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Representative Batchelder

**Cosponsors: Representatives McGregor, J., Fessler, Latta, Stebelton,
Webster, Uecker, Aslanides, Bacon, Blessing, Collier, Combs, Daniels,
Dolan, Evans, Flowers, Gibbs, Goodwin, Hagan, J., Huffman, Hughes,
McGregor, R., Mecklenborg, Patton, Peterson, Reinhard, Schindel,
Schneider, Setzer, Wachtmann, Wagner, Wagoner, White, Widowfield,
Wolpert, Zehringer**

**Senators Buehrer, Harris, Patton, Schuler, Seitz, Stivers, Wagoner, Wilson,
Schaffer**

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A B I L L

To amend sections 101.532, 101.82, 127.14, 4121.03, 1
4121.121, 4121.75, 4121.76, 4121.77, 4121.79, 2
4123.29, 4123.341, 4123.342, and 4123.35 of the 3
Revised Code to make changes to the law governing 4
the Workers' Compensation Council, to specify that 5
an employer group is considered one employer for 6
purposes of workers' compensation group rating, 7
and to make an appropriation. 8

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

Section 1. That sections 101.532, 101.82, 127.14, 4121.03, 9
4121.121, 4121.75, 4121.76, 4121.77, 4121.79, 4123.29, 4123.341, 10
4123.342, and 4123.35 of the Revised Code be amended to read as 11
follows: 12

Sec. 101.532. The main operating appropriations bill shall 13
not contain appropriations for the industrial commission, the 14
workers' compensation council, or the bureau of workers' 15
compensation. Appropriations for ~~these two agencies~~ the bureau and 16
the council shall be enacted in one bill, and appropriations for 17
the industrial commission shall be enacted in a separate bills 18
bill. 19

Sec. 101.82. As used in sections 101.82 to 101.87 of the 20
Revised Code: 21

(A) "Agency" means any board, commission, committee, or 22
council, or any other similar state public body required to be 23
established pursuant to state statutes for the exercise of any 24
function of state government and to which members are appointed or 25
elected. "Agency" does not include the following: 26

(1) The general assembly, or any commission, committee, or 27
other body composed entirely of members of the general assembly; 28

(2) Any court; 29

(3) Any public body created by or directly pursuant to the 30
constitution of this state; 31

(4) The board of trustees of any institution of higher 32
education financially supported in whole or in part by the state; 33

(5) Any public body that has the authority to issue bonds or 34
notes or that has issued bonds or notes that have not been fully 35
repaid; 36

(6) The public utilities commission of Ohio; 37

(7) The consumers' council governing board; 38

(8) The Ohio board of regents; 39

(9) Any state board or commission that has the authority to 40

issue any final adjudicatory order that may be appealed to the	41
court of common pleas under Chapter 119. of the Revised Code;	42
(10) Any board of elections;	43
(11) The board of directors of the Ohio insurance guaranty	44
association and the board of governors of the Ohio fair plan	45
underwriting association;	46
(12) The Ohio public employees deferred compensation board;	47
(13) The Ohio retirement study council;	48
(14) The board of trustees of the Ohio police and fire	49
pension fund, public employees retirement board, school employees	50
retirement board, state highway patrol retirement board, and state	51
teachers retirement board;	52
(15) The industrial commission;	53
(16) The parole board;	54
(17) The board of tax appeals;	55
(18) The controlling board;	56
(19) The release authority of department of youth services;	57
(20) The environmental review appeals commission;	58
(21) The Ohio ethics commission;	59
(22) The Ohio public works commission;	60
(23) The self-insuring employers evaluation board;	61
(24) The state board of deposit;	62
(25) The state employment relations board;	63
<u>(26) The workers' compensation council.</u>	64
(B) "Abolish" means to repeal the statutes creating and	65
empowering an agency, remove its personnel, and transfer its	66
records to the department of administrative services pursuant to	67

division (E) of section 149.331 of the Revised Code. 68

(C) "Terminate" means to amend or repeal the statutes 69
creating and empowering an agency, remove its personnel, and 70
reassign its functions and records to another agency or officer 71
designated by the general assembly. 72

(D) "Transfer" means to amend the statutes creating and 73
empowering an agency so that its functions, records, and personnel 74
are conveyed to another agency or officer. 75

(E) "Renew" means to continue an agency, and may include 76
amendment of the statutes creating and empowering the agency, or 77
recommendations for changes in agency operation or personnel. 78

Sec. 127.14. The controlling board may, at the request of any 79
state agency or the director of budget and management, authorize, 80
with respect to the provisions of any appropriation act: 81

(A) Transfers of all or part of an appropriation within but 83
not between state agencies, except such transfers as the director 84
of budget and management is authorized by law to make, provided 85
that no transfer shall be made by the director for the purpose of 86
effecting new or changed levels of program service not authorized 87
by the general assembly; 88

(B) Transfers of all or part of an appropriation from one 89
fiscal year to another; 90

(C) Transfers of all or part of an appropriation within or 91
between state agencies made necessary by administrative 92
reorganization or by the abolition of an agency or part of an 93
agency; 94

(D) Transfers of all or part of cash balances in excess of 95
needs from any fund of the state to the general revenue fund or to 96
such other fund of the state to which the money would have been 97

credited in the absence of the fund from which the transfers are 98
authorized to be made, except that the controlling board may not 99
authorize such transfers from the accrued leave liability fund, 100
auto registration distribution fund, budget stabilization fund, 101
development bond retirement fund, facilities establishment fund, 102
gasoline excise tax fund, general revenue fund, higher education 103
improvement fund, highway improvement bond retirement fund, 104
highway obligations bond retirement fund, highway capital 105
improvement fund, highway operating fund, horse racing tax fund, 106
improvements bond retirement fund, public library fund, liquor 107
control fund, local government fund, local transportation 108
improvement program fund, mental health facilities improvement 109
fund, Ohio fairs fund, parks and recreation improvement fund, 110
public improvements bond retirement fund, school district income 111
tax fund, state agency facilities improvement fund, state and 112
local government highway distribution fund, state highway safety 113
fund, state lottery fund, undivided liquor permit fund, Vietnam 114
conflict compensation bond retirement fund, volunteer fire 115
fighters' dependents fund, waterways safety fund, wildlife fund, 116
workers' compensation fund, workers' compensation council 117
remuneration fund, or any fund not specified in this division that 118
the director of budget and management determines to be a bond fund 119
or bond retirement fund; 120

(E) Transfers of all or part of those appropriations included 121
in the emergency purposes account of the controlling board; 122

(F) Temporary transfers of all or part of an appropriation or 123
other moneys into and between existing funds, or new funds, as may 124
be established by law when needed for capital outlays for which 125
notes or bonds will be issued; 126

(G) Transfer or release of all or part of an appropriation to 127
a state agency requiring controlling board approval of such 128
transfer or release as provided by law; 129

(H) Temporary transfer of funds included in the emergency 130
purposes appropriation of the controlling board. Such temporary 131
transfers may be made subject to conditions specified by the 132
controlling board at the time temporary transfers are authorized. 133
No transfers shall be made under this division for the purpose of 134
effecting new or changed levels of program service not authorized 135
by the general assembly. 136

As used in this section, "request" means an application by a 137
state agency or the director of budget and management seeking some 138
action by the controlling board. 139

When authorizing the transfer of all or part of an 140
appropriation under this section, the controlling board may 141
authorize the transfer to an existing appropriation item and the 142
creation of and transfer to a new appropriation item. 143

Whenever there is a transfer of all or part of funds included 144
in the emergency purposes appropriation by the controlling board, 145
pursuant to division (E) of this section, the state agency or the 146
director of budget and management receiving such transfer shall 147
keep a detailed record of the use of the transferred funds. At the 148
earliest scheduled meeting of the controlling board following the 149
accomplishment of the purposes specified in the request originally 150
seeking the transfer, or following the total expenditure of the 151
transferred funds for the specified purposes, the state agency or 152
the director of budget and management shall submit a report on the 153
expenditure of such funds to the board. The portion of any 154
appropriation so transferred which is not required to accomplish 155
the purposes designated in the original request to the controlling 156
board shall be returned to the proper appropriation of the 157
controlling board at this time. 158

Notwithstanding any provisions of law providing for the 159
deposit of revenues received by a state agency to the credit of a 160
particular fund in the state treasury, whenever there is a 161

temporary transfer of funds included in the emergency purposes 162
appropriation of the controlling board pursuant to division (H) of 163
this section, revenues received by any state agency receiving such 164
a temporary transfer of funds shall, as directed by the 165
controlling board, be transferred back to the emergency purposes 166
appropriation. 167

The board may delegate to the director of budget and 168
management authority to approve transfers among items of 169
appropriation under division (A) of this section. 170

Sec. 4121.03. (A) The governor shall appoint from among the 171
members of the industrial commission the chairperson of the 172
industrial commission. The chairperson shall serve as chairperson 173
at the pleasure of the governor. The chairperson is the head of 174
the commission and its chief executive officer. 175

(B) The chairperson shall appoint, after consultation with 176
other commission members and obtaining the approval of at least 177
one other commission member, an executive director of the 178
commission. The executive director shall serve at the pleasure of 179
the chairperson. The executive director, under the direction of 180
the chairperson, shall perform all of the following duties: 181

(1) Act as chief administrative officer for the commission; 182

(2) Ensure that all commission personnel follow the rules of 183
the commission; 184

(3) Ensure that all orders, awards, and determinations are 185
properly heard and signed, prior to attesting to the documents; 186

(4) Coordinate, to the fullest extent possible, commission 187
activities with the bureau of workers' compensation activities; 188

(5) Do all things necessary for the efficient and effective 189
implementation of the duties of the commission. 190

The responsibilities assigned to the executive director of 191

the commission do not relieve the chairperson from final 192
responsibility for the proper performance of the acts specified in 193
this division. 194

(C) The chairperson shall do all of the following: 195

(1) Except as otherwise provided in this division, employ, 196
promote, supervise, remove, and establish the compensation of all 197
employees as needed in connection with the performance of the 198
commission's duties under this chapter and Chapters 4123., 4127., 199
and 4131. of the Revised Code and may assign to them their duties 200
to the extent necessary to achieve the most efficient performance 201
of its functions, and to that end may establish, change, or 202
abolish positions, and assign and reassign duties and 203
responsibilities of every employee of the commission. The civil 204
service status of any person employed by the commission prior to 205
November 3, 1989, is not affected by this section. Personnel 206
employed by the bureau or the commission who are subject to 207
Chapter 4117. of the Revised Code shall retain all of their rights 208
and benefits conferred pursuant to that chapter as it presently 209
exists or is hereafter amended and nothing in this chapter or 210
Chapter 4123. of the Revised Code shall be construed as 211
eliminating or interfering with Chapter 4117. of the Revised Code 212
or the rights and benefits conferred under that chapter to public 213
employees or to any bargaining unit. 214

(2) Hire district and staff hearing officers after 215
consultation with other commission members and obtaining the 216
approval of at least one other commission member; 217

(3) Fire staff and district hearing officers when the 218
chairperson finds appropriate after obtaining the approval of at 219
least one other commission member; 220

