

AN ACT

To amend sections 121.03, 3304.23, 3304.231, 4121.12, 4121.121, 4121.37, 4121.44, 4121.63, 4123.343, 4123.511, 4123.512, 4123.57, 4123.76, 4123.83, 4123.93, 5703.21, and 5747.18 and to enact section 4123.591 of the Revised Code to make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 1999, and ending June 30, 2001, to provide authorization and conditions for the operation of Bureau of Workers' Compensation programs, to rename the Head Injury Program the Brain Injury Program, and to designate the Administrator of Workers' Compensation as a member of the Brain Injury Advisory Committee in place of the Industrial Commission Chairperson.

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

SECTION 1. That sections 121.03, 3304.23, 3304.231, 4121.12, 4121.121, 4121.37, 4121.44, 4121.63, 4123.343, 4123.511, 4123.512, 4123.57, 4123.76, 4123.83, 4123.93, 5703.21, and 5747.18 be amended and section 4123.591 of the Revised Code be enacted to read as follows:

Sec. 121.03. The following administrative department heads shall be appointed by the governor, with the advice and consent of the senate, and shall hold their offices during the term of the appointing governor, ~~except as provided in division (W) of this section~~, and are subject to removal at the pleasure of the governor.

- (A) The director of budget and management;
- (B) The director of commerce;
- (C) The director of transportation;
- (D) The director of agriculture;
- (E) The director of human services;
- (F) Until July 1, 1997, the director of liquor control;
- (G) The director of public safety;

- (H) The superintendent of insurance;
- (I) The director of development;
- (J) The tax commissioner;
- (K) The director of administrative services;
- (L) The administrator of the bureau of employment services;
- (M) The director of natural resources;
- (N) The director of mental health;
- (O) The director of mental retardation and developmental disabilities;
- (P) The director of health;
- (Q) The director of youth services;
- (R) The director of rehabilitation and correction;
- (S) The director of environmental protection;
- (T) The director of aging;
- (U) The director of alcohol and drug addiction services;

~~(W)~~(V) The administrator of workers' compensation who meets the qualifications required under division (A) of section 4121.121 of the Revised Code, ~~who shall serve as administrator, subject to removal at the pleasure of the governor, until the date the workers' compensation oversight commission appoints the administrator as provided in division (F)(10) of section 4121.12 of the Revised Code.~~

Sec. 3304.23. (A) There is hereby created in the rehabilitation services commission a ~~head~~ brain injury program consisting of a program director and at least one support staff person.

(B) To the extent that funds are available, the ~~head~~ brain injury program may do the following:

- (1) Identify existing services in this state to assist survivors and families of survivors of ~~head~~ brain injury;
- (2) Promote the coordination of services for survivors and families of survivors of ~~head~~ brain injury;
- (3) Explore options for delivery of services to survivors and families of survivors of ~~head~~ brain injury;
- (4) Explore the establishment of a traumatic brain injury incidence reporting system to collect information on the incidence and character of traumatic brain injury in this state;
- (5) Promote practices that will reduce the incidence of ~~head~~ brain injury;
- (6) Develop training programs on dealing with ~~head~~ brain injury and the special needs of survivors of ~~head~~ brain injury;
- (7) Identify sources of available funds for services for survivors and families of survivors of ~~head~~ brain injury;
- (8) Explore options for the delivery of case management services to

residents of this state who are survivors of ~~head~~ brain injury;

(9) Provide assistance to assure that services for survivors and families of survivors of ~~head~~ brain injury are all of the following:

(a) Designed to enhance the survivor's ability to lead an independent and productive life;

(b) Available within close proximity of the survivor's home;

(c) Provided in the least restrictive environment;

(d) Appropriate to the unique needs of the survivor.

(C) The staff of the ~~head~~ brain injury program shall prepare a biennial report on the incidence of ~~head~~ brain injury in this state that shall be submitted to the administrator of the rehabilitation services commission on or before December 15, 1992, and every two years thereafter. A copy of the report shall be submitted to the ~~head~~ brain injury advisory committee created under section 3304.231 of the Revised Code.

Sec. 3304.231. There is hereby created a ~~head~~ brain injury advisory committee, which shall advise the administrator of the rehabilitation services commission and the ~~head~~ brain injury program with regard to unmet needs of survivors of ~~head~~ brain injury, development of programs for survivors and their families, establishment of training programs for health care professionals, and any other matter within the province of the ~~head~~ brain injury program. The committee shall consist of not less than eighteen and not more than twenty-one members as follows:

(A) Not less than ten and not more than twelve members appointed by the administrator of the rehabilitation services commission, including all of the following: a survivor of ~~head~~ brain injury, a relative of a survivor of ~~head~~ brain injury, a licensed physician recommended by the Ohio chapter of the American college of emergency physicians, a licensed physician recommended by the Ohio state medical association, one other health care professional, a rehabilitation professional, an individual who represents the ~~national head brain injury foundation/Ohio, inc.~~ association of Ohio, and not less than three nor more than five individuals who shall represent the public;

(B) The directors of the departments of health, alcohol and drug addiction services, mental retardation and developmental disabilities, mental health, human services, and highway safety; the ~~chairperson of the industrial commission~~ administrator of workers' compensation; the superintendent of public instruction; and the administrator of the rehabilitation services commission. Any of the officials specified in this division may designate an individual to serve in the official's place as a member of the committee.

The director of health shall make initial appointments to the committee by November 1, 1990. Appointments made after July 26, 1991, shall be

made by the administrator of the rehabilitation services commission. Terms of office shall be two years. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term.

Members of the committee shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

Sec. 4121.12. (A) There is hereby created the workers' compensation oversight commission consisting of nine members, of which members the governor shall appoint five with the advice and consent of the senate. Of the five members the governor appoints, two shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representative of employees, at least one of whom is representative of employees who are members of an employee organization; two shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representative of employers, one of whom represents self-insuring employers and one of whom has experience as an employer in compliance with section 4123.35 of the Revised Code other than a self-insuring employer, and one of those two representatives also shall represent employers whose employees are not members of an employee organization; and one shall represent the public and also be an individual who, on account of the individual's previous vocation, employment, or affiliations, cannot be classed as either predominantly representative of employees or of employers. The governor shall select the chairperson of the commission who shall serve as chairperson at the pleasure of the governor. No more than three members appointed by the governor shall belong to or be affiliated with the same political party.

Each of these five members shall have at least three years' experience in the field of insurance, finance, workers' compensation, law, accounting, actuarial, personnel, investments, or data processing, or in the management of an organization whose size is commensurate with that of the bureau of workers' compensation. At least one of these five members shall be an attorney licensed under Chapter 4705. of the Revised Code to practice law in this state.

(B) Of the initial appointments made to the commission, the governor shall appoint one member who represents employees to a term ending one year after September 1, 1995, one member who represents employers to a

term ending two years after September 1, 1995, the member who represents the public to a term ending three years after September 1, 1995, one member who represents employees to a term ending four years after September 1, 1995, and one member who represents employers to a term ending five years after September 1, 1995. Thereafter, terms of office shall be for five years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed.

The governor shall not appoint any person to more than two full terms of office on the commission. This restriction does not prevent the governor from appointing a person to fill a vacancy caused by the death, resignation, or removal of a commission member and also 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. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until a successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(C) In making appointments to the commission, the governor shall select the members from the list of names submitted by the workers' compensation oversight commission nominating committee pursuant to this division. Within fourteen days after the governor calls the initial meeting of the nominating committee pursuant to division (C) of section 4121.123 of the Revised Code, the nominating committee shall submit to the governor, for the initial appointments, a list containing four separate names for each of the members on the commission. Within fourteen days after the submission of the list, the governor shall appoint individuals from the list.

For the appointment of the member who is representative of employees who are members of an employee organization, both for initial appointments and for the filling of vacancies, the list of four names submitted by the nominating committee shall be comprised of four individuals who are members of the executive committee of the largest statewide labor federation.

