

AN ACT

To amend sections 4121.01, 4121.02, 4121.03, 4121.09, 4121.10, 4121.34, 4121.35, and 4123.511, and to enact new section 3317.015, and to repeal section 3317.015 of the Revised Code to designate the Chairperson of the Industrial Commission as the Chief Executive Officer of the Commission; to change the title of the chief administrative officer of the Commission to executive director; to specify the authority of the Chairperson; to limit the authority of the members of the Commission to rulemaking, appeals, reconsiderations, and other adjudicatory powers; to remove the requirement that the Commission appoint district and staff hearing officers and to require the Chairperson to obtain the approval of at least one other Commission member prior to hiring district and staff hearing officers; to require the Governor to appoint the Chairperson; to provide exceptions to deadlines for filing appeals of claims with the Industrial Commission; and to make appropriations for the Industrial Commission for the biennium beginning July 1, 1997, and ending June 30, 1999.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 4121.01, 4121.02, 4121.03, 4121.09, 4121.10, 4121.34, 4121.35, and 4123.511 be amended and new section 3317.015 of the Revised Code be enacted to read as follows:

Sec. 3317.015. (A) In addition to the information certified to the department of education under division (A) of section 3317.021 Of the Revised Code, the tax commissioner shall, at the same time, certify the following information for each city, exempted village, and local school

district to be used for the same purposes as described under that division:

(1) The school district's carryover property, as defined in section 319.301 Of the Revised Code, for the preceding tax year;

(2) The school district's increase in carryover valuation, if any, between the second preceding tax year and the preceding tax year as used in calculating the percentage reduction under section 319.301 Of the Revised Code.

(B) In any fiscal year the department of education shall calculate each school district's recognized valuation in the following manner:

(1) For a school district located in a county in which a reappraisal or triennial update occurred in the preceding tax year, the recognized valuation equals the district's total taxable value for the preceding tax year minus two-thirds times the increase in the carryover value from the second preceding tax year to the preceding tax year.

(2) For a school district located in a county in which a reappraisal or triennial update occurred in the second preceding tax year, the recognized valuation equals the district's total taxable value for the preceding tax year minus one-third times the increase in the carryover value from the third preceding tax year to the second preceding tax year.

(3) For a school district located in a county in which a reappraisal or triennial update occurred in the third preceding tax year, the recognized valuation equals the district's total taxable value for the preceding tax year.

Sec. 4121.01. (A) As used in sections 4121.01 to 4121.29 of the Revised Code:

~~(A)~~(1) "Place of employment" means every place, whether indoors or out, or underground, and the premises appurtenant thereto, where either temporarily or permanently any industry, trade, or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade, or business, is carried on and where any person is directly or indirectly employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service or agricultural pursuits which do not involve the use of mechanical power.

~~(B)~~(2) "Employment" means any trade, occupation, or process of manufacture or any method of carrying on such trade, occupation, or process of manufacture in which any person may be engaged, except in such private domestic service or agricultural pursuits as do not involve the use of mechanical power.

~~(C)~~(3) "Employer" means every person, firm, corporation, agent, manager, representative, or other person having control or custody of any

employment, place of employment, or employee.

~~(D)~~(4) "Employee" means every person who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go, or work, or be at any time in any place of employment.

~~(E)~~(5) "Frequentener" means every person, other than an employee, who may go in or be in a place of employment under circumstances which render ~~him~~ the person other than a trespasser.

~~(F)~~(6) "Deputy" means any person employed by the industrial commission or the bureau of workers' compensation, designated as a deputy by the commission or the administrator of workers' compensation, who possesses special, technical, scientific, managerial, professional, or personal abilities or qualities in matters within the jurisdiction of the commission or the bureau, and who may be engaged in the performance of duties under the direction of the commission or the bureau calling for the exercise of such abilities or qualities.

~~(G)~~(7) "Order" means any decision, rule, regulation, direction, requirement, or standard, or any other determination or decision ~~which~~ that the bureau is empowered to and does make.

~~(H)~~(8) "General order" means an order ~~which~~ that applies generally throughout the state to all persons, employments, or places of employment, or all persons, employments, or places of employment of a class under the jurisdiction of the bureau. All other orders shall be considered special orders.