(4) Maintain the office for the commission in Columbus; 221

(5) To the maximum extent possible, use electronic data 222

processing equipment for the issuance of orders immediately 223
following a hearing, scheduling of hearings and medical 224
examinations, tracking of claims, retrieval of information, and 225
any other matter within the commission's jurisdiction, and shall 226
provide and input information into the electronic data processing 227
equipment as necessary to effect the success of the claims 228
tracking system established pursuant to division (B)(15) of 229
section 4121.121 of the Revised Code; 230

(6) Exercise all administrative and nonadjudicatory powers 231
and duties conferred upon the commission by Chapters 4121., 4123., 232
4127., and 4131. of the Revised Code; 233

(7) Approve all contracts for special services. 234

(D) The chairperson is responsible for all administrative 235
matters and may secure for the commission facilities, equipment, 236
and supplies necessary to house the commission, any employees, and 237
files and records under the commission's control and to discharge 238
any duty imposed upon the commission by law, the expense thereof 239
to be audited and paid in the same manner as other state expenses. 240
For that purpose, the chairperson, separately from the budget 241
prepared by the administrator of workers' compensation and the 242
budget prepared by the director of the workers' compensation 243
council, shall prepare and submit to the office of budget and 244
management a budget for each biennium according to sections 245
101.532 and 107.03 of the Revised Code. The budget submitted shall 246
cover the costs of the commission and staff and district hearing 247
officers in the discharge of any duty imposed upon the 248
chairperson, the commission, and hearing officers by law. 249

(E) A majority of the commission constitutes a quorum to 250
transact business. No vacancy impairs the rights of the remaining 251
members to exercise all of the powers of the commission, so long 252
as a majority remains. Any investigation, inquiry, or hearing that 253
the commission may hold or undertake may be held or undertaken by 254

or before any one member of the commission, or before one of the 255
deputies of the commission, except as otherwise provided in this 256
chapter and Chapters 4123., 4127., and 4131. of the Revised Code. 257
Every order made by a member, or by a deputy, when approved and 258
confirmed by a majority of the members, and so shown on its record 259
of proceedings, is the order of the commission. The commission may 260
hold sessions at any place within the state. The commission is 261
responsible for all of the following: 262

(1) Establishing the overall adjudicatory policy and 263
management of the commission under this chapter and Chapters 264
4123., 4127., and 4131. of the Revised Code, except for those 265
administrative matters within the jurisdiction of the chairperson, 266
bureau of workers' compensation, and the administrator of workers' 267
compensation under those chapters; 268

(2) Hearing appeals and reconsiderations under this chapter 269
and ~~chapters~~ Chapters 4123., 4127., and 4131. of the Revised Code; 270

(3) Engaging in rulemaking where required by this chapter or 271
Chapter 4123., 4127., or 4131. of the Revised Code. 272

Sec. 4121.121. (A) There is hereby created the bureau of 273
workers' compensation, which shall be administered by the 274
administrator of workers' compensation. A person appointed to the 275
position of administrator shall possess significant management 276
experience in effectively managing an organization or 277
organizations of substantial size and complexity. A person 278
appointed to the position of administrator also shall possess a 279
minimum of five years of experience in the field of workers' 280
compensation insurance or in another insurance industry, except as 281
otherwise provided when the conditions specified in division (C) 282
of this section are satisfied. The governor shall appoint the 283
administrator as provided in section 121.03 of the Revised Code, 284
and the administrator shall serve at the pleasure of the governor. 285

The governor shall fix the administrator's salary on the basis of 286
the administrator's experience and the administrator's 287
responsibilities and duties under this chapter and Chapters 4123., 288
4125., 4127., 4131., and 4167. of the Revised Code. The governor 289
shall not appoint to the position of administrator any person who 290
has, or whose spouse has, given a contribution to the campaign 291
committee of the governor in an amount greater than one thousand 292
dollars during the two-year period immediately preceding the date 293
of the appointment of the administrator. 294

The administrator shall hold no other public office and shall 295
devote full time to the duties of administrator. Before entering 296
upon the duties of the office, the administrator shall take an 297
oath of office as required by sections 3.22 and 3.23 of the 298
Revised Code, and shall file in the office of the secretary of 299
state, a bond signed by the administrator and by surety approved 300
by the governor, for the sum of fifty thousand dollars payable to 301
the state, conditioned upon the faithful performance of the 302
administrator's duties. 303

(B) The administrator is responsible for the management of 304
the bureau and for the discharge of all administrative duties 305
imposed upon the administrator in this chapter and Chapters 4123., 306
4125., 4127., 4131., and 4167. of the Revised Code, and in the 307
discharge thereof shall do all of the following: 308

(1) Perform all acts and exercise all authorities and powers, 309
discretionary and otherwise that are required of or vested in the 310
bureau or any of its employees in this chapter and Chapters 4123., 311
4125., 4127., 4131., and 4167. of the Revised Code, except the 312
acts and the exercise of authority and power that is required of 313
and vested in the bureau of workers' compensation board of 314
directors or the industrial commission pursuant to those chapters. 315
The treasurer of state shall honor all warrants signed by the 316
administrator, or by one or more of the administrator's employees, 317

authorized by the administrator in writing, or bearing the 318
facsimile signature of the administrator or such employee under 319
sections 4123.42 and 4123.44 of the Revised Code. 320

(2) Employ, direct, and supervise all employees required in 321
connection with the performance of the duties assigned to the 322
bureau by this chapter and Chapters 4123., 4125., 4127., 4131., 323
and 4167. of the Revised Code, including an actuary, and may 324
establish job classification plans and compensation for all 325
employees of the bureau provided that this grant of authority 326
shall not be construed as affecting any employee for whom the 327
state employment relations board has established an appropriate 328
bargaining unit under section 4117.06 of the Revised Code. All 329
positions of employment in the bureau are in the classified civil 330
service except those employees the administrator may appoint to 331
serve at the administrator's pleasure in the unclassified civil 332
service pursuant to section 124.11 of the Revised Code. The 333
administrator shall fix the salaries of employees the 334
administrator appoints to serve at the administrator's pleasure, 335
including the chief operating officer, staff physicians, and other 336
senior management personnel of the bureau and shall establish the 337
compensation of staff attorneys of the bureau's legal section and 338
their immediate supervisors, and take whatever steps are necessary 339
to provide adequate compensation for other staff attorneys. 340

The administrator may appoint a person who holds a certified 341
position in the classified service within the bureau to a position 342
in the unclassified service within the bureau. A person appointed 343
pursuant to this division to a position in the unclassified 344
service shall retain the right to resume the position and status 345
held by the person in the classified service immediately prior to 346
the person's appointment in the unclassified service, regardless 347
of the number of positions the person held in the unclassified 348
service. An employee's right to resume a position in the 349

classified service may only be exercised when the administrator 350
demotes the employee to a pay range lower than the employee's 351
current pay range or revokes the employee's appointment to the 352
unclassified service. An employee forfeits the right to resume a 353
position in the classified service when the employee is removed 354
from the position in the unclassified service due to incompetence, 355
inefficiency, dishonesty, drunkenness, immoral conduct, 356
insubordination, discourteous treatment of the public, neglect of 357
duty, violation of this chapter or Chapter 124., 4123., 4125., 358
4127., 4131., or 4167. of the Revised Code, violation of the rules 359
of the director of administrative services or the administrator, 360
any other failure of good behavior, any other acts of misfeasance, 361
malfeasance, or nonfeasance in office, or conviction of a felony. 362
An employee also forfeits the right to resume a position in the 363
classified service upon transfer to a different agency. 364

Reinstatement to a position in the classified service shall 365
be to a position substantially equal to that position in the 366
classified service held previously, as certified by the department 367
of administrative services. If the position the person previously 368
held in the classified service has been placed in the unclassified 369
service or is otherwise unavailable, the person shall be appointed 370
to a position in the classified service within the bureau that the 371
director of administrative services certifies is comparable in 372
compensation to the position the person previously held in the 373
classified service. Service in the position in the unclassified 374
service shall be counted as service in the position in the 375
classified service held by the person immediately prior to the 376
person's appointment in the unclassified service. When a person is 377
reinstated to a position in the classified service as provided in 378
this division, the person is entitled to all rights, status, and 379
benefits accruing to the position during the person's time of 380
service in the position in the unclassified service. 381

(3) Reorganize the work of the bureau, its sections, departments, and offices to the extent necessary to achieve the most efficient performance of its functions and to that end may establish, change, or abolish positions and assign and reassign duties and responsibilities of every employee of the bureau. All persons employed by the commission in positions that, after November 3, 1989, are supervised and directed by the administrator under this section are transferred to the bureau in their respective classifications but subject to reassignment and reclassification of position and compensation as the administrator determines to be in the interest of efficient administration. The civil service status of any person employed by the commission is not affected by this section. Personnel employed by the bureau or the commission who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that chapter as it presently exists or is hereafter amended and nothing in this chapter or Chapter 4123. of the Revised Code shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code or the rights and benefits conferred under that chapter to public employees or to any bargaining unit.

(4) Provide offices, equipment, supplies, and other facilities for the bureau.

(5) Prepare and submit to the board information the administrator considers pertinent or the board requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the board, for classifications of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating. The administrator shall obtain, prepare, and submit any other information the board requires for the prompt and efficient

discharge of its duties. 414

(6) Keep the accounts required by division (A) of section 415
4123.34 of the Revised Code and all other accounts and records 416
necessary to the collection, administration, and distribution of 417
the workers' compensation funds and shall obtain the statistical 418
and other information required by section 4123.19 of the Revised 419
Code. 420

(7) Exercise the investment powers vested in the 421
administrator by section 4123.44 of the Revised Code in accordance 422
with the investment policy approved by the board pursuant to 423
section 4121.12 of the Revised Code and in consultation with the 424
chief investment officer of the bureau of workers' compensation. 425
The administrator shall not engage in any prohibited investment 426
activity specified by the board pursuant to division (F)(9) of 427
section 4121.12 of the Revised Code and shall not invest in any 428
type of investment specified in divisions (B)(1) to (10) of 429
section 4123.442 of the Revised Code. All business shall be 430
transacted, all funds invested, all warrants for money drawn and 431
payments made, and all cash and securities and other property 432
held, in the name of the bureau, or in the name of its nominee, 433
provided that nominees are authorized by the administrator solely 434
for the purpose of facilitating the transfer of securities, and 435
restricted to the administrator and designated employees. 436

(8) Make contracts for and supervise the construction of any 437
project or improvement or the construction or repair of buildings 438
under the control of the bureau. 439

(9) Purchase supplies, materials, equipment, and services; 440
make contracts for, operate, and superintend the telephone, other 441
telecommunication, and computer services for the use of the 442
bureau; and make contracts in connection with office reproduction, 443
forms management, printing, and other services. Notwithstanding 444
sections 125.12 to 125.14 of the Revised Code, the administrator 445

may transfer surplus computers and computer equipment directly to 446
an accredited public school within the state. The computers and 447
computer equipment may be repaired or refurbished prior to the 448
transfer. 449

(10) Prepare and submit to the board an annual budget for 450
internal operating purposes for the board's approval. The 451
administrator also shall, separately from the budget the 452
industrial commission submits and from the budget the director of 453
the workers' compensation council submits, prepare and submit to 454
the director of budget and management a budget for each biennium. 455
The budgets submitted to the board and the director shall include 456
estimates of the costs and necessary expenditures of the bureau in 457
the discharge of any duty imposed by law. 458

