

**As Reported by the Senate Insurance and Financial Institutions
Committee**

**132nd General Assembly
Regular Session
2017-2018**

Sub. H. B. No. 27

Representative Brinkman

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

A B I L L

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

With the exception of persons who may make application for 203

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

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

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

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

(C) As used in this section: 224

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

all of the following information in the report:	358
(1) A summary of the statutory changes being evaluated;	359
(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;	360 361
(3) A description of the participant group or groups included in the report;	362 363
(4) A statement of the financial impact of the legislation, including the resulting increase, if any, in employer premiums, <u>and in actuarial accrued current estimates of unpaid liabilities,</u> and, if an increase in actuarial accrued liabilities is predicted, the per cent of premium increase that would be required to amortize the increase in those liabilities as a level per cent of employer premiums over a period not to exceed thirty years.	364 365 366 367 368 369 370
(5) A statement of whether the employer premiums paid to the bureau of workers' compensation after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.	371 372 373 374
(H) The board may, at any time, request an actuary to make any studies or <u>perform</u> actuarial valuations <u>analyses</u> to determine the adequacy of the premium rates established by the administrator in accordance with sections 4123.29 and 4123.34 of the Revised Code, and may adjust those rates as recommended by the actuary.	375 376 377 378 379
(I) The board shall have an independent auditor, at least once every ten years, conduct a fiduciary performance audit of the investment program of the bureau of workers' compensation. That audit shall include an audit of the investment policies approved by the board and investment procedures of the bureau. The board shall submit a copy of that audit to the auditor of state.	380 381 382 383 384 385
(J) The administrator, with the advice and consent of the board, shall employ an internal auditor who shall report findings	386 387

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

measures the outcomes and the savings. 479

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Epilepsy; 819

(2) Diabetes; 820

(3) Cardiac disease; 821

(4) Arthritis; 822

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

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

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

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

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

handicap of such employee. 882

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

five thousand dollars. 1041

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Purposely self-inflicted; 1219

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

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

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

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

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

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

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

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

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

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

(v) For phencyclidine, twenty five nanograms per milliliter of urine.	1261 1262
(c) The employee, through a qualifying chemical test administered within thirty two hours of an injury, is determined to have one of the following controlled substances not prescribed by the employee's physician or marijuana in the employee's system that tests above the following levels by a gas chromatography mass spectrometry test:	1263 1264 1265 1266 1267 1268
(i) For amphetamines, five hundred nanograms per milliliter of urine;	1269 1270
(ii) For cannabinoids, fifteen nanograms per milliliter of urine;	1271 1272
(iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine;	1273 1274
(iv) For opiates, two thousand nanograms per milliliter of urine;	1275 1276
(v) For phencyclidine, twenty five nanograms per milliliter of urine.	1277 1278
(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>	1279 1280 1281 1282
(c) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have barbiturates, benzodiazepines, <u>or</u> methadone, or propoxyphene in the employee's system that tests above levels established by laboratories certified by the United States department of health and human services.	1283 1284 1285 1286 1287 1288
(2) When the employee refuses to submit to a requested chemical test, on the condition that that employee is or was given	1289 1290

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

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

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

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

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

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

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

or dynamic mood swings; 1322

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

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

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

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

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

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

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

certificate of self-insurance. 1353

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

injury, occupational disease, or death. 1514

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

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

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

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

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

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

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

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

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

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

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

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

for such an examination. 1610

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

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

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

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

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

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

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

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

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

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

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

If the amount of compensation an employee receives under this 1704

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The loss of the third, or distal, phalange of any finger is considered equal to the loss of one-third of the finger.	1863 1864
The loss of the middle, or second, phalange of any finger is considered equal to the loss of two-thirds of the finger.	1865 1866
The loss of more than the middle and distal phalanges of any finger is considered equal to the loss of the whole finger. In no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.	1867 1868 1869 1870
For the loss of the metacarpal bone (bones of the palm) for the corresponding thumb, or fingers, add ten weeks to the number of weeks under this division.	1871 1872 1873
For ankylosis (total stiffness of) or contractures (due to scars or injuries) which makes any of the fingers, thumbs, or parts of either useless, the same number of weeks apply to the members or parts thereof as given for the loss thereof.	1874 1875 1876 1877
If the claimant has suffered the loss of two or more fingers by amputation or ankylosis and the nature of the claimant's employment in the course of which the claimant was working at the time of the injury or occupational disease is such that the handicap or disability resulting from the loss of fingers, or loss of use of fingers, exceeds the normal handicap or disability resulting from the loss of fingers, or loss of use of fingers, the administrator may take that fact into consideration and increase the award of compensation accordingly, but the award made shall not exceed the amount of compensation for loss of a hand.	1878 1879 1880 1881 1882 1883 1884 1885 1886 1887
For the loss of a hand, one hundred seventy-five weeks.	1888
For the loss of an arm, two hundred twenty-five weeks.	1889
For the loss of a great toe, thirty weeks.	1890
For the loss of one of the toes other than the great toe, ten weeks.	1891 1892

