Fiscal Note & Local Impact Statement

122 nd General Assembly of Ohio

BILL: **Am. Sub. S.B. 45** DATE: **April 16, 1997**

STATUS: **As Passed by the General Assembly** SPONSOR: **Sen. Cupp**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **Various changes to workers' compensation benefits and other changes**

State Fiscal Highlights

STATE FUND	FY 1997	FY 1998	FUTURE YEARS
General Revenue Fund and other state funds			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential decrease of approximately $1 million or more	Potential decrease of approximately $1 million or more
State Insurance Fund			
Revenues	-0-	Potential decrease of approximately $100 million or more	Potential decrease of approximately $100 million or more
Expenditures	-0-	Potential decrease of approximately $100 million or more	Potential decrease of approximately $100 million or more
State Universities and Colleges			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential decrease of approximately 7.5% or more of workers compensation premium costs	Potential decrease of approximately 7.5% or more of workers compensation premium costs

- State agency workers' compensation expenditures will decrease by an estimated 7.5% or more, due to a reduction in benefit costs. A decrease of this amount would have saved the state approximately $1 million or more in premiums and benefits expenses in 1995. *This $1 million reduction in expenditures is included in the estimated $100 million reduction in expenditures for the State Insurance Fund.*

- The State Insurance Fund is also expected to realize an estimated savings of 7.5% or more of benefit expenses (reduced expenditures) and thus to decrease premium revenues by a similar amount. This is a savings in expenditures and reduction in revenues of approximately $100 million or more, based on 1996 revenues and expenditures.

- State universities and colleges would save a similar amount, estimated at 7.5% or more of premium, due to lowered benefit costs. *State university and college reductions in expenditures are included in the estimated $100 million reduction in expenditures for the State Insurance Fund.*

- The Bureau of Workers' Compensation, the Attorney General's Office (AG), and the Ohio Industrial Commission are likely to experience operating cost increases due to the additional activities and potential increase in hearings likely to occur due to the provisions of the bill. The AG may require additional staff for the Workers' Compensation division of the AG's Office. BWC and OIC are likely to be able to absorb additional operating costs.

- Death and funeral benefit level increases will increase the costs of these benefits. Based on an estimate of 140 deaths in the state last year and assuming that the families or estates of all decedents received both types of benefits, the cost of paying these benefits would have been approximately $672,000 more than actual current costs.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1997	FY 1998	FUTURE YEARS
Political Subdivisions			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential decrease of $20 million or more*	Potential decrease of $20 million or more*

**Various political subdivisions may be affected in different ways; see below.*

- Political subdivisions are expected to save similarly to other State Insurance Fund members. Since 1995 workers' compensation premiums for political subdivisions were approximately $261 million, the reduction in expenditures is expected to be approximately $20 million or more, a reduction of 7.5% or more. *This $20 million reduction in expenditures is included in the estimated $100 million reduction in expenditures for the State Insurance Fund.*

- Local governments will experience increased court costs due to the provider fraud provision of the bill. They may also experience additional costs derived from increased hearings before the Industrial Commission due to the "rebuttable presumption" regarding alcohol and drugs provision of the bill.

Detailed Fiscal Analysis

The bill's main fiscal effect is savings for the State Insurance Fund, and thus for the employers who pay into it. Self-insured employers would also realize savings. The savings are due to reductions in the amount of benefits to be paid out of the State Insurance Fund and by self-insured employers. In addition, the bill also specifies penalties for intentional health provider fraud that would be deposited in the State Insurance Fund when a provider has defrauded the fund or would be awarded to a self-insurer that has been defrauded by a provider.

The Bureau of Workers' Compensation (BWC), the Ohio Industrial Commission (OIC), and the Attorney General's Office (AG) will experience increased operating costs as they implement the bill. BWC's costs will come from pursuing provider fraud, and will likely be absorbable. AG costs will come from pursing fraud and from representing BWC in court when claims decisions are appealed there after being heard by all three levels of the OIC.

