

AN ACT

To amend sections 4121.021, 4123.30, 4123.34, 4123.341, 4123.342, and 4123.36 of the Revised Code to make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2023, and ending June 30, 2025, to provide authorization and conditions for the operation of the Bureau's programs, to make changes to the Workers' Compensation Law, and to enact a three-day interim budget.

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

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

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

Sec. 4123.30. Money contributed by public employers constitutes the "public fund" and the money contributed by private employers constitutes the "private fund." Each such fund shall be collected, distributed, and its solvency maintained without regard to or reliance upon the other. Whenever in this chapter reference is made to the state insurance fund, the reference is to such two separate funds but such two separate funds and the net premiums contributed thereto by employers after adjustments and dividends, except for the amount thereof which is set aside for the investigation and prevention of industrial accidents and diseases pursuant to Section 35 of Article II, Ohio Constitution, any amounts set aside for actuarial services authorized or required by sections 4123.44 and 4123.47 of the Revised Code, and any amounts set aside to reinsure the liability of the respective insurance funds for the following payments, constitute a trust fund for the benefit of employers and employees mentioned in sections 4123.01, 4123.03, and 4123.73 of the Revised Code for the payment of compensation, medical services, examinations, recommendations and determinations, nursing and hospital services, medicine, rehabilitation, death benefits, funeral expenses, and like benefits for loss sustained on account of injury, disease, or death provided for by this chapter, the administrative costs of the industrial commission, bureau of workers' compensation board of directors, and bureau of workers' compensation to administer Chapters 4121., 4123., 4125., 4127., 4133., and 4167. of the Revised Code pursuant to section 4123.342 of the Revised Code, and for no other purpose. This section does not prevent the deposit or investment of all such moneys intermingled for such purpose but such funds shall be separate and distinct for all other

purposes, and the rights and duties created in this chapter shall be construed to have been made with respect to two separate funds and so as to maintain and continue such funds separately except for deposit or investment. Disbursements shall not be made on account of injury, disease, or death of employees of employers who contribute to one of such funds unless the moneys to the credit of such fund are sufficient therefor and no such disbursements shall be made for moneys or credits paid or credited to the other fund.

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

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

(B) A portion of the money paid into the state insurance fund shall be set aside for the creation of a surplus fund account within the state insurance fund. Any references in this chapter or in Chapter 4121., 4125., 4127., or 4131. of the Revised Code to the surplus fund, the surplus created in this division, the statutory surplus fund, or the statutory surplus of the state insurance fund are hereby deemed to be references to the surplus fund account. The administrator may transfer the portion of the state insurance fund to the surplus fund account as the administrator determines is necessary to satisfy the needs of the surplus fund account and to guarantee the solvency of the state insurance fund and the surplus fund account. In addition to all statutory authority under this chapter and Chapter 4121. of the Revised Code, the administrator has discretionary and contingency authority to make charges to the surplus fund account. The administrator shall account for all charges, whether statutory, discretionary, or contingency, that the administrator may make to the surplus fund account. A revision of basic rates shall be made annually on the first day of July.

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

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

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

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

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

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

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

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

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

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

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

(3) As used in division ~~(F)~~~~(E)~~ 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.

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

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

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

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

(C) The counties and taxing districts therein shall contribute such sum as may be required under ~~section~~sections 4123.34, 4123.342, and 4123.41 of the Revised Code.

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

Sec. 4123.342. (A) The administrator of workers' compensation shall allocate among counties and taxing districts therein as a class, the state and its instrumentalities as a class, private employers who are insured under the private fund as a class, and self-insuring employers as a class their fair shares of the administrative costs which are to be borne by such employers ~~under division (D) of section 4123.341 of the Revised Code~~, separately allocating to each class those costs solely attributable to the activities of the industrial commission and those costs solely attributable to the activities of the bureau of workers' compensation board of directors, and the bureau of workers' compensation in respect of the class, allocating to any combination of classes those costs attributable to the activities of the industrial commission, board, or bureau in respect of the classes, and allocating to all four classes those costs attributable to the activities of the industrial commission, board, and bureau in respect of all classes. ~~The administrator shall separately calculate each employer's assessment in the class, except self-insuring employers, on the basis of the following three factors: payroll, paid compensation, and paid medical costs of the employer for those costs solely attributable to the activities of the board and the bureau. The administrator shall separately calculate each employer's assessment in the class, except self-insuring employers, on the basis of the following three factors: payroll, paid compensation, and paid medical costs of the employer for those costs solely attributable to the activities of the industrial commission. The administrator shall separately calculate each self-insuring employer's assessment in accordance with section 4123.35 of the Revised Code for those costs solely attributable to the activities of the board and the bureau.~~ The administrator shall separately calculate each self-insuring employer's assessment ~~administrative costs~~ in accordance with section 4123.35 of the Revised Code ~~for those costs solely attributable to the activities of the industrial commission.~~ In a timely manner, the industrial commission shall provide to the administrator, the information necessary for the administrator to allocate and calculate, with the approval of the chairperson of the industrial commission, for each class of employer as described in this division, the costs solely attributable to the activities of the industrial commission.

