpose 3215
of this section, "firefighter" means any regular member of a 3216
lawfully constituted fire department of a municipal corporation or 3217
township, whether paid or volunteer, and "police officer" means 3218
any regular member of a lawfully constituted police department of 3219
a municipal corporation, township or county, whether paid or 3220
volunteer. 3221

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

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

Compensation, medical, hospital, and nursing expenses are payable 3239
only in the event of such disability or death resulting within 3240
eight years after the last injurious exposure; provided that such 3241
eight-year limitation does not apply to disability or death from 3242
exposure occurring after January 1, 1976. In the event of death 3243
following continuous total disability commencing within eight 3244
years after the last injurious exposure, the requirement of death 3245
within eight years after the last injurious exposure does not 3246
apply. 3247

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

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

reasonable compensation of such specialists and the expenses of 3271
examination and tests shall be paid, if the claim is allowed, as 3272
part of the expenses of the claim, otherwise they shall be paid 3273
from the surplus fund. 3274

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

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

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

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

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

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

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

(3) The presumption described in division (X)(1) of this 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 and sections 4123.58 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.

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

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

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

Compensation on account of silicosis, asbestosis, or coal

miners' pneumoconiosis are payable only in the event of temporary 3333
total disability, permanent total disability, or death, in 3334
accordance with sections 4123.56, 4123.58, and 4123.59 of the 3335
Revised Code. Medical, hospital, and nursing expenses are payable 3336
in accordance with this chapter. Compensation, medical, hospital, 3337
and nursing expenses are payable only in the event of such 3338
disability or death resulting within eight years after the last 3339
injurious exposure; provided that such eight-year limitation does 3340
not apply to disability or death occurring after January 1, 1976, 3341
and further provided that such eight-year limitation does not 3342
apply to any asbestosis cases. In the event of death following 3343
continuous total disability commencing within eight years after 3344
the last injurious exposure, the requirement of death within eight 3345
years after the last injurious exposure does not apply. 3346

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

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

event that a claimant for compensation for death due to silicosis, 3365
asbestosis, or coal miners' pneumoconiosis fails to produce 3366
necessary consents and permits, after notice from the commission, 3367
so that such autopsy examination and tests may be performed, then 3368
all rights for compensation are forfeited. The reasonable 3369
compensation of such specialist and the expenses of examinations 3370
and tests shall be paid, if the claim is allowed, as a part of the 3371
expenses of the claim, otherwise they shall be paid from the 3372
surplus fund. 3373

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

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

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

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

The refusal to produce the necessary consents and permits for 3394
autopsy examination and testing shall not result in forfeiture of 3395

compensation provided the administrator finds that such refusal 3396
was the result of bona fide religious convictions or teachings to 3397
which the claimant for compensation adhered prior to the death of 3398
the decedent. 3399

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

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

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

(C) Nature of disease; 3408

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

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

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

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

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

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

<u>year</u> after the injury or death:	3425
(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;	3426 3427 3428
(2) The employer, with knowledge of a claimed compensable injury or occupational disease, has paid wages in lieu of compensation for total disability;	3429 3430 3431
(3) In the event the employer is a self-insuring employer, one of the following has occurred:	3432 3433
(a) Written or facsimile notice of the specific part or parts of the body claimed to have been injured has been given to the commission or bureau or the employer has furnished treatment by a licensed physician in the employ of an employer, provided, however, that the furnishing of such treatment shall not constitute a recognition of a claim as compensable, but shall do no more than satisfy the requirements of this section;	3434 3435 3436 3437 3438 3439 3440
(b) Compensation or benefits have been paid or furnished equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code.	3441 3442 3443
(4) Written or facsimile notice of death has been given to the commission or bureau.	3444 3445
(B) The bureau shall provide printed notices quoting in full division (A) of this section, and every self-insuring employer shall post and maintain at all times one or more of the notices in conspicuous places in the workshop or places of employment.	3446 3447 3448 3449
(C) The commission has continuing jurisdiction as set forth in section 4123.52 of the Revised Code over a claim which meets the requirement of this section, including jurisdiction to award compensation or benefits for loss or impairment of bodily functions developing in a part or parts of the body not specified	3450 3451 3452 3453 3454

pursuant to division (A)(1) of this section, if the commission 3455
finds that the loss or impairment of bodily functions was due to 3456
and a result of or a residual of the injury to one of the parts of 3457
the body set forth in the written notice filed pursuant to 3458
division (A)(1) of this section. 3459