Workers' Compensation-related costs for the AG have been increasing dramatically since 1994, likely due to the impact of HB 107. In 1996 the number of State Insurance Fund cases appealed to the court-system was 4,088 up from 1994's caseload of 2,608. Total workers' compensation caseloads for the AG have increased from 5,728 to 7,639 during this time period. The AG's current budget request includes 10 new attorneys, 4 legal secretaries, and two additional support staff for the AG's Workers' Compensation section. This bill may generate enough work to create the need for 2-4 additional lawyers, beyond the increases currently requested in the AG's 1998-99 budget request, according to estimates provided by the AG's office.

The OIC's workload of hearings may increase, potentially dramatically, for several years after the implementation of the bill as injured workers and their representatives appeal determinations made under the provisions of this bill.

The bill instructs BWC to undertake a number of feasibility studies and report the findings to the House Commerce and Labor and Senate Labor, Insurance, and Commerce committees. First, the bill authorizes a study to examine the potential of pooling, a method by which several political subdivisions with fewer than 500 employees can combine, and apply for status as self-insured entities. Second, the bill orders BWC to examine the incidence of occupational diseases and their impact on the workers' compensation system. Third, the bill instructs the Bureau to study the adequacy of Permanent Partial Impairment (PPI) examinations. Finally, BWC is ordered to study the coordination of its vocational rehabilitation programs with those administered by other state agencies. These studies seem likely to have a negligible fiscal effect, absorbable by the Bureau.

Savings for the State Insurance Fund

The following provisions will reduce total payments made from the State Insurance Fund and made by self-insured employers:

1. Section 4123.01(C)(4**)** **Injury** redefined to exclude psychiatric conditions unless they arise from an injury; exclude cumulative or repetitive trauma (CRT) (which becomes part of the definition of an occupational disease, making CRT compensable only as an occupational disease, and clearly not compensable as an injury); and exclude injury, impairment or disability caused by a preexisting condition, impairment or disease unless clinical tests and findings can show that a compensable workplace injury has substantially worsened the preexisting condition or accelerated the course of the preexisting disease.

2. Section 4123.01(F) **Occupational disease** redefined to include cumulative or repetitive trauma. The definition also requires damage or harm to the body ("the physical structure of the body"), and that the disease or condition must be demonstrably caused by conditions peculiar to a particular industrial process, trade, or occupation. Specifically excluded are diseases or conditions which occur in the general public unless a preponderance of evidence shows that the disease or condition is characteristic of and peculiar to a particular type of industrial process, trade or occupation. Psychiatric conditions are excluded unless they arise from an occupational disease.

   Other changes to occupational disease include Section 4123.55 which changes the waiting period for the payment of compensation to ill workers from the eighth day after the disease is contracted to the eighth day after the disease is diagnosed. This change shortens the duration of benefits for ill workers by pushing back the commencement date of benefits; it also uses a date which is clearly "establishable" whereas the date of contraction of an industrial disease is more difficult to accurately determine. Section 4123.61 changes the average weekly wage (AWW) to be used as the basis of benefits for ill workers. Formerly the AWW used was the worker's AWW at the onset of the disability caused by the disease. The bill changes the basis to the AWW at the time of first diagnosis of the occupational disease. This may have the impact of reducing the wage level used to establish benefits because typically, ill workers are able to work for several more years, and receive pay increases, after the diagnosis of their disease.

   The bill continues jurisdiction for specified occupational diseases, mainly those caused by airborne, industrial pollutants, to six months after the ill worker becomes disabled rather than five years after diagnosis, which would otherwise be the limitation. The bill also permits the replacement of prostheses and up to nine months of Temporary Total Disability after prostheses replacement. The replacement and TTD (TTD) will be paid for if the injured worker's doctor determines, during the continuing jurisdiction of the agencies (5 years), that the injured worker will need a prosthesis or his or her prosthesis will need replacement or repair.

   The bill permits an alternative process by which to determine the percentage of Permanent Partial Impairment. The alternative method imposes a time limit for review and completion of objections to initial PPI determinations. It eliminates Industrial Commission involvement in

the PPI determination process. This alternative may speed the PPI claims and may reduce the number of exams, moderately reducing the Bureau's costs involved with PPI exams.