(11) As promptly as possible in the course of efficient 459
administration, decentralize and relocate such of the personnel 460
and activities of the bureau as is appropriate to the end that the 461
receipt, investigation, determination, and payment of claims may 462
be undertaken at or near the place of injury or the residence of 463
the claimant and for that purpose establish regional offices, in 464
such places as the administrator considers proper, capable of 465
discharging as many of the functions of the bureau as is 466
practicable so as to promote prompt and efficient administration 467
in the processing of claims. All active and inactive lost-time 468
claims files shall be held at the service office responsible for 469
the claim. A claimant, at the claimant's request, shall be 470
provided with information by telephone as to the location of the 471
file pertaining to the claimant's claim. The administrator shall 472
ensure that all service office employees report directly to the 473
director for their service office. 474

(12) Provide a written binder on new coverage where the 475
administrator considers it to be in the best interest of the risk. 476
The administrator, or any other person authorized by the 477

administrator, shall grant the binder upon submission of a request 478
for coverage by the employer. A binder is effective for a period 479
of thirty days from date of issuance and is nonrenewable. Payroll 480
reports and premium charges shall coincide with the effective date 481
of the binder. 482

(13) Set standards for the reasonable and maximum handling 483
time of claims payment functions, ensure, by rules, the impartial 484
and prompt treatment of all claims and employer risk accounts, and 485
establish a secure, accurate method of time stamping all incoming 486
mail and documents hand delivered to bureau employees. 487

(14) Ensure that all employees of the bureau follow the 488
orders and rules of the commission as such orders and rules relate 489
to the commission's overall adjudicatory policy-making and 490
management duties under this chapter and Chapters 4123., 4127., 491
and 4131. of the Revised Code. 492

(15) Manage and operate a data processing system with a 493
common data base for the use of both the bureau and the commission 494
and, in consultation with the commission, using electronic data 495
processing equipment, shall develop a claims tracking system that 496
is sufficient to monitor the status of a claim at any time and 497
that lists appeals that have been filed and orders or 498
determinations that have been issued pursuant to section 4123.511 499
or 4123.512 of the Revised Code, including the dates of such 500
filings and issuances. 501

(16) Establish and maintain a medical section within the 502
bureau. The medical section shall do all of the following: 503

(a) Assist the administrator in establishing standard medical 504
fees, approving medical procedures, and determining eligibility 505
and reasonableness of the compensation payments for medical, 506
hospital, and nursing services, and in establishing guidelines for 507
payment policies which recognize usual, customary, and reasonable 508

methods of payment for covered services;	509
(b) Provide a resource to respond to questions from claims examiners for employees of the bureau;	510 511
(c) Audit fee bill payments;	512
(d) Implement a program to utilize, to the maximum extent possible, electronic data processing equipment for storage of information to facilitate authorizations of compensation payments for medical, hospital, drug, and nursing services;	513 514 515 516
(e) Perform other duties assigned to it by the administrator.	517
(17) Appoint, as the administrator determines necessary, panels to review and advise the administrator on disputes arising over a determination that a health care service or supply provided to a claimant is not covered under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code or is medically unnecessary. If an individual health care provider is involved in the dispute, the panel shall consist of individuals licensed pursuant to the same section of the Revised Code as such health care provider.	518 519 520 521 522 523 524 525
(18) Pursuant to section 4123.65 of the Revised Code, approve applications for the final settlement of claims for compensation or benefits under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as the administrator determines appropriate, except in regard to the applications of self-insuring employers and their employees.	526 527 528 529 530 531
(19) Comply with section 3517.13 of the Revised Code, and except in regard to contracts entered into pursuant to the authority contained in section 4121.44 of the Revised Code, comply with the competitive bidding procedures set forth in the Revised Code for all contracts into which the administrator enters provided that those contracts fall within the type of contracts and dollar amounts specified in the Revised Code for competitive bidding and further provided that those contracts are not	532 533 534 535 536 537 538 539

otherwise specifically exempt from the competitive bidding 540
procedures contained in the Revised Code. 541

(20) Adopt, with the advice and consent of the board, rules 542
for the operation of the bureau. 543

(21) Prepare and submit to the board information the 544
administrator considers pertinent or the board requires, together 545
with the administrator's recommendations, in the form of 546
administrative rules, for the advice and consent of the board, for 547
the health partnership program and the qualified health plan 548
system, as provided in sections 4121.44, 4121.441, and 4121.442 of 549
the Revised Code. 550

(C) The administrator, with the advice and consent of the 551
senate, shall appoint a chief operating officer who has a minimum 552
of five years of experience in the field of workers' compensation 553
insurance or in another similar insurance industry if the 554
administrator does not possess such experience. The chief 555
operating officer shall not commence the chief operating officer's 556
duties until after the senate consents to the chief operating 557
officer's appointment. The chief operating officer shall serve in 558
the unclassified civil service of the state. 559

Sec. 4121.75. (A) There is hereby created in the legislative 560
branch of government the workers' compensation council, which is 561
created for the purpose of reviewing the soundness of the workers' 562
compensation system and legislation involving or affecting the 563
workers' compensation system. The council shall not be involved in 564
the daily operations and oversight of the bureau of workers' 565
compensation or the industrial commission. Members of the council 566
shall be appointed as follows: 567

(1) Three members of the senate, appointed by the president 568
of the senate, not more than two of whom may be members of the 569
same political party; 570

(2) Three members of the house of representatives, appointed 571
by the speaker of the house of representatives, not more than two 572
of whom may be members of the same political party; 573

(3) Five members jointly appointed by the president of the 574
senate and the speaker of the house of representatives, not more 575
than three of whom shall be members of the same political party, 576
one of whom shall represent employers who employ one hundred or 577
more employees, one of whom shall represent employers who employ 578
less than one hundred employees, one of whom shall represent 579
employees, one of whom shall represent injured workers, and one of 580
whom shall represent the public and also be an individual who, on 581
account of the individual's previous vocation, employment, or 582
affiliations, cannot be classed as either predominantly 583
representative of employees or of employers. Of these five 584
members, at least one shall be a person with investment expertise. 585

(B) The council also shall consist of the chairperson of the 586
industrial commission and the administrator of workers' 587
compensation, who shall be nonvoting ex officio members of the 588
council. 589

(C) The president of the senate and the speaker of the house 590
of representatives shall make the initial appointments required 591
under divisions (A)(1) and (2) of this section not later than 592
thirty days after ~~the effective date of this section~~ September 10, 593
2007. The members of the council who are appointed from the 594
membership of the senate and the house of representatives shall 595
serve during their terms as members of the general assembly. 596
Notwithstanding the adjournment of the general assembly of which 597
the member is a member or the expiration of the member's term as a 598
member of such general assembly, a member shall continue in office 599
subsequent to the expiration date of the member's term on the 600
council until the member's successor takes office or until a 601
period of sixty days has elapsed, whichever occurs first. 602

(D) The president of the senate and the speaker of the house 603
of representatives shall make the initial appointments required 604
under division (A)(3) of this section not later than ninety days 605
after ~~the effective date of this section~~ September 10, 2007. Of 606
these initial appointments to the council, one member shall be 607
appointed for a term ending one year after ~~the effective date of~~ 608
~~this section~~ September 10, 2007, two members shall be appointed 609
for terms ending two years after ~~the effective date of this~~ 610
~~section~~ September 10, 2007, and two members shall be appointed for 611
terms ending three years after ~~the effective date of this section~~ 612
September 10, 2007. Thereafter, terms shall be for three years, 613
with each term ending on the same day of the same month as did the 614
term that it succeeds. Each member appointed under division (A)(3) 615
of this section shall hold office from the date of appointment 616
until the end of the term for which the appointment was made. 617
Members may be reappointed. Any member appointed pursuant to 618
division (A)(3) of this section to fill a vacancy occurring prior 619
to the expiration of the term for which the member's predecessor 620
was appointed shall hold office for the remainder of that term. 621
Each member appointed pursuant to division (A)(3) of this section 622
shall continue in office subsequent to the expiration date of the 623
member's term until the member's successor takes office or until a 624
period of sixty days has elapsed, whichever occurs first. 625

626

(E) Vacancies shall be filled in the manner prescribed for 627
original appointments. 628

Sec. 4121.76. Meetings of the workers' compensation council 629
shall be called in the manner and at the times prescribed by rules 630
adopted by the council. A majority of the voting members of the 631
council constitutes a quorum and no action shall be taken by the 632
council unless approved by at least ~~five~~ six voting members. The 633
council shall organize by selecting a chairperson, 634

vice-chairperson, and any other officers as it determines are 635
necessary. The council shall select the chairperson and 636
vice-chairperson from the members of the council who also are 637
members of the general assembly, and each of those members shall 638
serve as chairperson or vice-chairperson during their terms as 639
members of the general assembly. The council shall rotate the 640
selection of the chairperson and vice-chairperson between the two 641
houses. The council shall adopt rules for the conduct of its 642
business and the election of its officers. Each member of the 643
council, before entering upon the member's official duties shall 644
take and subscribe to an oath of office, to uphold the 645
Constitution and laws of the United States and this state and to 646
perform the duties of the office honestly, faithfully, and 647
impartially. Members of the council appointed pursuant to division 648
(A)(3) of section 4121.75 of the Revised Code shall serve without 649
compensation but shall be reimbursed for their actual and 650
necessary expenses incurred in the performance of their official 651
duties. Legislative members shall not receive compensation or 652
expenses. 653

Sec. 4121.77. The workers' compensation council ~~may do any of~~ 654
~~the following:~~ 655

~~(A) Appoint~~ shall appoint a director to manage and direct the 656
duties of the staff of the council. The director shall serve at 657
the pleasure of the council. The director shall be a person who 658
has had training and experience in areas related to the duties of 659
the council. 660

~~(B) Appoint~~ The council may authorize the director to employ 661
professional, technical, and clerical ~~employees~~ staff as 662
necessary, and employ or hire on a consulting basis persons to 663
provide actuarial, legal, investment, or other technical services 664
required for the performance of the council's duties. All 665

employees of the council are in the unclassified civil service as 666
described in section 124.11 of the Revised Code and the staff 667
serve at the pleasure of the director. For purposes of ~~section~~ 668
sections 718.04 and 4117.01 of the Revised Code, employees of the 669
council shall be considered employees of the general assembly. 670

~~(C) Fix~~ The council shall fix the compensation of the 671
director ~~and~~. The director shall fix the compensation of all other 672
employees of the council. 673

~~(D)~~ and, notwithstanding section 124.18 of the Revised Code, 674
shall adopt policies relating to payment for overtime, granting of 675
compensatory time off, utilizing flexible hours, and working on 676
holidays and compensation for holiday work. 677

The council may do any of the following: 678

(A) Require the members of the industrial commission, bureau 679
of workers' compensation board of directors, workers' compensation 680
audit committee, workers' compensation actuarial committee, and 681
workers' compensation investment committee, the administrator of 682
workers' compensation, and employees of the industrial commission 683
and the bureau of workers' compensation, and any agency or 684
official of this state or its political subdivisions to provide 685
the council with any information necessary to carry out its 686
duties; 687

~~(E)~~(B) Administer oaths and hold public hearings at times and 688
places within the state as necessary to accomplish the purposes of 689
sections 4121.75 to 4121.79 of the Revised Code; 690

