

As Reported by the House Commerce and Labor Committee

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Sub. H. B. No. 79

Representative Batchelder

**Cosponsors: Representatives McGregor, J., Fessler, Latta, Stebelton,
Webster, Uecker**

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A B I L L

To amend sections 109.579, 4121.12, 4121.121, 1
4123.01, 4123.34, 4123.351, 4123.412, 4123.44, 2
4123.442, 4123.444, 4123.445, 4127.05, 4131.03, 3
and 4131.13, to amend, for the purpose of adopting 4
new section numbers as indicated in parentheses, 5
sections 4123.443 (4123.448), 4123.444 (4123.445), 6
and 4123.445 (4123.446), and to enact new sections 7
4123.443 and 4123.444 and section 4123.447 of the 8
Revised Code to specify the classes of investments 9
in which the Administrator of Workers' 10
Compensation may invest the funds specified in the 11
Workers' Compensation Law and to require the 12
Administrator to have criminal records checks 13
conducted for employees of investment consultants 14
with whom the Administrator contracts to 15
facilitate the investment of those funds. 16
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 109.579, 4121.12, 4121.121, 4123.01, 18
4123.34, 4123.351, 4123.412, 4123.44, 4123.442, 4123.444, 19

4123.445, 4127.05, 4131.03, and 4131.13 be amended, sections 20
4123.443 (4123.448), 4123.444 (4123.445), and 4123.445 (4123.446) 21
be amended for the purpose of adopting new section numbers as 22
indicated in parentheses, and new sections 4123.443 and 4123.444 23
and section 4123.447 of the Revised Code be enacted to read as 24
follows: 25

Sec. 109.579. (A) On receipt of a request pursuant to 26
division (B) of section ~~4123.444~~ 4123.445 of the Revised Code, a 27
completed form prescribed pursuant to division (C)(1) of this 28
section, and a set of fingerprint impressions obtained in the 29
manner described in division (C)(2) of this section, the 30
superintendent of the bureau of criminal identification and 31
investigation shall conduct a criminal records check in the manner 32
described in division (B) of this section to determine whether any 33
information exists that indicates that the person who is the 34
subject of the request previously has been convicted of or pleaded 35
guilty to any criminal offense involving theft, receiving stolen 36
property, embezzlement, forgery, fraud, passing bad checks, money 37
laundering, drug trafficking, or any criminal offense involving 38
money or securities, as set forth in Chapters 2909., 2911., 2913., 39
2915., 2921., 2923., and 2925. of the Revised Code or other law of 40
this state, or the laws of any other state or of the United States 41
that are substantially equivalent to those offenses. 42

(B) The superintendent shall conduct a criminal records check 43
pursuant to division (A) of this section as follows: 44

(1) The superintendent shall review or cause to be reviewed 45
any relevant information gathered and compiled by the bureau under 46
division (A) of section 109.57 of the Revised Code that relates to 47
the person who is the subject of the request, including any 48
relevant information contained in records that have been sealed 49
under section 2953.32 of the Revised Code. 50

(2) If the request received by the superintendent asks for information from the federal bureau of investigation, the superintendent shall request from the federal bureau of investigation any information it has with respect to the person who is the subject of the request. The superintendent shall review or cause to be reviewed any information that the superintendent receives from the federal bureau of investigation.

(3) The superintendent shall forward the results of a criminal records check conducted pursuant to this division to the administrator of workers' compensation.

(C)(1) The superintendent shall prescribe a form to obtain the information necessary to conduct a criminal records check from any person for whom a criminal records check is requested pursuant to division (B) of section ~~4123.444~~ 4123.445 of the Revised Code. The form that the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(2) The superintendent shall prescribe standard impression sheets to obtain the fingerprint impressions of any person for whom a criminal records check is requested pursuant to section ~~4123.444~~ 4123.445 of the Revised Code. Any person for whom the administrator requests the superintendent to conduct a criminal records check pursuant to that section shall have the person's fingerprint impressions made at a county sheriff's office, a municipal police department, or any other entity with the ability to make fingerprint impressions on the standard impression sheets prescribed by the superintendent. The office, department, or entity may charge the person a reasonable fee for making the impressions. The standard impression sheets the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(3) The superintendent may prescribe methods of forwarding fingerprint impressions and information necessary to conduct a criminal records check. The methods shall include, but are not limited to, electronic methods.

(D) A determination whether any information exists that indicates that a person previously has been convicted of or pleaded guilty to any offense listed or described in division (A) of this section that the superintendent makes pursuant to information considered in a criminal records check under this section is valid for the person who is the subject of that criminal records check for a period of one year after the date the superintendent makes that determination.

(E) The superintendent shall prescribe and charge a reasonable fee for providing a criminal records check requested under section ~~4123.444~~ 4123.445 of the Revised Code. If another request for a criminal records check is made under this section for a person for whom a valid determination under division (D) of this section is available, the superintendent shall provide the determination for a reduced fee.

Sec. 4121.12. (A) There is hereby created the bureau of workers' compensation board of directors consisting of eleven members to be appointed by the governor with the advice and consent of the senate. One member shall be an individual who, on account of the individual's previous vocation, employment, or affiliations, can be classed as a representative of employees; two members shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representatives of employee organizations and at least one of these two individuals shall be a member of the executive committee of the largest statewide labor federation; three members shall be individuals who, on account of their previous vocation,

employment, or affiliations, can be classed as representatives of 114
employers, one of whom represents self-insuring employers, one of 115
whom is a state fund employer who employs one hundred or more 116
employees, and one of whom is a state fund employer who employs 117
less than one hundred employees; two members shall be individuals 118
who, on account of their vocation, employment, or affiliations, 119
can be classed as investment and securities experts who have 120
direct experience in the management, analysis, supervision, or 121
investment of assets and are residents of this state; one member 122
who shall be a certified public accountant; one member who shall 123
be an actuary who is a member in good standing with the American 124
academy of actuaries or who is an associate or fellow with the 125
society of actuaries; and one member shall represent the public 126
and also be an individual who, on account of the individual's 127
previous vocation, employment, or affiliations, cannot be classed 128
as either predominantly representative of employees or of 129
employers. The governor shall select the chairperson of the board 130
who shall serve as chairperson at the pleasure of the governor. 131

None of the members of the board, within one year immediately 132
preceding the member's appointment, shall have been employed by 133
the bureau of workers' compensation or by any person, partnership, 134
or corporation that has provided to the bureau services of a 135
financial or investment nature, including the management, 136
analysis, supervision, or investment of assets. 137

(B) Of the initial appointments made to the board, the 138
governor shall appoint the member who represents employees, one 139
member who represents employers, and the member who represents the 140
public to a term ending one year after ~~the effective date of this~~ 141
~~amendment~~ June 11, 2007; one member who represents employers, one 142
member who represents employee organizations, one member who is an 143
investment and securities expert, and the member who is a 144
certified public accountant to a term ending two years after ~~the~~ 145

~~effective date of this amendment June 11, 2007~~; and one member who 146
represents employers, one member who represents employee 147
organizations, one member who is an investment and securities 148
expert, and the member who is an actuary to a term ending three 149
years after ~~the effective date of this amendment June 11, 2007~~. 150
Thereafter, terms of office shall be for three years, with each 151
term ending on the same day of the same month as did the term that 152
it succeeds. Each member shall hold office from the date of the 153
member's appointment until the end of the term for which the 154
member was appointed. 155

Members may be reappointed. Any member appointed to fill a 156
vacancy occurring prior to the expiration date of the term for 157
which the member's predecessor was appointed shall hold office as 158
a member for the remainder of that term. A member shall continue 159
in office subsequent to the expiration date of the member's term 160
until a successor takes office or until a period of sixty days has 161
elapsed, whichever occurs first. 162

(C) In making appointments to the board, the governor shall 163
select the members from the list of names submitted by the 164
workers' compensation board of directors nominating committee 165
pursuant to this division. The nominating committee shall submit 166
to the governor a list containing four separate names for each of 167
the members on the board. Within fourteen days after the 168
submission of the list, the governor shall appoint individuals 169
from the list. 170

Within sixty days after a vacancy occurring as a result of 171
the expiration of a term and within thirty days after other 172
vacancies occurring on the board, the nominating committee shall 173
submit an initial list containing four names for each vacancy. 174
Within fourteen days after the submission of the initial list, the 175
governor either shall appoint individuals from that list or 176
request the nominating committee to submit another list of four 177

names for each member the governor has not appointed from the 178
initial list, which list the nominating committee shall submit to 179
the governor within fourteen days after the governor's request. 180
The governor then shall appoint, within seven days after the 181
submission of the second list, one of the individuals from either 182
list to fill the vacancy for which the governor has not made an 183
appointment from the initial list. With respect to the filling of 184
vacancies, the nominating committee shall provide the governor 185
with a list of four individuals who are, in the judgment of the 186
nominating committee, the most fully qualified to accede to 187
membership on the board. 188

In order for the name of an individual to be submitted to the 189
governor under this division, the nominating committee shall 190
approve the individual by an affirmative vote of a majority of its 191
members. 192

(D) All members of the board shall receive their reasonable 193
and necessary expenses pursuant to section 126.31 of the Revised 194
Code while engaged in the performance of their duties as members 195
and also shall receive an annual salary not to exceed sixty 196
thousand dollars in total, payable on the following basis: 197

(1) Except as provided in division (D)(2) of this section, a 198
member shall receive two thousand five hundred dollars during a 199
month in which the member attends one or more meetings of the 200
board and shall receive no payment during a month in which the 201
member attends no meeting of the board. 202

(2) A member may receive no more than thirty thousand dollars 203
per year to compensate the member for attending meetings of the 204
board, regardless of the number of meetings held by the board 205
during a year or the number of meetings in excess of twelve within 206
a year that the member attends. 207

(3) Except as provided in division (D)(4) of this section, if 208

a member serves on the workers' compensation audit committee, 209
workers' compensation actuarial committee, or the workers' 210
compensation investment committee, the member shall receive two 211
thousand five hundred dollars during a month in which the member 212
attends one or more meetings of the committee on which the member 213
serves and shall receive no payment during any month in which the 214
member attends no meeting of that committee. 215

(4) A member may receive no more than thirty thousand dollars 216
per year to compensate the member for attending meetings of any of 217
the committees specified in division (D)(3) of this section, 218
regardless of the number of meetings held by a committee during a 219
year or the number of committees on which a member serves. 220

The chairperson of the board shall set the meeting dates of 221
the board as necessary to perform the duties of the board under 222
this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of 223
the Revised Code. The board shall meet at least twelve times a 224
year. The administrator of workers' compensation shall provide 225
professional and clerical assistance to the board, as the board 226
considers appropriate. 227

(E) Before entering upon the duties of office, each appointed 228
member of the board shall take an oath of office as required by 229
sections 3.22 and 3.23 of the Revised Code and file in the office 230
of the secretary of state the bond required under section 4121.127 231
of the Revised Code. 232

(F) The board shall: 233

(1) Establish the overall administrative policy for the 234
bureau for the purposes of this chapter and Chapters 4123., 4125., 235
4127., 4131., and 4167. of the Revised Code; 236

(2) Review progress of the bureau in meeting its cost and 237
quality objectives and in complying with this chapter and Chapters 238
4123., 4125., 4127., 4131., and 4167. of the Revised Code; 239

