

**As Re-referred to the House Finance and Appropriations
Committee**

**128th General Assembly
Regular Session
2009-2010**

Sub. H. B. No. 15

Representative Sykes

Cosponsor: Representative Dodd

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A B I L L

To amend sections 121.52, 4121.12, 4121.125, 4121.62, 1
4121.70, and 4123.34 of the Revised Code to create 2
the Deputy Inspector General for the Bureau of 3
Workers' Compensation and Industrial Commission 4
Fund; to make other changes to the Workers' 5
Compensation Law; to make appropriations for the 6
Bureau of Workers' Compensation and for the 7
Workers' Compensation Council for the biennium 8
beginning July 1, 2009, and ending June 30, 2011; 9
and to provide authorization and conditions for 10
the operation of the Bureau's and the Council's 11
programs. 12

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

Section 101. That sections 121.52, 4121.12, 4121.125, 13
4121.62, 4121.70, and 4123.34 of the Revised Code be amended to 14
read as follows: 15

Sec. 121.52. There is hereby created in the office of the 16
inspector general the office of deputy inspector general for the 17
bureau of workers' compensation and industrial commission. The 18

inspector general shall appoint the deputy inspector general, and 19
the deputy inspector general shall serve at the pleasure of the 20
inspector general. A person employed as the deputy inspector 21
general shall have the same qualifications as those specified in 22
section 121.49 of the Revised Code for the inspector general. The 23
inspector general shall provide professional and clerical 24
assistance to the deputy inspector general. 25

The deputy inspector general for the bureau of workers' 26
compensation and the industrial commission shall investigate 27
wrongful acts or omissions that have been committed by or are 28
being committed by officers or employees of the bureau of workers' 29
compensation and the industrial commission. The deputy inspector 30
general has the same powers and duties regarding matters 31
concerning the bureau and the commission as those specified in 32
sections 121.42, 121.43, and 121.45 of the Revised Code for the 33
inspector general. Complaints may be filed with the deputy 34
inspector general in the same manner as prescribed for complaints 35
filed with the inspector general under section 121.46 of the 36
Revised Code. All investigations conducted and reports issued by 37
the deputy inspector general are subject to section 121.44 of the 38
Revised Code. 39

There is hereby created in the state treasury the deputy 40
inspector general for the bureau of workers' compensation and 41
industrial commission fund, which shall consist of moneys 42
deposited into it that the inspector general receives from the 43
administrator of workers' compensation and receives from the 44
industrial commission in accordance with this section. The 45
inspector general shall use the fund to pay the costs incurred by 46
the deputy inspector general in performing the duties of the 47
deputy inspector general as required under this section. 48

Beginning the fiscal year quarter that begins October 1, 49
2009, and at the beginning of each quarter of each fiscal year 50

thereafter, the inspector general shall submit a billing to the 51
administrator and to the chairperson of the industrial commission 52
that reflects the costs incurred by the deputy inspector general 53
during the fiscal year quarter immediately preceding the quarter 54
that the inspector general submits the billing. The billing 55
submitted to the administrator and the chairperson shall reflect 56
each agency's respective share of the costs incurred by the deputy 57
inspector general for work performed regarding the respective 58
agency. At the beginning of the fiscal year quarter that starts 59
October 1, 2009, and at the beginning of each quarter of each 60
fiscal year thereafter, upon the receipt of the billings the 61
administrator and the chairperson shall process intrastate 62
transfer vouchers to pay for those billings. 63

The members of the industrial commission, bureau of workers' 64
compensation board of directors, workers' compensation audit 65
committee, workers' compensation actuarial committee, and workers' 66
compensation investment committee, and the administrator ~~of~~ 67
~~workers' compensation~~, and employees of the industrial commission 68
and the bureau shall cooperate with and provide assistance to the 69
deputy inspector general in the performance of any investigation 70
conducted by the deputy inspector general. In particular, those 71
persons shall make their premises, equipment, personnel, books, 72
records, and papers readily available to the deputy inspector 73
general. In the course of an investigation, the deputy inspector 74
general may question any person employed by the industrial 75
commission or the administrator and any person transacting 76
business with the industrial commission, the board, the audit 77
committee, the actuarial committee, the investment committee, the 78
administrator, or the bureau and may inspect and copy any books, 79
records, or papers in the possession of those persons or entities, 80
taking care to preserve the confidentiality of information 81
contained in responses to questions or the books, records, or 82
papers that are made confidential by law. 83

In performing any investigation, the deputy inspector general shall avoid interfering with the ongoing operations of the entities being investigated, except insofar as is reasonably necessary to successfully complete the investigation.

At the conclusion of an investigation conducted by the deputy inspector general for the bureau of workers' compensation and industrial commission, the deputy inspector general shall deliver to the board, the administrator, the industrial commission, and the governor any case for which remedial action is necessary. The deputy inspector general shall maintain a public record of the activities of the office of the deputy inspector general to the extent permitted under this section, ensuring that the rights of the parties involved in each case are protected. The inspector general shall include in the annual report required under section 121.48 of the Revised Code a summary of the activities of the deputy inspector general during the previous year.

No person shall disclose any information that is designated as confidential in accordance with section 121.44 of the Revised Code or any confidential information that is acquired in the course of an investigation conducted under this section ~~121.53 of the Revised Code~~ to any person who is not legally entitled to disclosure of that information.