Thereafter, within sixty days after 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 committee shall submit a list containing four names for each vacancy. Within fourteen days after the submission of

the list, the governor shall appoint individuals from the list. With respect to the filling of vacancies, the nominating committee shall provide the governor with a list of four individuals who are, in the judgment of the nominating committee, the most fully qualified to accede to membership on the commission. The nominating committee shall not include the name of an individual upon the list for the filling of vacancies if the appointment of that individual by the governor would result in more than three members of the commission belonging to or being affiliated with the same political party. The committee shall include on the list for the filling of vacancies only the names of attorneys admitted to practice law in this state if, to fulfill the requirement of division (A) of section 4121.12 of the Revised Code, the vacancy must be filled by an attorney.

In order for the name of an individual to be submitted to the governor under this division, the nominating committee shall approve the individual by an affirmative vote of a majority of its members.

(D) The remaining four members of the commission shall be the chairperson and ranking minority member of the standing committees of the house of representatives and of the senate to which legislation concerning this chapter and Chapters 4123., 4127., and 4131. of the Revised Code normally are referred, or a designee of the chairperson or ranking minority member, provided that the designee is a member of the standing committee. Legislative members shall serve during the session of the general assembly to which they are elected and for as long as they are members of the general assembly. Legislative members shall serve in an advisory capacity to the commission and shall have no voting rights on matters coming before the commission. Membership on the commission by legislative members shall not be deemed as holding a public office.

(E) All members of the commission shall receive their reasonable and necessary expenses pursuant to section 126.31 of the Revised Code while engaged in the performance of their duties as members. Legislative members also shall receive fifty dollars per meeting that they attend. Members appointed by the governor also shall receive an annual salary as follows:

(1) On and before August 31, 1998, not to exceed six thousand dollars payable at the rate of five hundred dollars per month. A member shall receive the monthly five hundred dollar salary only if the member has attended at least one meeting of the commission during that month. A member may receive no more than the monthly five hundred dollar salary regardless of the number of meetings held by the commission during a month or the number of meetings in excess of one within a month that the

member attends.

(2) After August 31, 1998, not to exceed eighteen thousand dollars payable on the following basis:

(a) Except as provided in division (E)(2)(b) of this section, a member shall receive two thousand dollars during a month in which the member attends one or more meetings of the commission and shall receive no payment during a month in which the member attends no meeting of the commission.

(b) A member may receive no more than the annual eighteen thousand dollar salary regardless of the number of meetings held by the commission during a year or the number of meetings in excess of nine within a year that the member attends.

The chairperson of the commission shall set the meeting dates of the commission as necessary to perform the duties of the commission under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code. The commission shall meet at least nine times during the period commencing on the first day of September and ending on the thirty-first day of August of the following year. The administrator of workers' compensation shall provide professional and clerical assistance to the commission, as the commission considers appropriate.

(F) The commission shall:

(1) Review progress of the bureau in meeting its cost and quality objectives and in complying with this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;

(2) Issue an annual report on the cost and quality objectives of the bureau to the president of the senate, the speaker of the house of representatives, and the governor;

(3) Review all independent financial audits of the bureau. The administrator shall provide access to records of the bureau to facilitate the review required under this division.

(4) Study issues as requested by the administrator or the governor;

(5) Contract with an independent actuarial firm to assist the commission in making recommendations to the administrator regarding premium rates;

(6) Establish objectives, policies, and criteria for the administration of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines, and monitor the administrator's progress in implementing the objectives, policies, and criteria on a quarterly basis. The commission shall publish the objectives, policies, and criteria no less than annually and shall make copies available to interested parties. The

commission shall prohibit, on a prospective basis, specific investment activity it finds to be contrary to its investment objectives, policies, and criteria.

The investment policy in existence on March 7, 1997, shall continue until the commission approves objectives, policies, and criteria for the administration of the investment program pursuant to this section.

(7) Advise and consent on all of the following:

(a) Administrative rules the administrator submits to it pursuant to division (B)(5) of section 4121.121 of the Revised Code for the classification of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating;

(b) The overall policy of the bureau of workers' compensation as set by the administrator;

(c) The duties and authority conferred upon the administrator pursuant to section 4121.37 of the Revised Code;

(d) Rules the administrator adopts for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code.

(8) Perform all duties required under section 4121.125 of the Revised Code;

~~(9) After August 31, 2000, appoint an administrator who meets the qualifications required under section 4121.121 of the Revised Code and fix the salary of the administrator, the amount of which the commission shall base upon the experience of the administrator and the responsibilities and duties of the administrator pursuant to this chapter and Chapters 4123., 4127., and 4131. of the Revised Code.~~

~~(G) The commission may enter into an employment contract with an administrator it appoints, provided that the contract does not exceed two years in length.~~

~~(H) As used in this section, "employee organization" means any labor or bona fide organization in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, hours, terms and other conditions of employment.~~

Sec. 4121.121. (A) There is hereby created the bureau of workers' compensation, which shall be administered by the administrator of workers' compensation. A person appointed to the position of administrator shall possess significant management experience in effectively managing an organization or organizations of substantial size and complexity. The

governor shall appoint the administrator as provided in section 121.03 of the Revised Code, and the administrator shall serve at the pleasure of the governor. The governor shall fix the administrator's salary on the basis of the administrator's experience and the administrator's responsibilities and duties under this chapter and ~~Chapter~~ Chapters 4123., 4127., and 4131. of the Revised Code. The governor shall not appoint to the position of administrator any person who has, or whose spouse has, given a contribution to the campaign committee of the governor in an amount greater than one thousand dollars during the two-year period immediately preceding the date of the appointment of the administrator. ~~After August 31, 2000, the workers' compensation oversight commission shall appoint the administrator as provided in division (F)(9) of section 4121.12 of the Revised Code, and the administrator shall serve at the pleasure of the oversight commission. The oversight commission shall fix the administrator's salary on the basis of the administrator's experience and the administrator's responsibilities and duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code.~~

The administrator shall hold no other public office and shall devote full time to the duties of administrator. Before entering upon the duties of the office, the administrator shall take an oath of office as required by sections 3.22 and 3.23 of the Revised Code, and shall file in the office of the secretary of state, a bond signed by the administrator and by surety approved by the governor, for the sum of fifty thousand dollars payable to the state, conditioned upon the faithful performance of the administrator's duties.

(B) The administrator is responsible for the management of the bureau of workers' compensation and for the discharge of all administrative duties imposed upon the administrator in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code, and in the discharge thereof shall do all of the following:

(1) Establish the overall administrative policy of the bureau for the purposes of this chapter and Chapters 4123., 4127., and 4131. of the Revised Code, and perform all acts and exercise all authorities and powers, discretionary and otherwise that are required of or vested in the bureau or any of its employees in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code, except the acts and the exercise of authority and power that is required of and vested in the oversight commission or the industrial commission pursuant to those chapters. The treasurer of state shall honor all warrants signed by the administrator, or by one or more of the administrator's employees, authorized by the administrator in writing, or bearing the facsimile signature of the administrator or such employee under

sections 4123.42 and 4123.44 of the Revised Code.

(2) Employ, direct, and supervise all employees required in connection with the performance of the duties assigned to the bureau by this chapter and Chapters 4123., 4127., and 4131. of the Revised Code, and may establish job classification plans and compensation for all employees of the bureau provided that this grant of authority shall not be construed as affecting any employee for whom the state employment relations board has established an appropriate bargaining unit under section 4117.06 of the Revised Code. All positions of employment in the bureau are in the classified civil service except those employees the administrator may appoint to serve at the administrator's pleasure in the unclassified civil service pursuant to section 124.11 of the Revised Code. The administrator shall fix the salaries of employees the administrator appoints to serve at the administrator's pleasure, including the chief operating officer, staff physicians, and other senior management personnel of the bureau and shall establish the compensation of staff attorneys of the bureau's legal section and their immediate supervisors, and take whatever steps are necessary to provide adequate compensation for other staff attorneys.