~~(F)~~(C) Establish regular reporting requirements for any 691
report that the chairperson of the industrial commission, 692
chairperson of the board, members of the committees specified in 693
division ~~(D)~~(A) of this section, and the administrator are 694
required to submit to the council; 695

~~(G)~~(D) Request that the auditor of state perform or contract 696

for the performance of a financial or special audit of the bureau; 697
698

~~(H)~~(E) Request that the auditor of state perform or contract 699
for the performance of a special or fiduciary audit of the 700
workers' compensation system. 701

Sec. 4121.79. ~~(A) The compensation of all employees director 702
of the workers' compensation council and other expenses of the 703
council shall be paid upon vouchers approved by the director and 704
the chairperson of the council. 705~~

~~The administrator of workers' compensation shall pay the 706
annual expenses of the council. The council shall prepare and 707
submit to the administrator on or before the thirtieth day of June 708
of each year council, for its approval, a biennial budget that 709
includes an itemized estimate of the amounts necessary to pay the 710
expenses of the council during the following year succeeding 711
biennium. The director may request and the council may approve, 712
anytime during that biennium, additional amounts to cover costs 713
for audits or other necessary expenses that were not included in 714
that budget. After the budget is approved, the director of the 715
council shall separate from the budget the portion covering the 716
costs of compensation and benefits for the employees of the 717
council and submit only that portion to the director of budget and 718
management as the council's budget request for purposes of section 719
126.02 of the Revised Code. 720~~

(B) The council shall establish policies and procedures for 721
purchasing goods and services on a competitive basis and 722
maintaining tangible personal property. The policies and 723
procedures shall be designed to safeguard the use of funds 724
received by the council. An audit performed under Chapter 117. of 725
the Revised Code shall include a determination of the council's 726
compliance with those policies and procedures. 727

The council is not subject to the requirements specified in 728
Chapter 123., ~~124.~~, or 125., ~~126.~~, or ~~127.~~ of the Revised Code and 729
those chapters do not apply to the council. However, the council 730
may request the department of administrative services, and the 731
department may agree, to perform for the council any of the 732
services the department is authorized to perform under those 733
chapters. The council may enter into an agreement with the 734
director of administrative services for the performance of those 735
requested services. 736

(C) There is hereby created the workers' compensation council 737
fund, which shall be in the custody of the treasurer of state but 738
shall not be a part of the state treasury. The fund shall consist 739
of all moneys transferred into it by the administrator of workers' 740
compensation pursuant to section 4123.342 of the Revised Code. The 741
council shall use the fund to pay the expenses incurred by the 742
council. Except as otherwise provided in division (D) of this 743
section, the treasurer of state shall disburse moneys from the 744
fund upon instruments authorized by the council and signed by the 745
director. 746

The council is the trustee of the workers' compensation 747
council fund. At the request of the director of the council, the 748
treasurer of state shall select and contract with one or more 749
investment managers to invest all money credited to the fund that 750
is not currently needed for carrying out the functions of the 751
council. The treasurer of state shall contract with an investment 752
manager for whom the administrator requested a criminal records 753
check pursuant to section 4123.444 of the Revised Code and who has 754
not been convicted of or pleaded guilty to a financial or 755
investment crime as defined in that section. The eligible list of 756
investments shall be the same as those specified in the investment 757
policy for the state insurance fund approved by the bureau of 758
workers' compensation board of directors pursuant to section 759

4121.12 of the Revised Code. All investments are subject to the 760
same limitations and requirements as specified for the state 761
insurance fund under sections 4121.12, 4121.126, 4121.127, 762
4123.44, and 4123.442 of the Revised Code. All investment earnings 763
of the fund shall be credited to the fund. 764

(D) There is hereby created in the state treasury the 765
workers' compensation council remuneration fund. The treasurer of 766
state periodically shall pay into that fund, from the workers' 767
compensation council fund created in division (C) of this section, 768
amounts requested by the director of the council to pay the 769
compensation and benefits of the employees of the council. Amounts 770
credited to the remuneration fund shall be used by the director of 771
the council solely to pay the compensation and benefits of all 772
employees of the council. All investment earnings of the 773
remuneration fund shall be credited to that fund. 774

Sec. 4123.29. (A) The administrator of workers' compensation, 775
subject to the approval of the bureau of workers' compensation 776
board of directors, shall do all of the following: 777

(1) Classify occupations or industries with respect to their 778
degree of hazard and determine the risks of the different classes 779
according to the categories the national council on compensation 780
insurance establishes that are applicable to employers in this 781
state; 782

(2)(a) Fix the rates of premium of the risks of the classes 783
based upon the total payroll in each of the classes of occupation 784
or industry sufficiently large to provide a fund for the 785
compensation provided for in this chapter and to maintain a state 786
insurance fund from year to year. The administrator shall set the 787
rates at a level that assures the solvency of the fund. Where the 788
payroll cannot be obtained or, in the opinion of the 789
administrator, is not an adequate measure for determining the 790

premium to be paid for the degree of hazard, the administrator may 791
determine the rates of premium upon such other basis, consistent 792
with insurance principles, as is equitable in view of the degree 793
of hazard, and whenever in this chapter reference is made to 794
payroll or expenditure of wages with reference to fixing premiums, 795
the reference shall be construed to have been made also to such 796
other basis for fixing the rates of premium as the administrator 797
may determine under this section. 798

(b) If an employer elects to obtain other-states' coverage 799
pursuant to section 4123.292 of the Revised Code through either 800
the administrator, if the administrator elects to offer such 801
coverage, or an other-states' insurer, calculate the employer's 802
premium for the state insurance fund in the same manner as 803
otherwise required under division (A) of this section and section 804
4123.34 of the Revised Code, except that when the administrator 805
determines the expenditure of wages, payroll, or both upon which 806
to base the employer's premium, the administrator shall use only 807
the expenditure of wages, payroll, or both attributable to the 808
labor performed and services provided by that employer's employees 809
when those employees performed labor and provided services in this 810
state only and to which the other-states' coverage does not apply. 811

(c) The administrator in setting or revising rates shall 813
furnish to employers an adequate explanation of the basis for the 814
rates set. 815

(3) Develop and make available to employers who are paying 816
premiums to the state insurance fund alternative premium plans. 817
Alternative premium plans shall include retrospective rating 818
plans. The administrator may make available plans under which an 819
advanced deposit may be applied against a specified deductible 820
amount per claim. 821

(4)(a) Offer to insure the obligations of employers under 822

this chapter under a plan that groups, for rating purposes, 823
employers, and pools the risk of the employers within the group 824
provided that the employers meet all of the following conditions: 825

(i) All of the employers within the group are members of an 826
organization that has been in existence for at least two years 827
prior to the date of application for group coverage; 828

(ii) The organization was formed for purposes other than that 829
of obtaining group workers' compensation under this division; 830

(iii) The employers' business in the organization is 831
substantially similar such that the risks which are grouped are 832
substantially homogeneous; 833

(iv) The group of employers consists of at least one hundred 834
members or the aggregate workers' compensation premiums of the 835
members, as determined by the administrator, are expected to 836
exceed one hundred fifty thousand dollars during the coverage 837
period; 838

(v) The formation and operation of the group program in the 839
organization will substantially improve accident prevention and 840
claims handling for the employers in the group; 841

(vi) Each employer seeking to enroll in a group for workers' 842
compensation coverage has an industrial insurance account in good 843
standing with the bureau of workers' compensation such that at the 844
time the agreement is processed no outstanding premiums, 845
penalties, or assessments are due from any of the employers. 846

(b) If an organization sponsors more than one employer group 847
to participate in group plans established under this section, that 848
organization may submit a single application that supplies all of 849
the information necessary for each group of employers that the 850
organization wishes to sponsor. 851

(c) In providing employer group plans under division (A)(4) 852

of this section, the administrator shall consider an employer 853
group as a single employing entity for purposes of ~~retrospective~~ 854
group rating. No employer may be a member of more than one group 855
for the purpose of obtaining workers' compensation coverage under 856
this division. 857

(d) At the time the administrator revises premium rates 858
pursuant to this section and section 4123.34 of the Revised Code, 859
if the premium rate of an employer who participates in a group 860
plan established under this section changes from the rate 861
established for the previous year, the administrator, in addition 862
to sending the invoice with the rate revision to that employer, 863
shall send a copy of that invoice to the third-party administrator 864
that administers the group plan for that employer's group. 865

(e) In providing employer group plans under division (A)(4) 866
of this section, the administrator shall establish a program 867
designed to mitigate the impact of a significant claim that would 868
come into the experience of a private, state fund group-rated 869
employer for the first time and be a contributing factor in that 870
employer being excluded from a group-rated plan. The administrator 871
shall establish eligibility criteria and requirements that such 872
employers must satisfy in order to participate in this program. 873
For purposes of this program, the administrator shall establish a 874
discount on premium rates applicable to employers who qualify for 875
the program. 876

(f) In no event shall division (A)(4) of this section be 877
construed as granting to an employer status as a self-insuring 878
employer. 879

(g) The administrator shall develop classifications of 880
occupations or industries that are sufficiently distinct so as not 881
to group employers in classifications that unfairly represent the 882
risks of employment with the employer. 883

(5) Generally promote employer participation in the state insurance fund through the regular dissemination of information to all classes of employers describing the advantages and benefits of opting to make premium payments to the fund. To that end, the administrator shall regularly make employers aware of the various workers' compensation premium packages developed and offered pursuant to this section.

(6) Make available to every employer who is paying premiums to the state insurance fund a program whereby the employer or the employer's agent pays to the claimant or on behalf of the claimant the first fifteen thousand dollars of a compensable workers' compensation medical-only claim filed by that claimant that is related to the same injury or occupational disease. No formal application is required; however, an employer must elect to participate by telephoning the bureau after July 1, 1995. Once an employer has elected to participate in the program, the employer will be responsible for all bills in all medical-only claims with a date of injury the same or later than the election date, unless the employer notifies the bureau within fourteen days of receipt of the notification of a claim being filed that it does not wish to pay the bills in that claim, or the employer notifies the bureau that the fifteen thousand dollar maximum has been paid, or the employer notifies the bureau of the last day of service on which it will be responsible for the bills in a particular medical-only claim. If an employer elects to enter the program, the administrator shall not reimburse the employer for such amounts paid and shall not charge the first fifteen thousand dollars of any medical-only claim paid by an employer to the employer's experience or otherwise use it in merit rating or determining the risks of any employer for the purpose of payment of premiums under this chapter. If an employer elects to enter the program and the employer fails to pay a bill for a medical-only claim included in the program, the employer shall be liable for

that bill and the employee for whom the employer failed to pay the 917
bill shall not be liable for that bill. The administrator shall 918
adopt rules to implement and administer division (A)(6) of this 919
section. Upon written request from the bureau, the employer shall 920
provide documentation to the bureau of all medical-only bills that 921
they are paying directly. Such requests from the bureau may not be 922
made more frequently than on a semiannual basis. Failure to 923
provide such documentation to the bureau within thirty days of 924
receipt of the request may result in the employer's forfeiture of 925
participation in the program for such injury. The provisions of 926
this section shall not apply to claims in which an employer with 927
knowledge of a claimed compensable injury or occupational disease, 928
has paid wages in lieu of compensation or total disability. 929

(B) The administrator, with the advice and consent of the 930
board, by rule, may do both of the following: 931