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

an amount equal to fifty per cent of the statewide average weekly 2020
wage per week for a period of thirty weeks, commencing as of the 2021
date of the discontinuance or change, and for a period of 2022
seventy-five weeks immediately following the expiration of the 2023
period of thirty weeks the administrator shall allow the 2024
firefighter or police officer sixty-six and two-thirds per cent of 2025
the loss of wages resulting directly and solely from the change of 2026
occupation but not to exceed a maximum of an amount equal to fifty 2027
per cent of the statewide average weekly wage per week. No such 2028
firefighter or police officer is entitled to receive more than one 2029
allowance on account of discontinuance of employment or change of 2030
occupation and benefits shall cease for any period during which 2031
the firefighter or police officer is employed in an occupation in 2032
which the exposure to smoke, toxic gases, chemical fumes, and 2033
other toxic vapors is not substantially less than the exposure in 2034
the occupation in which the firefighter or police officer was 2035
formerly employed or for any period during which the firefighter 2036
or police officer may be entitled to receive compensation or 2037
benefits under section 4123.68 of the Revised Code on account of 2038
disability from a cardiovascular and pulmonary disease. The 2039
administrator may accord to the firefighter or police officer 2040
medical and other benefits in accordance with section 4123.66 of 2041
the Revised Code. 2042

(F) An order issued under this section is appealable pursuant 2043
to section 4123.511 of the Revised Code but is not appealable to 2044
court under section 4123.512 of the Revised Code. 2045

Sec. 4123.66. (A) In addition to the compensation provided 2046
for in this chapter, the administrator of workers' compensation 2047
shall disburse and pay from the state insurance fund the amounts 2048
for medical, nurse, and hospital services and medicine as the 2049
administrator deems proper and, in case death ensues from the 2050
injury or occupational disease, the administrator shall disburse 2051

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

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

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

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

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

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

(b) The Ohio department of medicaid, or a medical assistance provider to whom the department has assigned a right of recovery for a claim for which the department has notified the provider that the department intends to recoup the department's prior payment for the claim, for reimbursement under sections 5160.35 to 5160.43 of the Revised Code for the cost of medical assistance paid on behalf of a medical assistance recipient. 2116
2117
2118
2119
2120
2121
2122

(2) The administrator may make a payment under division (D)(1) of this section if the administrator makes a reasonable determination that both of the following apply: 2123
2124
2125

(a) The payment is for reimbursement of benefits for an injury or occupational disease. 2126
2127

(b) The injury or occupational disease is compensable, or is likely to be compensable, under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code. 2128
2129
2130

(3) Any payment made pursuant to this division shall be charged to and paid from the surplus fund account created under section 4123.34 of the Revised Code. 2131
2132
2133

(4) Nothing in this division shall be construed as limiting the centers of medicare and medicaid services, the department, or any other entity with a lawful right to reimbursement from recovering sums greater than five hundred dollars. 2134
2135
2136
2137

(5) The administrator may adopt rules, with the advice and consent of the bureau of workers' compensation board of directors, to implement this division. 2138
2139
2140

Sec. 4123.68. Every employee who is disabled because of the contraction of an occupational disease or the dependent of an employee whose death is caused by an occupational disease, is entitled to the compensation provided by sections 4123.55 to 4123.59 and 4123.66 of the Revised Code subject to the 2141
2142
2143
2144
2145

modifications relating to occupational diseases contained in this 2146
chapter. An order of the administrator issued under this section 2147
is appealable pursuant to sections 4123.511 and 4123.512 of the 2148
Revised Code. 2149