3. Section 4123.58 **Permanent Total Impairment**, formerly Permanent Total Disability. The bill permits the Industrial Commission to consider age when deciding an injured worker's capacity to engage in sustained, remunerative employment or training for such employment. PTI benefits may not be awarded if age is a significant factor preventing return to work or training for work. Currently, the Ohio Supreme Court has set precedent that age as well as other socio-economic factors such as education, and work history in addition to medical impairment, must be used, but age may not be the primary reason for awarding benefits. These socio-economic factors are the "Stevenson Factors," based on the plaintiff's name in the Ohio Supreme Court decision that specified these factors.

   The elimination of socio-economic factors is expected to reduce the number of injured workers made eligible for PTI because relatively few claimants are declared permanently and totally disabled based on their medical conditions alone, according to representatives of the OIC. Approximately 40-60% of the PTD requestors were granted benefits each year during the last five years. This is the primary area of benefit savings modeled by BWC in its cost-savings estimates.

Table 1 shows PTD claims which were awarded payments for the first time in 1994, 1995, and 1996. (PTD is the current name for the benefit; PTI is proposed by the bill). The majority of claimants are between the ages of 40 and 70. According to OIC representatives, each claimant's PTD application is reviewed based on its own merits, and includes a review of medical impairment, education, work history, and age. Age, per Ohio Supreme Court decision, is only one of several factors considered. Generally, however, an applicant in their mid-late fifties is be considered an unlikely candidate for successful retraining for gainful employment, but would not receive permanent benefits unless other characteristics of the claimant also indicate that the claimant's return to gainful employment is unlikely.

Table 1: Paid Permanent Total Disability Claims 1994-96

Age at Payment	# of New Claims - 1994	Percent of Total – 1994	# of New Claims - 1995	Percent of Total - 1995	# of New Claims - 1996	Percent of Total - 1996
0-20	0	0%	0	0%	1	0%
21-30	5	0%	13	1%	10	0%
31-40	116	5%	81	3%	127	5%
41-50	389	17%	441	19%	484	18%
51-60	792	34%	792	34%	980	36%
61-65	480	21%	543	23%	513	19%
66-70	319	14%	309	13%	390	14%
71-75	161	7%	126	5%	144	5%
76-80	22	1%	33	1%	45	2%
over 80	14	1%	10	0%	8	0%
Age unknown	5	0	9	0%	22	1%
Total	2,304	100%	2,357	100%	2,724	100%

Data provided by BWC

PTI benefits remain unchanged at 66 2/3% of the employee's average weekly wage or 66 2/3% of the state average weekly wage if the employee's wage exceeds it. The benefit "floor" of 50% of the SAWW also remains unchanged.

1. Section 4123.56 (C)(2) **Wage Loss** benefit duration reduced. Injured workers receive this benefit in three different situations: first, (Section 4121.67) after completing rehabilitation and returning to a employment paying less than they earned when the injury occurred; second, (Section 4123.56 (C)(1) when returning to lower paid employment than his or her former job (without rehabilitation), and third, when unable to find employment consistent with the employee's physical limitations due to the employee's injury (Section 4123.56 (C)(2).

   The *second two benefit situations* are modified by the bill. When an injured worker returns to work at a lower paid job, he or she would receive wage loss benefits for a maximum of 200 weeks but the payments would be reduced by the number of weeks the person receives benefits under 4121.67. Wage loss due to inability to find a job will be reduced from 200 to 26 weeks, unless the state is experiencing a period of high unemployment as designated by OBES. Wage Loss will be used to pay benefits for the "gap" period between an injured worker's Temporary Total benefits being stopped due to the attainment of maximum medical improvement, and the commencement of Permanent Partial or Permanent Total benefits. This new use for Wage Loss will offset the savings estimated, by an unknown amount.

2. Section 4123.57 (C) **RE Percentage Permanent Partial Impairment**. No Percentage Permanent Partial Impairment benefits, or examinations to establish eligibility for PPI, may be provided to a claimant currently receiving Permanent Total Impairment or Temporary Total Disability.