(B) ~~The administrator shall divide the administrative cost assessments collected by the administrator into two administrative assessment accounts within the state insurance fund. One of the administrative assessment accounts shall consist of the administrative cost assessment collected by the administrator for the industrial commission. One of the administrative assessment accounts shall consist of the administrative cost assessments collected by the administrator for the bureau and the board. The administrator may invest the administrative cost assessments in these accounts on behalf of the bureau and the industrial commission as authorized in section 4123.44 of the Revised Code. In a timely manner, the administrator shall provide to the industrial commission the information and reports the commission deems necessary for the commission to monitor the receipts and the disbursements from the administrative assessment account for the industrial commission.~~

~~(C)~~ The administrator or the administrator's designee shall transfer moneys from the state insurance fund as necessary from the for the administrative assessment account identified for costs of the

bureau and the board to the workers' compensation fund for the use of the bureau and the board. As necessary and upon the authorization of the industrial commission, the administrator or the administrator's designee shall transfer moneys from ~~the administrative assessment account identified for the industrial commission state insurance fund for the commission's administrative costs~~ to the industrial commission operating fund created under section 4121.021 of the Revised Code. ~~To the extent that the moneys collected by the administrator in any fiscal biennium of the state equal the sum appropriated by the general assembly for administrative costs of the industrial commission, board, and bureau for the biennium, the moneys shall be paid into the workers' compensation fund and the industrial commission operating fund of the state, as appropriate, and any remainder shall be retained in those funds and applied to reduce the amount collected during the next biennium.~~

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

Sec. 4123.36. Whenever an employer fails to pay a premium due and the administrator of workers' compensation determines the employer's account to be uncollectible, the administrator shall cover the default ~~by transfer of money from the premium payment security fund account to the state insurance fund~~. Thereafter, the employer shall be considered a noncomplying employer under this chapter and shall not be entitled to the benefits and protection of this chapter.

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

Section 200.10. All items in 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 2024, and those in the second column are for fiscal year 2025.

	1	2	3	4	5
A	BWC BUREAU OF WORKERS' COMPENSATION				
B	Dedicated Purpose Fund Group				
C	7023	855407	Claims, Risk and Medical Management	\$126,096,491	\$127,366,065
D	7023	855408	Fraud Prevention	\$19,099,498	\$18,486,443
E	7023	855409	Administrative Services	\$137,585,121	\$142,777,652

F	7023	855410	Attorney General Payments	\$6,080,080	\$6,080,080
G	8220	855606	Coal Workers' Fund	\$195,832	\$195,832
H	8230	855608	Marine Industry	\$81,508	\$81,508
I	8250	855605	Disabled Workers Relief Fund	\$204,981	\$204,981
J	8260	855609	Safety and Hygiene Operating	\$23,613,361	\$24,486,602
K	8260	855610	Safety Grants	\$35,000,000	\$35,000,000
L	8260	855611	Health and Safety Initiative	\$3,000,000	\$3,000,000
M	8260	855612	Safety Campaign	\$1,500,000	\$1,500,000
N	8260	855613	Research Grants	\$1,000,000	\$1,000,000
O	8260	855618	Substance Use Recovery and Workplace Safety Program	\$4,000,000	\$4,000,000
P	8260	855619	Safety and Health Workforce Safety Innovation Center	\$15,000,000	\$15,000,000
Q	TOTAL DPF Dedicated Purpose Fund Group			\$372,456,872	\$379,179,163
R	Federal Fund Group				
S	3490	855601	OSHA Enforcement	\$1,876,339	\$1,876,338
T	3FW0	855614	BLS SOII Grant	\$195,104	\$195,104
U	TOTAL FED Federal Fund Group			\$2,071,443	\$2,071,442
V	TOTAL ALL BUDGET FUND GROUPS			\$374,528,315	\$381,250,605

WORKERS' COMPENSATION FRAUD UNIT

Of the foregoing appropriation item 855410, Attorney General Payments, \$828,200 in each fiscal year shall be used to fund the expenses of the Workers' Compensation Fraud Unit within the Attorney General's Office. These payments shall be processed at the beginning of each quarter of each fiscal year

and deposited into the Workers' Compensation Section Fund (Fund 1950) used by the Attorney General.