~~(I)~~(9) "Local order" means any ordinance, order, rule, or determination of the legislative authority of any municipal corporation, or any trustees, or board or officers of any municipal corporation upon any matter over which the bureau has jurisdiction.

~~(J)~~(10) "Welfare" means comfort, decency, and moral well-being.

~~(K)~~(11) "Safe" or "safety," as applied to any employment or a place of employment, means such freedom from danger to the life, health, safety, or welfare of employees or frequenteners as the nature of the employment will reasonably permit, including requirements as to the hours of labor with relation to the health and welfare of employees.

(B) As used in the Revised Code:

(1) "Industrial commission" means the chairperson of the three-member industrial commission created pursuant to section 4121.02 of the Revised Code when the context refers to the authority vested in the chairperson as the chief executive officer of the three-member industrial commission pursuant to divisions (A), (B), (C), and (D) of section 4121.03 of the

sed Code.

(2) "Industrial commission" means the three-member industrial commission created pursuant to section 4121.02 of the Revised Code when the context refers to the authority vested in the three-member industrial commission pursuant to division (E) of section 4121.03 of the Revised Code.

(3) "Industrial commission" means the industrial commission as a state agency when the context refers to the authority vested in the industrial commission as a state agency.

Sec. 4121.02. (A) There is hereby created the industrial commission. The commission shall consist of three members appointed by the governor, with the advice and consent of the senate. One member shall be an individual who, on account of the individual's previous vocation, employment, or affiliations, can be classed as a representative of employers; one shall be an individual who, on account of the individual's previous vocation, employment, or affiliations, can be classed as a representative of employees; and one shall be an individual who, on account of the individual's previous vocation, employment, or affiliations, can be classed as a representative of the public. Each member shall have ~~not less than~~ six or more years of recognized expertise in the field of workers' compensation, and at least one member shall be an attorney registered to practice law in this state. No more than two members of the industrial commission shall belong to or be affiliated with the same political party.

(B) Within thirty days after the industrial commission nominating council submits its list to the governor under division (D) of this section, the governor shall make initial appointments to the commission. Of the initial appointments, the member who is a representative of employees shall serve a term ending on June 30, 1995; the member who is a representative of employers shall serve a term ending on June 30, 1997; and the member who is a representative of the public shall serve a term ending on June 30, 1999. Thereafter, terms of office are for six years, beginning on the first day of July and ending on the thirtieth day of June.

(C) Each member shall hold office from the date of the member's confirmation by the senate, as provided in division (E) of this section, until the end of the term for which the member was appointed, except that if a member has not been appointed by the end of the term, the member shall remain in office until a the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. However, if a member is appointed to fill a full term subsequent to an initial appointment, the term of office is as provided in division (B) of this section. The governor shall not

appoint any person to more than two full six-year terms of office on the commission. This restriction does not prevent the governor from appointing a person to fill a vacancy caused by death, resignation, or removal of a commission member, or from appointing that person twice to full terms on the commission, or from appointing a person previously appointed to fill less than a full term twice to full terms on the commission. Except for the public member's tenure as chairperson of the self-insuring employer's evaluation board, a member of the commission shall hold no other public office or position of trust or profit, engage in any other occupation or business, or serve on any committee of any political party and shall devote full time to the member's duties as a member of the commission.

(D) In making appointments to the commission, the governor shall select the members from the list of the names submitted by the industrial commission nominating council pursuant to this division. Within thirty days after the effective date of this section, the nominating council shall submit to the governor for the initial appointments a list containing three separate names for the employer, employee, and public members to be filled. Within seven days of the submission of the initial list, the governor shall either appoint individuals from the list or request the nominating council to submit another list of three names for each member the governor has not appointed from the original list, which list the nominating council shall submit to the governor within seven days of the governor's request. The governor then shall appoint, within seven days of the submission of the second list, individuals from either list to fill each position for which the governor has not made an appointment from the original list. Thereafter, within sixty days of a vacancy occurring as a result of the expiration of a term and within thirty days after other vacancies occurring on the commission, the nominating council shall submit an initial list containing three names for each vacancy. Within seven days of the submission of the initial list, the governor shall either appoint individuals from the list or request the nominating council to submit another list of three names for each member the governor has not appointed from the original list, which list the nominating council shall submit to the governor within fourteen days of the governor's request. The governor then shall appoint, within seven days of the submission of the second list, one of the individuals from either list to fill the vacancy for which the governor has not made an appointment from the original list. In order for a name of an individual to be submitted to the governor under this division, the nominating council shall approve the individual by an affirmative vote of not less than two-thirds of its members.