(3) Submit an annual report to the president of the senate,	240
the speaker of the house of representatives, the governor, and the	241
workers' compensation council and include all of the following in	242
that report:	243
(a) An evaluation of the cost and quality objectives of the	244
bureau;	245
(b) A statement of the net assets available for the provision	246
of compensation and benefits under this chapter and Chapters	247
4123., 4127., and 4131. of the Revised Code as of the last day of	248
the fiscal year;	249
(c) A statement of any changes that occurred in the net	250
assets available, including employer premiums and net investment	251
income, for the provision of compensation and benefits and payment	252
of administrative expenses, between the first and last day of the	253
fiscal year immediately preceding the date of the report;	254
(d) The following information for each of the six consecutive	255
fiscal years occurring previous to the report:	256
(i) A schedule of the net assets available for compensation	257
and benefits;	258
(ii) The annual cost of the payment of compensation and	259
benefits;	260
(iii) Annual administrative expenses incurred;	261
(iv) Annual employer premiums allocated for the provision of	262
compensation and benefits.	263
(e) A description of any significant changes that occurred	264
during the six years for which the board provided the information	265
required under division (F)(3)(d) of this section that affect the	266
ability of the board to compare that information from year to	267
year.	268
(4) Review all independent financial audits of the bureau.	269

The administrator shall provide access to records of the bureau to facilitate the review required under this division.	270 271
(5) Study issues as requested by the administrator or the governor;	272 273
(6) Contract with all of the following:	274
(a) An independent actuarial firm to assist the board in making recommendations to the administrator regarding premium rates;	275 276 277
(b) An outside investment counsel to assist the workers' compensation investment committee in fulfilling its duties;	278 279
(c) An independent fiduciary counsel to assist the board in the performance of its duties.	280 281
(7) Approve the investment policy developed by the workers' compensation investment committee pursuant to section 4121.129 of the Revised Code if the policy satisfies the requirements specified in section 4123.442 of the Revised Code.	282 283 284 285
(8) Review and publish the investment policy no less than annually and make copies available to interested parties.	286 287
(9) Prohibit, on a prospective basis, any specific investment it finds to be contrary to the investment policy approved by the board.	288 289 290
(10) Vote to open each investment class and allow the administrator to invest in an investment class only if the board, by a majority vote, opens that class;	291 292 293
(11) After opening a class but prior to the administrator investing in that class, adopt rules establishing due diligence standards for employees of the bureau to follow when investing in that class and establish policies and procedures to review and monitor the performance and value of each investment class;	294 295 296 297 298
(12) Submit a report annually on the performance and value of	299

~~each investment class to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives.~~

~~(13)~~ Advise and consent on all of the following: 303

(a) Administrative rules the administrator submits to it pursuant to division (B)(5) of section 4121.121 of the Revised Code for the classification 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; 304-309

(b) The duties and authority conferred upon the administrator pursuant to section 4121.37 of the Revised Code; 310-311

(c) Rules the administrator adopts for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code; 312-314

(d) Rules the administrator submits to it pursuant to Chapter 4167. of the Revised Code regarding the public employment risk reduction program and the protection of public health care workers from exposure incidents. 315-318

As used in this division, "public health care worker" and "exposure incident" have the same meanings as in section 4167.25 of the Revised Code. 319-321

~~(14)~~(11) Perform all duties required under this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code; 322-324

~~(15)~~(12) Meet with the governor on an annual basis to discuss the administrator's performance of the duties specified in this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code; 325-328

~~(16)~~(13) Develop and participate in a bureau of workers' 329

compensation board of directors education program that consists of	330
all of the following:	331
(a) An orientation component for newly appointed members;	332
(b) A continuing education component for board members who have served for at least one year;	333 334
(c) A curriculum that includes education about each of the following topics:	335 336
(i) Board member duties and responsibilities;	337
(ii) Compensation and benefits paid pursuant to this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;	338 339
(iii) Ethics;	340
(iv) Governance processes and procedures;	341
(v) Actuarial soundness;	342
(vi) Investments;	343
(vii) Any other subject matter the board believes is reasonably related to the duties of a board member.	344 345
(17) <u>(14)</u> Submit the program developed pursuant to division (F) (16) <u>(13)</u> of this section to the workers' compensation council for approval;	346 347 348
(18) <u>(15)</u> Hold all sessions, classes, and other events for the program developed pursuant to division (F) (16) <u>(13)</u> of this section in this state.	349 350 351
(G) The board may do both of the following :	352
(1) Vote to close any investment class;	353
(2) Create <u>create</u> any committees in addition to the workers' compensation audit committee, the workers' compensation actuarial committee, and the workers' compensation investment committee that the board determines are necessary to assist the board in	354 355 356 357

performing its duties. 358

(H) The office of a member of the board who is convicted of 359
or pleads guilty to a felony, a theft offense as defined in 360
section 2913.01 of the Revised Code, or a violation of section 361
102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 362
2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be 363
deemed vacant. The vacancy shall be filled in the same manner as 364
the original appointment. A person who has pleaded guilty to or 365
been convicted of an offense of that nature is ineligible to be a 366
member of the board. A member who receives a bill of indictment 367
for any of the offenses specified in this section shall be 368
automatically suspended from the board pending resolution of the 369
criminal matter. 370

(I) For the purposes of division (G)(1) of section 121.22 of 371
the Revised Code, the meeting between the governor and the board 372
to review the administrator's performance as required under 373
division (F)~~(15)~~(12) of this section shall be considered a meeting 374
regarding the employment of the administrator. 375

Sec. 4121.121. (A) There is hereby created the bureau of 376
workers' compensation, which shall be administered by the 377
administrator of workers' compensation. A person appointed to the 378
position of administrator shall possess significant management 379
experience in effectively managing an organization or 380
organizations of substantial size and complexity. A person 381
appointed to the position of administrator also shall possess a 382
minimum of five years of experience in the field of workers' 383
compensation insurance or in another insurance industry, except as 384
otherwise provided when the conditions specified in division (C) 385
of this section are satisfied. The governor shall appoint the 386
administrator as provided in section 121.03 of the Revised Code, 387
and the administrator shall serve at the pleasure of the governor. 388

The governor shall fix the administrator's salary on the basis of 389
the administrator's experience and the administrator's 390
responsibilities and duties under this chapter and Chapters 4123., 391
4125., 4127., 4131., and 4167. of the Revised Code. The governor 392
shall not appoint to the position of administrator any person who 393
has, or whose spouse has, given a contribution to the campaign 394
committee of the governor in an amount greater than one thousand 395
dollars during the two-year period immediately preceding the date 396
of the appointment of the administrator. 397

The administrator shall hold no other public office and shall 398
devote full time to the duties of administrator. Before entering 399
upon the duties of the office, the administrator shall take an 400
oath of office as required by sections 3.22 and 3.23 of the 401
Revised Code, and shall file in the office of the secretary of 402
state, a bond signed by the administrator and by surety approved 403
by the governor, for the sum of fifty thousand dollars payable to 404
the state, conditioned upon the faithful performance of the 405
administrator's duties. 406

(B) The administrator is responsible for the management of 407
the bureau and for the discharge of all administrative duties 408
imposed upon the administrator in this chapter and Chapters 4123., 409
4125., 4127., 4131., and 4167. of the Revised Code, and in the 410
discharge thereof shall do all of the following: 411

(1) Perform all acts and exercise all authorities and powers, 412
discretionary and otherwise that are required of or vested in the 413
bureau or any of its employees in this chapter and Chapters 4123., 414
4125., 4127., 4131., and 4167. of the Revised Code, except the 415
acts and the exercise of authority and power that is required of 416
and vested in the bureau of workers' compensation board of 417
directors or the industrial commission pursuant to those chapters. 418
The treasurer of state shall honor all warrants signed by the 419
administrator, or by one or more of the administrator's employees, 420

authorized by the administrator in writing, or bearing the 421
facsimile signature of the administrator or such employee under 422
sections 4123.42 and 4123.44 of the Revised Code. 423

(2) Employ, direct, and supervise all employees required in 424
connection with the performance of the duties assigned to the 425
bureau by this chapter and Chapters 4123., 4125., 4127., 4131., 426
and 4167. of the Revised Code, including an actuary, and may 427
establish job classification plans and compensation for all 428
employees of the bureau provided that this grant of authority 429
shall not be construed as affecting any employee for whom the 430
state employment relations board has established an appropriate 431
bargaining unit under section 4117.06 of the Revised Code. All 432
positions of employment in the bureau are in the classified civil 433
service except those employees the administrator may appoint to 434
serve at the administrator's pleasure in the unclassified civil 435
service pursuant to section 124.11 of the Revised Code. The 436
administrator shall fix the salaries of employees the 437
administrator appoints to serve at the administrator's pleasure, 438
including the chief operating officer, staff physicians, and other 439
senior management personnel of the bureau and shall establish the 440
compensation of staff attorneys of the bureau's legal section and 441
their immediate supervisors, and take whatever steps are necessary 442
to provide adequate compensation for other staff attorneys. 443

The administrator may appoint a person who holds a certified 444
position in the classified service within the bureau to a position 445
in the unclassified service within the bureau. A person appointed 446
pursuant to this division to a position in the unclassified 447
service shall retain the right to resume the position and status 448
held by the person in the classified service immediately prior to 449
the person's appointment in the unclassified service, regardless 450
of the number of positions the person held in the unclassified 451
service. An employee's right to resume a position in the 452

classified service may only be exercised when the administrator 453
demotes the employee to a pay range lower than the employee's 454
current pay range or revokes the employee's appointment to the 455
unclassified service. An employee forfeits the right to resume a 456
position in the classified service when the employee is removed 457
from the position in the unclassified service due to incompetence, 458
inefficiency, dishonesty, drunkenness, immoral conduct, 459
insubordination, discourteous treatment of the public, neglect of 460
duty, violation of this chapter or Chapter 124., 4123., 4125., 461
4127., 4131., or 4167. of the Revised Code, violation of the rules 462
of the director of administrative services or the administrator, 463
any other failure of good behavior, any other acts of misfeasance, 464
malfeasance, or nonfeasance in office, or conviction of a felony. 465
An employee also forfeits the right to resume a position in the 466
classified service upon transfer to a different agency. 467

468
Reinstatement to a position in the classified service shall 469
be to a position substantially equal to that position in the 470
classified service held previously, as certified by the department 471
of administrative services. If the position the person previously 472
held in the classified service has been placed in the unclassified 473
service or is otherwise unavailable, the person shall be appointed 474
to a position in the classified service within the bureau that the 475
director of administrative services certifies is comparable in 476
compensation to the position the person previously held in the 477
classified service. Service in the position in the unclassified 478
service shall be counted as service in the position in the 479
classified service held by the person immediately prior to the 480
person's appointment in the unclassified service. When a person is 481
reinstated to a position in the classified service as provided in 482
this division, the person is entitled to all rights, status, and 483
benefits accruing to the position during the person's time of 484
service in the position in the unclassified service. 485

(3) Reorganize the work of the bureau, its sections, 486
departments, and offices to the extent necessary to achieve the 487
most efficient performance of its functions and to that end may 488
establish, change, or abolish positions and assign and reassign 489
duties and responsibilities of every employee of the bureau. All 490
persons employed by the industrial commission in positions that, 491
after November 3, 1989, are supervised and directed by the 492
administrator under this section are transferred to the bureau in 493
their respective classifications but subject to reassignment and 494
reclassification of position and compensation as the administrator 495
determines to be in the interest of efficient administration. The 496
civil service status of any person employed by the industrial 497
commission is not affected by this section. Personnel employed by 498
the bureau or the industrial commission who are subject to Chapter 499
4117. of the Revised Code shall retain all of their rights and 500
benefits conferred pursuant to that chapter as it presently exists 501
or is hereafter amended and nothing in this chapter or Chapter 502
4123. of the Revised Code shall be construed as eliminating or 503
interfering with Chapter 4117. of the Revised Code or the rights 504
and benefits conferred under that chapter to public employees or 505
to any bargaining unit. 506

(4) Provide offices, equipment, supplies, and other 507
facilities for the bureau. 508

