

**As Reported by the Senate Insurance, Commerce and Labor
Committee**

**125th General Assembly
Regular Session
2003-2004**

Sub. H. B. No. 183

**Representatives Daniels, Allen, C. Evans, Seitz, Setzer, Raga, Ujvagi, Young,
McGregor, Barrett, Carano, Cates, Chandler, Cirelli, Clancy, DeBose,
Domenick, Jolivette, Niehaus, Oلمان, T. Patton, Schaffer, Schlichter,
Schmidt, Webster, Yates
Senators Fedor, Prentiss**

A B I L L

To amend sections 121.083, 3781.10, 3781.19, 4123.01, 1
and 4123.291; to enact new sections 4104.41, 2
4104.42, 4104.43, 4104.44, and 4104.45 and 3
sections 4125.01 to 4125.09 and 4125.99; and to 4
repeal sections 4104.41, 4104.42, 4104.43, 5
4104.44, 4104.45, and 4104.47 of the Revised Code 6
and to amend Section 3 of Sub. H.B. 75 of the 7
124th General Assembly to register professional 8
employer organizations for purposes of enforcing 9
compliance with workers' compensation laws, to 10
extend the time period wherein the Administrator 11
of Workers' Compensation is permitted to grant 12
immediate allowance of specified medical 13
conditions, to exclude from required workers' 14
compensation coverage an individual incorporated 15
as a corporation, and to adopt a new Ohio pressure 16
piping law. 17

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

Section 1. That sections 121.083, 3781.10, 3781.19, 4123.01, 18
and 4123.291 be amended and new sections 4104.41, 4104.42, 19
4104.43, 4104.44, and 4104.45 and sections 4125.01, 4125.02, 20
4125.03, 4125.04, 4125.05, 4125.06, 4125.07, 4125.08, 4125.09, and 21
4125.99 of the Revised Code be enacted to read as follows: 22

Sec. 121.083. The superintendent of the division of 23
industrial compliance in the department of commerce shall: 24

(A) Administer and enforce the general laws of this state 25
pertaining to buildings, pressure piping, boilers, bedding, 26
upholstered furniture, and stuffed toys, steam engineering, 27
elevators, plumbing, licensed occupations regulated by the 28
department, and travel agents, as they apply to plans review, 29
inspection, code enforcement, testing, licensing, registration, 30
and certification. 31

~~(C)~~(B) Collect and collate statistics as are necessary. 32

~~(D)~~(C) Examine and license persons who desire to act as steam 33
engineers, to operate steam boilers, and to act as inspectors of 34
steam boilers, provide for the scope, conduct, and time of such 35
examinations, provide for, regulate, and enforce the renewal and 36
revocation of such licenses, inspect and examine steam boilers and 37
make, publish, and enforce rules and orders for the construction, 38
installation, inspection, and operation of steam boilers, and do, 39
require, and enforce all things necessary to make such 40
examination, inspection, and requirement efficient. 41

~~(E)~~(D) Rent and furnish offices as needed in cities in this 42
state for the conduct of its affairs. 43

~~(F)~~(E) Oversee a chief of construction and compliance, a 44
chief of operations and maintenance, a chief of licensing and 45
certification, and other designees appointed by the director of 46
commerce to perform the duties described in this section. 47

(F) Enforce the rules the board of building standards adopts pursuant to division (A)(2) of section 4104.43 of the Revised Code under the circumstances described in division (D) of that section. 48
49
50

(G) Accept submissions, establish a fee for submissions, and review submissions of certified welding and brazing procedure specifications, procedure qualification records, and performance qualification records for building services piping as required by section 4104.44 of the Revised Code. 51
52
53
54
55

Sec. 3781.10. The board of building standards shall: 56

(A) Formulate and adopt rules governing the erection, 57
construction, repair, alteration, and maintenance of all buildings 58
or classes of buildings specified in section 3781.06 of the 59
Revised Code, including land area incidental thereto, the 60
construction of industrialized units, the installation of 61
equipment, and the standards or requirements for materials to be 62
used in connection therewith. The standards shall relate to the 63
conservation of energy in and to the safety and sanitation of such 64
buildings. The rules shall be the lawful minimum requirements 65
specified for such buildings or industrialized units, except that 66
no rule, except as provided in division (C) of section 3781.108 of 67
the Revised Code, which specifies a higher requirement than is 68
imposed by any section of the Revised Code shall be enforceable; 69
the rules shall be acceptable as complete lawful alternatives to 70
the requirements specified for such buildings or industrialized 71
units in any section of the Revised Code; and the board shall on 72
its own motion, or on application made under sections 3781.12 and 73
3781.13 of the Revised Code, formulate, propose, adopt, modify, 74
amend, or repeal the rules to the extent necessary or desirable to 75
effectuate the purposes of sections 3781.06 to 3781.18 of the 76
Revised Code. 77

(B) Formulate and report to the general assembly such 78

amendments in existing statutes relating to the purposes declared 79
in section 3781.06 of the Revised Code as public health and safety 80
and the development of the arts require and such additional 81
legislation as it recommends with a view to carrying out fully, in 82
statutory form, the purposes declared in such section; and prepare 83
and submit to the general assembly a summary report of the number, 84
nature, and disposition of the petitions filed under sections 85
3781.13 and 3781.14 of the Revised Code; 86

(C) Determine by rule, on its own motion or on application 87
made under sections 3781.12 and 3781.13 of the Revised Code, and 88
after thorough testing and evaluation that any particular fixture, 89
device, material, process of manufacture, manufactured unit or 90
component, method of manufacture, system, or method of 91
construction, complies with performance standards adopted pursuant 92
to section 3781.11 of the Revised Code, having regard to its 93
adaptability for safe and sanitary erection, use, or construction, 94
to that described in any section of the Revised Code, wherever the 95
use of a fixture, device, material, method of manufacture, system, 96
or method of construction which is described in such section of 97
the Revised Code, is permitted by law; and on like application 98
amend or annul any such rule or issue an authorization for the use 99
of a new material or manufactured unit; and no department, 100
officer, board, or commission of the state other than the board of 101
building standards or the board of building appeals shall permit 102
the use of any fixture, device, material, method of manufacture, 103
newly designed product, system, or method of construction at 104
variance with what is described in any rule adopted or 105
authorization issued by the board of building standards or in any 106
section of the Revised Code. Nothing in this section shall be 107
construed as requiring approval, by rule, of plans for an 108
industrialized unit that conforms with the rules adopted by the 109
board of building standards pursuant to section 3781.11 of the 110
Revised Code. 111