(E) The governor shall notify the senate of the names of the individuals

for whom the governor is making the initial appointments to the commission within thirty days after the submission of the names to the governor by the industrial commission nominating council under division (D) of this section. For appointments subsequent to the initial appointments under this division, if the appointment is to fill a member's term which is to expire, the governor shall notify the senate of the name of the individual to be appointed to fill that position by no later than the first day of June of the year that the term is to expire. For subsequent appointments to fill a vacancy on the commission occurring as a result of the death, resignation, or removal of the commission member, the governor shall notify the senate of the name of the individual to be appointed to fill the remainder of that term within thirty days after the submission of the names to the governor by the nominating council under division (D) of this section. For all appointments, the senate shall refer the matter to an appropriate standing committee for consideration of the appointments, and the committee shall hold a public hearing to consider the appointments. After conclusion of the public hearing, the standing committee shall make its recommendations to the senate. The senate shall not confirm any appointee if the individual does not meet the qualifications of division (A) of this section or if the individual has not been approved by the industrial commission nominating council as provided in division (D) of this section. If the full senate fails to take a final vote on an appointment within thirty days after the governor submits the names to the senate under this division, the individual's appointment is deemed confirmed by the senate and the individual shall take the office of commission member subject to removal as provided in division (F) of this section.

(F) The governor may remove or suspend a member of the commission pursuant to section 3.04 of the Revised Code. The governor shall notify the senate of any decision to remove or suspend a commission member. The senate shall refer the matter to an appropriate standing committee for consideration and the committee shall hold a public hearing to consider the matter. At the hearing, the governor or the governor's authorized representative may present evidence and give testimony in support of the decision. The commission member or the member's authorized representatives may appear and present evidence and testimony. After conclusion of the public hearing, the committee shall make its recommendation to the senate.

Upon receipt of a recommendation from the standing committee, the senate shall vote on the issue of whether to advise and consent to the removal or suspension of the member. The senate shall vote on the matter within sixty legislative days from the date the governor communicates the

decision to remove or suspend the member.

(G) The governor shall determine the compensation of the members of the commission, based upon such facts as the governor considers appropriate, provided that the salary of each member shall be no less than seventy-five thousand dollars per year. In addition, each commission member shall receive an annual salary increase based upon the average salary increases of other state department directors for that year, not to exceed five per cent per year.

(H) Before entering upon the duties of office, each member shall take and subscribe to the constitutional oath of office and swear and affirm that the member holds no position under any committee of a political party, which oath or affirmation the member shall file in the office of the governor. Each member shall give a bond in the sum of fifty thousand dollars, which bond shall be approved by the governor and filed with the treasurer of state. All employees or deputies of the commission who receive or disburse state funds shall give a bond to the state in the amounts and surety approved by the industrial commission.

Sec. 4121.03. (A) The governor shall appoint from among the members of the industrial commission the initial chairperson of the industrial commission at the time of making initial appointments to the commission under section 4121.02 of the Revised Code, who. The chairperson shall serve as chairperson for a term of one year. Thereafter, the commission annually shall elect one of its members as chairperson. No member shall be appointed or elected as chairperson for more than three consecutive one-year terms. A majority of the commission constitutes a quorum to transact business. No vacancy impairs the rights of the remaining members to exercise all of the powers of the commission, so long as a majority remains. Any investigation, inquiry, or hearing that the commission may hold or undertake may be held or undertaken by or before any one member of the commission, or by or before one of the deputies of the commission, except as otherwise provided in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code, and every order made by a member, or by a deputy, when approved and confirmed by a majority of the members, and so shown on its record of proceedings, is the order of the commission at the pleasure of the governor. The chairperson is the head of the commission and its chief executive officer.