(5) Prepare and submit to the board information the 509
administrator considers pertinent or the board requires, together 510
with the administrator's recommendations, in the form of 511
administrative rules, for the advice and consent of the board, for 512
classifications of occupations or industries, for premium rates 513
and contributions, for the amount to be credited to the surplus 514
fund, for rules and systems of rating, rate revisions, and merit 515
rating. The administrator shall obtain, prepare, and submit any 516
other information the board requires for the prompt and efficient 517

discharge of its duties. 518

(6) Keep the accounts required by division (A) of section 519
4123.34 of the Revised Code and all other accounts and records 520
necessary to the collection, administration, and distribution of 521
the workers' compensation funds and shall obtain the statistical 522
and other information required by section 4123.19 of the Revised 523
Code. 524

(7) Exercise the investment powers vested in the 525
administrator by section 4123.44 of the Revised Code in accordance 526
with the investment policy approved by the board pursuant to 527
section 4121.12 of the Revised Code and in consultation with the 528
chief investment officer of the bureau of workers' compensation. 529
~~The administrator shall not engage in any prohibited investment 530~~
~~activity specified by the board pursuant to division (F)(9) of 531~~
~~section 4121.12 of the Revised Code and shall not invest in any 532~~
~~type of investment specified in divisions (B)(1) to (10) of 533~~
~~section 4123.442 of the Revised Code.~~ All business shall be 534
transacted, all funds invested, all warrants for money drawn and 535
payments made, and all cash and securities and other property 536
held, in the name of the bureau, or in the name of its nominee, 537
provided that nominees are authorized by the administrator solely 538
for the purpose of facilitating the transfer of securities, and 539
restricted to the administrator and designated employees. 540

(8) Make contracts for and supervise the construction of any 541
project or improvement or the construction or repair of buildings 542
under the control of the bureau. 543

(9) Purchase supplies, materials, equipment, and services; 544
make contracts for, operate, and superintend the telephone, other 545
telecommunication, and computer services for the use of the 546
bureau; and make contracts in connection with office reproduction, 547
forms management, printing, and other services. Notwithstanding 548
sections 125.12 to 125.14 of the Revised Code, the administrator 549

may transfer surplus computers and computer equipment directly to 550
an accredited public school within the state. The computers and 551
computer equipment may be repaired or refurbished prior to the 552
transfer. 553

(10) Prepare and submit to the board an annual budget for 554
internal operating purposes for the board's approval. The 555
administrator also shall, separately from the budget the 556
industrial commission submits, prepare and submit to the director 557
of budget and management a budget for each biennium. The budgets 558
submitted to the board and the director shall include estimates of 559
the costs and necessary expenditures of the bureau in the 560
discharge of any duty imposed by law. 561

(11) As promptly as possible in the course of efficient 562
administration, decentralize and relocate such of the personnel 563
and activities of the bureau as is appropriate to the end that the 564
receipt, investigation, determination, and payment of claims may 565
be undertaken at or near the place of injury or the residence of 566
the claimant and for that purpose establish regional offices, in 567
such places as the administrator considers proper, capable of 568
discharging as many of the functions of the bureau as is 569
practicable so as to promote prompt and efficient administration 570
in the processing of claims. All active and inactive lost-time 571
claims files shall be held at the service office responsible for 572
the claim. A claimant, at the claimant's request, shall be 573
provided with information by telephone as to the location of the 574
file pertaining to the claimant's claim. The administrator shall 575
ensure that all service office employees report directly to the 576
director for their service office. 577

(12) Provide a written binder on new coverage where the 578
administrator considers it to be in the best interest of the risk. 579
The administrator, or any other person authorized by the 580
administrator, shall grant the binder upon submission of a request 581

for coverage by the employer. A binder is effective for a period 582
of thirty days from date of issuance and is nonrenewable. Payroll 583
reports and premium charges shall coincide with the effective date 584
of the binder. 585

(13) Set standards for the reasonable and maximum handling 586
time of claims payment functions, ensure, by rules, the impartial 587
and prompt treatment of all claims and employer risk accounts, and 588
establish a secure, accurate method of time stamping all incoming 589
mail and documents hand delivered to bureau employees. 590

(14) Ensure that all employees of the bureau follow the 591
orders and rules of the industrial commission as such orders and 592
rules relate to the industrial commission's overall adjudicatory 593
policy-making and management duties under this chapter and 594
Chapters 4123., 4127., and 4131. of the Revised Code. 595

(15) Manage and operate a data processing system with a 596
common data base for the use of both the bureau and the industrial 597
commission and, in consultation with the industrial commission, 598
using electronic data processing equipment, shall develop a claims 599
tracking system that is sufficient to monitor the status of a 600
claim at any time and that lists appeals that have been filed and 601
orders or determinations that have been issued pursuant to section 602
4123.511 or 4123.512 of the Revised Code, including the dates of 603
such filings and issuances. 604

(16) Establish and maintain a medical section within the 605
bureau. The medical section shall do all of the following: 606

(a) Assist the administrator in establishing standard medical 607
fees, approving medical procedures, and determining eligibility 608
and reasonableness of the compensation payments for medical, 609
hospital, and nursing services, and in establishing guidelines for 610
payment policies which recognize usual, customary, and reasonable 611
methods of payment for covered services; 612

(b) Provide a resource to respond to questions from claims examiners for employees of the bureau;	613 614
(c) Audit fee bill payments;	615
(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;	616 617 618 619
(e) Perform other duties assigned to it by the administrator.	620
(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.	621 622 623 624 625 626 627 628
(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.	629 630 631 632 633 634
(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 otherwise specifically exempt from the competitive bidding	635 636 637 638 639 640 641 642 643

procedures contained in the Revised Code. 644

(20) Adopt, with the advice and consent of the board, rules 645
for the operation of the bureau. 646

(21) Prepare and submit to the board information the 647
administrator considers pertinent or the board requires, together 648
with the administrator's recommendations, in the form of 649
administrative rules, for the advice and consent of the board, for 650
the health partnership program and the qualified health plan 651
system, as provided in sections 4121.44, 4121.441, and 4121.442 of 652
the Revised Code. 653

(C) The administrator, with the advice and consent of the 654
senate, shall appoint a chief operating officer who has a minimum 655
of five years of experience in the field of workers' compensation 656
insurance or in another similar insurance industry if the 657
administrator does not possess such experience. The chief 658
operating officer shall not commence the chief operating officer's 659
duties until after the senate consents to the chief operating 660
officer's appointment. The chief operating officer shall serve in 661
the unclassified civil service of the state. 662

Sec. 4123.01. As used in this chapter: 663

(A)(1) "Employee" means: 664

(a) Every person in the service of the state, or of any 665
county, municipal corporation, township, or school district 666
therein, including regular members of lawfully constituted police 667
and fire departments of municipal corporations and townships, 668
whether paid or volunteer, and wherever serving within the state 669
or on temporary assignment outside thereof, and executive officers 670
of boards of education, under any appointment or contract of hire, 671
express or implied, oral or written, including any elected 672
official of the state, or of any county, municipal corporation, or 673

township, or members of boards of education. 674

As used in division (A)(1)(a) of this section, the term 675
"employee" includes the following persons when responding to an 676
inherently dangerous situation that calls for an immediate 677
response on the part of the person, regardless of whether the 678
person is within the limits of the jurisdiction of the person's 679
regular employment or voluntary service when responding, on the 680
condition that the person responds to the situation as the person 681
otherwise would if the person were on duty in the person's 682
jurisdiction: 683

(i) Off-duty peace officers. As used in division (A)(1)(a)(i) 684
of this section, "peace officer" has the same meaning as in 685
section 2935.01 of the Revised Code. 686

(ii) Off-duty firefighters, whether paid or volunteer, of a 687
lawfully constituted fire department. 688

(iii) Off-duty first responders, emergency medical 689
technicians-basic, emergency medical technicians-intermediate, or 690
emergency medical technicians-paramedic, whether paid or 691
volunteer, of an ambulance service organization or emergency 692
medical service organization pursuant to Chapter 4765. of the 693
Revised Code. 694

(b) Every person in the service of any person, firm, or 695
private corporation, including any public service corporation, 696
that (i) employs one or more persons regularly in the same 697
business or in or about the same establishment under any contract 698
of hire, express or implied, oral or written, including aliens and 699
minors, household workers who earn one hundred sixty dollars or 700
more in cash in any calendar quarter from a single household and 701
casual workers who earn one hundred sixty dollars or more in cash 702
in any calendar quarter from a single employer, or (ii) is bound 703
by any such contract of hire or by any other written contract, to 704

pay into the state insurance fund the premiums provided by this 705
chapter. 706

(c) Every person who performs labor or provides services 707
pursuant to a construction contract, as defined in section 4123.79 708
of the Revised Code, if at least ten of the following criteria 709
apply: 710

(i) The person is required to comply with instructions from 711
the other contracting party regarding the manner or method of 712
performing services; 713

(ii) The person is required by the other contracting party to 714
have particular training; 715

(iii) The person's services are integrated into the regular 716
functioning of the other contracting party; 717

(iv) The person is required to perform the work personally; 718

(v) The person is hired, supervised, or paid by the other 719
contracting party; 720

(vi) A continuing relationship exists between the person and 721
the other contracting party that contemplates continuing or 722
recurring work even if the work is not full time; 723

(vii) The person's hours of work are established by the other 724
contracting party; 725

(viii) The person is required to devote full time to the 726
business of the other contracting party; 727

(ix) The person is required to perform the work on the 728
premises of the other contracting party; 729

(x) The person is required to follow the order of work set by 730
the other contracting party; 731

(xi) The person is required to make oral or written reports 732
of progress to the other contracting party; 733

(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;	734
	735
(xiii) The person's expenses are paid for by the other contracting party;	736
	737
(xiv) The person's tools and materials are furnished by the other contracting party;	738
	739
(xv) The person is provided with the facilities used to perform services;	740
	741
(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;	742
	743
(xvii) The person is not performing services for a number of employers at the same time;	744
	745
(xviii) The person does not make the same services available to the general public;	746
	747
(xix) The other contracting party has a right to discharge the person;	748
	749
(xx) The person has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.	750
	751
	752
Every person in the service of any independent contractor or subcontractor who has failed to pay into the state insurance fund the amount of premium determined and fixed by the administrator of workers' compensation for the person's employment or occupation or if a self-insuring employer has failed to pay compensation and benefits directly to the employer's injured and to the dependents of the employer's killed employees as required by section 4123.35 of the Revised Code, shall be considered as the employee of the person who has entered into a contract, whether written or verbal, with such independent contractor unless such employees or their legal representatives or beneficiaries elect, after injury or	753
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death, to regard such independent contractor as the employer. 764

(2) "Employee" does not mean: 765

(a) A duly ordained, commissioned, or licensed minister or 766
assistant or associate minister of a church in the exercise of 767
ministry; 768

(b) Any officer of a family farm corporation; 769

(c) An individual incorporated as a corporation; or 770

(d) An individual who otherwise is an employee of an employer 771
but who signs the waiver and affidavit specified in section 772
4123.15 of the Revised Code on the condition that the 773
administrator has granted a waiver and exception to the 774
individual's employer under section 4123.15 of the Revised Code. 775

Any employer may elect to include as an "employee" within 776
this chapter, any person excluded from the definition of 777
"employee" pursuant to division (A)(2) of this section. If an 778
employer is a partnership, sole proprietorship, individual 779
incorporated as a corporation, or family farm corporation, such 780
employer may elect to include as an "employee" within this 781
chapter, any member of such partnership, the owner of the sole 782
proprietorship, the individual incorporated as a corporation, or 783
the officers of the family farm corporation. In the event of an 784
election, the employer shall serve upon the bureau of workers' 785
compensation written notice naming the persons to be covered, 786
include such employee's remuneration for premium purposes in all 787
future payroll reports, and no person excluded from the definition 788
of "employee" pursuant to division (A)(2) of this section, 789
proprietor, individual incorporated as a corporation, or partner 790
shall be deemed an employee within this division until the 791
employer has served such notice. 792