The administrator may appoint a person holding a certified position in the classified service to any state position in the unclassified service of the bureau of workers' compensation. A person so appointed shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment in the unclassified service. If the position the person previously held has been filled or placed in the unclassified service, or is otherwise unavailable, the person shall be appointed to a position in the classified service within the bureau that the department of administrative services certifies is comparable in compensation to the position the person previously held. Reinstatement to a position in the classified service shall be to a position substantially equal to that held previously, as certified by the department of administrative services. Service in the position in the unclassified service shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment in the unclassified service. ~~when~~ WHEN a person is reinstated to a position in the classified service as provided in this section, the person is entitled to all rights, status, and benefits accruing to the position during the person's time of service in the position in the unclassified service.

(3) Reorganize the work of the bureau, its sections, departments, and offices 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 bureau. All persons employed by the commission in positions that, after November 3, 1989, are supervised and directed by the administrator under this section are transferred to the bureau in their respective classifications but subject to reassignment and reclassification of position and compensation as the administrator determines to be in the interest of efficient administration. The civil service status of any person employed by the commission 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.

(4) Provide offices, equipment, supplies, and other facilities for the bureau. The administrator also shall provide suitable office space in the service offices for the district hearing officers, the staff hearing officers, and commission employees as requested by the commission.

(5) Prepare and submit to the oversight commission information the administrator considers pertinent or the oversight commission requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the oversight commission, for classifications of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating. The administrator shall obtain, prepare, and submit any other information the oversight commission requires for the prompt and efficient discharge of its duties.

(6) Keep the accounts required by division (A) of section 4123.34 of the Revised Code and all other accounts and records necessary to the collection, administration, and distribution of the workers' compensation funds and shall obtain the statistical and other information required by section 4123.19 of the Revised Code.

(7) Exercise the investment powers vested in the administrator by section 4123.44 of the Revised Code in accordance with the investment objectives, policies, and criteria established by the oversight commission pursuant to section 4121.12 of the Revised Code. The administrator shall not engage in any prohibited investment activity specified by the oversight commission pursuant to division (F)(6) of section 4121.12 of the Revised

Code. All business shall be transacted, all funds invested, all warrants for money drawn and payments made, and all cash and securities and other property held, in the name of the bureau, or in the name of its nominee, provided that nominees are authorized by the administrator solely for the purpose of facilitating the transfer of securities, and restricted to the administrator and designated employees.

(8) Make contracts for and supervise the construction of any project or improvement or the construction or repair of buildings under the control of the bureau.

(9) Purchase supplies, materials, equipment, and services; make contracts for, operate, and superintend the telephone, other telecommunication, and computer services for the use of the bureau; and make contracts in connection with office reproduction, forms management, printing, and other services. Notwithstanding sections 125.12 to 125.14 of the Revised Code, the administrator may transfer surplus computers and computer equipment directly to an accredited public school within the state. The computers and computer equipment may be repaired or refurbished prior to the transfer.

(10) Separately from the budget the industrial commission submits, prepare and submit to the director of budget and management a budget for each biennium. The budget submitted shall include estimates of the costs and necessary expenditures of the bureau in the discharge of any duty imposed by law as well as the costs of furnishing office space to the district hearing officers, staff hearing officers, and commission employees under division (D) of this section.

(11) As promptly as possible in the course of efficient administration, decentralize and relocate such of the personnel and activities of the bureau as is appropriate to the end that the receipt, investigation, determination, and payment of claims may be undertaken at or near the place of injury or the residence of the claimant and for that purpose establish regional offices, in such places as the administrator considers proper, capable of discharging as many of the functions of the bureau as is practicable so as to promote prompt and efficient administration in the processing of claims. All active and inactive lost-time claims files shall be held at the service office responsible for the claim. A claimant, at the claimant's request, shall be provided with information by telephone as to the location of the file pertaining to claim. The administrator shall ensure that all service office employees report directly to the director for their service office.

(12) Provide a written binder on new coverage where the administrator considers it to be in the best interest of the risk. The administrator, or any

other person authorized by the administrator, shall grant the binder upon submission of a request for coverage by the employer. A binder is effective for a period of thirty days from date of issuance and is nonrenewable. Payroll reports and premium charges shall coincide with the effective date of the binder.

(13) Set standards for the reasonable and maximum handling time of claims payment functions, ensure, by rules, the impartial and prompt treatment of all claims and employer risk accounts, and establish a secure, accurate method of time stamping all incoming mail and documents hand delivered to bureau employees.

(14) Ensure that all employees of the bureau follow the orders and rules of the commission as such orders and rules relate to the commission's overall adjudicatory policy-making and management duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code.

(15) Manage and operate a data processing system with a common data base for the use of both the bureau and the commission and, in consultation with the commission, using electronic data processing equipment, shall develop a claims tracking system that is sufficient to monitor the status of a claim at any time and that lists appeals that have been filed and orders or determinations that have been issued pursuant to section 4123.511 or 4123.512 of the Revised Code, including the dates of such filings and issuances.

(16) Establish and maintain a medical section within the bureau. The medical section shall do all of the following:

(a) Assist the administrator in establishing standard medical fees, approving medical procedures, and determining eligibility and reasonableness of the compensation payments for medical, hospital, and nursing services, and in establishing guidelines for payment policies which recognize usual, customary, and reasonable methods of payment for covered services;

(b) Provide a resource to respond to questions from claims examiners for employees of the bureau;

(c) Audit fee bill payments;

(d) Implement a program to utilize, to the maximum extent possible, electronic data processing equipment for storage of information to facilitate authorizations of compensation payments for medical, hospital, drug, and nursing services;

(e) Perform other duties assigned to it by the administrator.

(17) Appoint, as the administrator determines necessary, panels to review and advise the administrator on disputes arising over a determination

that a health care service or supply provided to a claimant is not covered under this chapter or Chapter 4123. of the Revised Code or is medically unnecessary. If an individual health care provider is involved in the dispute, the panel shall consist of individuals licensed pursuant to the same section of the Revised Code as such health care provider.

(18) Pursuant to section 4123.65 of the Revised Code, approve applications for the final settlement of claims for compensation or benefits under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as the administrator determines appropriate, except in regard to the applications of self-insuring employers and their employees.

(19) Comply with section 3517.13 of the Revised Code, and except in regard to contracts entered into pursuant to the authority contained in section 4121.44 of the Revised Code, comply with the competitive bidding procedures set forth in the Revised Code for all contracts into which the administrator enters provided that those contracts fall within the type of contracts and dollar amounts specified in the Revised Code for competitive bidding and further provided that those contracts are not otherwise specifically exempt from the competitive bidding procedures contained in the Revised Code.

(20) Adopt, with the advice and consent of the oversight commission, rules for the operation of the bureau.

(21) Prepare and submit to the oversight commission information the administrator considers pertinent or the oversight commission requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the oversight commission, for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code.

(C) The administrator, with the advice and consent of the senate, shall appoint a chief operating officer who has significant experience in the field of workers' compensation insurance or other similar insurance industry experience if the administrator does not possess such experience. The chief operating officer shall not commence the chief operating officer's duties until after the senate consents to the chief operating officer's appointment. The chief operating officer shall serve in the unclassified civil service of the state.

Sec. 4121.37. The administrator of workers' compensation having, by virtue of Section 35 of Article II, Ohio Constitution, the expenditure of the fund therein created for the investigation and prevention of industrial accidents and diseases, shall, with the advice and consent of the workers'

compensation oversight commission, in the exercise of the administrator's authority and in the performance of the administrator's duty, employ a superintendent and the necessary experts, engineers, investigators, clerks, and stenographers for the efficient operation of a division of safety and hygiene of the bureau of workers' compensation, which is hereby created.

The general assembly hereby declares that in furtherance of the authority granted to the administrator pursuant to Section 35 of Article II, Ohio Constitution, and to encourage public employers to operate and maintain safe places of employment for public employees of this state, the administrator, with the advice and consent of the oversight commission, may transfer funds, certified as provided in section 126.07 of the Revised Code, from the safety and hygiene fund to the occupational safety loan fund created in section 4121.48 of the Revised Code, for the purposes of that section.