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

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

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

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

Revised Code. 3486

(B) Not later than ~~fourteen~~ thirty calendar days after the 3487
date on which a professional employer organization agreement is 3488
terminated, the professional employer organization is adjudged 3489
bankrupt, the professional employer organization ceases operations 3490
within the state of Ohio, or the registration of the professional 3491
employer organization is revoked, the professional employer 3492
organization shall submit to the administrator of workers' 3493
compensation and each client employer associated with that 3494
professional employer organization a completed workers' 3495
compensation lease termination notice form provided by the 3496
administrator. The completed form shall include all client payroll 3497
and claim information listed in a format specified by the 3498
administrator and notice of all workers' compensation claims that 3499
have been reported to the professional employer organization in 3500
accordance with its internal reporting policies. 3501

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

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

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

(c) Any other information the administrator may require to 3515
develop a state fund experience modification factor for each 3516

client employer involved in the lease termination. 3517

(2) The administrator may require a professional employer 3518
organization to submit the information required under division 3519
(C)(1) of this section at additional times after the initial 3520
submission if the administrator determines that the information is 3521
necessary for the administrator to develop a state fund experience 3522
modification factor. 3523

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

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

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

(F) Prior to entering into a professional employer organization agreement with a client employer, a professional employer organization shall disclose in writing to the client employer the reporting requirements that apply to the professional employer organization under division (C) of this section and that the administrator must develop a state fund experience modification factor for each client employer involved in a lease termination with a professional employer organization that is a self-insuring employer.

Sec. 4167.01. As used in this chapter:

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

(1) The state and its instrumentalities;

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

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

(B) "Public employee" means any individual who engages to furnish services subject to the direction and control of a public employer, including those individuals working for a private employer who has contracted with a public employer and over whom the national labor relations board has declined jurisdiction. "Public employee" does not mean any of the following:

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

~~the Revised Code, or a firefighter, an emergency medical technician basic, an emergency medical technician intermediate, or a paramedic employed by a private employer that is organized as a nonprofit fire company or life squad that contracts with a public employer to provide fire protection or emergency medical services;~~ 3579
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~~(2) Any person employed as a correctional officer in a county or municipal corporation correctional institution, whether the county or municipal corporation solely or in conjunction with each other operates the institution;~~ 3584
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~~(3)~~ Any person who engages to furnish services subject to the direction and control of a public employer but does not receive compensation, either directly or indirectly, for those services; 3588
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~~(4)~~(3) Any forest-fire investigator, natural resources officer, wildlife officer, or preserve officer. 3591
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(C) "Public employee representative" means an employee organization certified by the state employment relations board under section 4117.05 of the Revised Code as the exclusive representative of the public employees in a bargaining unit. 3593
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(D) "Employment risk reduction standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment and places of employment. 3597
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(E) "Ohio employment risk reduction standard" means any risk reduction standard adopted or issued under this chapter. 3602
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(F) "Undue hardship" means any requirement imposed under this chapter or a rule or order issued thereunder that would require a public employer to take an action with significant difficulty or expense when considered in light of all of the following factors: 3604
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(1) The nature and cost of the action required under this 3608

chapter;	3609
(2) The overall financial resources of the public employer involved in the action;	3610 3611
(3) The number of persons employed by the public employer at the particular location where the action may be required;	3612 3613
(4) The effect on expenses and resources or the impact otherwise of the action required upon the operations of the public employer at the location where the action may be required;	3614 3615 3616
(5) The overall size of the public employer with respect to the number of its public employees;	3617 3618
(6) The number, type, and location of the public employer's operations, including the composition, structure, and functions of the workforce of the public entity;	3619 3620 3621
(7) The geographic separateness, administrative, or fiscal relationship of the public employer's operations to the whole public employer.	3622 3623 3624
Sec. 4167.02. (A) The administrator of worker's <u>workers'</u> compensation shall operate and enforce the public employment risk reduction program created by this chapter.	3625 3626 3627
(B) The administrator shall do all of the following:	3628
(1) Adopt rules, with the advice and consent of the bureau of workers' compensation board of directors and in accordance with Chapter 119. of the Revised Code, for the administration and enforcement of this chapter, including rules covering standards. <u>The administrator shall include both of the following in the rules:</u>	3629 3630 3631 3632 3633 3634
(a) <u>Standards</u> the administrator shall follow in issuing an emergency temporary Ohio employment risk reduction standard under section 4167.08 of the Revised Code and <u>in issuing</u> a temporary	3635 3636 3637

variance and a variance from an Ohio employment risk reduction 3638
standard or part thereof under section 4167.09 of the Revised 3639
Code; 3640