(D) Recommend to the bureau of workers' compensation, the 112
director of commerce, or any other department, officer, board, or 113
commission of the state, and to legislative authorities and 114
building departments of counties, townships, and municipal 115
corporations, the making, amending, fixing, or ordaining by such 116
appropriate action as such state, county, township, or municipal 117
authorities may be empowered by law or the constitution to take, 118
of such rules, codes, or standards as shall tend to carry out the 119
purposes declared in section 3781.06 of the Revised Code, with a 120
view to securing uniformity of state administrative ruling; and 121
local legislation and administrative action; 122

(E) Certify municipal, township, and county building 123
departments to exercise enforcement authority, to accept and 124
approve plans and specifications, and to make inspections, 125
pursuant to sections 3781.03 ~~and~~, 3791.04, and 4104.43 of the 126
Revised Code. 127

The board also shall certify personnel of municipal, 128
township, and county building departments, and persons and 129
employees of persons, firms, or corporations as described in 130
divisions (E)(1) and (2) of this section, to exercise enforcement 131
authority, to accept and approve plans and specifications, and to 132
make inspections, pursuant to sections 3781.03 ~~and~~, 3791.04, and 133
4104.45 of the Revised Code. The board shall specify, in rules 134
adopted pursuant to Chapter 119. of the Revised Code, the 135
requirements that shall be satisfied for certification purposes, 136
which requirements shall be consistent with this division. Except 137
as otherwise provided in this division, the requirements shall 138
include, but are not limited to, the satisfactory completion of an 139
initial examination and, in order to remain certified, the 140
completion of a specified number of hours of continuing building 141
code education within each three-year period following the date of 142
certification. In adopting the requirements, the board shall not 143

specify less than thirty hours of continuing building code 144
education within a three-year period; shall provide that 145
continuing education credits, and certification issued, by the 146
council of American building officials, national model code 147
organizations, and agencies or entities recognized by the board, 148
are acceptable for purposes of this division; and shall specify 149
requirements that are compatible, to the extent possible, with 150
requirements established by the council of American building 151
officials and national model code organizations. The board shall 152
establish and collect a certification and renewal fee for building 153
department personnel, and persons and employees of persons, firms, 154
or corporations as described in divisions (E)(1) and (2) of this 155
section, certified pursuant to this division. 156

All individuals certified pursuant to this division shall 157
complete the number of hours of continuing building code education 158
that the board requires or, for failure to do so, forfeit their 159
certifications. 160

This division does not require or authorize the certification 161
by the board of personnel of municipal, township, and county 162
building departments, and persons and employees of persons, firms, 163
or corporations as described in divisions (E)(1) and (2) of this 164
section, whose responsibilities do not include the exercise of 165
enforcement authority, the approval of plans and specifications, 166
or the making of inspections, under the Ohio building code. 167

(1) Enforcement authority for approval of plans and 168
specifications may be exercised, and plans and specifications may 169
be approved, on behalf of a municipal corporation, township, or 170
county, by any of the following who are certified by the board of 171
building standards: 172

(a) Officers or employees of the municipal corporation, 173
township, or county; 174

(b) Persons, or employees of persons, firms, or corporations, 175
when such persons, firms, or corporations are under contract to 176
furnish architectural or engineering services to the municipal 177
corporation, township, or county, and such authority is exercised 178
pursuant to such contract; 179

(c) Officers or employees of any other municipal corporation, 180
township, county, health district, or other political subdivision, 181
or persons or employees of persons, firms, or corporations under 182
contract with the same pursuant to division (E)(1)(b) of this 183
section, when such other municipal corporation, township, county, 184
health district, or other political subdivision is under contract 185
to furnish architectural or engineering services to the municipal 186
corporation, township, or county, and such authority is exercised 187
pursuant to such contract. 188

(2) Enforcement authority for inspections may be exercised, 189
and inspections may be made, on behalf of a municipal corporation, 190
township, or county, by any of the following who are certified by 191
the board of building standards: 192

(a) Officers or employees of the municipal corporation, 193
township, or county; 194

(b) Persons, or employees of persons, firms, or corporations, 195
when such persons, firms, or corporations are under contract to 196
furnish inspection services to the municipal corporation, 197
township, or county, and such authority is exercised pursuant to 198
such contract; 199

(c) Officers or employees of any other municipal corporation, 200
township, county, health district, or other political subdivision 201
under contract to furnish inspection services to the municipal 202
corporation, township, or county, when such authority is exercised 203
pursuant to such contract. 204

(3) Municipal, township, and county building departments 205

shall have jurisdiction within the meaning of sections 3781.03 206
~~and~~, 3791.04, and 4104.43 of the Revised Code, only with respect 207
to the types of buildings and subject matters as to which they 208
have been certified under this section and as to which such 209
certification remains in effect. 210

(4) Such certification shall be upon application by the 211
municipal corporation, the board of township trustees, or the 212
board of county commissioners and approval of such application by 213
the board of building standards. Such application shall set forth: 214

(a) The types of building occupancies as to which the 215
certification is requested; 216

(b) The number and qualifications of the staff composing the 217
building department; 218

(c) The names, addresses, and qualifications of persons, 219
firms, or corporations contracting to furnish work or services 220
pursuant to divisions (E)(1)(b) and (2)(b) of this section; 221

(d) The names of other municipal corporations, townships, 222
counties, health districts, or other political subdivisions 223
contracting to furnish work or services pursuant to divisions 224
(E)(1)(c) and (2)(c) of this section; 225

(e) The proposed budget for the operation of such department. 226

(5) The board of building standards shall adopt rules 227
governing: 228

(a) The certification of building department personnel and of 229
those persons and employees of persons, firms, or corporations 230
exercising authority pursuant to divisions (E)(1) and (2) of this 231
section. Any employee of the department or person who contracts 232
for services with the department is disqualified from performing 233
services for the department when the same would require the 234
employee or person to pass upon, inspect, or otherwise exercise 235

any authority given by the Ohio building code over any labor, 236
material, or equipment furnished by the employee or person for the 237
construction, alteration, or maintenance of a building or the 238
preparation of working drawings or specifications for work within 239
the jurisdictional area of the department. The department shall 240
provide other similarly qualified personnel to enforce the 241
requirements of the Ohio building code as it pertains to such 242
work. 243