The administrator of workers' compensation, with the advice and consent of the oversight commission, shall pay into the safety and hygiene fund, which is hereby created in the state treasury, the portion of the contributions paid by employers, calculated as though all employers paid premiums based upon payroll, not to exceed ~~three-fourths of one~~ one per cent thereof in any year, as is necessary for the payment of the salary of the superintendent of the division of safety and hygiene and the compensation of the other employees of the division of safety and hygiene, and the expenses of investigations and researches for the prevention of industrial accidents and diseases. All investment earning of the fund shall be credited to the fund. The administrator has the same powers to invest any of the funds belonging to the fund as are delegated to the administrator under section 4123.44 of the Revised Code with respect to the state insurance fund. The superintendent, under the direction of the administrator, with the advice and consent of the oversight commission, shall conduct investigations and researches for the prevention of industrial accidents and diseases, conduct loss prevention programs and courses for employers, establish and administrate cooperative programs with employers for the purchase of individual safety equipment for employees, and print and distribute information as may be of benefit to employers and employees. The administrator shall pay from the safety and hygiene fund the salary of the superintendent of the division of safety and hygiene, the compensation of the other employees of the division of safety and hygiene, the expenses necessary or incidental to investigations and researches for the prevention of industrial accidents and diseases, and the cost of printing and distributing such information.

The superintendent, under the direction of the administrator, shall prepare an annual report, addressed to the governor, on the amount of the expenditures and the purposes for which they have been made, and the results of the investigations and researches. The administrator shall include the administrative costs, salaries, and other expenses of the division of safety and hygiene as a part of the budget of the bureau of workers' compensation that is submitted to the director of budget and management and shall identify those expenditures separately from other bureau expenditures.

The superintendent shall be a competent person with at least five years' experience in industrial accident or disease prevention work. The superintendent and up to six positions in the division of safety and hygiene as the administrator, with the advice and consent of the oversight commission, designates are in the unclassified civil service of the state as long as the administrator, with the advice and consent of the oversight commission, determines the positions subordinate to the superintendent are primarily and distinctively administrative, managerial, or professional in character. All other full-time employees of the division of safety and hygiene are in the classified civil service of the state.

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

(B) The administrator shall direct the implementation of the health partnership program administered by the bureau as set forth in section 4121.441 of the Revised Code. To implement the health partnership program, the bureau:

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

(2) May recertify external vendors for ~~an additional period~~ periods of two years ~~upon the expiration of the certification set forth in division (B)(1) of this section;~~ and

(3) May integrate the certified vendors with bureau staff and existing bureau services for purposes of operation and training to allow the bureau to assume operation of the health partnership program at the conclusion of the certification periods set forth in division (B)(1) or (2) of this section.

(C) Any vendor selected shall demonstrate all of the following:

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

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

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

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

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

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

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

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

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

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

(D)(1) Information contained in a vendor's application for certification in the health partnership program, and other information furnished to the bureau by a vendor for purposes of obtaining certification or to comply with performance and financial auditing requirements established by the administrator, is for the exclusive use and information of the bureau in the discharge of its official duties, and shall not be open to the public or be used

in any court in any proceeding pending therein, unless the bureau is a party to the action or proceeding, but the information may be tabulated and published by the bureau in statistical form for the use and information of other state departments and the public. No employee of the bureau, except as otherwise authorized by the administrator, shall divulge any information secured by the employee while in the employ of the bureau in respect to a vendor's application for certification or in respect to the business or other trade processes of any vendor to any person other than the administrator or to the employee's superior.

(2) Notwithstanding the restrictions imposed by division (D)(1) of this section, the governor, members of select or standing committees of the Senate or House of Representatives, the auditor of state, the attorney general, or their designees, pursuant to the authority granted in this chapter and Chapter 4123. of the Revised Code, may examine any vendor application or other information furnished to the bureau by the vendor. None of those individuals shall divulge any information secured in the exercise of that authority in respect to a vendor's application for certification or in respect to the business or other trade processes of any vendor to any person.

(E) On and after January 1, 2001, a vendor shall not be any insurance company holding a certificate of authority issued pursuant to Title XXXIX of the Revised Code or any health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code.

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

~~(E)~~(G) The administrator, six months prior to the expiration of the bureau's certification or recertification of the vendor or vendors as set forth in division (B)(1) or (2) of this section, may certify and provide evidence to the governor, the speaker of the house of representatives, and the president of the senate that the existing bureau staff is able to match or exceed the performance and outcomes of the external vendor or vendors and that the bureau should be permitted to internally administer the health partnership program upon the expiration of the certification or recertification as set forth in division (B)(1) or (2) of this section.

~~(F)~~(H) The administrator shall establish and operate a bureau of workers' compensation health care data program. The administrator may contract with the Ohio health care data center for such purposes. The administrator shall develop reporting requirements from all employees,

employers and medical providers, medical vendors, and plans that participate in the workers' compensation system. The administrator shall do all of the following:

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

(2) Compile data to support activities of the selected vendor or vendors and to measure the outcomes and savings of the health partnership program.

(3) Publish and report compiled data to the governor, the speaker of the house of representatives, and the president of the senate on the first day of each January and July, the measures of outcomes and savings of the health partnership program and the qualified health plan system. The administrator shall protect the confidentiality of all proprietary pricing data.

~~(G)~~(I) Any rehabilitation facility the bureau operates is eligible for inclusion in the Ohio workers' compensation qualified health plan system or the health partnership program under the same terms as other providers within health care plans or the program.

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

~~(I)~~(K) No certified health care provider shall charge, assess, or otherwise attempt to collect from an employee, employer, a managed care organization, or the bureau any amount for covered services or supplies that is in excess of the allowed amount paid by a managed care organization, the bureau, or a qualified health plan.

~~(J)~~(L) The administrator shall permit any employer or group of employers who agree to abide by the rules adopted under this section and sections 4121.441 and 4121.442 of the Revised Code to provide services or supplies to or on behalf of an employee for an injury or occupational disease that is compensable under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code through qualified health plans of the Ohio workers' compensation qualified health plan system pursuant to section 4121.442 of the Revised Code or through the health partnership program pursuant to section 4121.441 of the Revised Code. No amount paid under the qualified

health plan system pursuant to section 4121.442 of the Revised Code by an employer who is a state fund employer shall be charged to the employer's experience or otherwise be used in merit-rating or determining the risk of that employer for the purpose of the payment of premiums under this chapter, and if the employer is a self-insuring employer, the employer shall not include that amount in the paid compensation the employer reports under section 4123.35 of the Revised Code.

Sec. 4121.63. Claimants who the administrator of workers' compensation determines could probably be rehabilitated to achieve the goals established by section 4121.61 of the Revised Code and who agree to undergo rehabilitation shall be paid living maintenance payments for a period or periods which do not exceed six months in the aggregate, unless review by the administrator or ~~his~~ the administrator's designee reveals that the claimant will be benefited by an extension of such payments.

Living maintenance payments shall be paid in weekly amounts, not to exceed the amount the claimant would receive if the claimant were being compensated for temporary total disability, but not less than fifty per cent of the current state average weekly wage. Living maintenance payments shall commence at the time the claimant begins to participate in an approved rehabilitation program.

A claimant receiving living maintenance payments shall be deemed to be temporarily totally disabled and shall receive no payment of any type of compensation except as provided by division (B) of section 4123.57 of the Revised Code for the periods during which the claimant is receiving living maintenance payments.

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

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

- (1) Epilepsy;
- (2) Diabetes;
- (3) Cardiac disease;
- (4) Arthritis;
- (5) Amputated foot, leg, arm, or hand;

- (6) Loss of sight of one or both eyes or a partial loss of uncorrected vision of more than seventy-five per cent bilaterally;
- (7) Residual disability from poliomyelitis;
- (8) Cerebral palsy;
- (9) Multiple sclerosis;
- (10) Parkinson's disease;
- (11) Cerebral vascular accident;
- (12) Tuberculosis;
- (13) Silicosis;
- (14) Psycho-neurotic disability following treatment in a recognized medical or mental institution;
- (15) Hemophilia;
- (16) Chronic osteomyelitis;
- (17) Ankylosis of joints;
- (18) Hyper insulinism;
- (19) Muscular dystrophies;
- (20) Arterio-sclerosis;
- (21) Thrombo-phlebitis;
- (22) Varicose veins;
- (23) Cardiovascular, pulmonary, or respiratory diseases of a ~~fire-fighter~~ firefighter or police officer employed by a municipal corporation or township as a regular member of a lawfully constituted police department or fire department;
- (24) Coal miners' pneumoconiosis, commonly referred to as "black lung disease";
- (25) Disability with respect to which an individual has completed a rehabilitation program conducted pursuant to sections 4121.61 to 4121.69 of the Revised Code.