(1) Grant an employer who makes the employer's semiannual 932
premium payment at least one month prior to the last day on which 933
the payment may be made without penalty, a discount as the 934
administrator fixes from time to time; 935

(2) Levy a minimum annual administrative charge upon risks 936
where semiannual premium reports develop a charge less than the 937
administrator considers adequate to offset administrative costs of 938
processing. 939

Sec. 4123.341. The administrative costs of the industrial 940
commission, the workers' compensation council, the bureau of 941
workers' compensation board of directors, and the bureau of 942
workers' compensation shall be those costs and expenses that are 943
incident to the discharge of the duties and performance of the 944
activities of the industrial commission, the council, the board, 945
and the bureau under this chapter and Chapters 4121., 4125., 946
4127., 4131., and 4167. of the Revised Code, and all such costs 947

shall be borne by the state and by other employers amenable to 948
this chapter as follows: 949

(A) In addition to the contribution required of the state 950
under sections 4123.39 and 4123.40 of the Revised Code, the state 951
shall contribute the sum determined to be necessary under section 952
4123.342 of the Revised Code. 953

(B) The director of budget and management may allocate the 954
state's share of contributions in the manner the director finds 955
most equitably apportions the costs. 956

(C) The counties and taxing districts therein shall 957
contribute such sum as may be required under section 4123.342 of 958
the Revised Code. 959

(D) The private employers shall contribute the sum required 960
under section 4123.342 of the Revised Code. 961

Sec. 4123.342. (A) The administrator of workers' compensation 962
shall allocate among counties and taxing districts therein as a 963
class, the state and its instrumentalities as a class, private 964
employers who are insured under the private fund as a class, and 965
self-insuring employers as a class their fair shares of the 966
administrative costs which are to be borne by such employers under 967
division (D) of section 4123.341 of the Revised Code, separately 968
allocating to each class those costs solely attributable to the 969
activities of the industrial commission, those costs solely 970
attributable to the activities of the workers' compensation 971
council, and those costs solely attributable to the activities of 972
the bureau of workers' compensation board of directors, and the 973
bureau of workers' compensation in respect of the class, 974
allocating to any combination of classes those costs attributable 975
to the activities of the industrial commission, council, board, or 976
bureau in respect of the classes, and allocating to all four 977
classes those costs attributable to the activities of the 978

industrial commission, council, board, and bureau in respect of 979
all classes. The administrator shall separately calculate each 980
employer's assessment in the class, except self-insuring 981
employers, on the basis of the following three factors: payroll, 982
paid compensation, and paid medical costs of the employer for 983
those costs solely attributable to the activities of the board and 984
the bureau. The administrator shall separately calculate each 985
employer's assessment in the class, except self-insuring 986
employers, on the basis of the following three factors: payroll, 987
paid compensation, and paid medical costs of the employer for 988
those costs solely attributable to the activities of the 989
industrial commission. The administrator shall separately 990
calculate each employer's assessment in the class, except 991
self-insuring employers, on the basis of the following three 992
factors: payroll, paid compensation, and paid medical costs of the 993
employer for those costs solely attributable to the activities of 994
the council. The administrator shall separately calculate each 995
self-insuring employer's assessment in accordance with section 996
4123.35 of the Revised Code for those costs solely attributable to 997
the activities of the board and the bureau. The administrator 998
shall separately calculate each self-insuring employer's 999
assessment in accordance with section 4123.35 of the Revised Code 1000
for those costs solely attributable to the activities of the 1001
industrial commission. The administrator shall separately 1002
calculate each self-insuring employer's assessment in accordance 1003
with section 4123.35 of the Revised Code for those costs solely 1004
attributable to the activities of the council. In a timely manner, 1005
the industrial commission shall provide to the administrator, the 1006
information necessary for the administrator to allocate and 1007
calculate, with the approval of the chairperson of the industrial 1008
commission, for each class of employer as described in this 1009
division, the costs solely attributable to the activities of the 1010
industrial commission. In a timely manner, the director of the 1011

workers' compensation council shall submit to the administrator 1012
the information necessary for the administrator to allocate and 1013
calculate, with the approval of the director, for each class of 1014
employer as described in this division, the costs solely 1015
attributable to the activities of the council. 1016

(B) The administrator shall divide the administrative cost 1017
assessments collected by the administrator into ~~two~~ three 1018
administrative assessment accounts within the state insurance 1019
fund. One of the administrative assessment accounts shall consist 1020
of the administrative cost assessment collected by the 1021
administrator for the industrial commission. ~~The other~~ One of the 1022
administrative assessment accounts shall consist of the 1023
administrative cost assessment collected by the administrator for 1024
the council. One of the administrative assessment ~~account~~ accounts 1025
shall consist of the administrative cost assessments collected by 1026
the administrator for the bureau and the board. The administrator 1027
may invest the administrative cost assessments in these accounts 1028
on behalf of the bureau, the council, and the industrial 1029
commission as authorized in section 4123.44 of the Revised Code. 1030
In a timely manner, the administrator shall provide to the 1031
industrial commission and the council the information and reports 1032
the commission or council, as applicable, deems necessary for the 1033
commission or the council, as applicable, to monitor the receipts 1034
and the disbursements from the administrative assessment account 1035
for the industrial commission or the administrative assessment 1036
account for the council, as applicable. 1037

(C) The administrator or the administrator's designee shall 1038
transfer moneys as necessary from the administrative assessment 1039
account identified for the bureau and the board to the workers' 1040
compensation fund for the use of the bureau and the board. As 1041
necessary and upon the authorization of the industrial commission, 1042
the administrator or the administrator's designee shall transfer 1043

moneys from the administrative assessment account identified for 1044
the industrial commission to the industrial commission operating 1045
fund created under section 4121.021 of the Revised Code. To the 1046
extent that the moneys collected by the administrator in any 1047
fiscal biennium of the state equal the sum appropriated by the 1048
general assembly for administrative costs of the industrial 1049
commission, board, and bureau for the biennium and the 1050
administrative costs approved by the workers' compensation 1051
council, the moneys shall be paid into the workers' compensation 1052
fund and, the industrial commission operating fund of the state, 1053
the workers' compensation council fund, and the workers' 1054
compensation council remuneration fund, as appropriate, and any 1055
remainder shall be retained in ~~the state insurance fund~~ those 1056
funds and applied to reduce the amount collected during the next 1057
biennium. ~~Sections~~ 1058

(D) As necessary and upon authorization of the director of 1059
the council, the administrator or the administrator's designee 1060
shall transfer moneys from the administrative assessment account 1061
identified for the council to the workers' compensation council 1062
fund created in division (C) of section 4121.79 of the Revised 1063
Code. 1064

(E) Sections 4123.41, 4123.35, and 4123.37 of the Revised 1065
Code apply to the collection of assessments from public and 1066
private employers respectively, except that for boards of county 1067
hospital trustees that are self-insuring employers, only those 1068
provisions applicable to the collection of assessments for private 1069
employers apply. 1070

Sec. 4123.35. (A) Except as provided in this section, every 1071
employer mentioned in division (B)(2) of section 4123.01 of the 1072
Revised Code, and every publicly owned utility shall pay 1073
semiannually in the months of January and July into the state 1074

insurance fund the amount of annual premium the administrator of 1075
workers' compensation fixes for the employment or occupation of 1076
the employer, the amount of which premium to be paid by each 1077
employer to be determined by the classifications, rules, and rates 1078
made and published by the administrator. The employer shall pay 1079
semiannually a further sum of money into the state insurance fund 1080
as may be ascertained to be due from the employer by applying the 1081
rules of the administrator, and a receipt or certificate 1082
certifying that payment has been made, along with a written notice 1083
as is required in section 4123.54 of the Revised Code, shall be 1084
mailed immediately to the employer by the bureau of workers' 1085
compensation. The receipt or certificate is prima-facie evidence 1086
of the payment of the premium, and the proper posting of the 1087
notice constitutes the employer's compliance with the notice 1088
requirement mandated in section 4123.54 of the Revised Code. 1089

The bureau of workers' compensation shall verify with the 1090
secretary of state the existence of all corporations and 1091
organizations making application for workers' compensation 1092
coverage and shall require every such application to include the 1093
employer's federal identification number. 1094

An employer as defined in division (B)(2) of section 4123.01 1095
of the Revised Code who has contracted with a subcontractor is 1096
liable for the unpaid premium due from any subcontractor with 1097
respect to that part of the payroll of the subcontractor that is 1098
for work performed pursuant to the contract with the employer. 1099

Division (A) of this section providing for the payment of 1100
premiums semiannually does not apply to any employer who was a 1101
subscriber to the state insurance fund prior to January 1, 1914, 1102
or who may first become a subscriber to the fund in any month 1103
other than January or July. Instead, the semiannual premiums shall 1104
be paid by those employers from time to time upon the expiration 1105
of the respective periods for which payments into the fund have 1106

been made by them. 1107

The administrator shall adopt rules to permit employers to 1108
make periodic payments of the semiannual premium due under this 1109
division. The rules shall include provisions for the assessment of 1110
interest charges, where appropriate, and for the assessment of 1111
penalties when an employer fails to make timely premium payments. 1112
An employer who timely pays the amounts due under this division is 1113
entitled to all of the benefits and protections of this chapter. 1114
Upon receipt of payment, the bureau immediately shall mail a 1115
receipt or certificate to the employer certifying that payment has 1116
been made, which receipt is prima-facie evidence of payment. 1117
Workers' compensation coverage under this chapter continues 1118
uninterrupted upon timely receipt of payment under this division. 1119

Every public employer, except public employers that are 1120
self-insuring employers under this section, shall comply with 1121
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 1122
regard to the contribution of moneys to the public insurance fund. 1123

(B) Employers who will abide by the rules of the 1124
administrator and who may be of sufficient financial ability to 1125
render certain the payment of compensation to injured employees or 1126
the dependents of killed employees, and the furnishing of medical, 1127
surgical, nursing, and hospital attention and services and 1128
medicines, and funeral expenses, equal to or greater than is 1129
provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 1130
to 4123.67 of the Revised Code, and who do not desire to insure 1131
the payment thereof or indemnify themselves against loss sustained 1132
by the direct payment thereof, upon a finding of such facts by the 1133
administrator, may be granted the privilege to pay individually 1134
compensation, and furnish medical, surgical, nursing, and hospital 1135
services and attention and funeral expenses directly to injured 1136
employees or the dependents of killed employees, thereby being 1137
granted status as a self-insuring employer. The administrator may 1138

charge employers who apply for the status as a self-insuring 1139
employer a reasonable application fee to cover the bureau's costs 1140
in connection with processing and making a determination with 1141
respect to an application. 1142

All employers granted status as self-insuring employers shall 1143
demonstrate sufficient financial and administrative ability to 1144
assure that all obligations under this section are promptly met. 1145
The administrator shall deny the privilege where the employer is 1146
unable to demonstrate the employer's ability to promptly meet all 1147
the obligations imposed on the employer by this section. 1148

(1) The administrator shall consider, but is not limited to, 1149
the following factors, where applicable, in determining the 1150
employer's ability to meet all of the obligations imposed on the 1151
employer by this section: 1152

(a) The employer employs a minimum of five hundred employees 1153
in this state; 1154