For informational purposes only, the bureau shall prescribe 793
such language as it considers appropriate, on such of its forms as 794

it considers appropriate, to advise employers of their right to 795
elect to include as an "employee" within this chapter a sole 796
proprietor, any member of a partnership, an individual 797
incorporated as a corporation, the officers of a family farm 798
corporation, or a person excluded from the definition of 799
"employee" under division (A)(2) of this section, that they should 800
check any health and disability insurance policy, or other form of 801
health and disability plan or contract, presently covering them, 802
or the purchase of which they may be considering, to determine 803
whether such policy, plan, or contract excludes benefits for 804
illness or injury that they might have elected to have covered by 805
workers' compensation. 806

(B) "Employer" means: 807

(1) The state, including state hospitals, each county, 808
municipal corporation, township, school district, and hospital 809
owned by a political subdivision or subdivisions other than the 810
state; 811

(2) Every person, firm, professional employer organization as 812
defined in section 4125.01 of the Revised Code, and private 813
corporation, including any public service corporation, that (a) 814
has in service one or more employees or shared employees regularly 815
in the same business or in or about the same establishment under 816
any contract of hire, express or implied, oral or written, or (b) 817
is bound by any such contract of hire or by any other written 818
contract, to pay into the insurance fund the premiums provided by 819
this chapter. 820

All such employers are subject to this chapter. Any member of 821
a firm or association, who regularly performs manual labor in or 822
about a mine, factory, or other establishment, including a 823
household establishment, shall be considered an employee in 824
determining whether such person, firm, or private corporation, or 825
public service corporation, has in its service, one or more 826

employees and the employer shall report the income derived from 827
such labor to the bureau as part of the payroll of such employer, 828
and such member shall thereupon be entitled to all the benefits of 829
an employee. 830

(C) "Injury" includes any injury, whether caused by external 831
accidental means or accidental in character and result, received 832
in the course of, and arising out of, the injured employee's 833
employment. "Injury" does not include: 834

(1) Psychiatric conditions except where the claimant's 835
psychiatric conditions have arisen from an injury or occupational 836
disease sustained by that claimant or where the claimant's 837
psychiatric conditions have arisen from sexual conduct in which 838
the claimant was forced by threat of physical harm to engage or 839
participate; 840

(2) Injury or disability caused primarily by the natural 841
deterioration of tissue, an organ, or part of the body; 842

(3) Injury or disability incurred in voluntary participation 843
in an employer-sponsored recreation or fitness activity if the 844
employee signs a waiver of the employee's right to compensation or 845
benefits under this chapter prior to engaging in the recreation or 846
fitness activity; 847

(4) A condition that pre-existed an injury unless that 848
pre-existing condition is substantially aggravated by the injury. 849
Such a substantial aggravation must be documented by objective 850
diagnostic findings, objective clinical findings, or objective 851
test results. Subjective complaints may be evidence of such a 852
substantial aggravation. However, subjective complaints without 853
objective diagnostic findings, objective clinical findings, or 854
objective test results are insufficient to substantiate a 855
substantial aggravation. 856

(D) "Child" includes a posthumous child and a child legally 857

adopted prior to the injury. 858

(E) "Family farm corporation" means a corporation founded for 859
the purpose of farming agricultural land in which the majority of 860
the voting stock is held by and the majority of the stockholders 861
are persons or the spouse of persons related to each other within 862
the fourth degree of kinship, according to the rules of the civil 863
law, and at least one of the related persons is residing on or 864
actively operating the farm, and none of whose stockholders are a 865
corporation. A family farm corporation does not cease to qualify 866
under this division where, by reason of any devise, bequest, or 867
the operation of the laws of descent or distribution, the 868
ownership of shares of voting stock is transferred to another 869
person, as long as that person is within the degree of kinship 870
stipulated in this division. 871

(F) "Occupational disease" means a disease contracted in the 872
course of employment, which by its causes and the characteristics 873
of its manifestation or the condition of the employment results in 874
a hazard which distinguishes the employment in character from 875
employment generally, and the employment creates a risk of 876
contracting the disease in greater degree and in a different 877
manner from the public in general. 878

(G) "Self-insuring employer" means an employer who is granted 879
the privilege of paying compensation and benefits directly under 880
section 4123.35 of the Revised Code, including a board of county 881
commissioners for the sole purpose of constructing a sports 882
facility as defined in section 307.696 of the Revised Code, 883
provided that the electors of the county in which the sports 884
facility is to be built have approved construction of a sports 885
facility by ballot election no later than November 6, 1997. 886

(H) "Public employer" means an employer as defined in 887
division (B)(1) of this section. 888

(I) "Sexual conduct" means vaginal intercourse between a male 889
and female; anal intercourse, fellatio, and cunnilingus between 890
persons regardless of gender; and, without privilege to do so, the 891
insertion, however slight, of any part of the body or any 892
instrument, apparatus, or other object into the vaginal or anal 893
cavity of another. Penetration, however slight, is sufficient to 894
complete vaginal or anal intercourse. 895

(J) "Bureau of workers' compensation custodial funds" means 896
the state insurance fund created in section 4123.30 of the Revised 897
Code, the premium payment security fund created in section 4123.34 898
of the Revised Code, the self-insuring employer guaranty fund 899
created in section 4123.351 of the Revised Code, the disabled 900
worker relief fund created in section 4123.412 of the Revised 901
Code, the public work-relief employees' compensation fund created 902
in section 4127.05 of the Revised Code, the coal-workers 903
pneumoconiosis fund created in section 4131.03 of the Revised 904
Code, and the marine industry fund created in section 4131.13 of 905
the Revised Code. 906

Sec. 4123.34. It shall be the duty of the bureau of workers' 907
compensation board of directors and the administrator of workers' 908
compensation to safeguard and maintain the solvency of the state 909
insurance fund and all other funds specified in this chapter and 910
Chapters 4121., 4127., and 4131. of the Revised Code. The 911
administrator, in the exercise of the powers and discretion 912
conferred upon the administrator in section 4123.29 of the Revised 913
Code, shall fix and maintain, with the advice and consent of the 914
board, for each class of occupation or industry, the lowest 915
possible rates of premium consistent with the maintenance of a 916
solvent state insurance fund and the creation and maintenance of a 917
reasonable surplus, after the payment of legitimate claims for 918
injury, occupational disease, and death that the administrator 919
authorizes to be paid from the state insurance fund for the 920

benefit of injured, diseased, and the dependents of killed 921
employees. In establishing rates, the administrator shall take 922
into account the necessity of ensuring sufficient money is set 923
aside in the premium payment security fund to cover any defaults 924
in premium obligations. The administrator shall observe all of the 925
following requirements in fixing the rates of premium for the 926
risks of occupations or industries: 927

(A) The administrator shall keep an accurate account of the 928
money paid in premiums by each of the several classes of 929
occupations or industries, and the losses on account of injuries, 930
occupational disease, and death of employees thereof, and also 931
keep an account of the money received from each individual 932
employer and the amount of losses incurred against the state 933
insurance fund on account of injuries, occupational disease, and 934
death of the employees of the employer. 935

(B) Ten per cent of the money paid into the state insurance 936
fund shall be set aside for the creation of a surplus until the 937
surplus amounts to the sum of one hundred thousand dollars, after 938
which time, whenever necessary in the judgment of the 939
administrator to guarantee a solvent state insurance fund, a sum 940
not exceeding five per cent of all the money paid into the state 941
insurance fund shall be credited to the surplus fund. A revision 942
of basic rates shall be made annually on the first day of July. 943

Notwithstanding any provision of the law to the contrary, one 944
hundred eighty days after the effective date on which 945
self-insuring employers first may elect under division (D) of 946
section 4121.66 of the Revised Code to directly pay for 947
rehabilitation expenses, the administrator shall calculate the 948
deficit, if any, in the portion of surplus fund that is used for 949
reimbursement to self-insuring employers for all expenses other 950
than handicapped reimbursement under section 4123.343 of the 951
Revised Code. The administrator, from time to time, may determine 952

whether the surplus fund has such a deficit and may assess all 953
self-insuring employers who participated in the portion of the 954
surplus fund during the accrual of the deficit and who during that 955
time period have not made the election under division (D) of 956
section 4121.66 of the Revised Code the amount the administrator 957
determines necessary to reduce the deficit. 958

Revisions of basic rates shall be in accordance with the 959
oldest four of the last five calendar years of the combined 960
accident and occupational disease experience of the administrator 961
in the administration of this chapter, as shown by the accounts 962
kept as provided in this section, excluding the experience of 963
employers that are no longer active if the administrator 964
determines that the inclusion of those employers would have a 965
significant negative impact on the remainder of the employers in a 966
particular manual classification; and the administrator shall 967
adopt rules, with the advice and consent of the board, governing 968
rate revisions, the object of which shall be to make an equitable 969
distribution of losses among the several classes of occupation or 970
industry, which rules shall be general in their application. 971

(C) The administrator may apply that form of rating system 972
that the administrator finds is best calculated to merit rate or 973
individually rate the risk more equitably, predicated upon the 974
basis of its individual industrial accident and occupational 975
disease experience, and may encourage and stimulate accident 976
prevention. The administrator shall develop fixed and equitable 977
rules controlling the rating system, which rules shall conserve to 978
each risk the basic principles of workers' compensation insurance. 979

(D) The administrator, from the money paid into the state 980
insurance fund, shall set aside into an account of the state 981
insurance fund titled a premium payment security fund sufficient 982
money to pay for any premiums due from an employer and uncollected 983
that are in excess of the employer's premium security deposit. 984

The fund shall be in the custody of the treasurer of state. 985
The administrator may invest the surplus and reserve belonging to 986
the fund in accordance with section 4123.44 of the Revised Code. 987
All investment earnings of the fund shall be deposited in the 988
fund. Disbursements from the fund shall be made by the bureau of 989
workers' compensation upon order of the administrator to the state 990
insurance fund. The use of the moneys held by the premium payment 991
security fund is restricted to reimbursement to the state 992
insurance fund of premiums due and uncollected in excess of an 993
employer's premium security deposit. The moneys constituting the 994
premium payment security fund shall be maintained without regard 995
to or reliance upon any other fund. This section does not prevent 996
the deposit or investment of the premium payment security fund 997
with any other fund created by this chapter, but the premium 998
payment security fund is separate and distinct for every other 999
purpose and a strict accounting thereof shall be maintained. 1000

(E) The administrator may grant discounts on premium rates 1001
for employers who meet either of the following requirements: 1002

(1) Have not incurred a compensable injury for one year or 1003
more and who maintain an employee safety committee or similar 1004
organization or make periodic safety inspections of the workplace. 1005

(2) Successfully complete a loss prevention program 1006
prescribed by the superintendent of the division of safety and 1007
hygiene and conducted by the division or by any other person 1008
approved by the superintendent. 1009

(F)(1) In determining the premium rates for the construction 1010
industry the administrator shall calculate the employers' premiums 1011
based upon the actual remuneration construction industry employees 1012
receive from construction industry employers, provided that the 1013
amount of remuneration the administrator uses in calculating the 1014
premiums shall not exceed an average weekly wage equal to one 1015
hundred fifty per cent of the statewide average weekly wage as 1016

defined in division (C) of section 4123.62 of the Revised Code. 1017

(2) Division (F)(1) of this section shall not be construed as 1018
affecting the manner in which benefits to a claimant are awarded 1019
under this chapter. 1020

(3) As used in division (F) of this section, "construction 1021
industry" includes any activity performed in connection with the 1022
erection, alteration, repair, replacement, renovation, 1023
installation, or demolition of any building, structure, highway, 1024
or bridge. 1025