Sec. 4121.12. (A) There is hereby created the bureau of workers' compensation board of directors consisting of eleven members to be appointed by the governor with the advice and consent of the senate. One member shall be an individual who, on account of the individual's previous vocation, employment, or affiliations, can be classed as a representative of employees; two members shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representatives of employee organizations and at least one of

these two individuals shall be a member of the executive committee 115
of the largest statewide labor federation; three members shall be 116
individuals who, on account of their previous vocation, 117
employment, or affiliations, can be classed as representatives of 118
employers, one of whom represents self-insuring employers, one of 119
whom is a state fund employer who employs one hundred or more 120
employees, and one of whom is a state fund employer who employs 121
less than one hundred employees; two members shall be individuals 122
who, on account of their vocation, employment, or affiliations, 123
can be classed as investment and securities experts who have 124
direct experience in the management, analysis, supervision, or 125
investment of assets and are residents of this state; one member 126
who shall be a certified public accountant; one member who shall 127
be an actuary who is a member in good standing with the American 128
academy of actuaries or who is an associate or fellow with the 129
society of actuaries; and one member shall represent the public 130
and also be an individual who, on account of the individual's 131
previous vocation, employment, or affiliations, cannot be classed 132
as either predominantly representative of employees or of 133
employers. The governor shall select the chairperson of the board 134
who shall serve as chairperson at the pleasure of the governor. 135

None of the members of the board, within one year immediately 136
preceding the member's appointment, shall have been employed by 137
the bureau of workers' compensation or by any person, partnership, 138
or corporation that has provided to the bureau services of a 139
financial or investment nature, including the management, 140
analysis, supervision, or investment of assets. 141

(B) Of the initial appointments made to the board, the 142
governor shall appoint the member who represents employees, one 143
member who represents employers, and the member who represents the 144
public to a term ending one year after ~~the effective date of this~~ 145
~~amendment~~ June 11, 2007; one member who represents employers, one 146

member who represents employee organizations, one member who is an 147
investment and securities expert, and the member who is a 148
certified public accountant to a term ending two years after ~~the~~ 149
~~effective date of this amendment~~ June 11, 2007; and one member who 150
represents employers, one member who represents employee 151
organizations, one member who is an investment and securities 152
expert, and the member who is an actuary to a term ending three 153
years after ~~the effective date of this amendment~~ June 11, 2007. 154
Thereafter, terms of office shall be for three years, with each 155
term ending on the same day of the same month as did the term that 156
it succeeds. Each member shall hold office from the date of the 157
member's appointment until the end of the term for which the 158
member was appointed. 159

Members may be reappointed. Any member appointed to fill a 160
vacancy occurring prior to the expiration date of the term for 161
which the member's predecessor was appointed shall hold office as 162
a member for the remainder of that term. A member shall continue 163
in office subsequent to the expiration date of the member's term 164
until a successor takes office or until a period of sixty days has 165
elapsed, whichever occurs first. 166

(C) In making appointments to the board, the governor shall 167
select the members from the list of names submitted by the 168
workers' compensation board of directors nominating committee 169
pursuant to this division. The nominating committee shall submit 170
to the governor a list containing four separate names for each of 171
the members on the board. Within fourteen days after the 172
submission of the list, the governor shall appoint individuals 173
from the list. 174

~~Within sixty~~ At least thirty days ~~after~~ prior to a vacancy 175
occurring as a result of the expiration of a term and within 176
thirty days after other vacancies occurring on the board, the 177
nominating committee shall submit an initial list containing four 178

names for each vacancy. Within fourteen days after the submission 179
of the initial list, the governor either shall appoint individuals 180
from that list or request the nominating committee to submit 181
another list of four names for each member the governor has not 182
appointed from the initial list, which list the nominating 183
committee shall submit to the governor within fourteen days after 184
the governor's request. The governor then shall appoint, within 185
seven days after the submission of the second list, one of the 186
individuals from either list to fill the vacancy for which the 187
governor has not made an appointment from the initial list. If the 188
governor appoints an individual to fill a vacancy occurring as a 189
result of the expiration of a term, the individual appointed shall 190
begin serving as a member of the board when the term for which the 191
individual's predecessor was appointed expires or immediately upon 192
appointment by the governor, whichever occurs later. With respect 193
to the filling of vacancies, the nominating committee shall 194
provide the governor with a list of four individuals who are, in 195
the judgment of the nominating committee, the most fully qualified 196
to accede to membership on the board. 197

In order for the name of an individual to be submitted to the 199
governor under this division, the nominating committee shall 200
approve the individual by an affirmative vote of a majority of its 201
members. 202

(D) All members of the board shall receive their reasonable 203
and necessary expenses pursuant to section 126.31 of the Revised 204
Code while engaged in the performance of their duties as members 205
and also shall receive an annual salary not to exceed sixty 206
thousand dollars in total, payable on the following basis: 207

(1) Except as provided in division (D)(2) of this section, a 208
member shall receive two thousand five hundred dollars during a 209
month in which the member attends one or more meetings of the 210

board and shall receive no payment during a month in which the 211
member attends no meeting of the board. 212

(2) A member may receive no more than thirty thousand dollars 213
per year to compensate the member for attending meetings of the 214
board, regardless of the number of meetings held by the board 215
during a year or the number of meetings in excess of twelve within 216
a year that the member attends. 217

(3) Except as provided in division (D)(4) of this section, if 218
a member serves on the workers' compensation audit committee, 219
workers' compensation actuarial committee, or the workers' 220
compensation investment committee, the member shall receive two 221
thousand five hundred dollars during a month in which the member 222
attends one or more meetings of the committee on which the member 223
serves and shall receive no payment during any month in which the 224
member attends no meeting of that committee. 225

(4) A member may receive no more than thirty thousand dollars 226
per year to compensate the member for attending meetings of any of 227
the committees specified in division (D)(3) of this section, 228
regardless of the number of meetings held by a committee during a 229
year or the number of committees on which a member serves. 230