(b) The employer has operated in this state for a minimum of 1155
two years, provided that an employer who has purchased, acquired, 1156
or otherwise succeeded to the operation of a business, or any part 1157
thereof, situated in this state that has operated for at least two 1158
years in this state, also shall qualify; 1159

(c) Where the employer previously contributed to the state 1160
insurance fund or is a successor employer as defined by bureau 1161
rules, the amount of the buyout, as defined by bureau rules; 1162

(d) The sufficiency of the employer's assets located in this 1163
state to insure the employer's solvency in paying compensation 1164
directly; 1165

(e) The financial records, documents, and data, certified by 1166
a certified public accountant, necessary to provide the employer's 1167
full financial disclosure. The records, documents, and data 1168
include, but are not limited to, balance sheets and profit and 1169

loss history for the current year and previous four years. 1170

(f) The employer's organizational plan for the administration 1171
of the workers' compensation law; 1172

(g) The employer's proposed plan to inform employees of the 1173
change from a state fund insurer to a self-insuring employer, the 1174
procedures the employer will follow as a self-insuring employer, 1175
and the employees' rights to compensation and benefits; and 1176

(h) The employer has either an account in a financial 1177
institution in this state, or if the employer maintains an account 1178
with a financial institution outside this state, ensures that 1179
workers' compensation checks are drawn from the same account as 1180
payroll checks or the employer clearly indicates that payment will 1181
be honored by a financial institution in this state. 1182

The administrator may waive the requirements of divisions 1183
(B)(1)(a) and (b) of this section and the requirement of division 1184
(B)(1)(e) of this section that the financial records, documents, 1185
and data be certified by a certified public accountant. The 1186
administrator shall adopt rules establishing the criteria that an 1187
employer shall meet in order for the administrator to waive the 1188
requirement of division (B)(1)(e) of this section. Such rules may 1189
require additional security of that employer pursuant to division 1190
(E) of section 4123.351 of the Revised Code. 1191

The administrator shall not grant the status of self-insuring 1192
employer to the state, except that the administrator may grant the 1193
status of self-insuring employer to a state institution of higher 1194
education, excluding its hospitals, that meets the requirements of 1195
division (B)(2) of this section. 1196

(2) When considering the application of a public employer, 1197
except for a board of county commissioners described in division 1198
(G) of section 4123.01 of the Revised Code, a board of a county 1199
hospital, or a publicly owned utility, the administrator shall 1200

verify that the public employer satisfies all of the following 1201
requirements as the requirements apply to that public employer: 1202

(a) For the two-year period preceding application under this 1203
section, the public employer has maintained an unvoted debt 1204
capacity equal to at least two times the amount of the current 1205
annual premium established by the administrator under this chapter 1206
for that public employer for the year immediately preceding the 1207
year in which the public employer makes application under this 1208
section. 1209

(b) For each of the two fiscal years preceding application 1210
under this section, the unreserved and undesignated year-end fund 1211
balance in the public employer's general fund is equal to at least 1212
five per cent of the public employer's general fund revenues for 1213
the fiscal year computed in accordance with generally accepted 1214
accounting principles. 1215

(c) For the five-year period preceding application under this 1216
section, the public employer, to the extent applicable, has 1217
complied fully with the continuing disclosure requirements 1218
established in rules adopted by the United States securities and 1219
exchange commission under 17 C.F.R. 240.15c 2-12. 1220

(d) For the five-year period preceding application under this 1221
section, the public employer has not had its local government fund 1222
distribution withheld on account of the public employer being 1223
indebted or otherwise obligated to the state. 1224

(e) For the five-year period preceding application under this 1225
section, the public employer has not been under a fiscal watch or 1226
fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 1227
of the Revised Code. 1228

(f) For the public employer's fiscal year preceding 1229
application under this section, the public employer has obtained 1230
an annual financial audit as required under section 117.10 of the 1231

Revised Code, which has been released by the auditor of state 1232
within seven months after the end of the public employer's fiscal 1233
year. 1234

(g) On the date of application, the public employer holds a 1235
debt rating of Aa3 or higher according to Moody's investors 1236
service, inc., or a comparable rating by an independent rating 1237
agency similar to Moody's investors service, inc. 1238

(h) The public employer agrees to generate an annual 1239
accumulating book reserve in its financial statements reflecting 1240
an actuarially generated reserve adequate to pay projected claims 1241
under this chapter for the applicable period of time, as 1242
determined by the administrator. 1243

(i) For a public employer that is a hospital, the public 1244
employer shall submit audited financial statements showing the 1245
hospital's overall liquidity characteristics, and the 1246
administrator shall determine, on an individual basis, whether the 1247
public employer satisfies liquidity standards equivalent to the 1248
liquidity standards of other public employers. 1249

(j) Any additional criteria that the administrator adopts by 1250
rule pursuant to division (E) of this section. 1251

The administrator shall not approve the application of a 1252
public employer, except for a board of county commissioners 1253
described in division (G) of section 4123.01 of the Revised Code, 1254
a board of a county hospital, or publicly owned utility, who does 1255
not satisfy all of the requirements listed in division (B)(2) of 1256
this section. 1257

(C) A board of county commissioners described in division (G) 1258
of section 4123.01 of the Revised Code, as an employer, that will 1259
abide by the rules of the administrator and that may be of 1260
sufficient financial ability to render certain the payment of 1261
compensation to injured employees or the dependents of killed 1262

employees, and the furnishing of medical, surgical, nursing, and 1263
hospital attention and services and medicines, and funeral 1264
expenses, equal to or greater than is provided for in sections 1265
4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised 1266
Code, and that does not desire to insure the payment thereof or 1267
indemnify itself against loss sustained by the direct payment 1268
thereof, upon a finding of such facts by the administrator, may be 1269
granted the privilege to pay individually compensation, and 1270
furnish medical, surgical, nursing, and hospital services and 1271
attention and funeral expenses directly to injured employees or 1272
the dependents of killed employees, thereby being granted status 1273
as a self-insuring employer. The administrator may charge a board 1274
of county commissioners described in division (G) of section 1275
4123.01 of the Revised Code that applies for the status as a 1276
self-insuring employer a reasonable application fee to cover the 1277
bureau's costs in connection with processing and making a 1278
determination with respect to an application. All employers 1279
granted such status shall demonstrate sufficient financial and 1280
administrative ability to assure that all obligations under this 1281
section are promptly met. The administrator shall deny the 1282
privilege where the employer is unable to demonstrate the 1283
employer's ability to promptly meet all the obligations imposed on 1284
the employer by this section. The administrator shall consider, 1285
but is not limited to, the following factors, where applicable, in 1286
determining the employer's ability to meet all of the obligations 1287
imposed on the board as an employer by this section: 1288

(1) The board as an employer employs a minimum of five 1289
hundred employees in this state; 1290

(2) The board has operated in this state for a minimum of two 1291
years; 1292

(3) Where the board previously contributed to the state 1293
insurance fund or is a successor employer as defined by bureau 1294

rules, the amount of the buyout, as defined by bureau rules;	1295
(4) The sufficiency of the board's assets located in this state to insure the board's solvency in paying compensation directly;	1296 1297 1298
(5) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the board's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.	1299 1300 1301 1302 1303
(6) The board's organizational plan for the administration of the workers' compensation law;	1304 1305
(7) The board's proposed plan to inform employees of the proposed self-insurance, the procedures the board will follow as a self-insuring employer, and the employees' rights to compensation and benefits;	1306 1307 1308 1309
(8) The board has either an account in a financial institution in this state, or if the board maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the board clearly indicates that payment will be honored by a financial institution in this state;	1310 1311 1312 1313 1314 1315
(9) The board shall provide the administrator a surety bond in an amount equal to one hundred twenty-five per cent of the projected losses as determined by the administrator.	1316 1317 1318
(D) The administrator shall require a surety bond from all self-insuring employers, issued pursuant to section 4123.351 of the Revised Code, that is sufficient to compel, or secure to injured employees, or to the dependents of employees killed, the payment of compensation and expenses, which shall in no event be less than that paid or furnished out of the state insurance fund in similar cases to injured employees or to dependents of killed	1319 1320 1321 1322 1323 1324 1325

employees whose employers contribute to the fund, except when an 1326
employee of the employer, who has suffered the loss of a hand, 1327
arm, foot, leg, or eye prior to the injury for which compensation 1328
is to be paid, and thereafter suffers the loss of any other of the 1329
members as the result of any injury sustained in the course of and 1330
arising out of the employee's employment, the compensation to be 1331
paid by the self-insuring employer is limited to the disability 1332
suffered in the subsequent injury, additional compensation, if 1333
any, to be paid by the bureau out of the surplus created by 1334
section 4123.34 of the Revised Code. 1335

(E) In addition to the requirements of this section, the 1336
administrator shall make and publish rules governing the manner of 1337
making application and the nature and extent of the proof required 1338
to justify a finding of fact by the administrator as to granting 1339
the status of a self-insuring employer, which rules shall be 1340
general in their application, one of which rules shall provide 1341
that all self-insuring employers shall pay into the state 1342
insurance fund such amounts as are required to be credited to the 1343
surplus fund in division (B) of section 4123.34 of the Revised 1344
Code. The administrator may adopt rules establishing requirements 1345
in addition to the requirements described in division (B)(2) of 1346
this section that a public employer shall meet in order to qualify 1347
for self-insuring status. 1348

Employers shall secure directly from the bureau central 1349
offices application forms upon which the bureau shall stamp a 1350
designating number. Prior to submission of an application, an 1351
employer shall make available to the bureau, and the bureau shall 1352
review, the information described in division (B)(1) of this 1353
section, and public employers shall make available, and the bureau 1354
shall review, the information necessary to verify whether the 1355
public employer meets the requirements listed in division (B)(2) 1356
of this section. An employer shall file the completed application 1357

forms with an application fee, which shall cover the costs of 1358
processing the application, as established by the administrator, 1359
by rule, with the bureau at least ninety days prior to the 1360
effective date of the employer's new status as a self-insuring 1361
employer. The application form is not deemed complete until all 1362
the required information is attached thereto. The bureau shall 1363
only accept applications that contain the required information. 1364

(F) The bureau shall review completed applications within a 1365
reasonable time. If the bureau determines to grant an employer the 1366
status as a self-insuring employer, the bureau shall issue a 1367
statement, containing its findings of fact, that is prepared by 1368
the bureau and signed by the administrator. If the bureau 1369
determines not to grant the status as a self-insuring employer, 1370
the bureau shall notify the employer of the determination and 1371
require the employer to continue to pay its full premium into the 1372
state insurance fund. The administrator also shall adopt rules 1373
establishing a minimum level of performance as a criterion for 1374
granting and maintaining the status as a self-insuring employer 1375
and fixing time limits beyond which failure of the self-insuring 1376
employer to provide for the necessary medical examinations and 1377
evaluations may not delay a decision on a claim. 1378

(G) The administrator shall adopt rules setting forth 1379
procedures for auditing the program of self-insuring employers. 1380
The bureau shall conduct the audit upon a random basis or whenever 1381
the bureau has grounds for believing that a self-insuring employer 1382
is not in full compliance with bureau rules or this chapter. 1383