(B) The commission chairperson shall appoint a secretary, after consultation with other commission members and obtaining the approval of at least one other commission member, an executive director of the commission. The executive director shall serve at the pleasure of the

chairperson. The ~~secretary~~ executive director, under the ~~overall policy~~ direction of the ~~commission~~ chairperson, shall perform all of the following duties:

- (1) Act as chief administrative officer for the commission;
- (2) Ensure that all commission personnel follow the rules of the commission;
- (3) Ensure that all orders, awards, and determinations are properly heard and signed, prior to attesting to the documents;
- (4) Coordinate, to the fullest extent possible, commission activities with the bureau of workers' compensation activities;
- (5) Do all things necessary for the efficient and effective implementation of the duties of the commission.

The responsibilities assigned to the ~~secretary~~ executive director of the commission do not relieve the ~~members of the commission~~ chairperson from final responsibility for the proper performance of the acts specified in this division.

(C) The ~~commission~~ chairperson shall do all of the following:

(1) ~~Employ~~ Except as otherwise provided in this division, employ, promote, supervise, and remove, and establish the compensation of all employees as needed in connection with the performance of ~~its~~ the commission's duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code and may assign to them their duties to the extent necessary to achieve the most efficient performance of its functions, and to that end may establish, change, or abolish positions, and assign and reassign duties and responsibilities of every employee of the commission. The civil service status of any person employed by the commission prior to November 3, 1989, is not affected by this section. Personnel employed by the bureau or the commission who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that chapter as it presently exists or is hereafter amended and nothing in this chapter or Chapter 4123. of the Revised Code shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code or the rights and benefits conferred under that chapter to public employees or to any bargaining unit.

(2) ~~Establish the compensation of hire district and staff hearing officers and their immediate supervisors and take whatever steps are necessary to achieve adequate compensation for other hearing officers after consultation with other commission members and obtaining the approval of at least one other commission member;~~

(3) Fire staff and district hearing officers when the chairperson finds appropriate after obtaining the approval of at least one other commission

member:

~~(4) Maintain its~~ the office for the commission in Columbus ~~and may hold sessions at any place within the state;~~

~~(4) Hear appeals and reconsiderations as provided in section 4123.511 of the Revised Code;~~

(5) To the maximum extent possible, use electronic data processing equipment for the issuance of orders immediately following a hearing, scheduling of hearings and medical examinations, tracking of claims, retrieval of information, and any other matter within the commission's jurisdiction, and shall provide and input information into the electronic data processing equipment as necessary to effect the success of the claims tracking system established pursuant to division (B)(15) of section 4121.121 of the Revised Code;

(6) Exercise all administrative and nonadjudicatory powers and duties conferred upon the commission by Chapters 4121., 4123., 4127., and 4131. of the Revised Code;

(7) Approve all contracts for special services.

(D) ~~The commission~~ chairperson is responsible for all administrative matters and may secure for ~~itself~~ the commission facilities, equipment, and supplies necessary to house ~~itself~~ the commission, any employees, and files and records under ~~its~~ the commission's control and to discharge any duty imposed upon ~~it~~ the commission by law, the expense thereof to be audited and paid in the same manner as other state expenses. For that purpose, the ~~commission~~ chairperson, separately from the budget prepared by the administrator of workers' compensation, shall prepare and submit to the office of budget and management a budget for each biennium according to sections 101.55 and 107.03 of the Revised Code. The budget submitted shall cover the costs of the commission and staff and district hearing officers in the discharge of any duty imposed upon the chairperson, the commission, and hearing officers by law.