SAFETY AND HYGIENE

Notwithstanding section 4121.37 of the Revised Code, the Treasurer of State shall remit \$23,613,361 cash in fiscal year 2024 and \$24,486,602 cash in fiscal year 2025 from the State Insurance Fund to the state treasury to the credit of the Safety and Hygiene Fund (Fund 8260).

SAFETY GRANTS

Notwithstanding section 4121.37 of the Revised Code, the Treasurer of State shall remit \$35,000,000 cash in fiscal year 2024 and \$35,000,000 cash in fiscal year 2025 from the State Insurance Fund to the state treasury to the credit of the Safety and Hygiene Fund (Fund 8260) to be used for Safety Grants.

HEALTH AND SAFETY INITIATIVE

Notwithstanding section 4121.37 of Revised Code, the Treasurer of State shall remit \$3,000,000 cash in fiscal year 2024 and \$3,000,000 cash in fiscal year 2025 from the State Insurance Fund to the state treasury to the credit of the Safety and Hygiene Fund (Fund 8260). These amounts shall be used under appropriation item 855611, Health and Safety Initiative, for the purpose of operating a health and wellness program.

SAFETY CAMPAIGN

Notwithstanding section 4121.37 of the Revised Code, the Treasurer of State shall remit \$1,500,000 cash in fiscal year 2024 and \$1,500,000 cash in fiscal year 2025 from the State Insurance Fund to the state treasury to the credit of the Safety and Hygiene Fund (Fund 8260). These amounts shall be used under appropriation item 855612, Safety Campaign, for the purpose of operating a statewide safety awareness and education campaign.

FEDERAL GRANT PROGRAMS

The foregoing appropriation item 855609, Safety and Hygiene Operating, may be used to provide the state match for federal grant funding received by the Division of Safety and Hygiene.

VOCATIONAL REHABILITATION

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

RESEARCH GRANTS

Notwithstanding section 4121.37 of the Revised Code, the Treasurer of State shall remit \$1,000,000 cash in fiscal year 2024 and \$1,000,000 cash in fiscal year 2025 from the State Insurance Fund to the state treasury to the credit of the Safety and Hygiene Fund (Fund 8260). These amounts shall be used under appropriation item 855613, Research Grants, for the purpose of operating the occupational safety and health research program.

SUBSTANCE USE RECOVERY AND WORKPLACE SAFETY PROGRAM

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

SAFETY AND HEALTH WORKFORCE SAFETY INNOVATION CENTER

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

ADMINISTRATIVE COST FUND

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

Section 200.20. DEPUTY INSPECTOR GENERAL FOR BWC AND OIC FUNDING

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

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

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

Section 300.10. (A) There is hereby appropriated for the period July 1, 2023, through July 3, 2023, to each agency, board, commission, department, office, authority, or other organization for which an operating appropriation was made in, or accounted for as though made in, H.B. 110 of the 134th General Assembly, including the legislative and judicial branches and their respective agencies, out of money in the state treasury to the credit of the respective funds of the state from which appropriations were made for the 2023 fiscal year, for each specific item for which an appropriation was made by the 134th General Assembly, taking into account any Controlling Board actions, an amount equal to the following:

(1) One hundred per cent of three three hundred sixty-fifths of each item's expenditure levels for the 2023 fiscal year.

(2) Amounts necessary to reappropriate the unexpended balance of operating appropriation or reappropriation that a state agency lawfully encumbered prior to the close of fiscal year 2023.

(3) Amounts necessary to support mission critical expenditures through July 3, 2023, that are not otherwise authorized in this section.

(B) There is also hereby appropriated amounts necessary to pay any debt service and financing costs on general obligation bonds and notes, lease rental payments pursuant to lease agreements on bonds and notes, or other obligations of the state issued under the Ohio Constitution and acts of the General Assembly for fiscal year 2024.

(C) The Director of Budget and Management shall make any determinations necessary to decide to effectuate this section. Any expenditures authorized by the Director of Budget and Management under this section are hereby appropriated. The Director of Budget and Management may transfer cash between funds from which cash was transferred for this purpose.

(D) All appropriations contained in this section shall be encompassed within the subsequent main operating appropriation act of the 135th General Assembly, and the Director of Budget and Management shall account for expenditures from appropriations contained in this section accordingly.

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

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

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

Section 812.20. This section and sections 200.10, 200.20, 300.10, 801.10, and 806.10 of this act are exempt from the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and therefore take effect immediately when this act becomes law.

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 _____