

As Re-Referred by the House Rules and Reference Committee

135th General Assembly

Regular Session

2023-2024

Am. H. B. No. 31

Representative Edwards

A BILL

To amend sections 4121.021, 4123.30, 4123.34, 1
4123.341, 4123.342, and 4123.36 of the Revised 2
Code to make appropriations for the Bureau of 3
Workers' Compensation for the biennium beginning 4
July 1, 2023, and ending June 30, 2025, to 5
provide authorization and conditions for the 6
operation of the Department's programs, and to 7
make changes to the Workers' Compensation Law. 8

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

Section 101.01. That sections 4121.021, 4123.30, 4123.34, 9
4123.341, 4123.342, and 4123.36 of the Revised Code be amended 10
to read as follows: 11

Sec. 4121.021. The industrial commission operating fund is 12
hereby created in the state treasury. The fund shall consist of 13
all moneys transferred to the fund pursuant to division ~~(C)~~(B) 14
of section 4123.342 of the Revised Code. Revenues credited to 15
the fund shall be used for those costs solely attributable to 16
the activities of the commission. 17

Sec. 4123.30. Money contributed by public employers 18
constitutes the "public fund" and the money contributed by 19

private employers constitutes the "private fund." Each such fund 20
shall be collected, distributed, and its solvency maintained 21
without regard to or reliance upon the other. Whenever in this 22
chapter reference is made to the state insurance fund, the 23
reference is to such two separate funds but such two separate 24
funds and the net premiums contributed thereto by employers 25
after adjustments and dividends, except for the amount thereof 26
which is set aside for the investigation and prevention of 27
industrial accidents and diseases pursuant to Section 35 of 28
Article II, Ohio Constitution, any amounts set aside for 29
actuarial services authorized or required by sections 4123.44 30
and 4123.47 of the Revised Code, and any amounts set aside to 31
reinsure the liability of the respective insurance funds for the 32
following payments, constitute a trust fund for the benefit of 33
employers and employees mentioned in sections 4123.01, 4123.03, 34
and 4123.73 of the Revised Code for the payment of compensation, 35
medical services, examinations, recommendations and 36
determinations, nursing and hospital services, medicine, 37
rehabilitation, death benefits, funeral expenses, and like 38
benefits for loss sustained on account of injury, disease, or 39
death provided for by this chapter, the administrative costs of 40
the industrial commission, bureau of workers' compensation board 41
of directors, and bureau of workers' compensation to administer 42
Chapters 4121., 4123., 4125., 4127., 4133., and 4167. of the 43
Revised Code pursuant to section 4123.342 of the Revised Code, 44
and for no other purpose. This section does not prevent the 45
deposit or investment of all such moneys intermingled for such 46
purpose but such funds shall be separate and distinct for all 47
other purposes, and the rights and duties created in this 48
chapter shall be construed to have been made with respect to two 49
separate funds and so as to maintain and continue such funds 50
separately except for deposit or investment. Disbursements shall 51

not be made on account of injury, disease, or death of employees 52
of employers who contribute to one of such funds unless the 53
moneys to the credit of such fund are sufficient therefor and no 54
such disbursements shall be made for moneys or credits paid or 55
credited to the other fund. 56

Sec. 4123.34. It shall be the duty of the bureau of 57
workers' compensation board of directors and the administrator 58
of workers' compensation to safeguard and maintain the solvency 59
of the state insurance fund and all other funds specified in 60
this chapter and Chapters 4121., 4127., and 4131. of the Revised 61
Code. The administrator, in the exercise of the powers and 62
discretion conferred upon the administrator in section 4123.29 63
of the Revised Code, shall fix and maintain, with the advice and 64
consent of the board, for each class of occupation or industry, 65
the lowest possible rates of premium consistent with the 66
maintenance of a solvent state insurance fund and the creation 67
and maintenance of a reasonable surplus, after the payment of 68
legitimate claims for injury, occupational disease, and death 69
that the administrator authorizes to be paid from the state 70
insurance fund for the benefit of injured, diseased, and the 71
dependents of killed employees. In establishing rates, the 72
administrator shall take into account the ~~necessity of ensuring~~ 73
~~sufficient money is set aside in the premium payment security~~ 74
~~fund to cover any defaults in premium obligations~~administrative 75
costs of the industrial commission, board, and bureau of 76
workers' compensation to administer this chapter and Chapters 77
4121., 4125., 4127., 4133., and 4167. of the Revised Code. The 78
administrator shall observe all of the following requirements in 79
fixing the rates of premium for the risks of occupations or 80
industries: 81