The administrator shall monitor the programs conducted by 1384
self-insuring employers, to ensure compliance with bureau 1385
requirements and for that purpose, shall develop and issue to 1386
self-insuring employers standardized forms for use by the 1387
self-insuring employer in all aspects of the self-insuring 1388
employers' direct compensation program and for reporting of 1389

information to the bureau. 1390

The bureau shall receive and transmit to the self-insuring 1391
employer all complaints concerning any self-insuring employer. In 1392
the case of a complaint against a self-insuring employer, the 1393
administrator shall handle the complaint through the 1394
self-insurance division of the bureau. The bureau shall maintain a 1395
file by employer of all complaints received that relate to the 1396
employer. The bureau shall evaluate each complaint and take 1397
appropriate action. 1398

The administrator shall adopt as a rule a prohibition against 1399
any self-insuring employer from harassing, dismissing, or 1400
otherwise disciplining any employee making a complaint, which rule 1401
shall provide for a financial penalty to be levied by the 1402
administrator payable by the offending self-insuring employer. 1403

(H) For the purpose of making determinations as to whether to 1404
grant status as a self-insuring employer, the administrator may 1405
subscribe to and pay for a credit reporting service that offers 1406
financial and other business information about individual 1407
employers. The costs in connection with the bureau's subscription 1408
or individual reports from the service about an applicant may be 1409
included in the application fee charged employers under this 1410
section. 1411

(I) The administrator, notwithstanding other provisions of 1412
this chapter, may permit a self-insuring employer to resume 1413
payment of premiums to the state insurance fund with appropriate 1414
credit modifications to the employer's basic premium rate as such 1415
rate is determined pursuant to section 4123.29 of the Revised 1416
Code. 1417

(J) On the first day of July of each year, the administrator 1418
shall calculate separately each self-insuring employer's 1419
assessments for the safety and hygiene fund, administrative costs 1420

pursuant to section 4123.342 of the Revised Code, and for the 1421
portion of the surplus fund under division (B) of section 4123.34 1422
of the Revised Code that is not used for handicapped 1423
reimbursement, on the basis of the paid compensation attributable 1424
to the individual self-insuring employer according to the 1425
following calculation: 1426

(1) The total assessment against all self-insuring employers 1427
as a class for each fund and for the administrative costs for the 1428
year that the assessment is being made, as determined by the 1429
administrator, divided by the total amount of paid compensation 1430
for the previous calendar year attributable to all amenable 1431
self-insuring employers; 1432

(2) Multiply the quotient in division (J)(1) of this section 1433
by the total amount of paid compensation for the previous calendar 1434
year that is attributable to the individual self-insuring employer 1435
for whom the assessment is being determined. Each self-insuring 1436
employer shall pay the assessment that results from this 1437
calculation, unless the assessment resulting from this calculation 1438
falls below a minimum assessment, which minimum assessment the 1439
administrator shall determine on the first day of July of each 1440
year with the advice and consent of the bureau of workers' 1441
compensation board of directors, in which event, the self-insuring 1442
employer shall pay the minimum assessment. 1443

In determining the total amount due for the total assessment 1444
against all self-insuring employers as a class for each fund and 1445
the administrative assessment, the administrator shall reduce 1446
proportionately the total for each fund and assessment by the 1447
amount of money in the self-insurance assessment fund as of the 1448
date of the computation of the assessment. 1449

The administrator shall calculate the assessment for the 1450
portion of the surplus fund under division (B) of section 4123.34 1451
of the Revised Code that is used for handicapped reimbursement in 1452

the same manner as set forth in divisions (J)(1) and (2) of this 1453
section except that the administrator shall calculate the total 1454
assessment for this portion of the surplus fund only on the basis 1455
of those self-insuring employers that retain participation in the 1456
handicapped reimbursement program and the individual self-insuring 1457
employer's proportion of paid compensation shall be calculated 1458
only for those self-insuring employers who retain participation in 1459
the handicapped reimbursement program. The administrator, as the 1460
administrator determines appropriate, may determine the total 1461
assessment for the handicapped portion of the surplus fund in 1462
accordance with sound actuarial principles. 1463

The administrator shall calculate the assessment for the 1464
portion of the surplus fund under division (B) of section 4123.34 1465
of the Revised Code that under division (D) of section 4121.66 of 1466
the Revised Code is used for rehabilitation costs in the same 1467
manner as set forth in divisions (J)(1) and (2) of this section, 1468
except that the administrator shall calculate the total assessment 1469
for this portion of the surplus fund only on the basis of those 1470
self-insuring employers who have not made the election to make 1471
payments directly under division (D) of section 4121.66 of the 1472
Revised Code and an individual self-insuring employer's proportion 1473
of paid compensation only for those self-insuring employers who 1474
have not made that election. 1475

The administrator shall calculate the assessment for the 1476
portion of the surplus fund under division (B) of section 4123.34 1477
of the Revised Code that is used for reimbursement to a 1478
self-insuring employer under division (H) of section 4123.512 of 1479
the Revised Code in the same manner as set forth in divisions 1480
(J)(1) and (2) of this section except that the administrator shall 1481
calculate the total assessment for this portion of the surplus 1482
fund only on the basis of those self-insuring employers that 1483
retain participation in reimbursement to the self-insuring 1484

employer under division (H) of section 4123.512 of the Revised Code and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code.

An employer who no longer is a self-insuring employer in this state or who no longer is operating in this state, shall continue to pay assessments for administrative costs and for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is not used for handicapped reimbursement, based upon paid compensation attributable to claims that occurred while the employer was a self-insuring employer within this state.

(K) The administrator shall deposit any moneys received from a self-insuring employer for the self-insuring employer's assessment to pay the costs solely attributable to the workers' compensation council into the administrative assessment account described in division (B) of section 4123.342 of the Revised Code for the administrative cost assessment collected by the administrator for the council. There is hereby created in the state treasury the self-insurance assessment fund. All investment earnings of the fund shall be deposited in the fund. The administrator shall use the money in the self-insurance assessment fund only for administrative costs as specified in section 4123.341 of the Revised Code.

(L) Every self-insuring employer shall certify, in affidavit form subject to the penalty for perjury, to the bureau the amount of the self-insuring employer's paid compensation for the previous calendar year. In reporting paid compensation paid for the previous year, a self-insuring employer shall exclude from the total amount of paid compensation any reimbursement the self-insuring employer receives in the previous calendar year from

the surplus fund pursuant to section 4123.512 of the Revised Code 1517
for any paid compensation. The self-insuring employer also shall 1518
exclude from the paid compensation reported any amount recovered 1519
under section 4123.931 of the Revised Code and any amount that is 1520
determined not to have been payable to or on behalf of a claimant 1521
in any final administrative or judicial proceeding. The 1522
self-insuring employer shall exclude such amounts from the paid 1523
compensation reported in the reporting period subsequent to the 1524
date the determination is made. The administrator shall adopt 1525
rules, in accordance with Chapter 119. of the Revised Code, that 1526
provide for all of the following: 1527

(1) Establishing the date by which self-insuring employers 1528
must submit such information and the amount of the assessments 1529
provided for in division (J) of this section for employers who 1530
have been granted self-insuring status within the last calendar 1531
year; 1532

(2) If an employer fails to pay the assessment when due, the 1533
administrator may add a late fee penalty of not more than five 1534
hundred dollars to the assessment plus an additional penalty 1535
amount as follows: 1536

(a) For an assessment from sixty-one to ninety days past due, 1537
the prime interest rate, multiplied by the assessment due; 1538

(b) For an assessment from ninety-one to one hundred twenty 1539
days past due, the prime interest rate plus two per cent, 1540
multiplied by the assessment due; 1541

(c) For an assessment from one hundred twenty-one to one 1542
hundred fifty days past due, the prime interest rate plus four per 1543
cent, multiplied by the assessment due; 1544

(d) For an assessment from one hundred fifty-one to one 1545
hundred eighty days past due, the prime interest rate plus six per 1546
cent, multiplied by the assessment due; 1547

(e) For an assessment from one hundred eighty-one to two hundred ten days past due, the prime interest rate plus eight per cent, multiplied by the assessment due;

(f) For each additional thirty-day period or portion thereof that an assessment remains past due after it has remained past due for more than two hundred ten days, the prime interest rate plus eight per cent, multiplied by the assessment due.

(3) An employer may appeal a late fee penalty and penalty assessment to the administrator.

For purposes of division (L)(2) of this section, "prime interest rate" means the average bank prime rate, and the administrator shall determine the prime interest rate in the same manner as a county auditor determines the average bank prime rate under section 929.02 of the Revised Code.

The administrator shall include any assessment and penalties that remain unpaid for previous assessment periods in the calculation and collection of any assessments due under this division or division (J) of this section.

(M) As used in this section, "paid compensation" means all amounts paid by a self-insuring employer for living maintenance benefits, all amounts for compensation paid pursuant to sections 4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 4123.64 of the Revised Code, all amounts paid as wages in lieu of such compensation, all amounts paid in lieu of such compensation under a nonoccupational accident and sickness program fully funded by the self-insuring employer, and all amounts paid by a self-insuring employer for a violation of a specific safety standard pursuant to Section 35 of Article II, Ohio Constitution and section 4121.47 of the Revised Code.

(N) Should any section of this chapter or Chapter 4121. of the Revised Code providing for self-insuring employers'

assessments based upon compensation paid be declared 1579
unconstitutional by a final decision of any court, then that 1580
section of the Revised Code declared unconstitutional shall revert 1581
back to the section in existence prior to November 3, 1989, 1582
providing for assessments based upon payroll. 1583

(O) The administrator may grant a self-insuring employer the 1584
privilege to self-insure a construction project entered into by 1585
the self-insuring employer that is scheduled for completion within 1586
six years after the date the project begins, and the total cost of 1587
which is estimated to exceed one hundred million dollars or, for 1588
employers described in division (R) of this section, if the 1589
construction project is estimated to exceed twenty-five million 1590
dollars. The administrator may waive such cost and time criteria 1591
and grant a self-insuring employer the privilege to self-insure a 1592
construction project regardless of the time needed to complete the 1593
construction project and provided that the cost of the 1594
construction project is estimated to exceed fifty million dollars. 1595
A self-insuring employer who desires to self-insure a construction 1596
project shall submit to the administrator an application listing 1597
the dates the construction project is scheduled to begin and end, 1598
the estimated cost of the construction project, the contractors 1599
and subcontractors whose employees are to be self-insured by the 1600
self-insuring employer, the provisions of a safety program that is 1601
specifically designed for the construction project, and a 1602
statement as to whether a collective bargaining agreement 1603
governing the rights, duties, and obligations of each of the 1604
parties to the agreement with respect to the construction project 1605
exists between the self-insuring employer and a labor 1606
organization. 1607

A self-insuring employer may apply to self-insure the 1608
employees of either of the following: 1609

(1) All contractors and subcontractors who perform labor or 1610

work or provide materials for the construction project; 1611

(2) All contractors and, at the administrator's discretion, a 1612
substantial number of all the subcontractors who perform labor or 1613
work or provide materials for the construction project. 1614

Upon approval of the application, the administrator shall 1615
mail a certificate granting the privilege to self-insure the 1616
construction project to the self-insuring employer. The 1617
certificate shall contain the name of the self-insuring employer 1618
and the name, address, and telephone number of the self-insuring 1619
employer's representatives who are responsible for administering 1620
workers' compensation claims for the construction project. The 1621
self-insuring employer shall post the certificate in a conspicuous 1622
place at the site of the construction project. 1623