Sec. 4123.351. (A) The administrator of workers' compensation 1026
shall require every self-insuring employer to pay a contribution, 1027
calculated under this section, to the self-insuring employers' 1028
guaranty fund established pursuant to this section. The fund shall 1029
provide for payment of compensation and benefits to employees of 1030
the self-insuring employer in order to cover any default in 1031
payment by that employer. 1032

(B) The bureau of workers' compensation shall operate the 1033
self-insuring employers' guaranty fund for self-insuring 1034
employers. The administrator annually shall establish the 1035
contributions due from self-insuring employers for the fund at 1036
rates as low as possible but such as will assure sufficient moneys 1037
to guarantee the payment of any claims against the fund. The 1038
bureau's operation of the fund is not subject to sections 3929.10 1039
to 3929.18 of the Revised Code or to regulation by the 1040
superintendent of insurance. 1041

(C) If a self-insuring employer defaults, the bureau shall 1042
recover the amounts paid as a result of the default from the 1043
self-insuring employers' guaranty fund. If a self-insuring 1044
employer defaults and is in compliance with this section for the 1045
payment of contributions to the fund, such self-insuring employer 1046
is entitled to the immunity conferred by section 4123.74 of the 1047

Revised Code for any claim arising during any period the employer 1048
is in compliance with this section. 1049

(D)(1) There is hereby established a self-insuring employers' 1050
guaranty fund, which shall be in the custody of the treasurer of 1051
state and which shall be separate from the other funds established 1052
and administered pursuant to this chapter. The fund shall consist 1053
of contributions and other payments made by self-insuring 1054
employers under this section. All investment earnings of the fund 1055
shall be credited to the fund. The bureau shall make disbursements 1056
from the fund pursuant to this section. 1057

(2) The administrator ~~has the same powers to~~ may invest ~~any~~ 1058
~~of~~ the surplus ~~or~~ and reserve belonging to the fund ~~as are~~ 1059
~~delegated to the administrator under~~ in accordance with section 1060
4123.44 of the Revised Code ~~with respect to the state insurance~~ 1061
~~fund~~. The administrator shall apply interest earned solely to the 1062
reduction of assessments for contributions from self-insuring 1063
employers and to the payments required due to defaults. 1064

(3) If the bureau of workers' compensation board of directors 1065
determines that reinsurance of the risks of the fund is necessary 1066
to assure solvency of the fund, the board may: 1067

(a) Enter into contracts for the purchase of reinsurance 1068
coverage of the risks of the fund with any company or agency 1069
authorized by law to issue contracts of reinsurance; 1070

(b) Require the administrator to pay the cost of reinsurance 1071
from the fund; 1072

(c) Include the costs of reinsurance as a liability and 1073
estimated liability of the fund. 1074

(E) The administrator, with the advice and consent of the 1075
board, may adopt rules pursuant to Chapter 119. of the Revised 1076
Code for the implementation of this section, including a rule, 1077
notwithstanding division (C) of this section, requiring 1078

self-insuring employers to provide security in addition to the 1079
contribution to the self-insuring employers' guaranty fund 1080
required by this section. The additional security required by the 1081
rule, as the administrator determines appropriate, shall be 1082
sufficient and adequate to provide for financial assurance to meet 1083
the obligations of self-insuring employers under this chapter and 1084
Chapter 4121. of the Revised Code. 1085

(F) The purchase of coverage under this section by 1086
self-insuring employers is valid notwithstanding the prohibitions 1087
contained in division (A) of section 4123.82 of the Revised Code 1088
and is in addition to the indemnity contracts that self-insuring 1089
employers may purchase pursuant to division (B) of section 4123.82 1090
of the Revised Code. 1091

(G) The administrator, on behalf of the self-insuring 1092
employers' guaranty fund, has the rights of reimbursement and 1093
subrogation and shall collect from a defaulting self-insuring 1094
employer or other liable person all amounts the administrator has 1095
paid or reasonably expects to pay from the fund on account of the 1096
defaulting self-insuring employer. 1097

(H) The assessments for contributions, the administration of 1098
the self-insuring employers' guaranty fund, the investment of the 1099
money in the fund, and the payment of liabilities incurred by the 1100
fund do not create any liability upon the state. 1101

Except for a gross abuse of discretion, neither the board, 1102
nor the individual members thereof, nor the administrator shall 1103
incur any obligation or liability respecting the assessments for 1104
contributions, the administration of the self-insuring employers' 1105
guaranty fund, the investment of the fund, or the payment of 1106
liabilities therefrom. 1107

Sec. 4123.412. For the relief of persons who are permanently 1108
and totally disabled as the result of injury or disease sustained 1109

in the course of their employment and who are receiving workers' 1110
compensation which is payable to them by virtue of and under the 1111
laws of this state in amounts, the total of which, when combined 1112
with disability benefits received pursuant to the Social Security 1113
Act is less than three hundred forty-two dollars per month 1114
adjusted annually as provided in division (B) of section 4123.62 1115
of the Revised Code, there is hereby created a separate fund to be 1116
known as the disabled workers' relief fund, which fund shall 1117
consist of the sums that are from time to time appropriated by the 1118
general assembly and made available to the order of the bureau of 1119
workers' compensation to carry out the objects and purposes of 1120
sections 4123.412 to 4123.418 of the Revised Code. The fund shall 1121
be in the custody of the treasurer of the state. The administrator 1122
may invest the surplus and reserve belonging to the fund in 1123
accordance with section 4123.44 of the Revised Code. Disbursements 1124
from the fund shall be made by the bureau to those persons 1125
entitled to participate therein and in amounts to each participant 1126
as is provided in section 4123.414 of the Revised Code. All 1127
investment earnings of the fund shall be credited to the fund. 1128

1129

Sec. 4123.44. The members of the bureau of workers' 1130
compensation board of directors, the administrator of workers' 1131
compensation, and the bureau of workers' compensation chief 1132
investment officer are the trustees of the ~~state insurance fund~~ 1133
bureau of workers' compensation custodial funds. The 1134
administrator, in accordance with sections 4121.126 and 4121.127 1135
of the Revised Code and the investment policy approved by the 1136
board pursuant to section 4121.12 of the Revised Code, and in 1137
consultation with the bureau of workers' compensation chief 1138
investment officer, may invest any of the surplus or reserve 1139
belonging to each of the ~~state insurance fund~~ bureau of workers' 1140
compensation custodial funds in the classes of investments 1141

specified in section 4123.443 of the Revised Code. The 1142
administrator and the bureau of workers' compensation chief 1143
investment officer shall not deviate from the investment policy 1144
approved by the board without the approval of the workers' 1145
compensation investment committee and the board. 1146

~~The administrator shall not invest in any type of investment 1147
specified in divisions (B)(1) to (10) of section 4123.442 of the 1148
Revised Code.~~ 1149

~~The administrator and other fiduciaries shall discharge their 1150
duties with respect to the funds with the care, skill, prudence, 1151
and diligence under the circumstances then prevailing that a 1152
prudent person acting in a like capacity and familiar with such 1153
matters would use in the conduct of an enterprise of a like 1154
character and with like aims, and by diversifying the investments 1155
of the assets of the funds so as to minimize the risk of large 1156
losses, unless under the circumstances it is clearly prudent not 1157
to do so.~~ 1158

~~To facilitate investment of the funds, the administrator may 1159
establish a partnership, trust, limited liability company, 1160
corporation, including a corporation exempt from taxation under 1161
the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as 1162
amended, or any other legal entity authorized to transact business 1163
in this state.~~ 1164

When reporting on the performance of investments, the 1165
administrator shall comply with the performance presentation 1166
standards established by the association for investment management 1167
and research. 1168

All investments shall be purchased at current market prices 1169
and the evidences of title to the investments shall be placed in 1170
the custody of the treasurer of state, who is hereby designated as 1171
custodian, or in the custody of the treasurer of state's 1172

authorized agent. Evidences of title of the investments so 1173
purchased may be deposited by the treasurer of state for 1174
safekeeping with an authorized agent selected by the treasurer of 1175
state who is a qualified trustee under section 135.18 of the 1176
Revised Code. The treasurer of state or the agent shall collect 1177
the principal, dividends, distributions, and interest as they 1178
become due and payable and place them when collected into the 1179
state insurance appropriate bureau of workers' compensation 1180
custodial fund. 1181

The treasurer of state shall pay for investments purchased by 1182
the administrator on receipt of written or electronic instructions 1183
from the administrator or the administrator's designated agent 1184
authorizing the purchase, and pending receipt of the evidence of 1185
title of the investment by the treasurer of state or the treasurer 1186
of state's authorized agent. The administrator may sell 1187
investments held by the administrator, and the treasurer of state 1188
or the treasurer of state's authorized agent shall accept payment 1189
from the purchaser and deliver evidence of title of the investment 1190
to the purchaser, on receipt of written or electronic instructions 1191
from the administrator or the administrator's designated agent 1192
authorizing the sale, and pending receipt of the moneys for the 1193
investments. The amount received shall be placed in the ~~state~~ 1194
insurance appropriate bureau of workers' compensation custodial 1195
fund. The administrator and the treasurer of state may enter into 1196
agreements to establish procedures for the purchase and sale of 1197
investments under this division and the custody of the 1198
investments. 1199

No purchase or sale of any investment shall be made under 1200
this section, except as authorized by the administrator. 1201

Any statement of financial position distributed by the 1202
administrator shall include the fair value, as of the statement 1203
date, of all investments held by the administrator under this 1204

section. 1205

~~When in the judgment of the administrator it is necessary to 1206
provide available funds for the payment of compensation or 1207
benefits under this chapter, the administrator may borrow money 1208
from any available source and pledge as security a sufficient 1209
amount of bonds or other securities in which the state insurance 1210
fund is invested. The aggregate unpaid amount of loans existing at 1211
any one time for money so borrowed shall not exceed ten million 1212
dollars. The bonds or other securities so pledged as security for 1213
such loans to the administrator shall be the sole security for the 1214
payment of the principal and interest of any such loan. The 1215
administrator shall not be personally liable for the payment of 1216
the principal or the interest of any such loan. No such loan shall 1217
be made for a longer period of time than one year. Such loans may 1218
be renewed but no one renewal shall be for a period in excess of 1219
one year. Such loans shall bear such rate of interest as the 1220
administrator determines and in negotiating the loans, the 1221
administrator shall endeavor to secure as favorable interest rates 1222
and terms as circumstances will permit. 1223~~

~~The treasurer of state may deliver to the person or 1224
governmental agency making such loan, the bonds or other 1225
securities which are to be pledged by the administrator as 1226
security for such loan, upon receipt by the treasurer of state of 1227
an order of the administrator authorizing such loan. Upon payment 1228
of any such loan by the administrator, the bonds or other 1229
securities pledged as security therefor shall be returned to the 1230
treasurer of state as custodian of such bonds. 1231~~

~~The administrator may pledge with the treasurer of state such 1232
amount of bonds or other securities in which the state insurance 1233
fund is invested as is reasonably necessary as security for any 1234
certificates issued, or paid out, by the treasurer of state upon 1235
any warrants drawn by the administrator. 1236~~

The administrator, subject to the approval of the board, may 1237
secure investment information services, consulting services, ~~and~~ 1238
or other like services to facilitate investment of the surplus and 1239
reserve belonging to each of the ~~state insurance fund~~ bureau of 1240
workers' compensation custodial funds and, subject to the approval 1241
of the board, may enter into a contract with an investment manager 1242
to have that manager invest the assets of those funds. The 1243
administrator shall pay the expense of securing such services from 1244
the state insurance fund. 1245