(A) The administrator shall keep an accurate account of 82

the money paid in premiums by each of the several classes of 83
occupations or industries, and the losses on account of 84
injuries, occupational disease, and death of employees thereof, 85
and also keep an account of the money received from each 86
individual employer and the amount of losses incurred against 87
the state insurance fund on account of injuries, occupational 88
disease, and death of the employees of the employer. 89

(B) A portion of the money paid into the state insurance 90
fund shall be set aside for the creation of a surplus fund 91
account within the state insurance fund. Any references in this 92
chapter or in Chapter 4121., 4125., 4127., or 4131. of the 93
Revised Code to the surplus fund, the surplus created in this 94
division, the statutory surplus fund, or the statutory surplus 95
of the state insurance fund are hereby deemed to be references 96
to the surplus fund account. The administrator may transfer the 97
portion of the state insurance fund to the surplus fund account 98
as the administrator determines is necessary to satisfy the 99
needs of the surplus fund account and to guarantee the solvency 100
of the state insurance fund and the surplus fund account. In 101
addition to all statutory authority under this chapter and 102
Chapter 4121. of the Revised Code, the administrator has 103
discretionary and contingency authority to make charges to the 104
surplus fund account. The administrator shall account for all 105
charges, whether statutory, discretionary, or contingency, that 106
the administrator may make to the surplus fund account. A 107
revision of basic rates shall be made annually on the first day 108
of July. 109

For policy years commencing prior to July 1, 2016, 110
revisions of basic rates for private employers shall be in 111
accordance with the oldest four of the last five calendar years 112
of the combined accident and occupational disease experience of 113

the administrator in the administration of this chapter, as 114
shown by the accounts kept as provided in this section. For a 115
policy year commencing on or after July 1, 2016, revisions of 116
basic rates for private employers shall be in accordance with 117
the oldest four of the last five policy years combined accident 118
and occupational disease experience of the administrator in the 119
administration of this chapter, as shown by the accounts kept as 120
provided in this section. 121

Revisions of basic rates for public employers shall be in 122
accordance with the oldest four of the last five policy years of 123
the combined accident and occupational disease experience of the 124
administrator in the administration of this chapter, as shown by 125
the accounts kept as provided in this section. 126

In revising basic rates, the administrator shall exclude 127
the experience of employers that are no longer active if the 128
administrator determines that the inclusion of those employers 129
would have a significant negative impact on the remainder of the 130
employers in a particular manual classification. The 131
administrator shall adopt rules, with the advice and consent of 132
the board, governing rate revisions, the object of which shall 133
be to make an equitable distribution of losses among the several 134
classes of occupation or industry, which rules shall be general 135
in their application. 136

(C) The administrator may apply that form of rating system 137
that the administrator finds is best calculated to merit rate or 138
individually rate the risk more equitably, predicated upon the 139
basis of its individual industrial accident and occupational 140
disease experience, and may encourage and stimulate accident 141
prevention. The administrator shall develop fixed and equitable 142
rules controlling the rating system, which rules shall conserve 143

to each risk the basic principles of workers' compensation 144
insurance. 145

~~(D) The administrator, from the money paid into the state 146
insurance fund, shall set aside into an account of the state 147
insurance fund titled a premium payment security fund sufficient 148
money to pay for any premiums due from an employer and 149
uncollected. 150~~

~~The use of the moneys held by the premium payment security 151
fund account is restricted to reimbursement to the state 152
insurance fund of premiums due and uncollected. 153~~

~~(E) The administrator may grant discounts on premium rates 154
for employers who meet either of the following requirements: 155~~

(1) Have not incurred a compensable injury for one year or 156
more and who maintain an employee safety committee or similar 157
organization or make periodic safety inspections of the 158
workplace. 159

(2) Successfully complete a loss prevention program 160
prescribed by the superintendent of the division of safety and 161
hygiene and conducted by the division or by any other person 162
approved by the superintendent. 163