3. **Section 4123.54 Rebuttable Presumption regarding alcohol and drugs.** See section titled "Rebuttable Presumption regarding Alcohol and Drugs" in a later section of this Fiscal Note.

The bill permits the Administrator to eliminate defunct employers from manual classifications if their continued presence has a negative impact on the rates paid by still operational companies. This will reduce premium revenues to the State Insurance Fund. Premiums have already been collected to pay the known, now-defunct employer's claims. In theory, new claims may yet be filed by the former employees of the defunct company and their claims would be paid for out of premium dollars not associated with their employer. The number of new claims is likely to be small.

The bill gives the administrator authority to develop incentives for employers to reemploy their successfully rehabilitated employees. It removes current language permitting the Bureau to prove that it can operate the Health Partnership Program equally as effectively as an outside vendor, and to begin operating the HPP internally.

The State Insurance Fund will receive small amounts of revenue from the following provision, although there will be costs to various agencies (mentioned above) in order to receive this revenue.

- Section 4121.444 **Provider Fraud**. See table specifying penalties in a later section of this Fiscal Note.

The State Insurance Fund will lose revenue due to the following provision. The revenue loss is likely to be small and absorbable.

- Section 4123.56 (B)(4) **Overpayments.** Overpayments occur when benefits have already been paid and subsequently the OIC decides the recipient is not entitled to them. This bill specifies that State Insurance Fund employers shall not have these situations counted against their experience and self-insured employers shall not report these overpayments as paid compensation for the purposes of calculating assessments. Any benefits due to claimants will be reduced by the amount of the overpayment. There is the potential for State Insurance Fund revenue loss (as well as losses by self-insured companies) if the claimant never again has a workers' compensation claim from which the amount "overpaid" can be collected.

The remaining sections of this Fiscal Note provide additional information on the fiscal or policy effects of specific provisions of this bill. The appendix shows the premiums and assessments State Insurance Fund and self-insured employers pay to operate the State Insurance Fund and BWC and OIC.

BWC Estimate of Bill's Impact on Ultimate Losses and Pure Premiums

Both Ultimate Losses and Pure Premiums would be reduced by this bill. Ultimate Losses are the benefits paid out over the life of a claim; Pure Premiums are the dollar amounts which must be raised from employers to pay claims' medical and compensation benefits, excluding administrative costs and guaranty fund revenues.

Table 2 shows BWC estimates of savings for the State Insurance Fund – benefits which would not have been paid – due to the provisions of the bill, had it been in effect for Accident Year 1995. State Insurance Fund. Savings are a reduction in "discounted ultimate losses." The data used is

from accident year 1995 and is for private employers. There are approximately 255,000 private employers, and 4,400 public employers in the Fund. Only the benefits which would have been reduced by the provisions of the bill are shown in the table. Other benefits not shown are: medical, temporary total, death, percent permanent partial, permanent partial, and living maintenance.

PTI is Permanent Total Impairment; TP & WL, LM/WL, CO is Temporary Partial & Wage Loss, Living Maintenance/Wage Loss, Change of Occupation; LS Settlement is Lump Sum Settlement; LS Advances is Lump Sum Advancements.

Table 2 State Insurance Fund Savings had the bill been in Effect for Accident Year 1995

Accident Year 1995 Discounted Ultimate Losses and Effect of the Bill						Totals
	PTI	**TP & WL LM/WL CO**	**LS Settlement**	**LS Advances**	**Additional Awards**	**All Awards**
Actual Ult. Losses	$129,020,000	$59,364,000	$109,919,000	$9,845,000	$2,025,000	$1,367,974,000
Bill's Impact (reduce losses)	$51,608,000	$35,618,000	$7,035,000	$3,938,000	$130,000	$98,329,000
Est. Ult. Losses	$77,412,000	$23,746,000	$102,884,000	$5,907,000	$1,895,000	$1,269,647,000
Percent Change						(7.7%)

Data provided by BWC

Table 3 shows the actual pure premium necessary to pay out accident year 1995 benefits, the bill's impact on premium needs, and the estimated pure premiums which would have been needed had the bill been in effect for AY 1995. Pure premiums are only the premiums which are used to pay benefits and do not include assessments such as the Administrative Cost Fund assessment.