~~(E) The commission is responsible for the establishment of~~ A majority of the commission constitutes a quorum to transact business. No vacancy impairs the rights of the remaining members to exercise all of the powers of the commission, so long as a majority remains. Any investigation, inquiry, or hearing that the commission may hold or undertake may be held or undertaken by or before any one member of the commission, or before one of the deputies of the commission, except as otherwise provided in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code. Every order made by a member, or by a deputy, when approved and confirmed by a majority of the members, and so shown on its record of proceedings, is the

order of the commission. The commission may hold sessions at any place within the state. The commission is responsible for all of the following:

(1) Establishing the overall adjudicatory policy and management of the commission under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code, except for those administrative matters within the jurisdiction of the chairperson, bureau of workers' compensation, and the administrator of workers' compensation under those chapters;

(2) Hearing appeals and reconsiderations under this chapter and chapters 4123., 4127., and 4131. of the Revised Code;

(3) Engaging in rulemaking where required by this chapter or Chapter 4123., 4127., or 4131. of the Revised Code.

Sec. 4121.09. The industrial commission shall have an official seal for the authentication of its orders and proceedings, upon which seal shall be engraved "The Industrial Commission of Ohio," and such other design as the commission prescribes. The courts in this state shall take judicial notice of such seal, and in all cases copies of orders, proceedings, or records in the office of the commission, certified by the ~~secretary~~ executive director of the commission under its seal, shall be equal to the original as evidence.

Sec. 4121.10. The industrial commission shall be in continuous session and open for the transaction of business during all business hours of every day excepting Sundays and legal holidays. The sessions of the commission shall be open to the public and shall stand and be adjourned without further notice thereof on its record. All of the proceedings of the commission shall be shown on its record, which shall be a public record, and all voting shall be had by calling the name of each member of the industrial commission by the ~~secretary~~ executive director, and each member's vote shall be recorded on the record of proceedings as cast. The commission shall keep a separate record of its proceedings relative to claims coming before it for compensation for injured and the dependents of killed employees, which record shall contain its findings and the award in each such claim for compensation considered by it, and in all such claims the reasons for the allowance or rejection thereof shall be stated in said record.

Sec. 4121.34. (A) ~~The industrial commission shall appoint a sufficient number of district~~ District hearing officers for the purpose of hearing ~~shall~~ hear the matters listed in division (B) of this section. District hearing officers are in the classified civil service of the state, are full-time employees of the industrial commission, and shall be persons admitted to the practice of law in this state. District hearing officers shall not engage in any other activity that interferes with their full-time employment by the commission during normal working hours.

(B) District hearing officers shall have original jurisdiction on all of the following matters:

- (1) Determinations under section 4123.57 of the Revised Code;
- (2) All appeals from a decision of the administrator of workers' compensation under division (B) of section 4123.511 of the Revised Code;
- (3) All other contested claims matters under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code, except those matters over which staff hearing officers have original jurisdiction.

(C) The administrator of workers' compensation shall make available to each district hearing officer the facilities and assistance of bureau employees and furnish all information necessary to the performance of the district hearing officer's duties.

(D) A district hearing officer shall report to the inspection division of the bureau of workers' compensation suspected fraudulent activity pertaining to the operation of the workers' compensation system and its several insurance funds as evidenced during any hearing in which the hearing officer is present or as evidenced by any material submitted for use in a hearing. A district hearing officer shall be held harmless for submitting a report under this division. The inspection division shall maintain in confidence the identity of any hearing officer who submits a report under this division.

Sec. 4121.35. (A) ~~The industrial commission shall appoint staff~~ Staff hearing officers ~~to~~ shall consider and decide all matters specified in division (B) of this section. All staff hearing officers are full-time employees of the industrial commission and shall be admitted to the practice of law in this state. Staff hearing officers shall not engage in any other activity that interferes with their full-time employment by the commission during normal working hours.

(B) Except as provided in division (D) of this section, staff hearing officers have original jurisdiction to hear and decide the following matters:

- (1) Applications for permanent total impairment awards pursuant to section 4123.58 of the Revised Code;
- (2) Appeals from an order of a district hearing officer issued under division (C) of section 4123.511 of the Revised Code;
- (3) Applications for additional awards for violation of a specific safety rule of the administrator of workers' compensation pursuant to Section 35 of Article II of the Ohio Constitution;
- (4) Reviews of settlement agreements pursuant to section 4123.65 of the Revised Code. Decisions of the staff hearing officer under that section are final and not appealable to the commission or to court under section

4123.511 or 4123.512 of the Revised Code.