The administrator shall maintain a record of the contractors 1624
and subcontractors whose employees are covered under the 1625
certificate issued to the self-insured employer. A self-insuring 1626
employer immediately shall notify the administrator when any 1627
contractor or subcontractor is added or eliminated from inclusion 1628
under the certificate. 1629

Upon approval of the application, the self-insuring employer 1630
is responsible for the administration and payment of all claims 1631
under this chapter and Chapter 4121. of the Revised Code for the 1632
employees of the contractor and subcontractors covered under the 1633
certificate who receive injuries or are killed in the course of 1634
and arising out of employment on the construction project, or who 1635
contract an occupational disease in the course of employment on 1636
the construction project. For purposes of this chapter and Chapter 1637
4121. of the Revised Code, a claim that is administered and paid 1638
in accordance with this division is considered a claim against the 1639
self-insuring employer listed in the certificate. A contractor or 1640
subcontractor included under the certificate shall report to the 1641
self-insuring employer listed in the certificate, all claims that 1642

arise under this chapter and Chapter 4121. of the Revised Code in 1643
connection with the construction project for which the certificate 1644
is issued. 1645

A self-insuring employer who complies with this division is 1646
entitled to the protections provided under this chapter and 1647
Chapter 4121. of the Revised Code with respect to the employees of 1648
the contractors and subcontractors covered under a certificate 1649
issued under this division for death or injuries that arise out 1650
of, or death, injuries, or occupational diseases that arise in the 1651
course of, those employees' employment on that construction 1652
project, as if the employees were employees of the self-insuring 1653
employer, provided that the self-insuring employer also complies 1654
with this section. No employee of the contractors and 1655
subcontractors covered under a certificate issued under this 1656
division shall be considered the employee of the self-insuring 1657
employer listed in that certificate for any purposes other than 1658
this chapter and Chapter 4121. of the Revised Code. Nothing in 1659
this division gives a self-insuring employer authority to control 1660
the means, manner, or method of employment of the employees of the 1661
contractors and subcontractors covered under a certificate issued 1662
under this division. 1663

The contractors and subcontractors included under a 1664
certificate issued under this division are entitled to the 1665
protections provided under this chapter and Chapter 4121. of the 1666
Revised Code with respect to the contractor's or subcontractor's 1667
employees who are employed on the construction project which is 1668
the subject of the certificate, for death or injuries that arise 1669
out of, or death, injuries, or occupational diseases that arise in 1670
the course of, those employees' employment on that construction 1671
project. 1672

The contractors and subcontractors included under a 1673
certificate issued under this division shall identify in their 1674

payroll records the employees who are considered the employees of 1675
the self-insuring employer listed in that certificate for purposes 1676
of this chapter and Chapter 4121. of the Revised Code, and the 1677
amount that those employees earned for employment on the 1678
construction project that is the subject of that certificate. 1679
Notwithstanding any provision to the contrary under this chapter 1680
and Chapter 4121. of the Revised Code, the administrator shall 1681
exclude the payroll that is reported for employees who are 1682
considered the employees of the self-insuring employer listed in 1683
that certificate, and that the employees earned for employment on 1684
the construction project that is the subject of that certificate, 1685
when determining those contractors' or subcontractors' premiums or 1686
assessments required under this chapter and Chapter 4121. of the 1687
Revised Code. A self-insuring employer issued a certificate under 1688
this division shall include in the amount of paid compensation it 1689
reports pursuant to division (L) of this section, the amount of 1690
paid compensation the self-insuring employer paid pursuant to this 1691
division for the previous calendar year. 1692

Nothing in this division shall be construed as altering the 1693
rights of employees under this chapter and Chapter 4121. of the 1694
Revised Code as those rights existed prior to September 17, 1996. 1695
Nothing in this division shall be construed as altering the rights 1696
devolved under sections 2305.31 and 4123.82 of the Revised Code as 1697
those rights existed prior to September 17, 1996. 1698

As used in this division, "privilege to self-insure a 1699
construction project" means privilege to pay individually 1700
compensation, and to furnish medical, surgical, nursing, and 1701
hospital services and attention and funeral expenses directly to 1702
injured employees or the dependents of killed employees. 1703

(P) A self-insuring employer whose application is granted 1704
under division (O) of this section shall designate a safety 1705
professional to be responsible for the administration and 1706

enforcement of the safety program that is specifically designed 1707
for the construction project that is the subject of the 1708
application. 1709

A self-insuring employer whose application is granted under 1710
division (O) of this section shall employ an ombudsperson for the 1711
construction project that is the subject of the application. The 1712
ombudsperson shall have experience in workers' compensation or the 1713
construction industry, or both. The ombudsperson shall perform all 1714
of the following duties: 1715

(1) Communicate with and provide information to employees who 1716
are injured in the course of, or whose injury arises out of 1717
employment on the construction project, or who contract an 1718
occupational disease in the course of employment on the 1719
construction project; 1720

(2) Investigate the status of a claim upon the request of an 1721
employee to do so; 1722

(3) Provide information to claimants, third party 1723
administrators, employers, and other persons to assist those 1724
persons in protecting their rights under this chapter and Chapter 1725
4121. of the Revised Code. 1726

A self-insuring employer whose application is granted under 1727
division (O) of this section shall post the name of the safety 1728
professional and the ombudsperson and instructions for contacting 1729
the safety professional and the ombudsperson in a conspicuous 1730
place at the site of the construction project. 1731

(Q) The administrator may consider all of the following when 1732
deciding whether to grant a self-insuring employer the privilege 1733
to self-insure a construction project as provided under division 1734
(O) of this section: 1735

(1) Whether the self-insuring employer has an organizational 1736
plan for the administration of the workers' compensation law; 1737

(2) Whether the safety program that is specifically designed 1738
for the construction project provides for the safety of employees 1739
employed on the construction project, is applicable to all 1740
contractors and subcontractors who perform labor or work or 1741
provide materials for the construction project, and has as a 1742
component, a safety training program that complies with standards 1743
adopted pursuant to the "Occupational Safety and Health Act of 1744
1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing 1745
management and employee involvement; 1746

(3) Whether granting the privilege to self-insure the 1747
construction project will reduce the costs of the construction 1748
project; 1749

(4) Whether the self-insuring employer has employed an 1750
ombudsperson as required under division (P) of this section; 1751

(5) Whether the self-insuring employer has sufficient surety 1752
to secure the payment of claims for which the self-insuring 1753
employer would be responsible pursuant to the granting of the 1754
privilege to self-insure a construction project under division (O) 1755
of this section. 1756

(R) As used in divisions (O), (P), and (Q), "self-insuring 1757
employer" includes the following employers, whether or not they 1758
have been granted the status of being a self-insuring employer 1759
under division (B) of this section: 1760

(1) A state institution of higher education; 1761

(2) A school district; 1762

(3) A county school financing district; 1763

(4) An educational service center; 1764

(5) A community school established under Chapter 3314. of the 1765
Revised Code. 1766

(S) As used in this section: 1767

(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;

(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.

Section 2. That existing sections 101.532, 101.82, 127.14, 4121.03, 4121.121, 4121.75, 4121.76, 4121.77, 4121.79, 4123.29, 4123.341, 4123.342, and 4123.35 of the Revised Code are hereby repealed.

Section 3. This act is not subject to division (A) of section 4121.78 of the Revised Code.

Section 4. All items in this section are hereby appropriated as designated out of any moneys in the state treasury to the credit of the Workers' Compensation Council Fund Group. For all appropriations made in this act, those in the first column are for fiscal year 2008 and those in the second column are for fiscal year 2009. The appropriations made in this act are in addition to any other appropriations made for the FY 2008-2009 biennium.

Appropriations

WCC WORKERS' COMPENSATION COUNCIL				1790
Workers' Compensation Council				1791
5FV0 321600 Remuneration Expenses	\$	0	\$ 315,000	1792
TOTAL 5FV0 Workers' Compensation	\$	0	\$ 315,000	1793
Council Remuneration Fund				
TOTAL ALL BUDGET FUND GROUPS	\$	0	\$ 315,000	1794

WORKERS' COMPENSATION COUNCIL 1795

The foregoing appropriation item 321600, Remuneration 1796
Expenses, shall be used to pay for the payroll and fringe benefit 1797
costs for employees of the Workers' Compensation Council. 1798

Between December 15, 2008, and June 30, 2009, the 1799
Administrator of Workers' Compensation shall direct the Treasurer 1800
of State to transfer \$475,000 cash from the Workers' Compensation 1801
Fund (Fund 7023) to the Workers' Compensation Council Fund, 1802
created in division (C) of section 4121.79 of the Revised Code, in 1803
three installments. The installments shall be made according to a 1804
schedule agreed to by the Director of the Workers' Compensation 1805
Council and the Administrator of Workers' Compensation. 1806
1807

Upon the request of the Director of the Workers' Compensation 1808
Council, the Director of Budget and Management shall transfer a 1809
cash amount designated by the Director of the Workers' 1810
Compensation Council from the Workers' Compensation Council Fund 1811
(Fund 5DR0), created by the Controlling Board in August of 2008, 1812
to the Workers' Compensation Council Remuneration Fund (Fund 1813
5FV0). On or before January 31, 2009, the Director of the Workers' 1814
Compensation Council shall request that the Director of Budget and 1815
Management transfer any remaining balance in the Workers' 1816
Compensation Council Fund (Fund 5DR0) to the Workers' Compensation 1817
Council Fund, created by division (C) of section 4121.79 of the 1818
Revised Code as amended by this act. The Treasurer of State, at 1819
the request of the Director of Budget and Management, shall 1820
execute this transfer. After this transfer has occurred, the 1821
Workers' Compensation Council Fund (Fund 5DR0) is abolished. 1822

Section 5. Within the limits set forth in this act, the 1823
Director of Budget and Management shall establish accounts 1824
indicating the source and amount of funds for each appropriation 1825

made in this act, and shall determine the form and manner in which 1826
appropriation accounts shall be maintained. Expenditures from 1827
appropriations contained in this act shall be accounted for as 1828
though made in Am. Sub. H.B. 119 of the 127th General Assembly. 1829

The appropriations made in this act are subject to all 1830
provisions of Am. Sub. H.B. 119 of the 127th General Assembly that 1831
are generally applicable to such appropriations. 1832

Section 6. The Administrator of Workers' Compensation shall 1833
examine the group rating program and make a plan to address the 1834
equity and adequacy of workers' compensation premiums for Ohio 1835
employers. The Administrator of Workers' Compensation shall 1836
provide such report to the Speaker of the House of 1837
Representatives, the President of the Senate, the minority leaders 1838
of the House of Representatives and the Senate, the chairperson of 1839
any standing committee of the Ohio General Assembly that regularly 1840
considers workers' compensation bills, and the Workers' 1841
Compensation Council by September 15, 2009. 1842

Section 7. It is not the intent of the General Assembly, in 1843
amending section 101.82 of the Revised Code in Section 1 of this 1844
act, to supersede the repeal and delayed effective date of that 1845
repeal established in Section 6 of Am. Sub. H.B. 516 of the 125th 1846
General Assembly. 1847

Section 8. The sections of law contained in this act are not 1848
subject to the referendum. Therefore, under Ohio Constitution, 1849
Article II, Section 1d and section 1.471 of the Revised Code, the 1850
sections go into immediate effect when this act becomes law. 1851