Table 3 State Insurance Fund Est. Pure Premiums Needed to Pay Ultimate Losses, by benefit, had the bill been in effect for AY 1995

Accident Year 1995 Discounted Pure Premium (per $100 payroll) and Effect of the Bill					Totals
	PTI	**TP & WL LM/WL CO**	**LS Settlement**	**LS Advances**	**All Awards**
Pure Premium	0.21	0.10	0.18	0.02	2.27
Bill's Impact (reduce prem)	0.08	0.06	0.01	0.01	0.16
Est. Pure Premium	0.13	0.04	0.17	0.01	2.11
Percent Change					(7.6%)

Data provided by BWC

The savings shown above derive mainly from the removal of socio-economic factors from determinations of Permanent Total Awards, and the subsequent impact on two types of Lump Sum awards. The bill's provisions permit consideration of age in PTD awards, but not as a primary consideration, thus not requiring reductions in the predicted savings.

The bill instructs BWC to offer incentives for employers to rehire injured employees who have followed the prescribed course of rehabilitation treatments. The bill requires BWC to seek consent from the Workers' Compensation Oversight Commission for any proposed incentives. The fiscal effects are indeterminate and depend on the type of incentives offered by BWC.

AMA Guides and Permanent Partial Benefits

The bill would require BWC to use the American Medical Association's *Guides for the Evaluation of Permanent Impairment* for determining the extent of injured workers' limitations due to their injuries. This would affect determinations for Permanent Partial Disability (PPD), renamed Permanent Partial Impairment in the bill.

BWC has been using in-house guidelines that are based on the AMA *Guides* since approximately Fall 1996; in July 1996 the Stevenson factors of work history, education, and age, were excluded from PPD evaluations by the Ohio Supreme Court's decision in the "Holman case". Previously the factors were considered in the review.

The *Guides* are used by 40 out of 53 U.S. workers' compensation jurisdictions for determining eligibility for benefits. The *Guides* evaluate the functioning of the human body, and the person's ability to perform self-care functions such as eating and sleeping, etc.. The AMA *Guides* do not attempt to correlate the evaluation of the body with characteristics of the regional economy in which injured workers live or their own perception of their impairment.

For example, a worker whose arm injury limits upper body and arm mobility is likely to be considered less impaired when reviewed under the AMA Guides than when reviewed under the current system which would take into consideration the person's education, prior job, and age. Simply put, arms are not as important to continued human life, from a clinician's point of view, as hearts, kidneys, and lungs.

Sandra Sinclair and John F. Burton , Jr., workers' compensation researchers who oppose using the *Guides* for benefit eligibility, have evaluated impairment determinations by doctors using the *Guides* with injured workers' perceptions of their limitations. Their research indicates that when the *Guides* assess a condition to be "not severe" – i.e., the *Guides'* evaluation is low, injured workers' self-evaluation is "significantly higher" – i.e., the injured workers believe they are significantly more impaired.

Impairments that the *Guides* rate as very significant medically, tend to be rated as less detrimental to quality of life by injured workers. Sinclair and Burton's theory about the divergence of the Guides' ratings and injured workers' is that "injured workers tend to be more traumatized by injuries they can see or continue to feel daily ("sanctity of body" effect) while the Guides place

more emphasis on conditions likely to end life. (John Burton's Workers' Compensation Monitor. vol.10, no. 1. January/February 1997)

Advocates of using the *Guides* for benefit eligibility cite its objectivity, its basis in medical science, and the weight placed on impairments which affect longevity rather than an injured workers' appearance or self-perception.

Rebuttable Presumption regarding Alcohol and Drugs

Current law states that if the proximate cause of an injured worker's injury is intoxication or being under the influence of drugs not prescribed by a physician, the injured worker will not be eligible for workers' compensation benefits. A company seeking BWC's denial of benefits for this reason must pay for drug and alcohol testing by the health care provider at the time of treatment of the injury. Then the Bureau must make the decision to allow or deny benefits based on its inquiry into the accident circumstances, the results of the drug test, the injuries and other factors. The Bureau's decision to allow or deny benefits can be appealed to the Ohio Industrial Commission by either the injured worker or his or her employer. At this point the company and the injured worker try to show to the OIC hearing officer whether the drugs or alcohol were the proximate cause of the injury.