The chairperson of the board shall set the meeting dates of 231
the board as necessary to perform the duties of the board under 232
this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of 233
the Revised Code. The board shall meet at least twelve times a 234
year. The administrator of workers' compensation shall provide 235
professional and clerical assistance to the board, as the board 236
considers appropriate. 237

(E) Before entering upon the duties of office, each appointed 238
member of the board shall take an oath of office as required by 239
sections 3.22 and 3.23 of the Revised Code and file in the office 240
of the secretary of state the bond required under section 4121.127 241

of the Revised Code.	242
(F) The board shall:	243
(1) Establish the overall administrative policy for the	244
bureau for the purposes of this chapter and Chapters 4123., 4125.,	245
4127., 4131., and 4167. of the Revised Code;	246
(2) Review progress of the bureau in meeting its cost and	247
quality objectives and in complying with this chapter and Chapters	248
4123., 4125., 4127., 4131., and 4167. of the Revised Code;	249
(3) Submit an annual report to the president of the senate,	250
the speaker of the house of representatives, the governor, and the	251
workers' compensation council and include all of the following in	252
that report:	253
(a) An evaluation of the cost and quality objectives of the	254
bureau;	255
(b) A statement of the net assets available for the provision	256
of compensation and benefits under this chapter and Chapters	257
4123., 4127., and 4131. of the Revised Code as of the last day of	258
the fiscal year;	259
(c) A statement of any changes that occurred in the net	260
assets available, including employer premiums and net investment	261
income, for the provision of compensation and benefits and payment	262
of administrative expenses, between the first and last day of the	263
fiscal year immediately preceding the date of the report;	264
(d) The following information for each of the six consecutive	265
fiscal years occurring previous to the report:	266
(i) A schedule of the net assets available for compensation	267
and benefits;	268
(ii) The annual cost of the payment of compensation and	269
benefits;	270
(iii) Annual administrative expenses incurred;	271

(iv) Annual employer premiums allocated for the provision of compensation and benefits.	272 273
(e) A description of any significant changes that occurred during the six years for which the board provided the information required under division (F)(3)(d) of this section that affect the ability of the board to compare that information from year to year.	274 275 276 277 278
(4) 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.	279 280 281
(5) Study issues as requested by the administrator or the governor;	282 283
(6) Contract with all of the following:	284
(a) An independent actuarial firm to assist the board in making recommendations to the administrator regarding premium rates;	285 286 287
(b) An outside investment counsel to assist the workers' compensation investment committee in fulfilling its duties;	288 289
(c) An independent fiduciary counsel to assist the board in the performance of its duties.	290 291
(7) Approve the investment policy developed by the workers' compensation investment committee pursuant to section 4121.129 of the Revised Code if the policy satisfies the requirements specified in section 4123.442 of the Revised Code.	292 293 294 295
(8) Review and publish the investment policy no less than annually and make copies available to interested parties.	296 297
(9) Prohibit, on a prospective basis, any specific investment it finds to be contrary to the investment policy approved by the board.	298 299 300
(10) Vote to open each investment class and allow the	301

administrator to invest in an investment class only if the board, 302
by a majority vote, opens that class; 303

(11) After opening a class but prior to the administrator 304
investing in that class, adopt rules establishing due diligence 305
standards for employees of the bureau to follow when investing in 306
that class and establish policies and procedures to review and 307
monitor the performance and value of each investment class; 308

(12) Submit a report annually on the performance and value of 309
each investment class to the governor, the president and minority 310
leader of the senate, ~~and~~ the speaker and minority leader of the 311
house of representatives, and the workers' compensation council. 312

(13) Advise and consent on all of the following: 313

(a) Administrative rules the administrator submits to it 314
pursuant to division (B)(5) of section 4121.121 of the Revised 315
Code for the classification of occupations or industries, for 316
premium rates and contributions, for the amount to be credited to 317
the surplus fund, for rules and systems of rating, rate revisions, 318
and merit rating; 319

(b) The duties and authority conferred upon the administrator 320
pursuant to section 4121.37 of the Revised Code; 321

(c) Rules the administrator adopts for the health partnership 322
program and the qualified health plan system, as provided in 323
sections 4121.44, 4121.441, and 4121.442 of the Revised Code; 324

(d) Rules the administrator submits to it pursuant to Chapter 325
4167. of the Revised Code regarding the public employment risk 326
reduction program and the protection of public health care workers 327
from exposure incidents. 328

As used in this division, "public health care worker" and 329
"exposure incident" have the same meanings as in section 4167.25 330
of the Revised Code. 331

(14) Perform all duties required under this chapter and	332
Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised	333
Code;	334
(15) Meet with the governor on an annual basis to discuss the	335
administrator's performance of the duties specified in this	336
chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the	337
Revised Code;	338
(16) Develop and participate in a bureau of workers'	339
compensation board of directors education program that consists of	340
all of the following:	341
(a) An orientation component for newly appointed members;	342
(b) A continuing education component for board members who	343
have served for at least one year;	344
(c) A curriculum that includes education about each of the	345
following topics:	346
(i) Board member duties and responsibilities;	347
(ii) Compensation and benefits paid pursuant to this chapter	348
and Chapters 4123., 4127., and 4131. of the Revised Code;	349
(iii) Ethics;	350
(iv) Governance processes and procedures;	351
(v) Actuarial soundness;	352
(vi) Investments;	353
(vii) Any other subject matter the board believes is	354
reasonably related to the duties of a board member.	355
(17) Submit the program developed pursuant to division	356
(F)(16) of this section to the workers' compensation council for	357
approval;	358
(18) Hold all sessions, classes, and other events for the	359
program developed pursuant to division (F)(16) of this section in	360

this state. 361

(G) The board may do both of the following: 362

(1) Vote to close any investment class; 363

(2) Create any committees in addition to the workers' 364
compensation audit committee, the workers' compensation actuarial 365
committee, and the workers' compensation investment committee that 366
the board determines are necessary to assist the board in 367
performing its duties. 368