~~(F) (1) (E) (1)~~ In determining the premium rates for the 164
construction industry the administrator shall calculate the 165
employers' premiums based upon the actual remuneration 166
construction industry employees receive from construction 167
industry employers, provided that the amount of remuneration the 168
administrator uses in calculating the premiums shall not exceed 169
an average weekly wage equal to one hundred fifty per cent of 170
the statewide average weekly wage as defined in division (C) of 171
section 4123.62 of the Revised Code. 172

(2) Division ~~(F)(1)~~(E)(1) of this section shall not be 173
construed as affecting the manner in which benefits to a 174
claimant are awarded under this chapter. 175

(3) As used in division ~~(F)~~(E) of this section, 176
"construction industry" includes any activity performed in 177
connection with the erection, alteration, repair, replacement, 178
renovation, installation, or demolition of any building, 179
structure, highway, or bridge. 180

~~(G)~~(F) The administrator shall not place a limit on the 181
length of time that an employer may participate in the bureau of 182
workers' compensation drug free workplace and workplace safety 183
programs. 184

Sec. 4123.341. The administrative costs of the industrial 185
commission, the bureau of workers' compensation board of 186
directors, and the bureau of workers' compensation shall be 187
those costs and expenses that are incident to the discharge of 188
the duties and performance of the activities of the industrial 189
commission, the board, and the bureau under this chapter and 190
Chapters 4121., 4125., 4127., ~~4131.,~~4133., and 4167. of the 191
Revised Code, and all such costs shall be borne by the state and 192
by other employers amenable to this chapter as follows: 193

(A) In addition to the contribution required of the state 194
under sections 4123.39 and 4123.40 of the Revised Code, the 195
state shall contribute the sum determined to be necessary under 196
section 4123.342 of the Revised Code. 197

(B) The director of budget and management may allocate the 198
state's share of contributions in the manner the director finds 199
most equitably apportions the costs. 200

(C) The counties and taxing districts therein shall 201

contribute such sum as may be required under ~~section~~sections 202
4123.34, 4123.342, and 4123.41 of the Revised Code. 203

(D) The private employers shall contribute the sum 204
required under ~~section~~sections 4123.34 and 4123.342 of the 205
Revised Code. 206

Sec. 4123.342. (A) The administrator of workers' 207
compensation shall allocate among counties and taxing districts 208
therein as a class, the state and its instrumentalities as a 209
class, private employers who are insured under the private fund 210
as a class, and self-insuring employers as a class their fair 211
shares of the administrative costs which are to be borne by such 212
employers ~~under division (D) of section 4123.341 of the Revised~~ 213
~~Code,~~ separately allocating to each class those costs solely 214
attributable to the activities of the industrial commission and 215
those costs solely attributable to the activities of the bureau 216
of workers' compensation board of directors, and the bureau of 217
workers' compensation in respect of the class, allocating to any 218
combination of classes those costs attributable to the 219
activities of the industrial commission, board, or bureau in 220
respect of the classes, and allocating to all four classes those 221
costs attributable to the activities of the industrial 222
commission, board, and bureau in respect of all classes. ~~The~~ 223
~~administrator shall separately calculate each employer's~~ 224
~~assessment in the class, except self-insuring employers, on the~~ 225
~~basis of the following three factors: payroll, paid~~ 226
~~compensation, and paid medical costs of the employer for those~~ 227
~~costs solely attributable to the activities of the board and the~~ 228
~~bureau. The administrator shall separately calculate each~~ 229
~~employer's assessment in the class, except self-insuring~~ 230
~~employers, on the basis of the following three factors: payroll,~~ 231
~~paid compensation, and paid medical costs of the employer for~~ 232

~~those costs solely attributable to the activities of the~~ 233
~~industrial commission. The administrator shall separately~~ 234
~~calculate each self-insuring employer's assessment in accordance~~ 235
~~with section 4123.35 of the Revised Code for those costs solely~~ 236
~~attributable to the activities of the board and the bureau. The~~ 237
administrator shall separately calculate each self-insuring 238
employer's assessment administrative costs in accordance with 239
section 4123.35 of the Revised Code ~~for those costs solely~~ 240
~~attributable to the activities of the industrial commission.~~ 241
In a timely manner, the industrial commission shall provide to the 242
administrator, the information necessary for the administrator 243
to allocate and calculate, with the approval of the chairperson 244
of the industrial commission, for each class of employer as 245
described in this division, the costs solely attributable to the 246
activities of the industrial commission. 247