Sec. 4123.442. When developing the investment policy for the 1246
investment of the assets of the bureau of workers' compensation 1247
custodial funds specified in this chapter and Chapters 4121., 1248
4127., and 4131. of the Revised Code, the workers' compensation 1249
investment committee shall do all of the following: 1250

(A) Use only the classes of investments specified in section 1251
4123.443 of the Revised Code; 1252

(B) Specify the asset allocation targets and ranges, risk 1253
factors, asset class benchmarks, time horizons, total return 1254
objectives, and performance evaluation guidelines; 1255

~~(B) Prohibit investing the assets of those funds, directly or~~ 1256
~~indirectly, in vehicles that target any of the following:~~ 1257

~~(1) Coins;~~ 1258

~~(2) Artwork;~~ 1259

~~(3) Horses;~~ 1260

~~(4) Jewelry or gems;~~ 1261

~~(5) Stamps;~~ 1262

~~(6) Antiques;~~ 1263

~~(7) Artifacts;~~ 1264

~~(8) Collectibles;~~ 1265

(9) Memorabilia;	1266
(10) Similar unregulated investments that are not commonly	1267
part of an institutional portfolio, that lack liquidity, and that	1268
lack readily determinable valuation.	1269
(C) Specify that the administrator of workers' compensation	1270
may invest in an investment class only if the bureau of workers'	1271
compensation board of directors, by a majority vote, opens that	1272
class;	1273
(D) Prohibit investing the assets of those funds in any class	1274
of investments the board, by majority vote, closed, or any	1275
specific investment in which the board prohibits the administrator	1276
from investing;	1277
(E) <u>(D)</u> Not specify in the investment policy that the	1278
administrator or employees of the bureau of workers' compensation	1279
are prohibited from conducting business with an investment	1280
management <u>or consulting</u> firm, any investment management <u>or</u>	1281
<u>consulting</u> professional associated with that firm, any third party	1282
solicitor associated with that firm, or any political action	1283
committee controlled by that firm or controlled by an investment	1284
management <u>or consulting</u> professional of that firm based on	1285
criteria that are more restrictive than the restrictions described	1286
in divisions (Y) and (Z) of section 3517.13 of the Revised Code.	1287
	1288
<u>Sec. 4123.443. (A) The administrator of workers'</u>	1289
<u>compensation, in accordance with section 4123.44 of the Revised</u>	1290
<u>Code, may invest the surplus and reserve of each of the bureau of</u>	1291
<u>workers' compensation custodial funds in any of the following</u>	1292
<u>classes of investments:</u>	1293
<u>(1) Bonds and mortgages on unencumbered real estate within</u>	1294
<u>this or any other state worth twenty-five per cent more than the</u>	1295

sum loaned thereon, exclusive of buildings, unless such buildings 1296
are insured by some company authorized to do business in this 1297
state; 1298

(2) Bonds, notes, debentures, and other such obligations 1299
secured by mortgages insured by the federal housing administrator 1300
or the secretary of agriculture of the United States under Title I 1301
of "The Bankhead-Jones Farm Tenant Act" as amended; 1302

(3) Loans to veterans guaranteed in whole or in part by the 1303
United States pursuant to Title III of the "Servicemen's 1304
Readjustment Act of 1944," 58 Stat. 284, 38 U.S.C. 693, as 1305
amended, provided such guaranteed loans are liens upon real 1306
estate; 1307

(4) Legally authorized and executed bonds, notes, warrants, 1308
and securities that are the direct obligation of or are guaranteed 1309
as to both principal and interest by Canada, that are the direct 1310
obligation of or are guaranteed as to both principal and interest 1311
by any province of Canada, that are the direct obligation of or 1312
are guaranteed as to both principal and interest by any municipal 1313
corporation of Canada having a population of one hundred thousand 1314
or more by the latest official census, and that are not in default 1315
as to principal or interest; 1316

(5) Obligations issued, assumed, or guaranteed by the 1317
international finance corporation or by the international bank for 1318
reconstruction and development, the Asian development bank, the 1319
inter-American development bank, the African development bank, or 1320
similar development bank in which the president, as authorized by 1321
congress and on behalf of the United States, has accepted 1322
membership. 1323

(6) Bonds or other evidences of indebtedness, not in default 1324
as to principal or interest, that are valid obligations issued, 1325
assumed, or guaranteed by the United States or for which the faith 1326

of the United States is pledged to provide payment of the interest 1327
and principal, by any state thereof, by the Commonwealth of Puerto 1328
Rico, by any territory or insular possession of the United States, 1329
or by the District of Columbia, or for which the faith of the 1330
state or the District of Columbia is pledged to provide payment of 1331
the interest and principal; 1332

(7) Bonds or other evidences of indebtedness, not in default 1333
as to principal or interest, that are valid obligations issued, 1334
assumed, or guaranteed by any county, municipal corporation, 1335
district, or political subdivision, or by any civil division or 1336
public instrumentality of such governmental units, if by statutory 1337
or other legal requirements such obligations are payable, as to 1338
both principal and interest, from taxes levied upon all taxable 1339
property within the jurisdiction of such governmental unit and if 1340
they are direct obligations of such a governmental unit, that unit 1341
has not defaulted for a period of more than one hundred twenty 1342
days in the payment of interest upon, or for a period of more than 1343
one year in the payment of principal of, any of its bonds, notes, 1344
warrants, securities, or other interest-bearing obligations, 1345
during the ten years immediately preceding the acquisition of such 1346
bonds, notes, warrants, securities, or other interest-bearing 1347
obligations; 1348

(8) Bonds or other obligations issued by or for account of 1349
any governmental unit specified in division (A)(7) of this section 1350
having a population of five thousand or more by the latest 1351
official federal or state census that are payable as to both 1352
principal and interest from revenues or earnings from the whole or 1353
any part of a publicly owned utility, provided that by statute or 1354
other applicable legal requirements, rates from the service or 1355
operation of such utility must be fixed, maintained, and collected 1356
at all times so as to produce sufficient revenues or earnings to 1357
pay both principal and interest of such bonds or obligations as 1358

they become due; 1359

(9) Any bonds or obligations issued or guaranteed by the 1360
United States, any state, the District of Columbia, the 1361
Commonwealth of Puerto Rico, any county, municipal corporation, 1362
district, political subdivision, civil division, commission, 1363
board, authority, agency, or other instrumentality of one or more 1364
of them, if all of the following apply: 1365

(a) There is a specific pledge of revenues, earnings, or 1366
other adequate security; 1367

(b) No prior or parity obligation of the same issuer, payable 1368
from revenues or earnings from the same source, has been in 1369
default as to principal or interest during the five years next 1370
preceding the date of such investment, but such issuer need not 1371
have been in existence for that period, and obligations acquired 1372
under this division may be newly issued; 1373

(c) There is adequate provision for payment of expenses of 1374
operation and maintenance and the principal and interest on all 1375
obligations when due. 1376

(10) Any bonds issued by or for federal land banks and any 1377
debentures issued by or for federal intermediate credit banks 1378
under the act of congress known as the "Federal Farm Loan Act of 1379
1916," 39 Stat. 360, 12 U.S.C.A. 641 and amendment thereto; 1380

(11) Any debentures issued by or for banks for cooperatives 1381
under the act of congress known as the "Farm Credit Act of 1933," 1382
48 Stat. 257, 12 U.S.C.A. 131 and amendments thereto; 1383

(12) Bonds issued under the "Home Owners' Loan Act of 1933," 1384
48 Stat. 128, 12 U.S.C.A. 1461; 1385

(13) The stock of a national bank located in this state, 1386
organized under an act of congress entitled "An act to provide a 1387
national currency, secured by the pledge of United States stocks, 1388

and to provide for the circulation and redemption thereof," 1389
approved February 25, 1863, and acts amendatory thereof and 1390
supplementary thereto; 1391

(14) First mortgage bonds of railroads upon which default in 1392
the payment of the interest coupons has not been made within three 1393
years prior to the purchase thereof by the administrator; 1394

(15) Legally authorized and executed bonds, notes, warrants, 1395
and other interest-bearing securities of any school district, 1396
water district, road district; or any special district of any 1397
state or of the District of Columbia, if both of the following 1398
apply: 1399

(a) Such school district, water district, road district, or 1400
special district has been created by legislative action and is 1401
empowered to levy taxes on all taxable property in such district 1402
for the payment of such bonds, notes, warrants, and other 1403
interest-bearing securities. 1404

(b) Such school district, water district, road district, or 1405
special district has not defaulted for a period of more than one 1406
hundred twenty days in the payment of interest upon, or for a 1407
period of more than one year in the payment of principal of, its 1408
bonds, notes, warrants, and other interest-bearing securities, 1409
during the ten years immediately preceding the acquisition of such 1410
bonds, notes, warrants, and other interest-bearing securities. 1411

(16) Any securities described in section 77r-1 of the 1412
"Secondary Mortgage Market Enhancement Act of 1984," 98 Stat. 1413
1689, 15 U.S.C.A. 77r-1, subject to all of the limitations 1414
prescribed in divisions (B)(6) to (9) of this section for 1415
investments not guaranteed by the full faith and credit of the 1416
United States. 1417

(17) Notwithstanding division (A)(16) of this section, any of 1418
the following securities: 1419

<u>(a) Securities offered and sold pursuant to 15 U.S.C.A.</u>	1420
<u>section 77d(5);</u>	1421
<u>(b) Mortgage related securities described in 15 U.S.C.A.</u>	1422
<u>section 78c(a)(41);</u>	1423
<u>(c) Securities issued or guaranteed by the federal home loan</u>	1424
<u>mortgage corporation or the federal national mortgage association.</u>	1425
<u>(18) Bonds or other evidences of indebtedness, bearing or</u>	1426
<u>accruing interest, issued, assumed, or guaranteed by any solvent</u>	1427
<u>corporation, trust, partnership, or similar business entity</u>	1428
<u>organized and existing under the laws of this or any other state,</u>	1429
<u>or of the United States, the Commonwealth of Puerto Rico, or of</u>	1430
<u>the District of Columbia, or of Canada or any province of Canada,</u>	1431
<u>upon which there is no existing interest or principal default,</u>	1432
<u>provided that the bonds or other evidences of indebtedness are</u>	1433
<u>rated by at least one of the following:</u>	1434
<u>(a) Moody's service;</u>	1435
<u>(b) Standard and Poor's;</u>	1436
<u>(c) Fitch ratings.</u>	1437
<u>(19) Stocks or limited liability company membership interests</u>	1438
<u>of any insurance, financial, investment, or investment management</u>	1439
<u>companies if the investment management companies are registered</u>	1440
<u>with the securities and exchange commission under the "Investment</u>	1441
<u>Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1, as amended;</u>	1442
<u>(20) Other stocks of any solvent corporation organized under</u>	1443
<u>the laws of this or any other state, or of the United States, the</u>	1444
<u>District of Columbia, Canada, or any province of Canada;</u>	1445
<u>(21) Tangible personal property or interests in that property</u>	1446
<u>for the production of income, provided that the amount of assets</u>	1447
<u>of the bureau of workers' compensation custodial fund that is</u>	1448
<u>invested in such property or interests does not exceed two per</u>	1449

cent of the admitted assets of that fund; 1450

(22) In equipment trust obligations or certificates, security 1451
agreements, or other evidences of indebtedness entered into or 1452
guaranteed by any company operating wholly or partly within the 1453
United States or Canada, if that debt obligation is secured by a 1454
first lien on tangible personal property that is purchased or 1455
secured for payment thereof and that debt obligation is repayable 1456
within twenty years from the date of issue in annual, semiannual, 1457
or more frequent installments beginning not later than the first 1458
year after that date; 1459

(23) Government money market funds and money market funds 1460
that have received the highest credit ratings for money market 1461
funds offered by either Standard and Poor's or Moody's service; 1462