(H) The office of a member of the board who is convicted of 369
or pleads guilty to a felony, a theft offense as defined in 370
section 2913.01 of the Revised Code, or a violation of section 371
102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 372
2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be 373
deemed vacant. The vacancy shall be filled in the same manner as 374
the original appointment. A person who has pleaded guilty to or 375
been convicted of an offense of that nature is ineligible to be a 376
member of the board. A member who receives a bill of indictment 377
for any of the offenses specified in this section shall be 378
automatically suspended from the board pending resolution of the 379
criminal matter. 380

(I) For the purposes of division (G)(1) of section 121.22 of 381
the Revised Code, the meeting between the governor and the board 382
to review the administrator's performance as required under 383
division (F)(15) of this section shall be considered a meeting 384
regarding the employment of the administrator. 385

Sec. 4121.125. (A) The bureau of workers' compensation board 386
of directors, based upon recommendations of the workers' 387
compensation actuarial committee, may contract with one or more 388
outside actuarial firms and other professional persons, as the 389
board determines necessary, to assist the board in measuring the 390

performance of Ohio's workers' compensation system and in 391
comparing Ohio's workers' compensation system to other state and 392
private workers' compensation systems. The board, actuarial firm 393
or firms, and professional persons shall make such measurements 394
and comparisons using accepted insurance industry standards, 395
including, but not limited to, standards promulgated by the 396
National Council on Compensation Insurance. 397

(B) The board may contract with one or more outside firms to 398
conduct management and financial audits of the workers' 399
compensation system, including audits of the reserve fund 400
belonging to the state insurance fund, and to establish objective 401
quality management principles and methods by which to review the 402
performance of the workers' compensation system. 403

(C) The board shall do all of the following: 404

(1) Contract to have prepared annually by or under the 405
supervision of an actuary a report that meets the requirements 406
specified under division (E) of this section and that consists of 407
an actuarial valuation of the assets, liabilities, and funding 408
requirements of the state insurance fund and all other funds 409
specified in this chapter and Chapters 4123., 4127., and 4131. of 410
the Revised Code; 411

(2) Require that the actuary or person supervised by an 412
actuary referred to in division (C)(1) of this section complete 413
the valuation in accordance with the actuarial standards of 414
practice promulgated by the actuarial standards board of the 415
American academy of actuaries; 416

(3) Submit the report referred to in division (C)(1) of this 417
section to the workers' compensation council and the standing 418
committees of the house of representatives and the senate with 419
primary responsibility for workers' compensation legislation ~~not~~ 420
~~later than~~ on or before the first day of ~~September~~ November 421

following the year for which the valuation was made; 422

(4) Have an actuary or a person who provides actuarial 423
services under the supervision of an actuary, at such time as the 424
board determines, and at least once during the five-year period 425
that commences on ~~the effective date of this amendment~~ September 426
10, 2007, and once within each five-year period thereafter, 427
conduct an actuarial investigation of the experience of employers, 428
the mortality, service, and injury rate of employees, and the 429
payment of temporary total disability, permanent partial 430
disability, and permanent total disability under sections 4123.56 431
to 4123.58 of the Revised Code to update the actuarial assumptions 432
used in the report required by division (C)(1) of this section; 433
434

(5) Submit the report required under division (F) of this 435
section to the council and the standing committees of the house of 436
representatives and the senate with primary responsibility for 437
workers' compensation legislation not later than the first day of 438
November following the fifth year of the period that the report 439
covers; 440

(6) Have prepared by or under the supervision of an actuary 441
an actuarial analysis of any introduced legislation expected to 442
have a measurable financial impact on the workers' compensation 443
system; 444

(7) Submit the report required under division (G) of this 445
section to the legislative service commission, the standing 446
committees of the house of representatives and the senate with 447
primary responsibility for workers' compensation legislation, and 448
the council not later than sixty days after the date of 449
introduction of the legislation. 450

(D) The administrator of workers' compensation and the 451
industrial commission shall compile information and provide access 452

to records of the bureau and the industrial commission to the 453
board to the extent necessary for fulfillment of both of the 454
following requirements: 455

(1) Conduct of the measurements and comparisons described in 456
division (A) of this section; 457

(2) Conduct of the management and financial audits and 458
establishment of the principles and methods described in division 459
(B) of this section. 460

(E) The firm or person with whom the board contracts pursuant 461
to division (C)(1) of this section shall prepare a report of the 462
valuation and submit the report to the board. The firm or person 463
shall include all of the following information in the report that 464
is required under division (C)(1) of this section: 465

(1) A summary of the compensation and benefit provisions 466
evaluated; 467

(2) A summary of the census data and financial information 468
used in the valuation; 469

(3) A description of the actuarial assumptions, actuarial 470
cost method, and asset valuation method used in the valuation; 471

(4) A summary of findings that includes a statement of the 472
actuarial accrued compensation and benefit liabilities and 473
unfunded actuarial accrued compensation and benefit liabilities; 474

(5) A schedule showing the effect of any changes in the 475
compensation and benefit provisions, actuarial assumptions, or 476
cost methods since the previous annual actuarial valuation report 477
was submitted to the board. 478

(F) The actuary or person whom the board designates to 479
conduct an actuarial investigation under division (C)(4) of this 480
section shall prepare a report of the actuarial investigation and 481
shall submit the report to the board. The actuary or person shall 482

prepare the report and make any recommended changes in actuarial 483
assumptions in accordance with the actuarial standards of practice 484
promulgated by the actuarial standards board of the American 485
academy of actuaries. The actuary or person shall include all of 486
the following information in the report: 487