(b) The minimum services to be provided by a certified 244
building department. 245

(6) Such certification may be revoked or suspended with 246
respect to any or all of the building occupancies to which it 247
relates on petition to the board of building standards by any 248
person affected by such enforcement or approval of plans, or by 249
the board on its own motion. Hearings shall be held and appeals 250
permitted on any such proceedings for certification or for 251
revocation or suspension of certification in the same manner as 252
provided in section 3781.101 of the Revised Code for other 253
proceedings of the board of building standards. 254

(7) Upon certification, and until such authority is revoked, 255
county and township building departments shall enforce such rules 256
over those occupancies listed in the application without regard to 257
limitation upon the authority of boards of county commissioners 258
under Chapter 307. of the Revised Code or boards of township 259
trustees under Chapter 505. of the Revised Code. 260

(F) Conduct such hearings, in addition to those required by 261
sections 3781.06 to 3781.18 and 3791.04 of the Revised Code, and 262
make such investigations and tests, and require from other state 263
departments, officers, boards, and commissions such information as 264
the board considers necessary or desirable in order to assist it 265
in the discharge of any duty or in the exercise of any power 266
mentioned in this section or in sections 3781.06 to 3781.18 ~~and~~, 267

3791.04, and 4104.43 of the Revised Code; 268

(G) Formulate rules and establish reasonable fees for the 269
review of all applications submitted where the applicant applies 270
for authority to use a new material, assembly, or product of a 271
manufacturing process. The fee established shall bear some 272
reasonable relationship to the cost of such review or testing of 273
the materials, assembly, or products submitted and notification of 274
approval or disapproval as provided in section 3781.12 of the 275
Revised Code. 276

(H) Compile and publish, in the form of a model code, rules 277
pertaining to one-family, two-family, and three-family dwelling 278
houses that any municipal corporation, township, or county may 279
incorporate into its building code; 280

(I) Cooperate with the director of job and family services 281
when the director promulgates rules pursuant to section 5104.05 of 282
the Revised Code regarding safety and sanitation in type A family 283
day-care homes; 284

(J) Adopt rules to implement the requirements of section 285
3781.108 of the Revised Code. 286

Sec. 3781.19. There is hereby established in the department 287
of commerce a board of building appeals consisting of five members 288
who shall be appointed by the governor with the advice and consent 289
of the senate. Terms of office shall be for four years, commencing 290
on the fourteenth day of October and ending on the thirteenth day 291
of October. Each member shall hold office from the date of 292
appointment until the end of the term for which the member was 293
appointed. Any member appointed to fill a vacancy occurring prior 294
to the expiration of the term for which the member's predecessor 295
was appointed shall hold office for the remainder of such term. 296
Any member shall continue in office subsequent to the expiration 297
date of the member's term until a successor takes office, or until 298

a period of sixty days has elapsed, whichever occurs first. One 299
member shall be an attorney-at-law, admitted to the bar of this 300
state and of the remaining members, one shall be a registered 301
architect and one shall be a professional engineer, each of whom 302
shall be duly licensed to practice their respective professions in 303
this state, one shall be a fire prevention officer qualified under 304
section 3737.66 of the Revised Code, and one shall be a person 305
with recognized ability in the plumbing or pipefitting profession. 306
No member of the board of building standards shall be a member of 307
the board of building appeals. Each member shall be paid an amount 308
fixed pursuant to Chapter 124. of the Revised Code per diem. The 309
department shall provide and assign to the board such employees as 310
are required by the board to perform its functions. The board may 311
adopt its own rules of procedure not inconsistent with sections 312
3781.06 to 3781.18 and 3791.04 of the Revised Code, and may change 313
them in its discretion. The board may establish reasonable fees, 314
based on actual costs for administration of filing and processing, 315
not to exceed two hundred dollars, for the costs of filing and 316
processing appeals. A full and complete record of all proceedings 317
of the board shall be kept and be open to public inspection. 318

In the enforcement by any department of the state or any 319
political subdivision of this chapter and Chapter 3791., and 320
sections 3737.41, 3737.42, 4104.02, 4104.06, 4104.43, 4104.44, 321
4104.45, 4105.011, and 4105.11 of the Revised Code and any rule 322
made thereunder, such department is the agency referred to in 323
sections 119.07, 119.08, and 119.10 of the Revised Code. 324

The appropriate municipal or county board of appeals, where 325
one exists, certified pursuant to section 3781.20 of the Revised 326
Code shall conduct the adjudication hearing referred to in 327
sections 119.09 to 119.13 and required by section 3781.031 of the 328
Revised Code. If there is no certified municipal or county board 329
of appeals, the board of building appeals shall conduct the 330

adjudication hearing. If the adjudication hearing concerns section 331
3781.111 of the Revised Code or any rule made thereunder, 332
reasonable notice of the time, date, place, and subject of the 333
hearing shall be given to any local corporation, association, or 334
other organization composed of or representing handicapped 335
persons, as defined in section 3781.111 of the Revised Code, or if 336
there is no local organization, then to any statewide corporation, 337
association, or other organization composed of or representing 338
handicapped persons. 339

In addition to the provisions of Chapter 119. of the Revised 340
Code, the municipal, county, or state board of building appeals, 341
as the agency conducting the adjudication hearing, may reverse or 342
modify the order of the enforcing agency if it finds that the 343
order is contrary to this chapter and Chapters 3791. and 4104., 344
and sections 3737.41, 3737.42, 4105.011 and 4105.11 of the Revised 345
Code and any rule made thereunder or to a fair interpretation or 346
application of such laws or any rule made thereunder, or that a 347
variance from the provisions of such laws or any rule made 348
thereunder, in the specific case, will not be contrary to the 349
public interest where a literal enforcement of such provisions 350
will result in unnecessary hardship. 351

The state board of building appeals or a certified municipal 352
or county board of appeals shall render its decision within thirty 353
days after the date of the adjudication hearing. Following the 354
adjudication hearing, any municipal or county officer, official 355
municipal or county board, or person who was a party to the 356
hearing before the municipal or county board of appeals may apply 357
to the state board of appeals for a de novo hearing before the 358
state board, or may appeal directly to the court of common pleas 359
pursuant to section 3781.031 of the Revised Code. 360