(24) Negotiable promissory notes maturing in not more than 1463
six months from the date the note is issued, secured by collateral 1464
security through the transfer of any of the classes of securities 1465
described in this section, with absolute power of sale within 1466
twenty days after default in payment at maturity; 1467

(25) Repurchase agreements with and interest-bearing 1468
obligations of, including savings accounts and time certificates 1469
of deposit of a national bank of the United States, a commonwealth 1470
bank of Puerto Rico, a chartered bank of Canada, or a state bank, 1471
provided such bank is either a member of the federal deposit 1472
insurance corporation created pursuant to the "Banking Act of 1473
1933," as amended, or the Canada deposit insurance corporation 1474
created pursuant to the act of parliament known as the "Canada 1475
Deposit Insurance Corporation Act," as amended; 1476

(26) Certificates of deposit, savings share accounts, 1477
investment share accounts, stock deposits, stock certificates, or 1478
other evidences of indebtedness of a savings and loan association, 1479
provided all such evidences of indebtedness are insured pursuant 1480

to the "Financial Institutions Reform, Recovery, and Enforcement Act of 1989," 103 Stat. 183, 12 U.S.C.A. 1811, as amended; 1481
1482

(27) Bankers' acceptances and bills of exchange of the kinds and maturities made eligible by law for rediscount with the federal reserve banks, provided that the same are accepted by a bank or trust company incorporated under the laws of the United States or of this state or any other bank or trust company which is a member of the federal reserve system; 1483
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(28) Except as provided in division (A) of section 4123.444 of the Revised Code, any of the following: 1489
1490

(a) Bonds, notes, debentures, or other evidences of indebtedness issued, assumed, or guaranteed by a solvent corporation, trust, or partnership formed or existing under the laws of a foreign jurisdiction, provided each such foreign investment is of the same kind and quality as United States investments authorized under this section; 1491
1492
1493
1494
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1496

(b) Common or preferred stock or shares of any solvent corporation formed or existing under the laws of a foreign jurisdiction, provided each such foreign investment is of the same kind and quality as United States investments authorized under this section; 1497
1498
1499
1500
1501

(c) Bonds or other evidences of indebtedness issued, assumed, or guaranteed by a foreign jurisdiction. 1502
1503

(29) Except as provided in division (B) of section 4123.444 of the Revised Code, investments denominated in foreign currency regardless of whether they are foreign investments; 1504
1505
1506

(30) Any securities or other property not otherwise permitted under this section, provided that the total amount of the assets of an individual bureau of workers' compensation custodial fund that is invested in those investments does not exceed, in the aggregate, six per cent of the total admitted assets of that fund 1507
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1509
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and provided that those investments are made within the 1512
limitations prescribed in division (C) of section 4123.444 of the 1513
Revised Code; 1514

(31) Within the limitations prescribed in division (C) of 1515
section 4123.444 of the Revised Code, loans or investments in 1516
small businesses having more than half of their assets or 1517
employees in this state and venture capital firms having an office 1518
within this state, provided that, as a condition of the 1519
administrator making an investment in a venture capital firm, the 1520
firm must agree to use its best efforts to make investments, in an 1521
aggregate amount at least equal to the investment to be made by 1522
the administrator in that venture capital firm, in small 1523
businesses having their principal offices within this state and 1524
having either more than one-half of their assets within this state 1525
or more than one-half of their employees employed within this 1526
state, and provided that the amount of assets of a bureau of 1527
workers' compensation custodial fund that is invested in such 1528
investments does not exceed five per cent of the total admitted 1529
assets of that fund. 1530

(B) For purposes of this section and section 4123.444 of the 1531
Revised Code, the admitted assets of an individual bureau of 1532
workers' compensation custodial fund shall be calculated as of the 1533
thirty-first day of December immediately preceding the date the 1534
value of the applicable fund is determined. 1535

(C) As used in this section and section 4123.444 of the 1536
Revised Code: 1537

(1) "Foreign currency" means a currency other than that of 1538
the United States. 1539

(2) "Foreign jurisdiction" means a jurisdiction outside the 1540
United States, Puerto Rico, or Canada whose bonds are rated 1 by 1541
the securities valuation office of the national association of 1542

insurance commissioners. 1543

(3) "Government money market fund" means a fund that at all 1544
times invests in obligations issued, guaranteed, or insured by the 1545
federal government of the United States or collateralized 1546
repurchase agreements comprised of such obligations, and that 1547
qualifies for investment without a reserve pursuant to the 1548
purposes and procedures of the securities valuation office of the 1549
national association of insurance commissioners. 1550

(4) "Small businesses" means any corporation, partnership, 1551
proprietorship, or other entity that either does not have more 1552
than four hundred employees, or would qualify as a small business 1553
for the purpose of receiving financial assistance from small 1554
business investment companies licensed under the "Small Business 1555
Investment Act of 1958," 72 Stat. 689, 15 U.S.C.A. 661, as 1556
amended, and rules of the small business administration. 1557

(5) "Venture capital firm" means any corporation, 1558
partnership, proprietorship, or other entity, the principal 1559
business of which is or will be the making of investments in small 1560
businesses. 1561

(D) As used in division (A)(31) of this section, 1562
"investments" means any equity investment, including limited 1563
partnership interests and other equity interests in which 1564
liability is limited to the amount of the investment, but does not 1565
include general partnership interests or other interests involving 1566
general liability. 1567

Sec. 4123.444. (A) The administrator shall not invest the 1568
assets of an individual bureau of workers' compensation custodial 1569
fund in foreign investments under division (A)(28) of section 1570
4123.443 of the Revised Code, including investments denominated in 1571
foreign currency, in a sum exceeding in the aggregate fifteen per 1572
cent of the admitted assets of that fund. The aggregate amount of 1573

the assets of a bureau of workers' compensation custodial fund 1574
that is invested in a single foreign jurisdiction shall not exceed 1575
three per cent of the admitted assets of the surplus and reserve 1576
of that fund. 1577

(B) The administrator shall not invest the assets of an 1578
individual bureau of workers' compensation custodial fund in 1579
investments denominated in foreign currency in a sum exceeding in 1580
the aggregate ten per cent of the admitted assets of that fund. 1581
The aggregate amount of the assets of a bureau of workers' 1582
compensation custodial fund that is invested in investments 1583
denominated in a single foreign currency shall not exceed three 1584
per cent of the admitted assets of that fund. 1585

(C) The administrator shall not, at any time, invest the 1586
assets of an individual bureau of workers' compensation custodial 1587
fund in a sum exceeding five per cent of the admitted assets of 1588
that fund in the bonds, notes, debentures, other evidences of 1589
indebtedness, and stocks of a particular corporation, trust, 1590
partnership, or similar business entity and shall not, at any 1591
time, own directly or indirectly more than twenty-five per cent of 1592
the outstanding bonds, notes, debentures, other evidences of 1593
indebtedness, and stocks of any corporation. 1594

(D) In the event that, subsequent to being made under 1595
division (A)(31) of section 4123.443 of the Revised Code, a loan 1596
or investment is determined to have become qualified as a loan or 1597
investment under any of the divisions (A)(1) to (A)(25) of that 1598
section, the administrator may consider such loan or investment as 1599
held under those divisions and such loan or investment shall no 1600
longer be considered as having been made under division (A)(31) of 1601
that section. 1602

(E) The administrator shall not own more than one-fourth of 1603
the capital stock of a national bank, shall not invest the assets 1604

of an individual bureau of workers' compensation custodial fund in 1605
the stocks and bonds of any railroad company or loan on any such 1606
stocks and bonds held in that fund in an amount that exceeds 1607
one-fifth of the surplus and reserve of that fund, and shall not 1608
invest the assets of an individual bureau of workers' compensation 1609
custodial fund in railroad property or loan on such property held 1610
in that fund in an amount that exceeds, in the aggregate, 1611
one-fourth of the surplus and reserve of that fund. 1612

The amount of assets of a bureau of workers' compensation 1613
custodial fund invested in real estate in accordance with section 1614
4123.443 of the Revised Code shall not exceed at any one time, ten 1615
per cent of the assets of the surplus and reserve of that fund. 1616
The amount of assets of a bureau of workers' compensation 1617
custodial fund invested in any one real estate investment shall 1618
not exceed at any one time, two per cent of the assets of the 1619
surplus and reserve of that fund. Nothing in this division 1620
authorizes the administrator to use an investment in real estate 1621
primarily for recreational, agricultural, or mining purposes. 1622

Sec. ~~4123.444~~ 4123.445. (A) As used in this section and 1623
section ~~4123.445~~ 4123.446 of the Revised Code: 1624

(1) ~~"Bureau of workers' compensation funds" means any fund~~ 1625
~~specified in Chapter 4121., 4123., 4127., or 4131. of the Revised~~ 1626
~~Code that the administrator of workers' compensation has the~~ 1627
~~authority to invest, in accordance with the administrator's~~ 1628
~~investment authority under section 4123.44 of the Revised Code.~~ 1629

~~(2)~~ "Investment manager" means any person with whom the 1630
administrator ~~of workers' compensation~~ contracts pursuant to 1631
section 4123.44 of the Revised Code to facilitate the investment 1632
of assets of bureau of workers' compensation custodial funds. 1633

~~(3)~~(2) "Business entity" means any person with whom an 1634
investment manager contracts for the investment of assets of 1635

bureau of workers' compensation custodial funds. 1636

~~(4)~~(3) "Financial or investment crime" means any criminal 1637
offense involving theft, receiving stolen property, embezzlement, 1638
forgery, fraud, passing bad checks, money laundering, drug 1639
trafficking, or any criminal offense involving money or 1640
securities, as set forth in Chapters 2909., 2911., 2913., 2915., 1641
2921., 2923., and 2925. of the Revised Code or other law of this 1642
state, or the laws of any other state or the United States that 1643
are substantially equivalent to those offenses. 1644

(4) "Investment consultant" means any person with whom the 1645
administrator contracts pursuant to section 4123.44 of the Revised 1646
Code to obtain the person's advice and opinions in order to 1647
facilitate the investment of assets of bureau of workers' 1648
compensation custodial funds. 1649

(B)(1) Before entering into a contract with an investment 1650
manager to invest bureau of workers' compensation custodial funds, 1651
the administrator shall do both of the following: 1652

(a) Request from any investment manager with whom the 1653
administrator wishes to contract for those investments a list of 1654
all employees who will be investing assets of bureau of workers' 1655
compensation custodial funds. The list shall specify each 1656
employee's state of residence for the five years prior to the date 1657
of the administrator's request. 1658

(b) Request that the superintendent of the bureau of criminal 1659
investigation and identification conduct a criminal records check 1660
in accordance with this section and section 109.579 of the Revised 1661
Code with respect to every employee the investment manager names 1662
in that list. 1663

(2) After an investment manager enters into a contract with 1664
the administrator to invest bureau of workers' compensation 1665
custodial funds and before an investment manager enters into a 1666

contract with a business entity to facilitate those investments, 1667
the investment manager shall request from any business entity with 1668
whom the investment manager wishes to contract to make those 1669
investments a list of all employees who will be investing assets 1670
of the bureau of workers' compensation custodial funds. The list 1671
shall specify each employee's state of residence for the five 1672
years prior to the investment manager's request. The investment 1673
manager shall forward to the administrator the list received from 1674
the business entity. The administrator shall request the 1675
superintendent to conduct a criminal records check in accordance 1676
with this section and section 109.579 of the Revised Code with 1677
respect to every employee the business entity names in that list. 1678
Upon receipt of the results of the criminal records check, the 1679
administrator shall advise the investment manager whether the 1680
results were favorable or unfavorable. 1681