(B) ~~The administrator shall divide the administrative cost~~ 248
~~assessments collected by the administrator into two~~ 249
~~administrative assessment accounts within the state insurance~~ 250
~~fund. One of the administrative assessment accounts shall~~ 251
~~consist of the administrative cost assessment collected by the~~ 252
~~administrator for the industrial commission. One of the~~ 253
~~administrative assessment accounts shall consist of the~~ 254
~~administrative cost assessments collected by the administrator~~ 255
~~for the bureau and the board. The administrator may invest the~~ 256
~~administrative cost assessments in these accounts on behalf of~~ 257
~~the bureau and the industrial commission as authorized in~~ 258
~~section 4123.44 of the Revised Code. In a timely manner, the~~ 259
~~administrator shall provide to the industrial commission the~~ 260
~~information and reports the commission deems necessary for the~~ 261
~~commission to monitor the receipts and the disbursements from~~ 262
~~the administrative assessment account for the industrial~~ 263

~~commission.~~ 264

~~(C) The administrator or the administrator's designee 265
shall transfer moneys from the state insurance fund as necessary 266
~~from the for the administrative assessment account identified~~ 267
~~for costs of the bureau and the board to the workers'~~ 268
compensation fund for the use of the bureau and the board. As 269
necessary and upon the authorization of the industrial 270
commission, the administrator or the administrator's designee 271
shall transfer moneys from ~~the administrative assessment account~~ 272
~~identified for the industrial commission state insurance fund~~ 273
for the commission's administrative costs to the industrial 274
commission operating fund created under section 4121.021 of the 275
Revised Code. ~~To the extent that the moneys collected by the~~ 276
~~administrator in any fiscal biennium of the state equal the sum~~ 277
~~appropriated by the general assembly for administrative costs of~~ 278
~~the industrial commission, board, and bureau for the biennium,~~ 279
~~the moneys shall be paid into the workers' compensation fund and~~ 280
~~the industrial commission operating fund of the state, as~~ 281
~~appropriate, and any remainder shall be retained in those funds~~ 282
~~and applied to reduce the amount collected during the next~~ 283
~~biennium.~~ 284~~

(C) Sections 4123.41, 4123.35, and 4123.37 of the Revised 285
Code apply to the collection of assessments from public and 286
private employers respectively, except that for boards of county 287
hospital trustees that are self-insuring employers, only those 288
provisions applicable to the collection of assessments for 289
private employers apply. 290

Sec. 4123.36. Whenever an employer fails to pay a premium 291
due and the administrator of workers' compensation determines 292
the employer's account to be uncollectible, the administrator 293

shall cover the default ~~by transfer of money~~ from the ~~premium-~~ 294
~~payment security fund account to the~~ state insurance fund. 295
 Thereafter, the employer shall be considered a noncomplying 296
 employer under this chapter and shall not be entitled to the 297
 benefits and protection of this chapter. 298

Section 101.02. That existing sections 4121.021, 4123.30, 299
 4123.34, 4123.341, 4123.342, and 4123.36 of the Revised Code are 300
 hereby repealed. 301

Section 200.10. All items in this act are hereby 302
 appropriated out of any moneys in the state treasury to the 303
 credit of the designated fund. For all appropriations made in 304
 this act, those in the first column are for fiscal year 2024, 305
 and those in the second column are for fiscal year 2025. 306

307

	1	2	3	4	5
A			BWC BUREAU OF WORKERS' COMPENSATION		
B			Dedicated Purpose Fund Group		
C	7023	855407	Claims, Risk and Medical Management	\$126,096,491	\$127,366,065
D	7023	855408	Fraud Prevention	\$19,099,498	\$18,486,443
E	7023	855409	Administrative Services	\$137,585,121	\$142,777,652
F	7023	855410	Attorney General Payments	\$6,080,080	\$6,080,080
G	8220	855606	Coal Workers' Fund	\$195,832	\$195,832