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

SCHEDULE 2157

Description of disease or injury and description of process: 2158

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

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

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

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

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

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

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

(H) Poisoning by gasoline, benzine, naphtha, or other volatile petroleum products: Any industrial process involving the use of gasoline, benzine, naphtha, or other volatile petroleum products.	2176 2177 2178 2179
(I) Poisoning by carbon bisulphide: Any industrial process involving the use of carbon bisulphide or its preparations or compounds.	2180 2181 2182
(J) Poisoning by wood alcohol: Any industrial process involving the use of wood alcohol or its preparations.	2183 2184
(K) Infection or inflammation of the skin on contact surfaces due to oils, cutting compounds or lubricants, dust, liquids, fumes, gases, or vapors: Any industrial process involving the handling or use of oils, cutting compounds or lubricants, or involving contact with dust, liquids, fumes, gases, or vapors.	2185 2186 2187 2188 2189
(L) Epithelion cancer or ulceration of the skin or of the corneal surface of the eye due to carbon, pitch, tar, or tarry compounds: Handling or industrial use of carbon, pitch, or tarry compounds.	2190 2191 2192 2193
(M) Compressed air illness: Any industrial process carried on in compressed air.	2194 2195
(N) Carbon dioxide poisoning: Any process involving the evolution or resulting in the escape of carbon dioxide.	2196 2197
(O) Brass or zinc poisoning: Any process involving the manufacture, founding, or refining of brass or the melting or smelting of zinc.	2198 2199 2200
(P) Manganese dioxide poisoning: Any process involving the grinding or milling of manganese dioxide or the escape of manganese dioxide dust.	2201 2202 2203
(Q) Radium poisoning: Any industrial process involving the use of radium and other radioactive substances in luminous paint.	2204 2205

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Compensation for cancer contracted by a firefighter in the course of hazardous duty under division (X) of this section is payable only in the event of temporary total disability, working wage loss, permanent total disability, or death, in accordance with ~~sections~~ division (A) or (B)(1) of section 4123.56 ~~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. 2364

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

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

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

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

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

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

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

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

Claims for compensation and benefits due to radiation illness 2427

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

available to the public by electronic or other means. 2673

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

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

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

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

those payments when due. 2704

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 4167.01. As used in this chapter: 2834

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

(1) The state and its instrumentalities; 2836

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

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

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

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

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

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

(3) The number of persons employed by the public employer at the particular location where the action may be required;	2888 2889
(4) The effect on expenses and resources or the impact otherwise of the action required upon the operations of the public employer at the location where the action may be required;	2890 2891 2892
(5) The overall size of the public employer with respect to the number of its public employees;	2893 2894
(6) The number, type, and location of the public employer's operations, including the composition, structure, and functions of the workforce of the public entity;	2895 2896 2897
(7) The geographic separateness, administrative, or fiscal relationship of the public employer's operations to the whole public employer.	2898 2899 2900
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.	2901 2902 2903
(B) The administrator shall do all of the following:	2904
(1) Adopt rules, with the advice and consent of the bureau of workers' compensation board of directors and in accordance with Chapter 119. of the Revised Code, for the administration and enforcement of this chapter, including rules covering standards. <u>The administrator shall include both of the following in the rules:</u>	2905 2906 2907 2908 2909 2910
(a) <u>Standards</u> the administrator shall follow in issuing an emergency temporary Ohio employment risk reduction standard under section 4167.08 of the Revised Code and <u>in issuing</u> a temporary variance and a variance from an Ohio employment risk reduction standard or part thereof under section 4167.09 of the Revised Code;	2911 2912 2913 2914 2915 2916
(b) <u>Standards and procedures for an effective safety</u>	2917

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BWC BUREAU OF WORKERS' COMPENSATION 3122

Dedicated Purpose Fund Group 3123

7023	855407	Claims, Risk and Medical Management	\$	115,598,050	\$	118,300,550	3124
7023	855408	Fraud Prevention	\$	12,791,260	\$	12,791,260	3125
7023	855409	Administrative Services	\$	109,472,100	\$	109,472,100	3126
7023	855410	Attorney General Payments	\$	4,621,850	\$	4,621,850	3127
8220	855606	Coal Workers' Fund	\$	154,000	\$	154,000	3128
8230	855608	Marine Industry	\$	57,000	\$	57,000	3129
8250	855605	Disabled Workers Relief Fund	\$	173,000	\$	173,000	3130
8260	855609	Safety and Hygiene Operating	\$	22,000,000	\$	22,000,000	3131
8260	855610	Safety Grants	\$	15,000,000	\$	15,000,000	3132
8260	855611	Health and Safety Initiative	\$	6,000,000	\$	6,000,000	3133

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

WORKERS' COMPENSATION FRAUD UNIT 3142

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

SAFETY AND HYGIENE 3150

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

SAFETY GRANTS 3156

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

HEALTH AND SAFETY INITIATIVE 3162

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

SAFETY CAMPAIGN 3170

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

OSHA ON-SITE CONSULTATION PROGRAM 3178

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

VOCATIONAL REHABILITATION 3184

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

Section 201.20. DEPUTY INSPECTOR GENERAL FOR BWC AND OIC 3192

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

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

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

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

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

generally to the appropriations made in this act. 3252

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

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

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

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

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

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

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