



Ohio Revised Code Section 4123.63 Service-connected injury.

Effective: November 3, 1989

Legislation: House Bill 222 - 118th General Assembly

If a person in active service in the armed forces of the United States at any time during a period of war as defined in the "Veterans' Pension and Readjustment Assistance Act of 1967," 81 Stat. 181, 38 U.S.C.A. 101 or the period beginning May 1, 1940, and ending December 7, 1941, sustained an injury or suffered a disease while in such service, and if the person is thereafter injured or suffers an occupational disease in the course of and arising out of his employment in this state, and the industrial commission or the bureau of workers' compensation awards compensation therefor, it shall determine what part, if any, of the compensation is attributable to the injury or disease which the person sustained or suffered while in the service and what part of the compensation is attributable to the injury or occupational disease sustained or suffered in the course of and arising out of his employment in this state. That part of the compensation attributable to the injury or disease sustained or suffered while in the service shall be paid out of the statutory surplus of the state insurance fund created under section 4123.34 of the Revised Code, and shall not be merit rated or otherwise treated as part of the accident or occupational disease experience of the employer of the employee. That part of the compensation attributable to the injury or occupational disease sustained or suffered in the course of and arising out of his employment in this state shall be merit rated and treated as part of the accident or occupational disease experience of the employer of the employee, and shall be paid out of the state insurance fund, unless the employer is a self-insuring employer as provided for in section 4123.35 of the Revised Code, in which case payment shall be made by the self-insuring employer. In such case the administrator of workers' compensation may order the employer to pay the employee the full amount of compensation awarded the employee by the commission or the bureau, and in such event it shall order the employer reimbursed out of the statutory surplus of the state insurance fund for that part of the compensation paid which the commission or bureau determines to be attributable to the injury or disease sustained or suffered in the service. Nothing in this section is applicable in connection with any award of compensation made by the commission or bureau to an employee of an employer who has neither contributed to the state insurance fund nor elected to pay compensation directly under section 4123.35 of the Revised Code.

The records of any agency of the United States authorized to keep or preserve the records of service



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of persons in active service in the armed forces of the United States at any time during a period of war as defined in the "Veterans' Pension and Readjustment Assistance Act of 1967," 81 Stat. 181, 38 U.S.C.A. 101 or the period beginning May 1, 1940, and ending December 7, 1941, or to determine the fact of injury or disease of the person sustained or suffered while in service, when made available to the commission and the bureau in such manner and form as it deems proper, shall be deemed by the commission and the bureau to establish prima facie the facts of the service and the fact as to whether or not the person sustained or suffered an injury or disease while in the service, and if so, the nature thereof, and the prima-facie establishment may be deemed by the commission and the bureau to be overcome only upon clear and convincing evidence to the contrary.

The administrator may accept and credit to the statutory surplus of the state insurance fund any sum of money that may at any time be contributed to or made available to the state by the United States under any act of congress, or otherwise, to which the state is, or may become, entitled by reason of any payments made to employees out of the statutory surplus in accordance with this chapter.