(1) A summary of relevant decrement and economic assumption 488
experience; 489

(2) Recommended changes in actuarial assumptions to be used 490
in subsequent actuarial valuations required by division (C)(1) of 491
this section; 492

(3) A measurement of the financial effect of the recommended 493
changes in actuarial assumptions. 494

(G) The actuary or person whom the board designates to 495
conduct the actuarial analysis under division (C)(6) of this 496
section shall prepare a report of the actuarial analysis and shall 497
submit that report to the board. The actuary or person shall 498
complete the analysis in accordance with the actuarial standards 499
of practice promulgated by the actuarial standards board of the 500
American academy of actuaries. The actuary or person shall include 501
all of the following information in the report: 502

(1) A summary of the statutory changes being evaluated; 503

(2) A description of or reference to the actuarial 504
assumptions and actuarial cost method used in the report; 505

(3) A description of the participant group or groups included 506
in the report; 507

(4) A statement of the financial impact of the legislation, 508
including the resulting increase, if any, in employer premiums, in 509
actuarial accrued liabilities, and, if an increase in actuarial 510
accrued liabilities is predicted, the per cent of premium increase 511
that would be required to amortize the increase in those 512

liabilities as a level per cent of employer premiums over a period 513
not to exceed thirty years. 514

(5) A statement of whether the employer premiums paid to the 515
bureau of workers' compensation after the proposed change is 516
enacted are expected to be sufficient to satisfy the funding 517
objectives established by the board. 518

(H) The board may, at any time, request an actuary to make 519
any studies or actuarial valuations to determine the adequacy of 520
the premium rates established by the administrator in accordance 521
with sections 4123.29 and 4123.34 of the Revised Code, and may 522
adjust those rates as recommended by the actuary. 523

(I) The board shall have an independent auditor, at least 524
once every ten years, conduct a fiduciary performance audit of the 525
investment program of the bureau of workers' compensation. That 526
audit shall include an audit of the investment policies approved 527
by the board and investment procedures of the bureau. The board 528
shall submit a copy of that audit to the auditor of state. 529

(J) The administrator, with the advice and consent of the 530
board, shall employ an internal auditor who shall report findings 531
directly to the board, workers' compensation audit committee, and 532
administrator, except that the internal auditor shall not report 533
findings directly to the administrator when those findings involve 534
malfeasance, misfeasance, or nonfeasance on the part of the 535
administrator. The board and the workers' compensation audit 536
committee may request and review internal audits conducted by the 537
internal auditor. 538

(K) The administrator shall pay the expenses incurred by the 539
board to effectively fulfill its duties and exercise its powers 540
under this section as the administrator pays other operating 541
expenses of the bureau. 542

Sec. 4121.62. (A) The authority granted to the administrator 543
of workers' compensation pursuant to sections 4121.61 to 4121.69 544
of the Revised Code includes the authority to do all of the 545
following: 546

(1) Contract with any public or private person for the 547
rendition of rehabilitation services; 548

(2) Take actions and utilize money in the state insurance 549
fund as necessary to obtain federal funds and assistance in the 550
maximum amounts and most advantageous proportions and terms 551
possible; 552

(3) Conduct rehabilitation educational programs for employers 553
and employees; 554

~~(4) Establish within the bureau of workers' compensation a 555
rehabilitation division under the supervision of a director of 556
rehabilitation appointed by and responsible to the administrator. 557~~

~~(B) The director of the division established is in the 558
unclassified civil service of the state. The appointing authority 559
may designate up to three positions at each facility under the 560
jurisdiction of the division, and up to six positions in the 561
division which are part of the director's immediate staff as being 562
in the unclassified service of the state as long as the 563
administrator determines that the positions are primarily and 564
distinctively administrative, managerial, or professional. All 565
other full-time employees of the division are in the classified 566
civil service. 567~~

~~(C) The administrator shall establish fees for use of 568
services offered by the division of rehabilitation, including, 569
without limitation, the expense of providing rehabilitation 570
services, counseling, and training. The administrator shall adopt 571
rules, in accordance with Chapter 119. of the Revised Code, which 572~~

~~establish the specific services the division offers and the amount 573
of the fee for those services, which amount shall be based upon 574
the actual cost of the division providing the services to the 575
employer and employee. 576~~

~~(D) Nothing in sections 4121.61 to 4121.69 of the Revised 577
Code shall be interpreted to grant authority to the administrator 578
to require a claimant to utilize a public provider of 579
rehabilitation services, counseling, or training. 580~~

Sec. 4121.70. (A) There is hereby created the 581
labor-management government advisory council consisting of twelve 582
members appointed as follows: 583

(1) The governor, with the advice and consent of the senate, 584
shall appoint three members who, by training and vocation, are 585
representative of labor and three members who, by training and 586
vocation, are representative of employers. 587

(2) Ex officio, the chairpersons of the standing committees 588
of the house of representatives and the senate to which 589
legislation concerned with workers' compensation is customarily 590
referred. A chairperson may designate the vice-chairperson of the 591
committee to serve instead. 592

(3) One person who by training and vocation represents labor 593
and one person who by training and vocation represents employers 594
of differing political parties appointed by the speaker of the 595
house of representatives. 596

(4) One person who by training and vocation represents labor 597
and one person who by training and vocation represents employers 598
of differing political parties appointed by the president of the 599
senate. 600