The bill expressly permits employers to request chemical drug tests when they suspect drug or alcohol use may have been a contributing cause of injury, although the bill specifically states that it does not abridge any employer or employee rights under federal drug testing laws. The "Rebuttable presumption" would stand unless the injured worker is able to prove otherwise. In other words, the injured worker would have to rebut the presumption that his or her impaired state caused the injury in order to be eligible for benefits. This change in who must prove proximate cause from the employer to the injured worker seems likely to result in the Bureau denying benefits more often than it currently does. Due to the lack of appropriate data, estimates cannot be made for how many claims are likely to be denied by the Bureau, and subsequently appealed to the Industrial Commission. According to a BWC representative, BWC does not at present keep track of the number of claims it receives which have alcohol or drug test results.

The provision also states that the injured worker's refusal to submit to a drug or alcohol test will be admissible as evidence of intoxication or being under the influence of drugs not prescribed by a physician.

The fiscal effect of the provision is expected to be minimal, although the OIC might need to respond with overtime work for its current hearing officers. According to the American Management Association's (AMA's) survey of member companies, drug tests are positive (i.e. confirm the presence of drugs) in 8-11% of tests conducted "for cause". "For cause" indicates testing after an injury or property damage accident or due to suspicious employee behavior.

Even if every company in Ohio tested its workers for drugs (which is not true), the provision's requirements would likely mean an additional 35,000 hearings annually for the Industrial Commission.[1] This 35,000 hearing estimate (approximately 3,000 cases per month) is probably a

[1] [This figure was calculated as follows: the number of new claims reported in FY95 (346,950) * 10% (an estimate of the number of positive tests expected based on the

gross overestimate of the number of hearings this bill could generate. This calculation is based on the assumption that the AMA membership, while skewed toward larger companies more likely to test for drugs than the entire Ohio economy, does not have *significantly* lower "test positive" (i.e. confirming the presence of drugs) results than the state's companies would. This assumption seems reasonable, especially since the lower percentage of Ohio companies testing for drugs than AMA members would offset any possibility that Ohio's workers would test positively for drugs more often than employees of the large companies represented in the AMA survey.

Additional Fraudulent Actions by Employers and Penalties

In addition to current fraud law, the bill includes in Section 2913.48 the following actions:

- (A)(5) misrepresenting information needed to determine workers' compensation premiums
- (A)(6) soliciting, offering, or receiving any remuneration in connection with a referral for furnishing goods or services for which BWC may reimburse the provider.
- (A)(7) altering a workers' compensation certificate
- (A)(8) knowingly failing to maintain workers' compensation coverage

Depending on the amount of premiums and assessments unpaid these actions may be misdemeanors or felonies. Violating Sections (A) (5 & 8) is a first degree misdemeanor if the amount of unpaid premiums and assessments is less than $500. It is a fifth degree felony if the unpaid premiums and assessments are valued between $500 and $5,000. If the unpaid premiums and assessments are between $5,000 and $100,000 the penalty is a fourth degree felony. Over $100,000 unpaid subjects the violator to a third degree felony.

Prison sentences from 6 months to up to 5 years are possible under Ohio criminal statutes for these misdemeanors and felonies, however, other types of penalties are more likely for most perpetrators of workers' compensation fraud.

Proposed Additional Penalties for Deceptive Practices by Providers

The bill proposes the following new O.R.C. section, 4121.444, which specifies additional penalties for deceptive practices by health care providers, managed care organizations (MCOs), and owners of health care providers or MCOs. Deceptive practices are actions taken by the providers above who fraudulently obtain or try to obtain payment from BWC or self-insured employers.

AMA's survey data) = 34,695 claims denied for the presence of drugs and alcohol (rounded to 35,000).]

