



# COMPARISON DOCUMENT BASE

**House Bills 27 and 28**  
**132<sup>nd</sup> General Assembly**

Budget Bills for the  
Bureau of Workers' Compensation and  
Ohio Industrial Commission

(FY 2018 – FY 2019)

**As Introduced**

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February 2, 2017

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**Executive**

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**BWCCD1 Premium rate revisions****R.C. 4123.29**

Requires the BWC Administrator, when revising premium rates for employers that are part of a group rating plan, to provide an explanation of the rate revision to the group administrator instead of a copy of the invoice as under current law.

**Fiscal effect: Minimal additional administrative expense paid from the Workers' Compensation Fund (Fund 7023) for sending explanations of rate revisions, which are longer than invoices.**

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**BWCCD12 Waiver of required medical examinations for certain temporary total disability (TTD) claims****R.C. 4123.53**

Authorizes the BWC Administrator, for good cause, to waive the requirement that an employee receiving temporary total disability (TTD) compensation undergo a medical examination.

Requires the Administrator to refer an employee receiving TTD compensation for a medical examination if the employee's employer objects to the waiver.

**Fiscal effect: May reduce the number of individuals required to undergo medical examinations that would be paid for from the State Insurance Fund.**

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**BWCCD2 BWC drug testing - rebuttable presumption****R.C. 4123.54**

Revises the list of the controlled substances and the necessary levels of some of the controlled substances specified in continuing law to be those used by the federal Department of Transportation drug testing program under the continuing law rebuttable presumption that an employee's intoxication with certain controlled substances at specified levels following an injury was the proximate cause of injury, thus making the employee ineligible to receive compensation or benefits under the Workers' Compensation Law under certain circumstances.

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**Executive**

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**Fiscal effect: Potential reduction in benefits paid from the State Insurance Fund if more claims are rejected because of the rebuttable presumption thresholds for these substances are reached under the U.S. Department of Transportation drug testing rule.**

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**BWCCD13 Prohibition against payment of compensation or benefits to incarcerated dependents**

**R.C. 4123.54, Section 741.20**

Prohibits, for all claims on or after the effective date of this provision, compensation or benefits from being paid to a deceased employee's dependent while the dependent is incarcerated as a result of a conviction of any state or federal criminal law.

**Fiscal effect: Potentially reduces some payments made to dependents from the State Insurance Fund; however, the overall magnitude of this reduction would appear to be rather minimal.**

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**BWCCD4 Minimum compensation for temporary total disability claims**

**R.C. 4123.56**

Requires, if an employee's average or full weekly wage has not been determined at the time temporary total disability (TTD) compensation becomes payable, that an employee receive the minimum calculable compensation for TTD under the Workers' Compensation Law.

Requires TTD compensation to be adjusted, and overpayments to be recovered, on determination of an employee's average or full weekly wage.

Requires, if the employee receives less than the amount the employee is entitled to under continuing law for TTD, on determination of the employee's average or full weekly wage, the employee to receive the difference.

**Fiscal effect: No net fiscal effect since overpayments are to be recouped and underpayments to be remitted. TTD payments constituted 13.7% of all State Insurance Fund benefit payments in FY 2016.**

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**Executive**

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**BWCCD5 Dismissal of permanent partial disability applications without required medical examination****R.C. 4123.57, Section 741.10**

Requires the dismissal of an application for a determination of an employee's permanent partial disability if the employee fails to schedule a medical examination with the BWC Medical Section or fails to attend a scheduled medical examination. Allows an employee to refile a dismissed application, subject to the continuing jurisdiction of the Industrial Commission. Applies this dismissal requirement to all pending claims, as well as those filed on or after the provision's effective date. Allows all applications pending on the provision's effective date that are dismissed to be refiled within two years after the dismissal.

**Fiscal effect: Potential reduction in benefits paid from the State Insurance Fund if claimants fail to attend the required medical examinations or do not appeal the dismissal of their permanent partial disability claims. Permanent partial disability claims account for 5.3% of all benefits paid from the State Insurance Fund in FY 2016.**

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**BWCCD6 Reimbursement of secondary payers for medical services provided****R.C. 4123.66**

Allows the BWC Administrator, based on an assessment of an employee's claim file, authority to pay reimbursements of up to \$500 to the Centers of Medicare and Medicaid Services, the Ohio Department of Medicaid, or a medical assistance provider to whom the Department has assigned a right of recovery.

Requires the Administrator, before making a payment, to make a reasonable determination that the payment is for reimbursement of benefits for an injury or occupational disease and that the injury or occupational disease is compensable, or is likely to be compensable, under the Workers' Compensation Law.