In addition, any local corporation, association, or other 361
organization composed of or representing handicapped persons as 362

defined in section 3781.111 of the Revised Code, or, if no local 363
corporation, association, or organization exists, then any 364
statewide corporation, association, or other organization composed 365
of or representing handicapped persons may apply for the de novo 366
hearing or appeal to the court of common pleas from any decision 367
of a certified municipal or county board of appeals interpreting, 368
applying, or granting a variance from section 3781.111 of the 369
Revised Code and any rule made thereunder. Application for a de 370
novo hearing before the state board shall be made no later than 371
thirty days after the municipal or county board renders its 372
decision. 373

The state board of building appeals or the appropriate 374
certified local board of building appeals shall grant variances 375
and exemptions from the requirements of section 3781.108 of the 376
Revised Code in accordance with rules adopted by the board of 377
building standards pursuant to division (J) of section 3781.10 of 378
the Revised Code. 379

The state board of building appeals or the appropriate 380
certified local board of building appeals shall, in granting a 381
variance or exemption from section 3781.108 of the Revised Code, 382
in addition to any other considerations the state or the 383
appropriate local board determines appropriate, consider the 384
architectural and historical significance of the building. 385

Sec. 4104.41. As used in sections 4104.41 to 4104.45 of the 386
Revised Code: 387

(A) "Building services piping" means piping systems and their 388
component parts that are part of a building system and that 389
promote the safe, sanitary, and energy efficient occupancy of a 390
building. "Building services piping" includes, but is not limited 391
to, cold and hot potable water distribution for plumbing fixtures; 392
sanitary lines leading from plumbing fixtures; nonflammable 393

medical gas systems; medical oxygen systems; medical vacuum 394
systems; fire protection piping systems and compressed air in dry 395
systems; refrigeration, chilled water, condenser, cooling tower 396
water, brine, and water/antifreeze systems; steam, steam 397
condensate, and hot water piping systems; heating and cooling 398
piping systems; and fuel oil piping and fuel gas piping for 399
heating, cooling, and cooking applications. 400

(B) "Power piping" means piping systems and their component 401
parts, that are not building services piping systems, and that may 402
be installed within electric power generating stations, industrial 403
and institutional plants, utility geothermal heating systems, and 404
central and district heating and cooling systems. "Power piping" 405
includes, but is not limited to, piping used in the distribution 406
of plant and process steam at boiler pressures greater than 407
fifteen pounds per square inch gauge, high temperature water 408
piping from high pressure and high temperature boilers, power 409
boiler steam condensate piping, high pressure and high temperature 410
water condensate piping, and compressed air and hydraulic piping 411
upstream of the first stop valve off a system distribution header. 412

(C) "Process piping" means piping systems and their component 413
parts, that are not building services or power piping systems, and 414
that may be installed in petroleum refineries, chemical, 415
pharmaceutical, textile, paper, semiconductor, and cryogenic 416
plants, and related processing plants and terminals. 417

Sec. 4104.42. (A) The owner of any power piping or process 418
piping system shall ensure that all of the following are performed 419
in compliance with applicable sections of the B31 standards 420
contained in the code for pressure piping, published by the 421
American society of mechanical engineers: 422

(1) The design, fabrication, assembly, installation, testing, 423
examination, and inspection of power and process piping systems; 424

<u>(2) Qualification of personnel and qualification of welding</u>	425
<u>and brazing procedures;</u>	426
<u>(3) The implementation of an inspection program.</u>	427
<u>(B) The owner of a power piping or process piping system</u>	428
<u>shall do both of the following:</u>	429
<u>(1) Maintain for five years complete records documenting the</u>	430
<u>design, examination, and testing of the piping system that include</u>	431
<u>all of the following:</u>	432
<u>(a) The specific edition of the code for pressure piping used</u>	433
<u>in the design;</u>	434
<u>(b) The design assumptions;</u>	435
<u>(c) The calculations, piping material specifications, and</u>	436
<u>construction documents for the piping;</u>	437
<u>(d) The records of piping alterations;</u>	438
<u>(e) The piping examination and inspection records.</u>	439
<u>(2) Disclose the types and quantities of flammable,</u>	440
<u>combustible, or hazardous materials proposed to be used in the</u>	441
<u>facility to the building and fire code enforcement authorities who</u>	442
<u>have inspection authority to enable those authorities to determine</u>	443
<u>compliance with the rules the board of building standards adopts</u>	444
<u>pursuant to section 3781.10 of the Revised Code and the rules the</u>	445
<u>state fire marshal adopts pursuant to section 3737.82 of the</u>	446
<u>Revised Code.</u>	447
<u>(C) No person or state agency shall require that the records</u>	448
<u>described in division (B)(1) of this section be submitted to the</u>	449
<u>division of industrial compliance in the department of commerce or</u>	450
<u>to a certified building department for approval.</u>	451
<u>(D) Nothing in this section limits the application of</u>	452
<u>Chapters 4703. and 4733. of the Revised Code.</u>	453

Sec. 4104.43. (A)(1) The board of building standards shall 454
adopt rules establishing requirements for the design, 455
installation, inspection of and design review procedure for 456
building services piping. 457

(2) The board of building standards shall adopt rules 458
establishing requirements for the design, installation, inspection 459
of and design review procedure for nonflammable medical gas, 460
medical oxygen, and medical vacuum piping systems. 461

(B) A municipal, township, or county building department 462
certified under division (E) of section 3781.10 of the Revised 463
Code shall enforce the rules the board adopts pursuant to division 464
(A)(2) of this section if that building department requests and 465
obtains special certification to enforce those rules. 466

(C) In a health district where no municipal, township, or 467
county building department is specially certified under division 468
(B) of this section, an employee of the health district shall 469
enforce the rules adopted pursuant to division (A)(2) of this 470
section if both of the following conditions are satisfied: 471

(1) The health district employee requests and obtains special 472
certification by the board to enforce those rules. 473

(2) The health district notifies the superintendent of the 474
division of industrial compliance in the department of commerce 475
that the health district's specially certified employee shall 476
enforce those rules. 477

(D) In a jurisdiction where enforcement authority as 478
described in divisions (B) and (C) of this section does not exist, 479
the superintendent of the division of industrial compliance shall 480
enforce the rules the board adopts pursuant to division (A)(2) of 481
this section. 482

Sec. 4104.44. All welding and brazing of metallic piping systems shall be performed in accordance with section IX of the boiler and pressure vessel code, published by the American society of mechanical engineers. The owner shall maintain, at the job site, the certified performance qualification records of all welders and brazers employed at the facility. The owner shall submit copies of all certified welding and brazing procedure specifications, procedure qualification records, and performance qualification records for building services piping for review to the superintendent of the division of industrial compliance in the department of commerce in accordance with rules the superintendent adopts. The submission shall be accompanied by the fee the superintendent establishes.