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

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

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

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

records relevant to the inspection and investigation, the issuance 3669
of subpoenas, and the conducting of tests and other studies 3670
reasonably calculated to serve the purposes of implementing and 3671
enforcing this chapter. Except as provided in this section, the 3672
administrator or the administrator's designee shall conduct 3673
scheduled inspections and investigations only pursuant to rules 3674
adopted under section 4167.02 of the Revised Code, a request to do 3675
so by a public employee or public employee representative, or the 3676
notification the administrator receives pursuant to division (B) 3677
of section 4167.06 of the Revised Code and only if the 3678
administrator or the administrator's designee complies with this 3679
section. The administrator or the administrator's designee shall 3680
conduct all requested or required inspections within a reasonable 3681
amount of time following receipt of the request or notification. 3682

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

(2) If, upon receipt of a notification pursuant to division 3695
(B)(1) of this section, the administrator determines that there 3696
are no reasonable grounds to believe that a violation or danger 3697
exists, the administrator shall inform the public employee or 3698
public employee representative in writing of the determination. 3699
If, upon receipt of a notification, the administrator determines 3700

that there are reasonable grounds to believe that a violation or 3701
danger exists, the administrator shall, within one week, excluding 3702
Saturdays, Sundays, and any legal holiday as defined in section 3703
1.14 of the Revised Code, after receipt of the notification, 3704
notify the public employer, by certified mail, return receipt 3705
requested, of the alleged violation or danger. The notice provided 3706
to the public employer or the public employer's agent shall 3707
~~contain a copy of the notice provided to the administrator by the~~ 3708
~~public employee or the public employee representative under~~ 3709
~~division (B)(1) of this section and shall~~ inform the public 3710
employer of the alleged violation or danger and that the 3711
administrator or the administrator's designee will investigate and 3712
inspect the public employer's workplace as provided in this 3713
section. The public employer must respond to the administrator, in 3714
a method determined by the administrator, concerning the alleged 3715
violation or danger, within thirty days after receipt of the 3716
notice. If the public employer does not correct the violation or 3717
danger within the thirty-day period or if the public employer 3718
fails to respond within that time period, the administrator or the 3719
administrator's designee shall investigate and inspect the public 3720
employer's workplace as provided in this section. The 3721
administrator or the administrator's designee shall not conduct 3722
any inspection prior to the end of the thirty-day period unless 3723
requested or permitted by the public employer. The administrator 3724
may, at any time upon the request of the public employer, inspect 3725
and investigate any violation or danger alleged to exist at the 3726
public employer's place of employment. 3727

(3) The authority of the administrator or the administrator's 3728
designee to investigate and inspect a premises pursuant to a 3729
public employee or public employee representative notification is 3730
not limited to the alleged violation or danger contained in the 3731
notification. The administrator or the administrator's designee 3732
may investigate and inspect any other area of the premises where 3733

there is reason to believe that a violation or danger exists. In 3734
addition, if the administrator or the administrator's designee 3735
detects any obvious or apparent violation at any temporary place 3736
of employment while en route to the premises to be inspected or 3737
investigated, and that violation presents a substantial 3738
probability that the condition or practice could result in death 3739
or serious physical harm, the administrator or the administrator's 3740
designee may use any of the enforcement mechanisms provided in 3741
this section to correct or remove the condition or practice. 3742

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

(C) In making any inspections or investigations under this 3758
chapter, the administrator or the administrator's designee may 3759
administer oaths and require, by subpoena, the attendance and 3760
testimony of witnesses and the production of evidence under oath. 3761
Witnesses shall receive the fees and mileage provided for under 3762
section 119.094 of the Revised Code. In the case of contumacy, 3763
failure, or refusal of any person to comply with an order or any 3764
subpoena lawfully issued, or upon the refusal of any witness to 3765

testify to any matter regarding which the witness may lawfully be 3766
interrogated, a judge of the court of common pleas of any county 3767
in this state, on the application of the administrator or the 3768
administrator's designee, shall issue an order requiring the 3769
person to appear and to produce evidence if, as, and when so 3770
ordered, and to give testimony relating to the matter under 3771
investigation or in question. The court may punish any failure to 3772
obey the order of the court as a contempt thereof. 3773

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

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

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

(G) If the administrator issues a citation pursuant to this 3797

section, the administrator shall mail the citation to the public 3798
employer by certified mail, return receipt requested. The public 3799
employer has fourteen days after receipt of the citation within 3800
which to notify the administrator that the employer wishes to 3801
contest the citation. If the employer notifies the administrator 3802
within the fourteen days that the employer wishes to contest the 3803
citation, or if within fourteen days after the issuance of a 3804
citation a public employee or public employee representative files 3805
notice that the time period fixed in the citation for the 3806
abatement of the violation is unreasonable, the administrator 3807
shall hold an adjudication hearing in accordance with Chapter 119. 3808
of the Revised Code. 3809