(B) Members appointed by the governor shall serve for a term 601
of six years with each term ending on the same day of the year in 602

which the member was first appointed, except that each member 603
shall serve for a period of sixty additional days at the end of 604
the member's term or until the member's successor is appointed and 605
qualifies, whichever date occurs first. Of the members first 606
appointed to the council by the governor, one member each 607
representing labor and management shall serve an initial term of 608
two years, one member each representing labor and management shall 609
serve a term of four years, and the remaining two members shall 610
serve full six-year terms. The members initially appointed by the 611
speaker of the house of representatives and the president of the 612
senate shall serve a term of six years. Thereafter, members shall 613
be appointed to and serve full six-year terms. Members are 614
eligible for reappointment to any number of additional terms. 615

Legislative members shall serve a term that coincides with 616
the two-year legislative session in which they are first appointed 617
with each term ending on the thirty-first day of December of the 618
even-numbered year. Legislative members are eligible for 619
reappointment. 620

Vacancies on the council shall be filled in the same manner 621
as the original appointment. All members of the council shall 622
serve without additional compensation but shall be reimbursed by 623
the bureau of workers' compensation for actual and necessary 624
expenses. 625

The council shall advise the bureau of workers' compensation 626
board of directors and the administrator of workers' compensation 627
on the quality and effectiveness of rehabilitation services and 628
make recommendations pertaining to the bureau's rehabilitation 629
program, including the operation of that program. 630

~~The labor management government advisory council shall 631
recommend to the administrator three candidates for the position 632
of director of rehabilitation. The candidates shall be chosen for 633
their ability and background in the field of rehabilitation. The 634~~

~~administrator shall select a director from the list of candidates.~~ 635

Sec. 4123.34. It shall be the duty of the bureau of workers' 636
compensation board of directors and the administrator of workers' 637
compensation to safeguard and maintain the solvency of the state 638
insurance fund and all other funds specified in this chapter and 639
Chapters 4121., 4127., and 4131. of the Revised Code. The 640
administrator, in the exercise of the powers and discretion 641
conferred upon the administrator in section 4123.29 of the Revised 642
Code, shall fix and maintain, with the advice and consent of the 643
board, for each class of occupation or industry, the lowest 644
possible rates of premium consistent with the maintenance of a 645
solvent state insurance fund and the creation and maintenance of a 646
reasonable surplus, after the payment of legitimate claims for 647
injury, occupational disease, and death that the administrator 648
authorizes to be paid from the state insurance fund for the 649
benefit of injured, diseased, and the dependents of killed 650
employees. In establishing rates, the administrator shall take 651
into account the necessity of ensuring sufficient money is set 652
aside in the premium payment security fund to cover any defaults 653
in premium obligations. The administrator shall observe all of the 654
following requirements in fixing the rates of premium for the 655
risks of occupations or industries: 656

(A) The administrator shall keep an accurate account of the 657
money paid in premiums by each of the several classes of 658
occupations or industries, and the losses on account of injuries, 659
occupational disease, and death of employees thereof, and also 660
keep an account of the money received from each individual 661
employer and the amount of losses incurred against the state 662
insurance fund on account of injuries, occupational disease, and 663
death of the employees of the employer. 664

(B) ~~Ten per cent~~ A portion of the money paid into the state 665

insurance fund shall be set aside for the creation of a surplus 666
~~until the surplus amounts to the sum of one hundred thousand 667~~
~~dollars, after which time, whenever necessary in the judgment of 668~~
~~the administrator to guarantee a solvent fund account within the 669~~
state insurance fund, a sum not exceeding five per cent of all the 670
money paid into the state insurance fund shall be credited to the 671
surplus fund. Any references in this chapter or in Chapter 4121., 672
4125., 4127., or 4131. of the Revised Code to the surplus fund, 673
the surplus created in this division, the statutory surplus fund, 674
or the statutory surplus of the state insurance fund are hereby 675
deemed to be references to the surplus fund account. The 676
administrator may transfer the portion of the state insurance fund 677
to the surplus fund account as the administrator determines is 678
necessary to satisfy the needs of the surplus fund account and to 679
guarantee the solvency of the state insurance fund and the surplus 680
fund account. In addition to all statutory authority under this 681
chapter and Chapter 4121. of the Revised Code, the administrator 682
has discretionary and contingency authority to make charges to the 683
surplus fund account. The administrator shall account for all 684
charges, whether statutory, discretionary, or contingency, that 685
the administrator may make to the surplus fund account. A revision 686
of basic rates shall be made annually on the first day of July. 687

688
Notwithstanding any provision of the law to the contrary, one 689
hundred eighty days after the effective date on which 690
self-insuring employers first may elect under division (D) of 691
section 4121.66 of the Revised Code to directly pay for 692
rehabilitation expenses, the administrator shall calculate the 693
deficit, if any, in the portion of the surplus fund account that 694
is used for reimbursement to self-insuring employers for all 695
expenses other than handicapped reimbursement under section 696
4123.343 of the Revised Code. The administrator, from time to 697
time, may determine whether the surplus fund account has such a 698

deficit and may assess all self-insuring employers who 699
participated in the portion of the surplus fund account during the 700
accrual of the deficit and who during that time period have not 701
made the election under division (D) of section 4121.66 of the 702
Revised Code the amount the administrator determines necessary to 703
reduce the deficit. 704

Revisions of basic rates shall be in accordance with the 705
oldest four of the last five calendar years of the combined 706
accident and occupational disease experience of the administrator 707
in the administration of this chapter, as shown by the accounts 708
kept as provided in this section, excluding the experience of 709
employers that are no longer active if the administrator 710
determines that the inclusion of those employers would have a 711
significant negative impact on the remainder of the employers in a 712
particular manual classification; and the administrator shall 713
adopt rules, with the advice and consent of the board, governing 714
rate revisions, the object of which shall be to make an equitable 715
distribution of losses among the several classes of occupation or 716
industry, which rules shall be general in their application. 717