Sec. 4104.45. A person who inspects the installation of or witnesses the testing of any nonflammable medical gas and vacuum piping system shall be certified to do so pursuant to division (E) of section 3781.10 of the Revised Code.

Sec. 4123.01. As used in this chapter:

(A)(1) "Employee" means:

(a) Every person in the service of the state, or of any county, municipal corporation, township, or school district therein, including regular members of lawfully constituted police and fire departments of municipal corporations and townships, whether paid or volunteer, and wherever serving within the state or on temporary assignment outside thereof, and executive officers of boards of education, under any appointment or contract of hire, express or implied, oral or written, including any elected official of the state, or of any county, municipal corporation, or township, or members of boards of education.

As used in division (A)(1)(a) of this section, the term "employee" includes the following persons when responding to an inherently dangerous situation that calls for an immediate response on the part of the person, regardless of whether the person is within the limits of the jurisdiction of the person's regular employment or voluntary service when responding, on the condition that the person responds to the situation as the person otherwise would if the person were on duty in the person's jurisdiction:

(i) Off-duty peace officers. As used in division (A)(1)(a)(i) of this section, "peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(ii) Off-duty firefighters, whether paid or volunteer, of a lawfully constituted fire department.

(iii) Off-duty first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, or emergency medical technicians-paramedic, whether paid or volunteer, of an ambulance service organization or emergency medical service organization pursuant to Chapter 4765. of the Revised Code.

(b) Every person in the service of any person, firm, or private corporation, including any public service corporation, that (i) employs one or more persons regularly in the same business or in or about the same establishment under any contract of hire, express or implied, oral or written, including aliens and minors, household workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single household and casual workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single employer, or (ii) is bound by any such contract of hire or by any other written contract, to pay into the state insurance fund the premiums provided by this

chapter.	543
(c) Every person who performs labor or provides services pursuant to a construction contract, as defined in section 4123.79 of the Revised Code, if at least ten of the following criteria apply:	544
(i) The person is required to comply with instructions from the other contracting party regarding the manner or method of performing services;	545
(ii) The person is required by the other contracting party to have particular training;	546
(iii) The person's services are integrated into the regular functioning of the other contracting party;	547
(iv) The person is required to perform the work personally;	548
(v) The person is hired, supervised, or paid by the other contracting party;	549
(vi) A continuing relationship exists between the person and the other contracting party that contemplates continuing or recurring work even if the work is not full time;	550
(vii) The person's hours of work are established by the other contracting party;	551
(viii) The person is required to devote full time to the business of the other contracting party;	552
(ix) The person is required to perform the work on the premises of the other contracting party;	553
(x) The person is required to follow the order of work set by the other contracting party;	554
(xi) The person is required to make oral or written reports of progress to the other contracting party;	555
(xii) The person is paid for services on a regular basis such	556

as hourly, weekly, or monthly;	572
(xiii) The person's expenses are paid for by the other contracting party;	573 574
(xiv) The person's tools and materials are furnished by the other contracting party;	575 576
(xv) The person is provided with the facilities used to perform services;	577 578
(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;	579 580
(xvii) The person is not performing services for a number of employers at the same time;	581 582
(xviii) The person does not make the same services available to the general public;	583 584
(xix) The other contracting party has a right to discharge the person;	585 586
(xx) The person has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.	587 588 589
Every person in the service of any independent contractor or subcontractor who has failed to pay into the state insurance fund the amount of premium determined and fixed by the administrator of workers' compensation for the person's employment or occupation or if a self-insuring employer has failed to pay compensation and benefits directly to the employer's injured and to the dependents of the employer's killed employees as required by section 4123.35 of the Revised Code, shall be considered as the employee of the person who has entered into a contract, whether written or verbal, with such independent contractor unless such employees or their legal representatives or beneficiaries elect, after injury or death, to regard such independent contractor as the employer.	590 591 592 593 594 595 596 597 598 599 600 601

(2) "Employee" does not mean: 602

(a) A duly ordained, commissioned, or licensed minister or 603
assistant or associate minister of a church in the exercise of 604
ministry; 605

(b) Any officer of a family farm corporation; ~~or~~ 606

(c) An individual incorporated as a corporation; or 607

(d) An individual who otherwise is an employee of an employer 608
but who signs the waiver and affidavit specified in section 609
4123.15 of the Revised Code on the condition that the 610
administrator has granted a waiver and exception to the 611
individual's employer under section 4123.15 of the Revised Code. 612

Any employer may elect to include as an "employee" within 613
this chapter, any person excluded from the definition of 614
"employee" pursuant to division (A)(2) of this section. If an 615
employer is a partnership, sole proprietorship, individual 616
incorporated as a corporation, or family farm corporation, such 617
employer may elect to include as an "employee" within this 618
chapter, any member of such partnership, the owner of the sole 619
proprietorship, the individual incorporated as a corporation, or 620
the officers of the family farm corporation. In the event of an 621
election, the employer shall serve upon the bureau of workers' 622
compensation written notice naming the persons to be covered, 623
include such employee's remuneration for premium purposes in all 624
future payroll reports, and no person excluded from the definition 625
of "employee" pursuant to division (A)(2) of this section, 626
proprietor, individual incorporated as a corporation, or partner 627
shall be deemed an employee within this division until the 628
employer has served such notice. 629