(C) The decision of a staff hearing officer under division (D) of section 4123.511 of the Revised Code is the decision of the commission for the purposes of section 4123.512 of the Revised Code unless the commission hears an appeal under division (E) of section 4123.511 of the Revised Code.

(D) Staff hearing officers shall hold hearings on all matters referred to them for hearing. Hearing procedures shall conform to the rules the commission adopts pursuant to section 4121.36 of the Revised Code.

(E) A staff hearing officer shall report to the inspection division of the bureau of workers' compensation suspected fraudulent activity pertaining to the operation of the workers' compensation system and its several insurance funds as evidenced during any hearing which the the hearing officer is present or as evidenced by any material submitted for use in a hearing. A staff hearing officer shall be held harmless for submitting a report under this division. The inspection division shall maintain in confidence the identity of any hearing officer who submits a report under this division.

Sec. 4123.511. (A) Within seven days after receipt of any claim under this chapter, the bureau of workers' compensation shall notify the claimant and the employer of the claimant of the receipt of the claim and of the facts alleged therein. If the bureau receives from a person other than the claimant written or telecommunicated information indicating that an injury has occurred or an occupational disease that may be compensable under this chapter has been diagnosed by a licensed physician, the bureau shall notify the employee and the employer of the information. If the information is provided by any method of telecommunication, the person providing the information shall provide written verification of the information to the bureau according to division (E) of section 4123.84 of the Revised Code. The receipt of the information in writing, or if by a method of telecommunications, the written verification, and the notice by the bureau shall be considered an application for compensation under section 4123.84 or 4123.85 of the Revised Code provided that the conditions of division (E) of section 4123.84 of the Revised Code apply to information provided by a method of telecommunication. Upon receipt of a claim, the bureau shall advise the claimant of the claim number assigned and the claimant's right to representation in the processing of a claim or to elect no representation. If the bureau determines that a claim is determined to be a compensable lost time claim, the bureau shall notify the claimant and the employer of the availability of rehabilitation services. No bureau or industrial commission employee shall directly or indirectly convey any information in derogation of this right. This section shall in no way abrogate the bureau's

responsibility to aid and assist a claimant in the filing of a claim and to advise the claimant of the claimant's rights under the law.

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

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

(B)(1) Except as provided in division (B)(2) of this section, in claims other than those in which the employer is a self-insuring employer, if the administrator determines under division (A) of this section that a claimant is or is not entitled to an award of compensation or benefits, the administrator shall issue an order, no later than twenty-eight days after the sending of the notice under division (A) of this section, granting or denying the payment of the compensation or benefits, or both as is appropriate to the claimant. Notwithstanding the time limitation specified in this division for the issuance of an order, if a medical examination of the claimant is required by statute, the administrator promptly shall schedule the claimant for that examination and shall issue an order no later than twenty-eight days after receipt of the report of the examination. The administrator shall notify the claimant and the employer of the claimant and their respective representatives in writing of the nature of the order and the amounts of compensation and benefit payments involved. The employer or claimant may appeal the order pursuant to division (C) of this section within fourteen days after the date of the receipt of the order. The employer and claimant may waive, in writing, their rights to an appeal under this division.

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

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

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

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

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

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

(E) Upon the filing of a timely appeal of the order of the staff hearing officer issued under division (D) of this section, the commission or a designated staff hearing officer, on behalf of the commission, shall determine whether the commission will hear the appeal. If the commission or the designated staff hearing officer decides to hear the appeal, the commission or the designated staff hearing officer shall notify the parties and their respective representatives in writing of the time and place of the hearing. The commission shall hold the hearing within forty-five days after the filing of the notice of appeal and, within seven days after the conclusion of the hearing, the commission shall issue its order affirming, modifying, or reversing the order issued under division (D) of this section. The commission shall notify the parties and their respective representatives in

writing of the order. If the commission or the designated staff hearing officer determines not to hear the appeal, within fourteen days after the filing of the notice of appeal, the commission or the designated staff hearing officer shall issue an order to that effect and notify the parties and their respective representatives in writing of that order.