(C) The administrator may apply that form of rating system 718
that the administrator finds is best calculated to merit rate or 719
individually rate the risk more equitably, predicated upon the 720
basis of its individual industrial accident and occupational 721
disease experience, and may encourage and stimulate accident 722
prevention. The administrator shall develop fixed and equitable 723
rules controlling the rating system, which rules shall conserve to 724
each risk the basic principles of workers' compensation insurance. 725

(D) The administrator, from the money paid into the state 726
insurance fund, shall set aside into an account of the state 727
insurance fund titled a premium payment security fund sufficient 728
money to pay for any premiums due from an employer and uncollected 729
that are in excess of the employer's premium security deposit. 730

The fund shall be in the custody of the treasurer of state. 731
All investment earnings of the fund shall be deposited in the 732
fund. Disbursements from the fund shall be made by the bureau of 733
workers' compensation upon order of the administrator to the state 734
insurance fund. The use of the moneys held by the premium payment 735
security fund is restricted to reimbursement to the state 736
insurance fund of premiums due and uncollected in excess of an 737
employer's premium security deposit. The moneys constituting the 738
premium payment security fund shall be maintained without regard 739
to or reliance upon any other fund. This section does not prevent 740
the deposit or investment of the premium payment security fund 741
with any other fund created by this chapter, but the premium 742
payment security fund is separate and distinct for every other 743
purpose and a strict accounting thereof shall be maintained. 744

(E) The administrator may grant discounts on premium rates 745
for employers who meet either of the following requirements: 746

(1) Have not incurred a compensable injury for one year or 747
more and who maintain an employee safety committee or similar 748
organization or make periodic safety inspections of the workplace. 749

(2) Successfully complete a loss prevention program 750
prescribed by the superintendent of the division of safety and 751
hygiene and conducted by the division or by any other person 752
approved by the superintendent. 753

(F)(1) In determining the premium rates for the construction 754
industry the administrator shall calculate the employers' premiums 755
based upon the actual remuneration construction industry employees 756
receive from construction industry employers, provided that the 757
amount of remuneration the administrator uses in calculating the 758
premiums shall not exceed an average weekly wage equal to one 759
hundred fifty per cent of the statewide average weekly wage as 760
defined in division (C) of section 4123.62 of the Revised Code. 761

(2) Division (F)(1) of this section shall not be construed as affecting the manner in which benefits to a claimant are awarded under this chapter. 762
 763
 764

(3) As used in division (F) of this section, "construction industry" includes any activity performed in connection with the erection, alteration, repair, replacement, renovation, installation, or demolition of any building, structure, highway, or bridge. 765
 766
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Section 102. That existing sections 121.52, 4121.12, 4121.125, 4121.62, 4121.70, and 4123.34 of the Revised Code are hereby repealed. 770
 771
 772

Section 201. All items in Sections 201 and 203 of this act 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 2010, and those in the second column are for fiscal year 2011. 773
 774
 775
 776
 777

FND AI	AI TITLE	Appropriations		
	BWC BUREAU OF WORKERS' COMPENSATION			779
	Workers' Compensation Fund Group			780
7023 855401	William Green Lease	\$ 19,871,795	\$ 19,049,395	781
	Payments to OBA			
7023 855407	Claims, Risk and	\$ 138,129,873	\$ 142,659,528	782
	Medical Management			
7023 855408	Fraud Prevention	\$ 12,546,239	\$ 13,101,761	783
7023 855409	Administrative	\$ 124,355,772	\$ 119,767,995	784
	Services			
7023 855410	Attorney General	\$ 4,621,850	\$ 4,621,850	785
	Payments			
8220 855606	Coal Workers' Fund	\$ 91,894	\$ 91,894	786
8230 855608	Marine Industry	\$ 53,952	\$ 53,952	787

8250	855605	Disabled Workers Relief Fund	\$	492,500	\$	492,500	788
8260	855609	Safety and Hygiene Operating	\$	20,734,750	\$	20,734,750	789
8260	855610	Gear Program	\$	4,000,000	\$	4,000,000	790
8290	855604	Long Term Care Loan Program	\$	2,000,000	\$	2,000,000	791
TOTAL WCF Workers' Compensation							792
Fund Group			\$	326,898,625	\$	326,573,625	793
Federal Special Revenue Fund Group							794
3490	855601	OSHA Enforcement	\$	1,604,140	\$	1,604,140	795
TOTAL FED Federal Special Revenue			\$	1,604,140	\$	1,604,140	796
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	328,502,765	\$	328,177,765	797

WILLIAM GREEN LEASE PAYMENTS 798

The foregoing appropriation item 855401, William Green Lease 799
 Payments to OBA, shall be used for lease payments to the Ohio 800
 Building Authority, and these appropriations shall be used to meet 801
 all payments at the times they are required to be made during the 802
 period from July 1, 2009, to June 30, 2011, by the Bureau of 803
 Workers' Compensation to the Ohio Building Authority pursuant to 804
 leases and agreements made under Chapter 152. of the Revised Code 805
 and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. 806
 Of the amounts received in Fund 7023, appropriation item 855401, 807
 William Green Lease Payments to OBA, up to \$41,123,100 shall be 808
 restricted for lease rental payments to the Ohio Building 809
 Authority. If it is determined that additional appropriations are 810
 necessary for such purpose, such amounts are hereby appropriated. 811

Notwithstanding any provision of law to the contrary, all 812
 tenants of the William Green Building not funded by the Workers' 813
 Compensation Fund (Fund 7023) shall pay their fair share of the 814
 costs of lease payments to the Workers' Compensation Fund (Fund 815