(B) Under the circumstances set forth in this section all or such portion as the administrator determines of the compensation and benefits paid in any claim arising hereafter shall be charged to and paid from the statutory surplus fund created under section 4123.34 of the Revised Code and only the portion remaining shall be merit-rated or otherwise treated as part of the accident or occupational disease experience of the employer. If the employer is a self-insuring employer, the proportion of such costs whether charged to the statutory surplus fund in whole or in part shall be by way of direct payment to such employee or ~~his~~ the employee's dependents or by way of reimbursement to the self-insuring employer as the circumstances indicate. The provisions of this section apply only in cases of death, total disability, whether temporary or permanent, and all disabilities compensated under

vision (B) of section 4123.57 of the Revised Code. The administrator shall adopt rules specifying the grounds upon which charges to the statutory surplus fund are to be made. The rules shall prohibit as a grounds any agreement between employer and claimant as to the merits of a claim and the amount of the charge.

~~(C) Any employer who advises the bureau of workers' compensation prior to the occurrence of an injury or occupational disease that it has in its employ a handicapped employee is entitled, in the event the person is injured, to a determination under this section. Any employer who fails to notify the bureau but applies for a determination under this section is entitled to a determination if the bureau finds that there was good cause for the failure to give notice of the employment of the handicapped employee. The bureau annually shall require employers to file an inventory of current handicapped employees.~~

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

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

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

(2) Whenever a handicapped employee is injured or disabled or dies as a result of an injury or occupational disease and the administrator finds that the injury or occupational disease would have been sustained or suffered without regard to the employee's pre-existing impairment but that the resulting disability or death was caused at least in part through aggravation of the employee's pre-existing disability, the administrator shall determine in a manner that is equitable and reasonable and based upon medical evidence the amount of disability or proportion of the cost of the death award that is

attributable to the employee's pre-existing disability and the amount found shall be charged to the statutory surplus fund.

(E) The benefits and provisions of this section apply only to employers who have complied with this chapter either through insurance with the state fund or as a self-insuring employer.

(F) No employer shall in any year receive credit under this section in an amount greater than the premium ~~he~~ the employer paid if a state fund employer or greater than ~~his~~ the employer's assessments if a self-insuring employer.

(G) Self-insuring employers may, for all claims made after January 1, 1987, for compensation and benefits under this section, pay the compensation and benefits directly to the employee or the employee's dependents. If such an employer chooses to pay compensation and benefits directly, ~~he~~ the employer shall receive no money or credit from the surplus fund for the payment under this section, nor shall ~~he~~ the employer be required to pay any amounts into the surplus fund that otherwise would be assessed for handicapped reimbursements for claims made after January 1, 1987. Where a self-insuring employer elects to pay for compensation and benefits pursuant to this section, ~~he~~ the employer shall assume responsibility for compensation and benefits arising out of claims made prior to January 1, 1987, and shall not be required to pay any amounts into the surplus fund and may not receive any money or credit from that fund on account of this section. The election made under this division is irrevocable.

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

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 or occupational disease has occurred or been contracted with may be compensable under this chapter, 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 sooner than twenty-one days but~~ 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)(1) or (2) 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 his 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 section 4121.63 of the Revised Code and 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) ~~Twenty-one days after the~~ 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) 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 under this section or section 4123.512 of the Revised Code of an appeal of an order to pay compensation, if a claimant is found to have received compensation pursuant to a prior order which is reversed upon subsequent appeal, 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 of previously paid compensation to the claimant which, due to reversal upon appeal, the claimant is 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.

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

(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.

Sec. 4123.512. (A) The claimant or the employer may appeal an order of the industrial commission made under division (E) of section 4123.511 of the Revised Code in any injury or occupational disease case, other than a decision as to the extent of disability to the court of common pleas of the county in which the injury was inflicted or in which the contract of employment was made if the injury occurred outside the state, or in which the contract of employment was made if the exposure occurred outside the state. If no common pleas court has jurisdiction for the purposes of an appeal by the use of the jurisdictional requirements described in this division, the appellant may use the venue provisions in the Rules of Civil Procedure to vest jurisdiction in a court. If the claim is for an occupational disease the appeal shall be to the court of common pleas of the county in which the exposure which caused the disease occurred. Like appeal may be taken from an order of a staff hearing officer made under division (D) of section 4123.511 of the Revised Code from which the commission has refused to hear an appeal. The appellant shall file the notice of appeal with a court of common pleas within sixty days after the date of the receipt of the order appealed from or the date of receipt of the order of the commission refusing to hear an appeal of a staff hearing officer's decision under division (D) of section 4123.511 of the Revised Code. The filing of the notice of the appeal with the court is the only act required to perfect the appeal.

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

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

(B) The notice of appeal shall state the names of the claimant and the employer, the number of the claim, the date of the order appealed from, and the fact that the appellant appeals therefrom.

The administrator, the claimant, and the employer shall be parties to the appeal and the court, upon the application of the commission, shall make the commission a party. The party filing the appeal shall serve a copy of the notice of appeal on the administrator of workers' compensation at the central

office of the bureau of workers' compensation in Columbus. The administrator shall notify the employer that if the employer fails to become an active party to the appeal, then the administrator may act on behalf of the employer and the results of the appeal could have an adverse effect upon the employer's premium rates.

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

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

The claimant shall, within thirty days after the filing of the notice of appeal, file a petition containing a statement of facts in ordinary and concise language showing a cause of action to participate or to continue to participate in the fund and setting forth the basis for the jurisdiction of the court over the action. Further pleadings shall be had in accordance with the Rules of Civil Procedure, provided that service of summons on such petition shall not be required. The clerk of the court shall, upon receipt thereof, transmit by certified mail a copy thereof to each party named in the notice of appeal other than the claimant. Any party may file with the clerk prior to the trial of the action a deposition of any physician taken in accordance with the provisions of the Revised Code, which deposition may be read in the trial of the action even though the physician is a resident of or subject to service in the county in which the trial is had. The bureau of workers' compensation shall pay the cost of the stenographic deposition filed in court and of copies of the stenographic deposition for each party from the surplus fund and charge the costs thereof against the unsuccessful party if the claimant's right to participate or continue to participate is finally sustained or established in the appeal. In the event the deposition is taken and filed, the physician whose deposition is taken is not required to respond to any subpoena issued in the trial of the action. The court, or the jury under the instructions of the court, if a jury is demanded, shall determine the right of the claimant to participate or to continue to participate in the fund upon the evidence adduced at the hearing of the action.

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

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

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

(H) An appeal from an order issued under division (E) of section 4123.511 of the Revised Code or any action filed in court in a case in which an award of compensation has been made shall not stay the payment of compensation under the award or payment of compensation for subsequent periods of total disability during the pendency of the appeal. If, in a final administrative or judicial action, it is determined that payments of compensation or benefits, or both, made to or on behalf of a claimant should not have been made, the amount thereof shall be charged to the surplus fund under division (B) of section 4123.34 of the Revised Code. In the event the employer is a state risk, the amount shall not be charged to the employer's experience. In the event the employer is a self-insuring employer, the self-insuring employer shall deduct the amount from the paid compensation the self-insuring employer reports to the administrator under division (L) of section 4123.35 of the Revised Code. All actions and proceedings under this section which are the subject of an appeal to the court of common pleas or the court of appeals shall be preferred over all other civil actions except election causes, irrespective of position on the calendar.

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

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

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

Except as provided in this section, not earlier than forty weeks after the date of termination of the latest period of payments under section 4123.56 of the Revised Code, or not earlier than forty weeks after the date of the injury or contraction of an occupational disease in the absence of payments under section 4123.56 of the Revised Code, the employee may file an application with the bureau of workers' compensation for the determination of the percentage of ~~his~~ the employee's permanent partial disability resulting from an injury or occupational disease.