FRAUD PENALTIES

Deceptive Action	Monetary Penalties	Fine Depository
The bill specifies that no • **Health Care Providers,** • **Managed Care Organizations (MCOs),** • **Owners of Health Care Providers or MCOs** may obtain or attempt to obtain workers' compensation payments by deception. Any provider who does is liable for the specified penalties (see 2nd column), in addition to any other penalties provided by law.	**1. pay interest on the amount of excess payments at the maximum interest rate allowed for real estate mortgages, which is 8%. This rate is set in O.R.C. section 1343.01.**	BWC would pursue these penalties for the State Insurance Fund. Self-insured companies would pursue them through the court system. All fines collected by BWC pursuant to this section would be deposited in the State Insurance Fund. Self-insured companies awarded these fines would keep the funds.
	2. pay an amount equal to three times the amount of excess payments	
	3. payment of $5,000 to $10,000 for each act of deception	
	4. pay the court costs incurred by BWC or the self-insuring employer to enforce this section	

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Appendix

W.C. Premiums and Assessments	Payment Calculation Method/ Method and Timing of Payments
Base Premiums	Each state agency pays a base premium rate. Local governments and private companies are classified into "manual classifications" which are the foundation of their base premiums. Manual classifications group together similar jobs. The base premiums associated with each classification, attempt to quantify the risk of workers doing that job getting injured or ill. They are set to raise sufficient funds to cover the cost of one year of injuries for state agencies and universities & colleges. For local governments and school districts, and private companies the base premiums attempt to cover the present value of the present and future costs of claims. Manual classifications are calculated as a certain dollar amount per $100 payroll. The entire payroll is assessed at one manual rate. State agencies are not eligible at this time, to participate in any of BWC's discount programs for State Insurance Fund members, including experience rating, the retrospective payment plan, and others. Local governments and school districts, and private companies are eligible. State agencies pay their premiums quarterly. Local governments and school districts must pay 45% of their premium by May 15th of each year and 100% by September 1st of each year. Private companies pay their premiums every six months. Local governments and school districts, and private companies are considered to pay their future claim costs in advance (they pay on an "occurrence" approach.). In other words, local government premiums paid by September 1996 pay the current and future medical and benefit costs for accidents which occurred during accident (calendar) year 1995. State agencies and colleges & universities, by contrast, pay on a "pay-as-you-go" or cash flow basis. In other words, the state agencies pay their costs quarterly, with the March 1, 1997 payment covering medical and compensation benefits paid by the Bureau during the last quarter of 1996 (October, November, December 1996).

Administrative Cost Assessment	State agencies pay 14.83% of premium since July 1, 1996. Local governments and school districts pay 11.2% of premium since January 1, 1996. Previously both paid a fixed amount per $100 payroll. State Insurance Fund private employers pay 15.57 per cent of premium effective July 1, 1996. This assessment provides revenue for the Administrative Cost Fund (also called the Workers' Compensation Fund, or Fund 023). BWC and the Industrial Commission use Fund 023 to pay operating costs, including personnel, supplies, and maintenance. The assessment is paid when premiums are paid.
Disabled Workers Relief Funds (DWRF 1 & 2)	For all state agencies, local governments, and private companies the DWRF payments are $0.10 per $100 payroll and 1/10th of 1% of the basic premium rate. DWRF provides cost of living increases to workers receiving Permanent Total Disability (PTD) who were injured prior to 1987 (DWRF 1) and after 1987 (DWRF 2). This is paid when premiums are paid.
Safety & Hygiene	¾ of 1% of Paid Premium for public employers including state agencies and all political subdivisions. ½ of 1% of Paid Premium for private employers. (Paid Premium is base premium for state agencies and base premium as modified by experience for the local governments.) Revenue used pays for the operations of the Division of Safety & Hygiene. The Division provides non-punitive safety reviews and suggestions, safety classes and training. Paid when premiums are paid.
Self-Insured Employers' Assessments	Self-insured employers pay their own compensation and medical costs. They pay assessments based on "paid compensation" which means the total medical and benefit costs. The rates are • *Safety & Hygiene:* .0073 * total compensation • *Administrative Cost Fund:* .0916 * total compensation • *Surplus Fund:* .0441 * total compensation • *Surplus Fund for Rehabilitation (optional):* .2166 * total compensation