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

(F) Every notice of an appeal from an order issued under divisions (B), (C), (D), and (E) of this section shall state the names of the claimant and employer, the number of the claim, the date of the decision appealed from, and the fact that the appellant appeals therefrom.

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

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

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

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

(H) Except as provided in division (J) of this section, payments of compensation to a claimant or on behalf of a claimant as a result of any order issued under this chapter shall commence upon the earlier of the following:

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

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

(3) If no appeal of an order has been filed under this section or to a court

under section 4123.512 of the Revised Code, the expiration of the time limitations for the filing of an appeal of an order;

(4) Twenty-one days after the date of receipt by the employer of an order of a district hearing officer, a staff hearing officer, or the industrial commission issued under division (C), (D), or (E) of this section.

(I) No medical benefits payable under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code are payable until the earlier of the following:

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

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

(J) Upon the final administrative or judicial determination, if a claimant is found to have received compensation to which the claimant was not entitled, the claimant's employer, if a self-insuring employer, or the bureau, shall withhold from any amount to which the claimant becomes entitled pursuant to any claim, past, present, or future, under Chapter 4121., 4123., 4127., or 4131. of the Revised Code, the amount to which the claimant was not entitled pursuant to the following criteria:

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

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

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

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

(K) If a staff hearing officer or the commission fails to issue a decision or the commission fails to refuse to hear an appeal within the time periods required by this section, payments to a claimant shall cease until the staff hearing officer or commission issues a decision or hears the appeal, unless the failure was due to the fault or neglect of the employer or the employer agrees that the payments should continue for a longer period of time.

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

(M) No person who is not an employee of the bureau or commission or who is not by law given access to the contents of a claims file shall have a

file in the person's possession.

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

As used in this division:

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

(2) "Disaster" means any natural catastrophe or fire, flood, or explosion, regardless of the cause, that causes damage of sufficient magnitude that the Governor of Ohio or the President of the United States, through a public declaration, orders state or federal assistance to alleviate damage, loss, hardship, or suffering that results FROM the occurrence.

SECTION 2. That existing sections 4121.01, 4121.02, 4121.03, 4121.09, 4121.10, 4121.34, 4121.35, and 4123.511 and section 3317.015 of the Revised Code are hereby repealed.

SECTION 3. All items in this section are hereby appropriated out of any moneys in the state treasury to the credit of the designated fund. For all appropriations made in this section, those in the first column are for fiscal year 1998, and those in the second column are for fiscal year 1999.

OIC INDUSTRIAL COMMISSION

<u>FND</u>	<u>ALI</u>	<u>ALI TITLE</u>		<u>FY 1998</u>		<u>FY 1999</u>
Workers' Compensation Fund Group						
023	845-321	Operating Expenses	\$	42,470,433	\$	44,627,357
023	845-410	Attorney General Payments	\$	2,358,762	\$	2,551,421
023	845-402	Rent - William Green Building	\$	4,448,792	\$	4,573,358
821	845-605	Service Account	\$	176,258	\$	181,196
TOTAL WCF Workers' Compensation Fund Group			\$	49,454,245	\$	51,933,332
TOTAL ALL BUDGET FUND GROUPS			\$	49,454,245	\$	51,933,332

Rent - William Green Building

The foregoing appropriation item 845-402, Rent - William Green Building, shall be used for rent and operating expenses for the space

occupied by the Industrial Commission in the William Green Building.

Service Account

The foregoing appropriation item 845-605, Service Account, shall be used for any expense related to funds collected and deposited in Fund 821, such as coin copier expense, coin changer purchases, expenses related to conferences that produce revenue, publications that produce revenue, and replacement of furniture and equipment.

SECTION 4. Within the limits set forth in this act, the Director of Budget and Management shall establish accounts indicating the source and amount of funds for each appropriation made in this act, and shall determine the form and manner in which appropriation accounts shall be maintained.

The appropriations made in this act are subject to all provisions of H.B. 215 of the 122nd General Assembly that are generally applicable to such appropriations.

SECTION 5.

Reissuance of Voided Warrants

In order to provide funds for the reissuance of voided warrants pursuant to section 117.47 of the Revised Code, there is hereby appropriated, out of moneys in the state treasury from the fund credited as provided in section 117.47 of the Revised Code, that amount sufficient to pay such warrants when approved by the Office of Budget and Management.