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

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

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

(A) The district hearing officer, upon the application, shall determine the percentage of the employee's permanent disability, except as is subject to division (B) of this section, based upon that condition of the employee resulting from the injury or occupational disease and causing permanent impairment evidenced by medical or clinical findings reasonably demonstrable. The employee shall receive sixty-six and two-thirds per cent

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

The employer may obtain a medical examination of the employee and may submit medical evidence at any stage of the process up to a hearing before the district hearing officer, pursuant to rules of the commission. The administrator shall notify the employee, the employer, and their representatives, in writing, of the nature and amount of any tentative order issued on an application requesting a subsequent determination of the percentage of an employee's permanent disability. An employee, employer, or their representatives may object to the tentative order within twenty days after the receipt of the notice thereof. If no timely objection is made, the tentative order shall go into effect. In no event shall there be a reconsideration of a tentative order issued under this division. If an objection is timely made, the application for a subsequent determination shall be referred to a district hearing officer who shall set the application for a hearing with written notice to all interested persons. No application for subsequent percentage determinations on the same claim for injury or occupational disease shall be accepted for review by the district hearing officer unless supported by substantial evidence of new and changed

circumstances developing since the time of the hearing on the original or last determination.

No award shall be made under this division based upon a percentage of disability which, when taken with all other percentages of permanent disability, exceeds one hundred per cent. If the percentage of the permanent disability of the employee equals or exceeds ninety per cent, compensation for permanent partial disability shall be paid for two hundred weeks., ~~except that the bureau may require either a medical examination or a medical review of the employee~~

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

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

(B) In cases included in the following schedule the compensation payable per week to the employee is the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code per week and shall continue during the periods provided in the following schedule:

For the loss of a thumb, sixty weeks.

For the loss of a first finger, commonly called index finger, thirty-five weeks.

For the loss of a second finger, thirty weeks.

For the loss of a third finger, twenty weeks.

For the loss of a fourth finger, commonly known as the little finger, fifteen weeks.

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

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

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

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

le for the loss of a hand.

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.

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.

If the claimant has suffered the loss of two or more fingers by amputation or ankylosis and the nature of ~~his~~ 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.

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

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

For the loss of a great toe, thirty weeks.

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

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

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

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

For the loss of a leg, two hundred weeks.

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

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

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

permanent and total loss of hearing of one ear.

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

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

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

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

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

In all cases arising under division (B) of this section, if it is determined by any one of the following: (1) the amputee clinic at University hospital, Ohio state university; (2) the rehabilitation services commission; (3) an amputee clinic or prescribing physician approved by the administrator or ~~his~~ the administrator's designee, that an injured or disabled employee is in need of an artificial appliance, or in need of a repair thereof, regardless of whether the appliance or its repair will be serviceable in the vocational rehabilitation of the injured employee, and regardless of whether the employee has returned to or can ever again return to any gainful employment, the bureau shall pay the cost of the artificial appliance or its

repair out of the surplus created by division (B) of section 4123.34 of the Revised Code.

In those cases where a rehabilitation services commission recommendation that an injured or disabled employee is in need of an artificial appliance would conflict with their state plan, adopted pursuant to the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 701, the administrator or ~~his~~ the administrator's designee or the bureau may obtain a recommendation from an amputee clinic or prescribing physician that they determine appropriate.

(D) If an employee of a state fund employer makes application for a finding and the administrator finds that ~~he~~ the employee has contracted silicosis as defined in division (X), or coal miners' pneumoconiosis as defined in division (Y), or asbestosis as defined in division (AA) of section 4123.68 of the Revised Code, and that a change of such employee's occupation is medically advisable in order to decrease substantially further exposure to silica dust, asbestos, or coal dust and if the employee, after the finding, has changed or shall change ~~his~~ the employee's occupation to an occupation in which the exposure to silica dust, asbestos, or coal dust is substantially decreased, the administrator shall allow to the employee an amount equal to fifty per cent of the statewide average weekly wage per week for a period of thirty weeks, commencing as of the date of the discontinuance or change, and for a period of one hundred weeks immediately following the expiration of the period of thirty weeks, the employee shall receive sixty-six and two-thirds per cent of the loss of wages resulting directly and solely from the change of occupation but not to exceed a maximum of an amount equal to fifty per cent of the statewide average weekly wage per week. No such employee is entitled to receive more than one allowance on account of discontinuance of employment or change of occupation and benefits shall cease for any period during which the employee is employed in an occupation in which the exposure to silica dust, asbestos, or coal dust is not substantially less than the exposure in the occupation in which ~~he~~ the employee was formerly employed or for any period during which the employee may be entitled to receive compensation or benefits under section 4123.68 of the Revised Code on account of disability from silicosis, asbestosis, or coal miners' pneumoconiosis. An award for change of occupation for a coal miner who has contracted coal miners' pneumoconiosis may be granted under this division even though ~~he~~ the coal miner continues ~~his~~ employment with the same employer, so long as ~~his~~ the coal miner's employment subsequent to the change is such that the coal miner's exposure to coal dust is substantially decreased and a change of

occupation is certified by the claimant as permanent. The administrator may accord to the employee medical and other benefits in accordance with section 4123.66 of the Revised Code.

(E) If a ~~fire-fighter~~ firefighter or police officer makes application for a finding and the administrator finds that ~~he~~ the firefighter or police officer has contracted a cardiovascular and pulmonary disease as defined in division (W) of section 4123.68 of the Revised Code, and that a change of the ~~fire-fighter's~~ firefighter's or police officer's occupation is medically advisable in order to decrease substantially further exposure to smoke, toxic gases, chemical fumes, and other toxic vapors, and if the ~~fire-fighter~~ firefighter, or police officer, after the finding, has changed or changes ~~his~~ occupation to an occupation in which the exposure to smoke, toxic gases, chemical fumes, and other toxic vapors is substantially decreased, the administrator shall allow to the ~~fire-fighter~~ firefighter or police officer an amount equal to fifty per cent of the statewide average weekly wage per week for a period of thirty weeks, commencing as of the date of the discontinuance or change, and for a period of seventy-five weeks immediately following the expiration of the period of thirty weeks the administrator shall allow the ~~fire-fighter~~ firefighter or police officer sixty-six and two-thirds per cent of the loss of wages resulting directly and solely from the change of occupation but not to exceed a maximum of an amount equal to fifty per cent of the statewide average weekly wage per week. No such ~~fire-fighter~~ firefighter or police officer is entitled to receive more than one allowance on account of discontinuance of employment or change of occupation and benefits shall cease for any period during which the ~~fire-fighter~~ firefighter or police officer is employed in an occupation in which the exposure to smoke, toxic gases, chemical fumes, and other toxic vapors is not substantially less than the exposure in the occupation in which ~~he~~ the firefighter or police officer was formerly employed or for any period during which the ~~fire-fighter~~ firefighter or police officer may be entitled to receive compensation or benefits under section 4123.68 of the Revised Code on account of disability from a cardiovascular and pulmonary disease. The administrator may accord to the ~~fire-fighter~~ firefighter or police officer medical and other benefits in accordance with section 4123.66 of the Revised Code.

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

Sec. 4123.591. The administrator of workers' compensation may furnish quarterly, to the tax commissioner, in a format approved by the tax

commissioner, a list containing the name and social security number of any person receiving spousal death benefits. Upon receipt of this list, the commissioner shall return to the administrator, in a format designed by the commissioner, information identifying any person listed by the administrator who, as reported on the most recent return filed by the person under section 5747.08 of the Revised Code, filed under the status "married filing joint return," or "married filing separately."