For informational purposes only, the bureau shall prescribe 630
such language as it considers appropriate, on such of its forms as 631
it considers appropriate, to advise employers of their right to 632

elect to include as an "employee" within this chapter a sole 633
proprietor, any member of a partnership, an individual 634
incorporated as a corporation, the officers of a family farm 635
corporation, or a person excluded from the definition of 636
"employee" under division (A)(2)~~(a)~~ of this section, that they 637
should check any health and disability insurance policy, or other 638
form of health and disability plan or contract, presently covering 639
them, or the purchase of which they may be considering, to 640
determine whether such policy, plan, or contract excludes benefits 641
for illness or injury that they might have elected to have covered 642
by workers' compensation. 643

(B) "Employer" means: 644

(1) The state, including state hospitals, each county, 645
municipal corporation, township, school district, and hospital 646
owned by a political subdivision or subdivisions other than the 647
state; 648

(2) Every person, firm, professional employer organization as 649
defined in section 4125.01 of the Revised Code, and private 650
corporation, including any public service corporation, that (a) 651
has in service one or more employees or shared employees regularly 652
in the same business or in or about the same establishment under 653
any contract of hire, express or implied, oral or written, or (b) 654
is bound by any such contract of hire or by any other written 655
contract, to pay into the insurance fund the premiums provided by 656
this chapter. 657

All such employers are subject to this chapter. Any member of 658
a firm or association, who regularly performs manual labor in or 659
about a mine, factory, or other establishment, including a 660
household establishment, shall be considered an employee in 661
determining whether such person, firm, or private corporation, or 662
public service corporation, has in its service, one or more 663
employees and the employer shall report the income derived from 664

such labor to the bureau as part of the payroll of such employer, 665
and such member shall thereupon be entitled to all the benefits of 666
an employee. 667

(C) "Injury" includes any injury, whether caused by external 668
accidental means or accidental in character and result, received 669
in the course of, and arising out of, the injured employee's 670
employment. "Injury" does not include: 671

(1) Psychiatric conditions except where the conditions have 672
arisen from an injury or occupational disease; 673

(2) Injury or disability caused primarily by the natural 674
deterioration of tissue, an organ, or part of the body; 675

(3) Injury or disability incurred in voluntary participation 676
in an employer-sponsored recreation or fitness activity if the 677
employee signs a waiver of the employee's right to compensation or 678
benefits under this chapter prior to engaging in the recreation or 679
fitness activity. 680

(D) "Child" includes a posthumous child and a child legally 681
adopted prior to the injury. 682

(E) "Family farm corporation" means a corporation founded for 683
the purpose of farming agricultural land in which the majority of 684
the voting stock is held by and the majority of the stockholders 685
are persons or the spouse of persons related to each other within 686
the fourth degree of kinship, according to the rules of the civil 687
law, and at least one of the related persons is residing on or 688
actively operating the farm, and none of whose stockholders are a 689
corporation. A family farm corporation does not cease to qualify 690
under this division where, by reason of any devise, bequest, or 691
the operation of the laws of descent or distribution, the 692
ownership of shares of voting stock is transferred to another 693
person, as long as that person is within the degree of kinship 694
stipulated in this division. 695

(F) "Occupational disease" means a disease contracted in the 696
course of employment, which by its causes and the characteristics 697
of its manifestation or the condition of the employment results in 698
a hazard which distinguishes the employment in character from 699
employment generally, and the employment creates a risk of 700
contracting the disease in greater degree and in a different 701
manner from the public in general. 702

(G) "Self-insuring employer" means an employer who is granted 703
the privilege of paying compensation and benefits directly under 704
section 4123.35 of the Revised Code, including a board of county 705
commissioners for the sole purpose of constructing a sports 706
facility as defined in section 307.696 of the Revised Code, 707
provided that the electors of the county in which the sports 708
facility is to be built have approved construction of a sports 709
facility by ballot election no later than November 6, 1997. 710

(H) "Public employer" means an employer as defined in 711
division (B)(1) of this section. 712

Sec. 4123.291. (A) An adjudicating committee appointed by the 713
administrator of workers' compensation to hear any matter 714
specified in divisions (B)(1) to ~~(6)~~(7) of this section shall hear 715
the matter within sixty days of the date on which an employer 716
files the request, protest, or petition. An employer desiring to 717
file a request, protest, or petition regarding any matter 718
specified in divisions (B)(1) to ~~(6)~~(7) of this section shall file 719
the request, protest, or petition to the adjudicating committee on 720
or before twenty-four months after the administrator sends notice 721
of the determination about which the employer is filing the 722
request, protest, or petition. 723

(B) An employer who is adversely affected by a decision of an 724
adjudicating committee appointed by the administrator may appeal 725
the decision of the committee to the administrator or the 726

administrator's designee. The employer shall file the appeal in 727
writing within thirty days after the employer receives the 728
decision of the adjudicating committee. The administrator or the 729
designee shall hear the appeal and hold a hearing, provided that 730
the decision of the adjudicating committee relates to one of the 731
following: 732

(1) An employer request for a waiver of a default in the 733
payment of premiums pursuant to section 4123.37 of the Revised 734
Code; 735

(2) An employer request for the settlement of liability as a 736
noncomplying employer under section 4123.75 of the Revised Code; 737

(3) An employer petition objecting to the assessment of a 738
premium pursuant to section 4123.37 of the Revised Code and the 739
rules adopted pursuant to that section; 740

(4) An employer request for the abatement of penalties 741
assessed pursuant to section 4123.32 of the Revised Code and the 742
rules adopted pursuant to that section; 743

(5) An employer protest relating to an audit finding or a 744
determination of a manual classification, experience rating, or 745
transfer or combination of risk experience; 746

(6) Any decision relating to any other risk premium matter 747
under Chapters 4121., 4123., and 4131. of the Revised Code; 748

(7) An employer petition objecting to the amount of security 749
required under division (C) of section 4125.05 of the Revised Code 750
and the rules adopted pursuant to that section. 751

Sec. 4125.01. As used in this chapter: 752

(A) "Client employer" means a sole proprietor, partnership, 753
association, limited liability company, or corporation that enters 754
into a professional employer organization agreement and is 755
assigned shared employees by the professional employer 756

organization. 757

(B) "Coemploy" means the sharing of the responsibilities and liabilities of being an employer. 758
759

(C) "Professional employer organization" means a sole proprietor, partnership, association, limited liability company, or corporation that enters into an agreement with one or more client employers for the purpose of coemploying all or part of the client employer's workforce at the client employer's work site. 760
761
762
763
764