7023) by intrastate transfer voucher.	816
WORKERS' COMPENSATION FRAUD UNIT	817
The Workers' Compensation Section Fund (Fund 1950) that is	818
used by the Attorney General shall receive payments from the	819
Bureau of Workers' Compensation at the beginning of each quarter	820
of each fiscal year to fund expenses of the Workers' Compensation	821
Fraud Unit of the Attorney General's Office. Of the foregoing	822
appropriation item 855410, Attorney General Payments, \$828,200 in	823
fiscal year 2010 and \$828,200 in fiscal year 2011 shall be used to	824
provide these payments.	825
SAFETY AND HYGIENE	826
Notwithstanding section 4121.37 of the Revised Code, the	827
Administrator of Workers' Compensation shall transfer moneys from	828
the State Insurance Fund so that appropriation item 855609, Safety	829
and Hygiene Operating, is provided \$20,734,750 in fiscal year 2010	830
and \$20,734,750 in fiscal year 2011.	831
OSHA ON-SITE CONSULTATION PROGRAM	832
The Bureau of Workers' Compensation may designate a portion	833
of appropriation item 855609, Safety and Hygiene Operating, to be	834
used to match federal funding for the federal Occupational Safety	835
and Health Administration's (OSHA) on-site consultation program.	836
VOCATIONAL REHABILITATION	837
The Bureau of Workers' Compensation and the Rehabilitation	838
Services Commission shall enter into an interagency agreement for	839
the provision of vocational rehabilitation services and staff to	840
mutually eligible clients. The bureau shall provide \$605,407 in	841
fiscal year 2010 and \$605,407 in fiscal year 2011 from the State	842
Insurance Fund to fund vocational rehabilitation services and	843
staff in accordance with the interagency agreement.	844
FUND BALANCE	845

Any unencumbered cash balance in excess of \$45,000,000 in the 846
Workers' Compensation Fund (Fund 7023) on the thirtieth day of 847
June of each fiscal year shall be used to reduce the 848
administrative cost rate charged to employers to cover 849
appropriations for Bureau of Workers' Compensation operations. 850

Section 203. WCC WORKERS' COMPENSATION COUNCIL 851

5FV0 321600	Remuneration Expenses	\$	471,200	\$	471,200	852
TOTAL 5FV0 Workers' Compensation Council Remuneration Fund		\$	471,200	\$	471,200	853
TOTAL ALL BUDGET FUND GROUPS		\$	471,200	\$	471,200	854

WORKERS' COMPENSATION COUNCIL 855

The foregoing appropriation item 321600, Remuneration 856
Expenses, shall be used to pay the payroll and fringe benefit 857
costs for employees of the Workers' Compensation Council. 858

Between July 1, 2009, and December 31, 2009, the 859
Administrator of Workers' Compensation shall direct the Treasurer 860
of State to transfer \$325,000 in cash from the Workers' 861
Compensation Fund (Fund 7023) to the Workers' Compensation Council 862
Fund, created in division (C) of section 4121.79 of the Revised 863
Code, in three installments. These transfers shall be made 864
according to a schedule agreed to by the Director of the Workers' 865
Compensation Council and the Administrator of Workers' 866
Compensation. 867

Section 211. RECOVERING THE COST OF DEPUTY INSPECTOR GENERAL 868
INVESTIGATIONS FROM BWC AND OIC 869

On July 1, 2009, or as soon as possible thereafter, the 870
Director of Budget and Management shall transfer \$106,000 in cash 871
from the Workers' Compensation Fund (Fund 7023) to the Deputy 872
Inspector General for the Bureau of Workers' Compensation and 873
Industrial Commission Fund (Fund 5FT0). The amounts transferred 874

are appropriated. 875

Beginning October 1, 2009, the Inspector General shall 876
recover the costs of investigations prescribed by section 121.52 877
of the Revised Code through intrastate transfer voucher billings 878
to the Bureau of Workers' Compensation and to the Industrial 879
Commission. 880

Notwithstanding division (D) of section 4121.03, division 881
(B)(10) of section 4121.121, and section 101.532 of the Revised 882
Code, of the appropriation item 855409, Administrative Services, 883
in the Bureau of Workers' Compensation and appropriation item 884
845321, Operating Expenses, in the Industrial Commission, not more 885
than \$425,000 in total in each fiscal year shall be used to 886
reimburse the Inspector General for the cost of investigations 887
incurred under section 121.52 of the Revised Code. Should 888
additional amounts be necessary, the Administrator of Workers' 889
Compensation and the Chairperson of the Industrial Commission may 890
seek Controlling Board approval to increase the amounts designated 891
and the appropriations necessary to reimburse the Inspector 892
General for the cost of investigations. 893

Section 221. Law contained in the Main Operating 894
Appropriations Act of the 128th General Assembly that applies 895
generally to the appropriations made in that act also applies 896
generally to the appropriations made in this act. 897

Section 301. The provisions of law contained in this act, and 898
their applications, are severable. If any provision of law 899
contained in this act, or if any application of any provision of 900
law contained in this act, is held invalid, the invalidity does 901
not affect other provisions of law contained in this act and their 902
applications that can be given effect without the invalid 903
provision or application. 904

Section 311. Except as otherwise provided in this act, the amendment, enactment, or repeal by this act of a section of law is exempt from the referendum because it is or relates to an appropriation for current expenses within the meaning of Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and therefore takes effect immediately when this act becomes law.

Section 313. The amendment, enactment, or repeal by this act of the sections of law listed below is subject to the referendum under Ohio Constitution, Article II, Section 1c and therefore takes effect on the ninety-first day after this act is filed with the Secretary of State.

The amendment by this act of sections 4121.12, 4121.125, 4121.62, 4121.70, and 4123.34 of the Revised Code.