Requires these payments to be made from the surplus fund account (i.e. not charged against an employer policy) and allows the Administrator, with the advice and consent of the BWC Board of Directors, to adopt rules to implement these provisions.

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**Executive**

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**Fiscal effect:** May potentially expedite payments to Medicaid, the Ohio Department of Medicaid, or medical service providers that in all likelihood would eventually be paid by BWC under current law. Therefore, there appears to be no net fiscal effect. As a result of the federal Medicaid Secondary Payer Program passed in 2013, stricter scrutiny of medical claim billing for secondary payer status is required. This provision would allow BWC to process these bills more quickly and make the necessary payments and determine secondary payer status.

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**BWCCD3            Occupational disease reports to be transmitted by physicians****R.C.            4123.71, 4123.72 (repealed)**

Repeals the prohibition against a physician neglecting or refusing to make or transmit an occupational disease report to the Bureau of Workers' Compensation and the penalty for violating the prohibition.

**Fiscal effect:** None apparent.

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**BWCCD14            Public Employment Risk Reduction Program****R.C.            4167.01, 4167.02, and 4167.10; 4167.19  
(repealed)**

Eliminates the current ability of a public employer to apply to the BWC Administrator for an exemption from the Public Employment Risk Reduction Program (PERRP).

Includes in the definition of a public employee individuals employed as firefighters, emergency medical technicians, and certain corrections officers, thereby covering these employees in the program.

Requires the BWC Administrator to develop rules concerning standards and procedures for an effective safety partnership agreement program that promotes voluntary compliance.

Specifies that the BWC Administrator or the Administrator's designee may "make scheduled inspections" rather than "make inspections" as under current law, and allows those inspections to be conducted in accordance with rules, in addition to pursuant to a complaint or due to a public employee exercising the employee's right to refuse to work due to unsafe conditions under current law.

**Executive**

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Eliminates a current law requirement that a safety violation notice provided to a public employer include the initial notice the Administrator receives of the violation.

**Fiscal effect: This provision does not specifically require BWC to take on any additional duties; however, expanding the number of employment positions that fall under PERRP could increase costs to BWC, specifically the Safety and Hygiene Division. These costs would be paid from the Safety and Hygiene Fund (Fund 8260).**

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**BWCCD7            Workers' Compensation Fraud Unit****Section: 201.10**

Earmarks \$828,200 in each fiscal year from appropriation item 855410, Attorney General Payments, to fund the expenses of the Workers' Compensation Fraud Unit within the Attorney General's Office. Requires these payments to be processed at the beginning of each quarter of each fiscal year and be deposited into the Workers' Compensation Section Fund (Fund 1950) used by the Attorney General.

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**BWCCD8            Safety and Hygiene****Section: 201.10**

Requires the Treasurer of State to remit \$22,000,000 in cash in each fiscal year from the State Insurance Fund to the state treasury to the credit of the Safety and Hygiene Fund (Fund 8260), equivalent to the amount appropriated in each fiscal year under appropriation item 855609, Safety and Hygiene Operating, to cover the Division's operating expenses.

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**BWCCD9            OSHA On-site Consultation Program****Section: 201.10**

Permits a portion of appropriation item 855609, Safety and Hygiene Operating, to be used to provide the state match for federal funding of the Occupational Safety and Health Administration's On-site Consultation Program operated by the Division of Safety and Hygiene.

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**Executive****BWCCD10      Vocational Rehabilitation****Section: 201.10**

Permits the Bureau of Workers' Compensation and the Opportunities for Ohioans with Disabilities Agency to enter into an interagency agreement for the provision of vocational rehabilitation services and staff to mutually eligible clients, and permits the Bureau to provide funds from the State Insurance Fund to fund vocational rehabilitation services and staff under any such agreement.

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**BWCCD11      Deputy Inspector General for BWC and OIC****Section: 201.20**

Requires the Director of Budget and Management on July 1 and January 1 of each fiscal year, or as soon as possible thereafter, to transfer \$212,500 in cash from the Workers' Compensation Fund (Fund 7023) to the Deputy Inspector General for the Bureau of Workers' Compensation and Industrial Commission Fund (5FT0).

Requires the Inspector General to seek Controlling Board approval for additional transfers of cash and to increase appropriations under appropriation item 965604, Deputy Inspector General for the Bureau of Workers' Compensation and Industrial Commission.

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**Executive**

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**OICCD1          Rent - William Green Building****Section: 1**

Requires that appropriation item 845402, Rent - William Green Building, be used to pay for rent and operating expenses for the space occupied by the Industrial Commission in the William Green Building.

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