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

(I) Any public employer may request the administrator to 3824
conduct an employment risk reduction inspection of the public 3825
employer's place of employment. The administrator or the 3826
administrator's designee shall conduct the inspection within a 3827
reasonable amount of time following the request. Neither the 3828
administrator nor any other person may use any information 3829

obtained from the inspection for a period not to exceed three 3830
years in any proceeding for a violation of this chapter or any 3831
rule or order issued thereunder nor in any other action in any 3832
court in this state. 3833

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

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

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

BWC BUREAU OF WORKERS' COMPENSATION 3846

Dedicated Purpose Fund Group 3847

7023 855407 Claims, Risk and \$ 115,598,050 \$ 118,300,550 3848
Medical Management

7023 855408 Fraud Prevention \$ 12,791,260 \$ 12,791,260 3849

7023 855409 Administrative \$ 109,472,100 \$ 109,472,100 3850
Services

7023 855410 Attorney General \$ 4,621,850 \$ 4,621,850 3851
Payments

8220 855606 Coal Workers' Fund \$ 154,000 \$ 154,000 3852

8230 855608 Marine Industry \$ 57,000 \$ 57,000 3853

8250 855605 Disabled Workers \$ 173,000 \$ 173,000 3854
Relief Fund

8260 855609 Safety and Hygiene \$ 22,000,000 \$ 22,000,000 3855

		Operating				
8260	855610	Safety Grants	\$	15,000,000	\$	15,000,000 3856
TOTAL DPF Dedicated Purpose Fund			\$	279,867,260	\$	282,569,760 3857
Group						
Federal Fund Group						3858
3490	855601	OSHA Enforcement	\$	1,653,900	\$	1,653,900 3859
3FW0	855614	BLS SOII Grant	\$	195,104	\$	195,104 3860
3FW0	855615	NIOSH Grant	\$	200,000	\$	200,000 3861
TOTAL FED Federal Fund Group			\$	2,049,004	\$	2,049,004 3862
TOTAL ALL BUDGET FUND GROUPS			\$	281,916,264	\$	284,618,764 3863
WORKERS' COMPENSATION FRAUD UNIT						3864
Of the foregoing appropriation item 855410, Attorney General						3865
Payments, \$828,200 in each fiscal year shall be used to fund the						3866
expenses of the Workers' Compensation Fraud Unit within the						3867
Attorney General's Office. These payments shall be processed at						3868
the beginning of each quarter of each fiscal year and deposited						3869
into the Workers' Compensation Section Fund (Fund 1950) used by						3870
the Attorney General.						3871
SAFETY AND HYGIENE						3872
Notwithstanding section 4121.37 of the Revised Code, the						3873
Treasurer of State shall remit \$22,000,000 cash in fiscal year						3874
2018 and \$22,000,000 cash in fiscal year 2019 from the State						3875
Insurance Fund to the state treasury to the credit of the Safety						3876
and Hygiene Fund (Fund 8260).						3877
OSHA ON-SITE CONSULTATION PROGRAM						3878
A portion of the foregoing appropriation item 855609, Safety						3879
and Hygiene Operating, may be used to provide the state match for						3880
federal funding of the Occupational Safety and Health						3881
Administration's On-site Consultation Program operated by the						3882
Division of Safety and Hygiene.						3883
VOCATIONAL REHABILITATION						3884

The Bureau of Workers' Compensation and the Opportunities for
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.

Section 201.20. DEPUTY INSPECTOR GENERAL FOR BWC AND OIC
FUNDING

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).

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).

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.

Section 707.10. 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 3915
that is filed on or after the effective date of this section. 3916

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

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

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

Section 741.40. Sections 2743.02, 2744.02, 4123.01, and 3945
4123.511 of the Revised Code, as amended by this act, and sections 3946
2307.82 and 4123.513 of the Revised Code, as enacted by this act, 3947
apply to claims arising on or after the effective date of this 3948
section. 3949

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

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

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

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

Section 812.20. The amendment, enactment, or repeal by this 3971
act of the divisions and sections of law listed below are subject 3972

to the referendum under Ohio Constitution, Article II, Section 1c 3973
and therefore take effect on the ninety-first day after this act 3974
is filed with the Secretary of State: 3975

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

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

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