H	8230	855608	Marine Industry	\$81,508	\$81,508
I	8250	855605	Disabled Workers Relief Fund	\$204,981	\$204,981
J	8260	855609	Safety and Hygiene Operating	\$23,613,361	\$24,486,602
K	8260	855610	Safety Grants	\$35,000,000	\$35,000,000
L	8260	855611	Health and Safety Initiative	\$3,000,000	\$3,000,000
M	8260	855612	Safety Campaign	\$1,500,000	\$1,500,000
N	8260	855613	Research Grants	\$1,000,000	\$1,000,000
O	8260	855618	Substance Use Recovery and Workplace Safety Program	\$4,000,000	\$4,000,000
P	8260	855619	Safety and Health Workforce Safety Innovation Center	\$15,000,000	\$15,000,000
Q	TOTAL DPF Dedicated Purpose Fund Group			\$372,456,872	\$379,179,163
R	Federal Fund Group				
S	3490	855601	OSHA Enforcement	\$1,876,339	\$1,876,338
T	3FW0	855614	BLS SOII Grant	\$195,104	\$195,104
U	TOTAL FED Federal Fund Group			\$2,071,443	\$2,071,442

V	TOTAL ALL BUDGET FUND GROUPS	\$374,528,315	\$381,250,605	
	WORKERS' COMPENSATION FRAUD UNIT			308
	Of the foregoing appropriation item 855410, Attorney			309
	General Payments, \$828,200 in each fiscal year shall be used to			310
	fund the expenses of the Workers' Compensation Fraud Unit within			311
	the Attorney General's Office. These payments shall be processed			312
	at the beginning of each quarter of each fiscal year and			313
	deposited into the Workers' Compensation Section Fund (Fund			314
	1950) used by the Attorney General.			315
	SAFETY AND HYGIENE			316
	Notwithstanding section 4121.37 of the Revised Code, the			317
	Treasurer of State shall remit \$23,613,361 cash in fiscal year			318
	2024 and \$24,486,602 cash in fiscal year 2025 from the State			319
	Insurance Fund to the state treasury to the credit of the Safety			320
	and Hygiene Fund (Fund 8260).			321
	SAFETY GRANTS			322
	Notwithstanding section 4121.37 of the Revised Code, the			323
	Treasurer of State shall remit \$35,000,000 cash in fiscal year			324
	2024 and \$35,000,000 cash in fiscal year 2025 from the State			325
	Insurance Fund to the state treasury to the credit of the Safety			326
	and Hygiene Fund (Fund 8260) to be used for Safety Grants.			327
	HEALTH AND SAFETY INITIATIVE			328
	Notwithstanding section 4121.37 of Revised Code, the			329
	Treasurer of State shall remit \$3,000,000 cash in fiscal year			330
	2024 and \$3,000,000 cash in fiscal year 2025 from the State			331
	Insurance Fund to the state treasury to the credit of the Safety			332
	and Hygiene Fund (Fund 8260). These amounts shall be used under			333

appropriation item 855611, Health and Safety Initiative, for the	334
purpose of operating a health and wellness program.	335
 SAFETY CAMPAIGN	 336
 Notwithstanding section 4121.37 of the Revised Code, the	 337
Treasurer of State shall remit \$1,500,000 cash in fiscal year	338
2024 and \$1,500,000 cash in fiscal year 2025 from the State	339
Insurance Fund to the state treasury to the credit of the Safety	340
and Hygiene Fund (Fund 8260). These amounts shall be used under	341
appropriation item 855612, Safety Campaign, for the purpose of	342
operating a statewide safety awareness and education campaign.	343
 FEDERAL GRANT PROGRAMS	 344
 The foregoing appropriation item 855609, Safety and	 345
Hygiene Operating, may be used to provide the state match for	346
federal grant funding received by the Division of Safety and	347
Hygiene.	348
 VOCATIONAL REHABILITATION	 349
 The Bureau of Workers' Compensation and the Opportunities	 350
for Ohioans with Disabilities Agency may enter into an	351
interagency agreement for the provision of vocational	352
rehabilitation services and staff to mutually eligible clients.	353
The Bureau may provide funds from the State Insurance Fund to	354
fund vocational rehabilitation services and staff in accordance	355
with the interagency agreement.	356
 RESEARCH GRANTS	 357
 Notwithstanding section 4121.37 of the Revised Code, the	 358
Treasurer of State shall remit \$1,000,000 cash in fiscal year	359
2024 and \$1,000,000 cash in fiscal year 2025 from the State	360
Insurance Fund to the state treasury to the credit of the Safety	361

and Hygiene Fund (Fund 8260). These amounts shall be used under 362
appropriation item 855613, Research Grants, for the purpose of 363
operating the occupational safety and health research program. 364