SECTION 6.

Judgments Against State

Any appropriations contained in this act, except those to be applied to or used for payment of guarantees by or on behalf of the state or for debt service on bonds, notes, or certificates of participation, may be used pursuant to section 2743.15, 2743.19, or 2743.191 of the Revised Code for the purpose of satisfying judgments, settlements, or administrative awards ordered or approved by the Court of Claims in connection with civil actions against the state.

SECTION 7.

Reappropriation of Unexpended Balances

Notwithstanding section 131.33 of the Revised Code, unexpended balances of appropriations and reappropriations against which

ances have been lawfully incurred by a state agency are, at the close of fiscal year 1997, to the extent of such encumbrances, hereby reappropriated from the funds from which they were originally appropriated and reappropriated and, except for encumbrances for items of special order manufacture not available on term contract or open market, made available for the purpose of discharging such encumbrances for a period of five months from the end of the fiscal year. Unexpended balances of appropriations and reappropriations against which encumbrances for items of special order manufacture not available on term contract or in the open market have been lawfully incurred are, at the close of the fiscal year, to the extent of such encumbrances, hereby reappropriated and made available for the purpose of discharging such encumbrances for a period of five months from the end of the fiscal year or, if the Director of Budget and Management approves, for a period of not more than twelve months from the end of the fiscal year.

Any items for which unexpended balances are reappropriated beyond a five-month period from the end of the fiscal year shall be reported to the Controlling Board by the Director of Budget and Management. The report on each such item shall include the item, the cost of the item, the vendor involved, and the delivery date. Such reports to the board shall be updated on a quarterly basis while the encumbrance remains open.

After any such period, reappropriations made for the purpose of discharging encumbrances for operating expenses, defined as those encumbrances incurred for personal services, maintenance, and equipment, are canceled. Reappropriations for encumbrances other than operating expenses or items of special manufacture not available on term contract or in the open market may be extended by obtaining the approval of the Director of Budget and Management.

SECTION 8. The Chairperson of the Industrial Commission shall on or before December 31, 1997, and subsequently on or before June 30, 1998, December 31, 1998, and June 30, 1999, prepare and present a report to the chairperson and ranking members of the standing committees of the House of Representatives and Senate to which matters dealing with workers' compensation and the Industrial Commission are normally referred, and to ranking members of both committees. Each report shall contain information relative to the number of cases disposed of in the immediately preceding six-month period, the number of cases pending, and the number of cases on appeal as well as the efforts the Commission has made in maintaining and improving communication with the Administrator of Workers'

Compensation and the Bureau of Workers' Compensation.

SECTION 9. If any item of law that constitutes the whole or part of a codified or uncodified section of law contained in this act, or if any application of any item of law that constitutes the whole or part of a codified or uncodified section of law contained in this act, is held invalid, the invalidity does not affect other items of law or applications of items of law that can be given effect without the invalid item of law or application. To this end, the items of law of which the codified and uncodified sections of law contained in this act are composed, and their applications, are independent and severable.

SECTION 10. Except as otherwise specifically provided in this act, the codified and uncodified sections of law contained in this act, and the items of law of which the codified and uncodified sections of law contained in this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the codified and uncodified sections of law contained in this act, and the items of law of which the codified and uncodified sections of law contained in this act are composed, go into immediate effect when this act becomes law.

SECTION 11. Sections 4121.01, 4121.02, 4121.03, 4121.34, and 4121.35 of the Revised Code, as amended by this act, and the items of law of which such sections of the Revised Code, as amended by this act, are composed, are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, such sections as amended by this act, and the items of law of which such sections as amended by this act are composed, take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such section as amended by this act, or against any item of law of which any such section as amended by this act is composed, the section as amended, or item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 12. Section 4123.511 of the Revised Code is amended by this act and also by Am. Sub. S.B. 45 of the 122nd General Assembly (effective July 22, 1997). The amendments of Am. Sub. S.B. 45 are included in lower case to confirm the intention to retain them, but are not intended to be effective until July 22, 1997.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____