Sec. 4123.76. When an application for compensation or benefits or an application for further compensation or benefits is filed with the industrial commission or the bureau of workers' compensation under section 4123.75 of the Revised Code against an employer who has not complied with section 4123.35 of the Revised Code, the bureau shall make and file for record in the office of the county recorder in the counties where the employer's property is located, an affidavit showing the date on which the application was filed with the commission or the bureau, the name and address of the employer against whom it was filed, and the fact that the employer had not complied with section 4123.35 of the Revised Code. The recorder shall accept and file the affidavit and record the same as a mortgage on real estate and shall file the same as a chattel mortgage and ~~he~~ the recorder shall index the same as a mortgage on real estate and as a chattel mortgage. A copy of the application or other bureau record documenting the claim shall be filed with the affidavit. A copy of the affidavit shall be served upon the employer by the bureau. The affidavit constitutes a valid lien from the time of filing, in favor of the bureau, upon the real property and tangible personal property of the employer located within the county. The administrator of workers' compensation shall have the lien canceled of record after the employer has paid to the claimant or to the bureau the amount of the compensation or benefits which has been ordered paid to the claimant, or when the application has finally been denied after the claimant has exhausted the remedies provided by law in such cases, or when the employer has filed a bond in the amount and with surety as the administrator approves conditioned on the payment of all sums ordered paid to the claimant. The recorder shall make no charge for the services provided by this section to be performed by ~~him~~ the recorder.

Sec. 4123.83. Each employer paying premiums into the state insurance fund or electing directly to pay compensation to ~~his~~ the employer's injured employees or the dependents of ~~his~~ the employer's killed employees as provided in section 4123.35 of the Revised Code, shall post conspicuously in ~~his~~ the employer's place or places of employment notices, which shall be furnished in adequate number by the bureau of workers' compensation at the

time of the payment of the premium, stating the fact that ~~he~~ the employer has made the payment, the date thereof, and period for which the payment is made, or that ~~he~~ the employer has complied with section 4123.35 of the Revised Code, and has been authorized by the administrator of workers' compensation directly to compensate employees or dependents, and the date of the authorization. The notice, when posted, constitutes sufficient notice to ~~his~~ the employer's employees of the fact that ~~he~~ the employer has made payment or that ~~he~~ the employer has complied with the elective provisions of section 4123.35 of the Revised Code. ~~The bureau shall prepare, semiannually, a list of all employers who have complied with this chapter, classified by counties, and shall send to the newspapers published in the county seat of each county a list of the employers in the county, with a request for its gratuitous publication as a matter of news and protection to the working men and women.~~

Sec. 4123.93. As used in sections 4123.93 and 4123.931 of the Revised Code:

(A) "Claimant" means a person who is eligible to receive compensation or medical benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code, including any dependent or person whose eligibility is the result of an injury to or occupational disease of another person.

(B) "Statutory subrogee" means the administrator of the bureau of workers' compensation, a self-insuring employer, or an employer that contracts for the direct payment of medical services pursuant to division ~~(J)~~(L) of section 4121.44 of the Revised Code.

(C) "Subrogated amounts" include, but are not limited to, the following:

(1) Amounts recoverable from any third party, notwithstanding any limitations by the third party concerning its responsibility to make payments in cases involving workers' compensation under Chapter 4121., 4123., 4127., or 4131. of the Revised Code;

(2) Amounts recoverable from a claimant's insurer in connection with underinsured or uninsured motorist coverage, notwithstanding any limitation contained in Chapter 3937. of the Revised Code;

(3) Amounts that a claimant would be entitled to recover from a political subdivision, notwithstanding any limitations contained in Chapter 2744. of the Revised Code.

(D) "Third party" means an individual, private insurer, public or private entity, or public or private program that is or may be liable to make payments to a person without regard to any statutory duty contained in this chapter or Chapter 4121., 4127., or 4131. of the Revised Code.

Sec. 5703.21. (A) Except as provided in divisions (B), (C), (D), ~~and~~ (E),

and (F) of this section, no agent of the department of taxation, except in the agent's report to the department or when called on to testify in any court or proceeding, shall divulge any information acquired by the agent as to the transactions, property, or business of any person while acting or claiming to act under orders of the department. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the department.

(B)(1) For purposes of an audit pursuant to section 117.15 of the Revised Code, or an audit of the department pursuant to Chapter 117. of the Revised Code, or an audit, pursuant to such chapter, the objective of which is to express an opinion on a financial report or statement prepared or issued pursuant to division (G) or (I) of section 126.21 of the Revised Code, the officers and employees of the auditor of state charged with conducting the audit shall have access to and the right to examine any state tax returns and state tax return information in the possession of the department to the extent that such access and examination are necessary for purposes of the audit. Any information acquired as the result of such access and examination shall not be divulged for any purpose other than as required for such audit or unless the officers and employees are required to testify in a court or proceeding under compulsion of legal process. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the auditor of state.

(2) As provided by section 6103(d)(2) of the Internal Revenue Code, any federal tax returns or federal tax information which the department has acquired from the internal revenue service, through federal and state statutory authority, may be disclosed to the auditor of state solely for purposes of an audit of the department.

(C) Division (A) of this section does not prohibit divulging information contained in applications, complaints, and related documents filed with the department under section 5715.27 of the Revised Code, or in applications filed with the department under section 5715.39 of the Revised Code.

(D) Division (A) of this section does not prohibit the department of taxation providing information to the division of child support within the department of human services, or a child support enforcement agency, pursuant to division (G)(2) of section 5101.31 of the Revised Code.

(E) Division (A) of this section does not prohibit the disclosure to the board of motor vehicle collision repair registration of any information in the possession of the department that is necessary for the board to verify the existence of an applicant's valid vendor's license and current state tax

identification number under section 4775.07 of the Revised Code.

(F) Division (A) of this section does not prohibit the department from providing information to the administrator of workers' compensation pursuant to section 4123.591 of the Revised Code.

Sec. 5747.18. The tax commissioner shall enforce and administer this chapter. In addition to any other powers conferred upon the commissioner by law, the commissioner may:

(A) Prescribe all forms required to be filed pursuant to this chapter;

(B) Adopt such rules as the commissioner finds necessary to carry out this chapter;

(C) Appoint and employ such personnel as are necessary to carry out the duties imposed upon the commissioner by this chapter.

Any information gained as the result of returns, investigations, hearings, or verifications required or authorized by this chapter is confidential, and no person shall disclose such information, except for official purposes, or as provided by section ~~4123.591~~, 4507.023 or 5101.182, division (G)(2) of section 5101.31 or division (B) of section 5703.21 of the Revised Code, or in accordance with a proper judicial order. The tax commissioner may furnish the internal revenue service with copies of returns or reports filed and may furnish the officer of a municipal corporation charged with the duty of enforcing a tax subject to Chapter 718. of the Revised Code with the names, addresses, and identification numbers of taxpayers who may be subject to such tax. A municipal corporation shall use this information for tax collection purposes only. This section does not prohibit the publication of statistics in a form which does not disclose information with respect to individual taxpayers.

SECTION 2. That existing sections 121.03, 3304.23, 3304.231, 4121.12, 4121.121, 4121.37, 4121.44, 4121.63, 4123.343, 4123.511, 4123.512, 4123.57, 4123.76, 4123.83, 4123.93, 5703.21, and 5747.18 of the Revised Code are hereby repealed.

SECTION 3. The Administrator of Workers' Compensation shall submit a series of reports to the Workers' Compensation Oversight Commission, the Office of Budget and Management, the Legislative Budget Office of the Legislative Service Commission, and the General Assembly semiannually during the 1999-2001 biennium, beginning on or before October 1, 1999, containing information relative to all of the following:

(A) The premium cost per worker, which reports the average annual

cost a state fund employer pays to provide workers' compensation coverage for its employees. The premium cost per worker is calculated by adding together an employer's total amounts of premiums and assessments paid during a calendar year and dividing that sum by the employer's average number of workers.

(B) The claims cost per worker, which reports the average annual benefit cost paid for each worker who is employed by a state fund employer during the preceding twelve months. The claims cost per worker is calculated by dividing an employer's total claim expenses paid during the preceding twelve months by the employer's average number of workers.

(C) The administrative cost per claim, which reports the average annual administrative expense a state fund employer pays to process a claim. The administrative cost per claim is calculated by dividing an employer's total amount of administrative expenses incurred during the preceding twelve months by the total number of claims the employer processed.