SUBSTANCE USE RECOVERY AND WORKPLACE SAFETY PROGRAM 365

Notwithstanding section 4121.37 of the Revised Code, the 366
Treasurer of State shall remit \$4,000,000 cash in fiscal year 367
2024 and \$4,000,000 cash in fiscal year 2025 from the State 368
Insurance Fund to the state treasury to the credit of the Safety 369
and Hygiene Fund (Fund 8260). These amounts shall be used under 370
appropriation item 855618, Substance Use Recovery and Workplace 371
Safety Program, for the purpose of operating a substance use 372
recovery and workplace safety program. 373

SAFETY AND HEALTH WORKFORCE SAFETY INNOVATION CENTER 374

Notwithstanding section 4121.37 of the Revised Code, the 375
Treasurer of State shall remit \$15,000,000 cash in fiscal year 376
2024 and \$15,000,000 cash in fiscal year 2025 from the State 377
Insurance Fund to the state treasury to the credit of the Safety 378
and Hygiene Fund (Fund 8260). These amounts shall be used under 379
appropriation item 855619, Safety and Health Workforce Safety 380
Innovation Center, for the purpose of funding a workforce safety 381
innovation center program. 382

ADMINISTRATIVE COST FUND 383

Notwithstanding section 4123.341 of the Revised Code, the 384
Treasurer of State shall remit up to \$25,000,000 cash in fiscal 385
year 2024 and \$25,000,000 cash in fiscal year 2025 from the 386
State Insurance Fund to the state treasury to the credit of the 387
Workers' Compensation Fund (Fund 7023). 388

Section 200.20. DEPUTY INSPECTOR GENERAL FOR BWC AND OIC 389
FUNDING 390

To pay for the FY 2024 costs related to the Deputy 391
Inspector General for the Bureau of Workers' Compensation and 392
Industrial Commission, on July 1, 2023, and January 1, 2024, or 393
as soon as possible thereafter, the Director of Budget and 394
Management shall transfer \$212,500 cash from the Workers' 395
Compensation Fund (Fund 7023) to the Deputy Inspector General 396
for the Bureau of Workers' Compensation and Industrial 397
Commission Fund (Fund 5FT0). 398

To pay for the FY 2025 costs related to the Deputy 399
Inspector General for the Bureau of Workers' Compensation and 400
Industrial Commission, on July 1, 2024, and January 1, 2025, or 401
as soon as possible thereafter, the Director of Budget and 402
Management shall transfer \$212,500 cash from the Workers' 403
Compensation Fund (Fund 7023) to the Deputy Inspector General 404
for the Bureau of Workers' Compensation and Industrial 405
Commission Fund (Fund 5FT0). 406

If additional amounts are needed, the Inspector General 407
may seek Controlling Board approval for additional transfers of 408
cash and to increase the amount appropriated in appropriation 409
item 965604, Deputy Inspector General for the Bureau of Workers' 410
Compensation and Industrial Commission. 411

Section 741.20. On the effective date of this section, the 412
premium payment security transfer fund account is abolished and 413
any balance in the account is transferred to the state insurance 414
fund. 415

Section 801.10. Law contained in the Main Operating 416
Appropriations Act of the 135th General Assembly that applies 417
generally to the appropriations made in that act also applies 418
generally to the appropriations made in this act. 419

Section 806.10. The provisions of law contained in this 420
act, and their applications, are severable. If any provision of 421
law contained in this act, or if any application of any 422
provision of law contained in this act, is held invalid, the 423
invalidity does not affect other provisions of law contained in 424
this act and their applications that can be given effect without 425
the invalid provision or application. 426

Section 812.20. This section and sections 200.10, 200.20, 427
801.10, and 806.10 of this act are exempt from the referendum 428
under Ohio Constitution, Article II, Section 1d and section 429
1.471 of the Revised Code and therefore take effect immediately 430
when this act becomes law. 431