(D) "Professional employer organization agreement" means a written contract to coemploy employees between a professional employer organization and a client employer with a duration of not less than twelve months in accordance with the requirements of this chapter. 765
766
767
768
769

(E) "Shared employee" means an individual intended to be assigned to a client employer on a permanent basis, not as a temporary supplement to the client employer's workforce, who is coemployed by a professional employer organization and a client employer pursuant to a professional employer organization agreement. 770
771
772
773
774
775

(F) "Trade secret" has the same meaning as in section 1333.61 of the Revised Code. 776
777

Sec. 4125.02. The administrator of the bureau of workers' compensation shall adopt rules in accordance with Chapter 119. of the Revised Code to administer and enforce this chapter. 778
779
780

Sec. 4125.03. (A) The professional employer organization with whom a shared employee is coemployed shall do all of the following: 781
782
783

(1) Pay wages associated with a shared employee pursuant to the terms and conditions of compensation in the professional 784
785

employer organization agreement between the professional employer organization and the client employer; 786
787

(2) Pay all related payroll taxes associated with a shared employee independent of the terms and conditions contained in the professional employer organization agreement between the professional employer organization and the client employer; 788
789
790
791

(3) Maintain workers' compensation coverage, pay all workers' compensation premiums and manage all workers' compensation claims, filings, and related procedures associated with a shared employee in compliance with Chapters 4121. and 4123. of the Revised Code, except that when shared employees include family farm officers, ordained ministers, or corporate officers of the client employer, payroll reports shall include the entire amount of payroll associated with those persons; 792
793
794
795
796
797
798
799

(4) Provide written notice to each shared employee it assigns to perform services to a client employer of the relationship between and the responsibilities of the professional employer organization and the client employer; 800
801
802
803

(5) Maintain complete records separately listing the manual classifications of each client employer and the payroll reported to each manual classification for each client employer for each payroll reporting period during the time period covered in the professional employer organization agreement; 804
805
806
807
808

(6) Maintain a record of workers' compensation claims for each client employer; 809
810

(7) Within fourteen days after receiving notice from the bureau of workers' compensation that a refund or rebate will be applied to workers' compensation premiums, provide a copy of that notice to any client employer to whom that notice is relevant. 811
812
813
814

(B) The professional employer organization with whom a shared 815

employee is coemployed has a right of direction and control over 816
each shared employee assigned to a client employer's location. 817

(C) Notwithstanding division (B) of this section, a client 818
employer may retain sufficient direction and control over a shared 819
employee as is necessary to conduct the client employer's business 820
and to discharge any fiduciary responsibility that it may have, or 821
to comply with any applicable licensure, regulatory, or statutory 822
requirement of the client employer. 823

Sec. 4125.04. (A) When a client employer enters into a 824
professional employer organization agreement with a professional 825
employer organization, the professional employer organization is 826
the employer of record and the succeeding employer for the 827
purposes of determining a workers' compensation experience rating 828
pursuant to Chapter 4123. of the Revised Code. 829

(B) Pursuant to Section 35 of Article II, Ohio Constitution, 830
and section 4123.74 of the Revised Code, the exclusive remedy for 831
a shared employee to recover for injuries, diseases, or death 832
incurred in the course of and arising out of the employment 833
relationship against either the professional employer organization 834
or the client employer are those benefits provided under Chapters 835
4121. and 4123. of the Revised Code. 836

Sec. 4125.05. (A) Not later than thirty days after the 837
effective date of this section or not later than thirty days after 838
the formation of a professional employer organization, whichever 839
date occurs later, a professional employer organization operating 840
in this state shall register with the administrator of the bureau 841
of workers' compensation on forms provided by the administrator. 842
Following initial registration, each professional employer 843
organization shall register with the administrator annually on or 844
before the thirty-first day of December. 845

(B) Initial registration and each annual registration renewal 846
shall include all of the following: 847

(1) A list of each of the professional employer 848
organization's client employers current as of the date of 849
registration for purposes of initial registration or current as of 850
the date of annual registration renewal, or within fourteen days 851
of adding or releasing a client, that includes the client 852
employer's name, address, federal tax identification number, and 853
bureau of workers' compensation risk number; 854

(2) A fee as determined by the administrator; 855

(3) The name or names under which the professional employer 856
organization conducts business; 857

(4) The address of the professional employer organization's 858
principal place of business and the address of each office it 859
maintains in this state; 860

(5) The professional employer organization's taxpayer or 861
employer identification number; 862

(6) A list of each state in which the professional employer 863
organization has operated in the preceding five years, and the 864
name, corresponding with each state, under which the professional 865
employer organization operated in each state, including any 866
alternative names, names of predecessors, and if known, successor 867
business entities. 868

(C)(1) The administrator, with the advice and consent of the 869
workers' compensation oversight commission, shall adopt rules in 870
accordance with Chapter 119. of the Revised Code to require, 871
except as otherwise specified in division (C)(2) of this section, 872
a professional employer organization to provide security in the 873
form of a bond or letter of credit assignable to the Ohio bureau 874
of workers' compensation not to exceed an amount equal to the 875

premiums and assessments incurred for the two most recent payroll 876
periods, prior to any discounts or dividends, to meet the 877
financial obligations of the professional employer organization 878
pursuant to this chapter and Chapters 4121. and 4123. of the 879
Revised Code. 880

(2) As an alternative to providing security in the form of a 881
bond or letter of credit, the administrator shall permit a 882
professional employer organization to make periodic payments of 883
prospective premiums and assessments to the bureau or to submit 884
proof of being certified by either a nationally recognized 885
organization that certifies professional employer organizations or 886
by a government entity approved by the administrator. 887

(3) A professional employer organization may appeal the 888
amount of the security required pursuant to rules adopted under 889
division (C)(1) of this section in accordance with section 890
4123.291 of the Revised Code. 891

(D) Notwithstanding division (C) of this section, a 892
professional employer organization that qualifies for 893
self-insurance or retrospective rating under section 4123.29 or 894
4123.35 of the Revised Code shall abide by the financial 895
disclosure and security requirements pursuant to those sections 896
and the rules adopted under those sections in place of the 897
requirements specified in division (C) of this section or 898
specified in rules adopted pursuant to that division. 899