(D) The direct loss ratio, which measures the relationship between an employer's revenues and workers' compensation benefits paid to an injured worker during the preceding twelve months;

(E) The rate of return generated by investments of the Bureau of Workers' Compensation;

(F) The customer service index, which accounts for various statistical measures reflecting the Bureau's customer service levels;

(G) The Health Partnership Program performance index, which measures the effectiveness of managed care organizations working for the bureau and reflects the quality of care, customer satisfaction, and cost of care provided by the managed care organizations;

(H) The rate of injury in the state per 1,000 workers;

(I) The average and median number of days the bureau takes to adjudicate an injured worker's medical bill fee;

(J) The return-to-work rate of state fund employers' injured workers who do not receive workers' compensation benefits for at least ninety days following their injury, which reports the number of injured workers who returned to work as a percentage of total injuries;

(K) The average number of days it takes for an employer or injured worker to report an injury to the bureau, which is calculated by taking the average number of days between the date of injury and the date the claim was filed with the bureau;

(L) The percentage of indemnity claims adjudicated by the bureau within fourteen days of the injury.

SECTION 4. 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 act, those in the first column are for fiscal year 2000, and those in the second column are for fiscal year 2001.

BWC BUREAU OF WORKERS' COMPENSATION

<u>FND ALI</u>	<u>ALI TITLE</u>		<u>FY 2000</u>	<u>FY 2001</u>
Workers' Compensation Fund Group				
4Y6 855-611	J.L. Camera Center Rent	\$	1,574,038	\$ 1,658,233
4Y6 855-612	J.L. Camera Center Operating	\$	10,252,544	\$ 10,277,047
023 855-401	William Green Lease	\$	16,208,613	\$ 16,914,613
	Payments to OBA			
023 855-407	Claims, Risk & Medical Management	\$	125,639,667	\$ 123,976,161
023 855-408	Fraud Prevention	\$	10,570,473	\$ 9,733,674
023 855-409	Administrative Services	\$	111,478,353	\$ 109,171,402
023 855-410	Attorney General Payments	\$	3,690,907	\$ 3,774,563
825 855-605	Disabled Workers Relief Fund	\$	669,354	\$ 689,059
822 855-606	Coal Workers' Fund	\$	77,056	\$ 78,597
823 855-608	Marine Industry	\$	46,266	\$ 47,654
826 855-609	Safety & Hygiene Operating	\$	18,358,104	\$ 18,491,102
TOTAL WCF Workers' Compensation Fund Group		\$	298,565,375	\$ 294,812,105
TOTAL ALL BUDGET FUND GROUPS		\$	298,565,375	\$ 294,812,105

Safety and Hygiene

Notwithstanding section 4121.37 of the Revised Code, the Administrator of the Bureau of Workers' Compensation shall transfer moneys from the State Insurance Fund so that appropriation item 855-609, Safety and Hygiene Operating, is provided \$18,358,104 in fiscal year 2000 and \$18,491,102 in fiscal year 2001.

Workers' Compensation Fraud Unit

The Workers' Compensation Section Fund (Fund 195) shall receive payments from the Bureau of Workers' Compensation at the beginning of each quarter of each fiscal year to fund expenses of the Workers' Compensation Fraud Unit of the Attorney General's Office. Of the foregoing appropriation item 855-410, Attorney General Payments, \$735,513 in fiscal year 2000 and \$754,294 in fiscal year 2001 shall be used to provide such payments.

William Green Lease Payments

The foregoing appropriation item 855-401, William Green Lease Payments to OBA, shall be used for lease payments to the Ohio Building Authority, and these appropriations shall be used to meet all payments at the times they are required to be made during the period from July 1, 1999, to June 30, 2001, by the Bureau of Workers' Compensation to the Ohio

Building Authority pursuant to leases and agreements made under Chapter 152. of the Revised Code and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. Of the amounts received in Fund 023, appropriation item 855-401, up to \$33,123,226 shall be restricted for lease rental payments to the Ohio Building Authority. If it is determined that additional appropriations are necessary for such purpose, such amounts are hereby appropriated.

Notwithstanding any other provision of law to the contrary, all tenants of the William Green Building not funded by the Workers' Compensation Fund (Fund 023) shall pay their fair share of the costs of lease payments to the Workers' Compensation Fund (Fund 023) by intrastate transfer voucher.

Camera Center

The Camera Center Fund (Fund 4Y6) created in division (F) of section 4121.62 of the Revised Code shall receive revenues raised by the fees Camera Center charges for its services and rent paid by tenants of the Center's facilities. The foregoing appropriation item 855-611, J.L. Camera Center Rent, shall be used to pay rent, including building operating expenses, of the J. Leonard Camera Rehabilitation Center in Columbus. The foregoing appropriation item 855-612, J.L. Camera Center Operating, shall be used for all other expenses for the Center.

The Bureau of Workers' Compensation shall not consider appropriations made to the Camera Center Fund (Fund 4Y6) when establishing administrative cost rates.

Balances

Notwithstanding any provision of law to the contrary, the Director of Budget and Management shall make any transfers of cash balances between funds made necessary by the creation of new funds, or the consolidation of funds as authorized by the General Assembly. Within the first five days after the effective date of this section, the administering agency head shall certify to the director an estimate of the amount of the cash balance to be transferred to the receiving fund. The director may transfer the estimated amount when needed to make payments. Within thirty days after the effective date of this section, the administering agency head shall certify the final amount to the director. The director shall transfer the difference between any estimated amount previously transferred and such certified final amount.

To implement such funding changes as described above pertaining to prior year encumbrance balances and commensurate appropriation authority, in fiscal year 2000 the Director of Budget and Management may cancel encumbrances outstanding on June 30, 1999, and reestablish such prior year

encumbrances or parts of encumbrances as needed in fiscal year 2000 in the appropriate fund or appropriation item as authorized in this act for the same purpose and to the same vendor. As determined by the director, the appropriation authority necessary to reestablish such prior year encumbrances in fiscal year 2000 in a different fund or appropriation item within an agency or between agencies is hereby authorized. The director shall reduce each prior year's appropriation authority by the amount of the encumbrances canceled in their respective funds and appropriation items.

Vocational Rehabilitation

The Bureau of Workers' Compensation and the Rehabilitation Services Commission shall enter into an interagency agreement for the provision of vocational rehabilitation services and staff to mutually eligible clients. The Bureau shall provide \$523,245 in fiscal year 2000 and \$537,896 in fiscal year 2001 from the State Insurance Fund to fund vocational rehabilitation services and staff in accordance with the interagency agreement.

Fund Balance

Any unencumbered cash balance in excess of \$45,000,000 in the Workers' Compensation Fund (Fund 023) on the thirtieth day of June of each fiscal year shall be used to reduce the administrative cost rate charged to employers to cover appropriations for Bureau of Workers' Compensation and Industrial Commission operations.

SECTION 5.

Accounting

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 the main operating appropriations act of the 123rd General Assembly that are generally applicable to such appropriations.

SECTION 6.

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 7.

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 for the purpose of satisfying judgments, settlements, or administrative awards ordered or approved by the Court of Claims or any other court of competent jurisdiction in connection with civil actions against the state.

SECTION 8.

Reappropriation of Unexpended Balances

Notwithstanding section 131.33 of the Revised Code, unexpended balances of appropriations and reappropriations against which encumbrances have been lawfully incurred by the Bureau of Workers' Compensation are, at the close of fiscal years 1999 and 2000, 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 9.

Independent and Severable Items

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 contained in this act are composed, and their applications, are independent and severable.

SECTION 10.

Effective Dates-Codified Sections

The sections of the Revised Code contained in this act, and the items of law of which such sections of the Revised Code are composed, are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the sections of the Revised Code contained in this act, and the items of law of which such sections of the Revised Code 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 section of the Revised Code contained in this act, or against any item of law of which such a section of the Revised Code is composed, the section or item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 11.

Effective Dates-Uncodified Sections

The uncodified sections of law contained in this act, and the items of law of which the 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 uncodified sections of law contained in this act, and the items of law of which the uncodified sections of law contained in this act are composed go into immediate effect when this act becomes law.

SECTION 12. Section 121.03 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 7 and Am. Sub. S.B. 162 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

SECTION 13. Section 4123.511 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 362 and Am. Sub. H.B. 363 of the 122nd General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

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 _____