(E) Except to the extent necessary for the administrator to 900
administer the statutory duties of the administrator and for 901
employees of the state to perform their official duties, all 902
records, reports, client lists, and other information obtained 903
from a professional employer organization under divisions (A) and 904
(B) of this section are confidential and shall be considered trade 905
secrets and shall not be published or open to public inspection. 906

(F) The list described in division (B)(1) of this section shall be considered a trade secret. 907
908

(G) The administrator shall establish the fee described in division (B)(2) of this section in an amount that does not exceed the cost of the administration of the initial and renewal registration process. 909
910
911
912

Sec. 4125.06. (A) In accordance with Chapter 119. of the Revised Code, the administrator of the bureau of workers' compensation may deny registration or revoke the registration of a professional employer organization and rescind its status as a coemployer upon a finding that the professional employer organization has done any of the following: 913
914
915
916
917
918

(1) Obtained or attempted to obtain registration through misrepresentation, misstatement of a material fact, or fraud; 919
920

(2) Misappropriated any funds of the client employer; 921

(3) Used fraudulent or coercive practices to obtain or retain business or demonstrated financial irresponsibility; 922
923

(4) Failed to appear, without reasonable cause or excuse, in response to a subpoena lawfully issued by the administrator; 924
925

(5) Failed to comply with the requirements of this chapter. 926

(B) The administrator's decision to deny or revoke a professional employer organization's registration or to rescind its status as a coemployer is stayed pending the exhaustion of all administrative appeals by the professional employer organization. 927
928
929
930

The administrator shall adopt rules that require that when an employer contacts the bureau of workers' compensation to determine whether a particular professional employer organization is registered, if the administrator has denied or revoked that professional employer organization's registration or rescinded its 931
932
933
934
935

status as a coemployer, and if all administrative appeals are not 936
yet exhausted when the employer inquires, the appropriate bureau 937
personnel shall inform the inquiring employer of the denial, 938
revocation, or rescission and the fact that the professional 939
employer organization has the right to appeal the administrator's 940
decision. 941

(C) Upon revocation of the registration of a professional 942
employer organization, each client employer associated with that 943
professional employer organization shall file payroll reports and 944
pay workers' compensation premiums directly to the administrator 945
on its own behalf at a rate determined by the administrator based 946
solely on the claims experience of the client employer. 947

(D) Upon revocation of a professional employer organization's 948
registration, each client employer associated with that 949
professional employer organization shall file on its own behalf 950
the appropriate documents or data with all state and federal 951
agencies as required by law with respect to any shared employee 952
the client employer and the professional employer organization 953
shared. 954

Sec. 4125.07. Not later than fourteen calendar days after the 955
date on which a professional employer organization agreement is 956
terminated, the professional employer organization is adjudged 957
bankrupt, the professional employer organization ceases operations 958
within the state of Ohio, or the registration of the professional 959
employer organization is revoked, the professional employer 960
organization shall submit to the administrator of the bureau of 961
workers' compensation and each client employer associated with 962
that professional employer organization a completed workers' 963
compensation lease termination notice form provided by the 964
administrator. The completed form shall include all client payroll 965
and claim information listed in a format specified by the 966

administrator and notice of all workers' compensation claims that 967
have been reported to the professional employer organization in 968
accordance with its internal reporting policies. 969

Sec. 4125.08. Nothing in this chapter exempts a professional 970
employer organization, client employer, or shared employee from 971
any applicable federal, state, or local licensing, registration, 972
or certification statutes or regulations. An individual required 973
to obtain and maintain a license, registration, or certification 974
under law and who is a shared employee of a professional employer 975
organization and a client employer is an employee of the client 976
employer for purposes of obtaining and maintaining the appropriate 977
license, registration, or certification as required by law. A 978
professional employer organization does not engage in any 979
occupation, trade, or profession that requires a license, 980
certification, or registration solely by entering into a 981
professional employer agreement with a client employer or 982
coemploying a shared employee. 983

Sec. 4125.09. Nothing contained in this chapter or in any 984
professional employer organization agreement shall affect, modify, 985
or amend any collective bargaining agreement that exists on the 986
effective date of this section. Nothing in this chapter shall 987
alter the rights or obligations of any client employer, 988
professional employer organization, or shared employee under the 989
"National Labor Relations Act," 49 Stat. 449, 29 U.S.C.A. 151 et 990
seq., the "Railway Labor Act," 44 Stat. 577, 45 U.S.C.A. 151, or 991
any other applicable federal or state law. 992

Sec. 4125.99. Whoever violates division (A) of section 993
4125.05 of the Revised Code is guilty of a minor misdemeanor. 994
Whoever knowingly violates section 4125.05 of the Revised Code is 995

guilty of a misdemeanor of the second degree. 996

Section 2. That existing sections 121.083, 3781.10, 3781.19, 997
4123.01, and 4123.291 and sections 4104.41, 4104.42, 4104.43, 998
4104.44, 4104.45, and 4104.47 of the Revised Code are hereby 999
repealed. 1000

Section 3. That Section 3 of Sub. H.B. 75 of the 124th 1001
General Assembly be amended to read as follows: 1002

Sec. 3. (A) The Administrator of Workers' Compensation, with 1003
the advice and consent of the Workers' Compensation Oversight 1004
Commission, may adopt rules that identify specified medical 1005
conditions that have a historical record of being allowed whenever 1006
included in a claim. The Administrator shall designate the rules 1007
to be effective only until ~~three years after the effective date of~~ 1008
~~this section~~ September 30, 2005. The Administrator, ~~for a period~~ 1009
~~of three years after the effective date of this section~~ until 1010
September 30, 2005, may grant immediate allowance of any medical 1011
condition identified in those rules upon the filing of a claim 1012
involving that medical condition and may make immediate payment of 1013
medical bills for any medical condition identified in those rules 1014
that is included in a claim. If an employer contests the allowance 1015
of a claim involving any medical condition identified in those 1016
rules, and the claim is disallowed, payment for the medical 1017
condition included in that claim shall be charged to and paid from 1018
the surplus fund created under section 4123.34 of the Revised 1019
Code. 1020

(B) The Administrator shall establish a pilot program to 1021
determine the effectiveness of implementing division (A) of this 1022
section. 1023

Section 4. That existing Section 3 of Sub. H.B. 75 of the 1024

124th General Assembly is hereby repealed.

1025