(3) If, after a contract has been entered into between the 1682
administrator and an investment manager or between an investment 1683
manager and a business entity for the investment of assets of 1684
bureau of workers' compensation custodial funds, the investment 1685
manager or business entity wishes to have an employee who was not 1686
the subject of a criminal records check under division (B)(1) or 1687
(B)(2) of this section invest assets of the bureau of workers' 1688
compensation custodial funds, that employee shall be the subject 1689
of a criminal records check pursuant to this section and section 1690
109.579 of the Revised Code prior to handling the investment of 1691
assets of those funds. The investment manager shall submit to the 1692
administrator the name of that employee along with the employee's 1693
state of residence for the five years prior to the date in which 1694
the administrator requests the criminal records check. The 1695
administrator shall request that the superintendent conduct a 1696
criminal records check on that employee pursuant to this section 1697
and section 109.579 of the Revised Code. 1698

(4) Before entering into a contract with an investment consultant regarding the investment of bureau of workers' compensation custodial funds, the administrator shall do both of the following: 1699
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(a) Request from any investment consultant with whom the administrator wishes to contract a list of all employees who will be providing advice and opinions regarding the investment of the assets of bureau of workers' compensation custodial funds. The list shall specify each employee's state of residence for the five years prior to the date of the administrator's request. 1703
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(b) Request that the superintendent of the bureau of criminal investigation and identification conduct a criminal records check in accordance with this section and section 109.579 of the Revised Code with respect to every employee the investment consultant names in that list. 1709
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(5) If, after a contract has been entered into between the administrator and an investment consultant, the investment consultant wishes to have an employee who was not the subject of a criminal records check under division (B)(4) of this section provide advice and opinions regarding the investment of the assets of the bureau of workers' compensation custodial funds, that employee shall be the subject of a criminal records check pursuant to this section and section 109.579 of the Revised Code prior to providing advice and opinions regarding the investment of assets of those funds. The investment consultant shall submit to the administrator the name of that employee along with the employee's state of residence for the five years prior to the date in which the administrator requests the criminal records check. The administrator shall request that the superintendent conduct a criminal records check on that employee pursuant to this section and section 109.579 of the Revised Code. 1714
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(C)(1) If an employee who is the subject of a criminal 1730

records check pursuant to division (B) of this section has not 1731
been a resident of this state for the five-year period immediately 1732
prior to the time the criminal records check is requested or does 1733
not provide evidence that within that five-year period the 1734
superintendent has requested information about the employee from 1735
the federal bureau of investigation in a criminal records check, 1736
the administrator shall request that the superintendent obtain 1737
information from the federal bureau of investigation as a part of 1738
the criminal records check for the employee. If the employee has 1739
been a resident of this state for at least that five-year period, 1740
the administrator may, but is not required to, request that the 1741
superintendent request and include in the criminal records check 1742
information about that employee from the federal bureau of 1743
investigation. 1744

(2) The administrator shall provide to an investment manager 1745
or consultant a copy of the form prescribed pursuant to division 1746
(C)(1) of section 109.579 of the Revised Code and a standard 1747
impression sheet for each employee for whom a criminal records 1748
check must be performed, to obtain fingerprint impressions as 1749
prescribed pursuant to division (C)(2) of section 109.579 of the 1750
Revised Code. ~~The~~ An investment manager shall obtain the completed 1751
form and impression sheet either directly from each employee or 1752
from a business entity and shall forward the completed form and 1753
sheet to the administrator, who shall forward these forms and 1754
sheets to the superintendent. An investment consultant shall 1755
obtain the completed form and impression sheet directly from each 1756
employee and shall forward the completed form and sheet to the 1757
administrator, who shall forward these forms and sheets to the 1758
superintendent. 1759

(3) Any employee who receives a copy of the form and the 1760
impression sheet pursuant to division (C)(2) of this section and 1761
who is requested to complete the form and provide a set of 1762

fingerprint impressions shall complete the form or provide all the 1763
information necessary to complete the form and shall complete the 1764
impression sheets in the manner prescribed in division (C)(2) of 1765
section 109.579 of the Revised Code. 1766

(D) For each criminal records check the administrator 1767
requests under this section, at the time the administrator makes a 1768
request the administrator shall pay to the superintendent the fee 1769
the superintendent prescribes pursuant to division (E) of section 1770
109.579 of the Revised Code. 1771

Sec. ~~4123.445~~ 4123.446. (A) The administrator of workers' 1772
compensation shall not enter into a contract with an investment 1773
manager for the investment of assets of the bureau of workers' 1774
compensation custodial funds if any employee of that investment 1775
manager who will be investing assets of bureau of workers' 1776
compensation custodial funds has been convicted of or pleaded 1777
guilty to a financial or investment crime. 1778

(B) An investment manager who has entered into a contract 1779
with the bureau of workers' compensation for the investment of 1780
assets of bureau of workers' compensation custodial funds shall 1781
not contract with a business entity for the investment of those 1782
assets if any employee of that business manager who will be 1783
investing assets of bureau of workers' compensation custodial 1784
funds has been convicted of or pleaded guilty to a financial or 1785
investment crime. 1786

(C) The administrator shall not enter into a contract with an 1787
investment consultant if any employee of that investment 1788
consultant who will be providing advice and opinions regarding the 1789
investment of the assets of bureau of workers' compensation 1790
custodial funds has been convicted of or pleaded guilty to a 1791
financial or investment crime. 1792

(D) The administrator shall not enter into a contract with an 1793

investment manager or consultant who refuses to submit the list of 1794
the investment manager's or consultant's employees required under 1795
division (B) of section ~~4123.444~~ 4123.445 of the Revised Code. An 1796
investment manager shall not enter into a contract with a business 1797
entity who refuses to submit the list of the business entity's 1798
employees required under division (B) of section ~~4123.444~~ 4123.445 1799
of the Revised Code. 1800

~~(D)~~(E) If, after a contract has been awarded to an investment 1801
manager ~~or~~, business entity ~~for the investment of assets of bureau~~ 1802
~~of workers' compensation funds, or an investment consultant,~~ the 1803
investment manager ~~or~~, business entity, or investment consultant 1804
discovers that an employee who is handling the investment of those 1805
assets, or an employee who is providing advice and opinions 1806
regarding the investment of those assets, as applicable, has been 1807
convicted of or pleaded guilty to a financial or investment crime, 1808
the investment manager ~~or~~, business entity, or investment 1809
consultant immediately shall notify the administrator. 1810

Sec. 4123.447. When in the judgment of the administrator of 1811
workers' compensation it is necessary to provide available funds 1812
for the payment of compensation or benefits under this chapter or 1813
Chapter 4121., 4127., or 4131. of the Revised Code, the 1814
administrator may borrow money from any available source, deposit 1815
the money received in the bureau of workers' compensation 1816
custodial fund from which such compensation and benefits are paid, 1817
and pledge as security a sufficient amount of bonds or other 1818
securities in which the assets of that fund are invested. The 1819
aggregate unpaid amount of loans existing at any one time for 1820
money so borrowed shall not exceed ten million dollars. The bonds 1821
or other securities so pledged as security for such loans to the 1822
administrator shall be the sole security for the payment of the 1823
principal and interest of any such loan. The administrator shall 1824
not be personally liable for the payment of the principal or the 1825

interest of any such loan. No such loan shall be made for a longer 1826
period of time than one year. Such loans may be renewed but no one 1827
renewal shall be for a period in excess of one year. Such loans 1828
shall bear such rate of interest as the administrator determines 1829
and in negotiating the loans, the administrator shall endeavor to 1830
secure as favorable interest rates and terms as circumstances will 1831
permit. 1832

The treasurer of state may deliver to the person or 1833
governmental agency making such loan, the bonds or other 1834
securities which are to be pledged by the administrator as 1835
security for such loan, upon receipt by the treasurer of state of 1836
an order of the administrator authorizing such loan. Upon payment 1837
of any such loan by the administrator, the bonds or other 1838
securities pledged as security therefor shall be returned to the 1839
treasurer of state as custodian of such bonds. 1840

The administrator may pledge with the treasurer of state such 1841
amount of bonds or other securities in which the assets of the 1842
particular bureau of workers' compensation custodial fund are 1843
invested as is reasonably necessary as security for any 1844
certificates issued, or paid out, by the treasurer of state upon 1845
any warrants drawn by the administrator. 1846

Sec. ~~4123.443~~ 4123.448. Rental payments by the bureau of 1847
workers' compensation or the industrial commission to or for the 1848
benefit of the state insurance fund for each building owned by the 1849
bureau that was constructed or acquired as an investment in 1850
productive real estate, shall be made pursuant to a lease 1851
agreement for a term that shall not exceed two years. Beginning 1852
July 1, 1991, the rental payments to be made under each such lease 1853
agreement shall include the amount needed to amortize the 1854
construction or acquisition costs for the building over a period 1855
not to exceed twenty-five years, and, until such costs are 1856

amortized, an amount representing return on investment to the 1857
state insurance fund determined by multiplying the unamortized 1858
acquisition or construction costs of the building by a rate that 1859
is not more than three per cent below the rate determined by the 1860
tax commissioner under division (B) of section 5703.47 of the 1861
Revised Code. 1862

Sec. 4127.05. The premiums⁷ collected under this chapter 1863
shall be paid into a separate fund to be known as the "public 1864
work-relief employees' compensation fund," and all compensation, 1865
death benefits, and expenses for medical, nurse, and hospital 1866
services, medicine, and funerals, shall be paid out of the fund. 1867

Such premiums shall be collected, the moneys of the fund 1868
disbursed and the fund maintained, without regard to or reliance 1869
upon any other fund mentioned in Chapter 4123. of the Revised 1870
Code. 1871

This section shall not prevent the deposit or investment of 1872
the moneys of the public work-relief employees' compensation fund 1873
with the moneys of the state insurance fund provided for in 1874
Chapter 4123. of the Revised Code, but such funds shall be 1875
separate for all other purposes. 1876

The administrator of workers' compensation may invest the 1877
surplus and reserve belonging to the fund in accordance with 1878
section 4123.44 of the Revised Code. 1879

Sec. 4131.03. (A) For the relief of persons who are entitled 1880
to receive benefits by virtue of the federal act, there is hereby 1881
established a coal-workers pneumoconiosis fund, which shall be 1882
separate from the funds established and administered pursuant to 1883
Chapter 4123. of the Revised Code. The fund shall consist of 1884
premiums and other payments thereto by subscribers who elect to 1885
subscribe to the fund to insure the payment of benefits required 1886

by the federal act. 1887

(B) The coal-workers pneumoconiosis fund shall be in the 1888
custody of the treasurer of state. The bureau of workers' 1889
compensation shall make disbursements from the fund to those 1890
persons entitled to payment therefrom and in the amounts required 1891
pursuant to sections 4131.01 to 4131.06 of the Revised Code. All 1892
investment earnings of the fund shall be credited to the fund. 1893

(C) The administrator of workers' compensation ~~shall have the~~ 1894
~~same powers to~~ may invest ~~any of~~ the surplus ~~or~~ and reserve 1895
belonging to the coal-workers pneumoconiosis fund as ~~are delegated~~ 1896
~~to him under~~ in accordance with section 4123.44 of the Revised 1897
Code ~~with respect to the state insurance fund.~~ 1898

(D) If the administrator determines that reinsurance of the 1899
risks of the coal-workers pneumoconiosis fund is necessary to 1900
assure solvency of the fund, ~~he~~ the administrator may: 1901

(1) Enter into contracts for the purchase of reinsurance 1902
coverage of the risks of the fund with any company or agency 1903
authorized by law to issue contracts of reinsurance; 1904

(2) Pay the cost of reinsurance from the fund; 1905

(3) Include the costs of reinsurance as a liability and 1906
estimated liability of the fund. 1907

Sec. 4131.13. (A) For the relief of persons who are entitled 1908
to receive benefits by virtue of the federal act, there is hereby 1909
established a marine industry fund, which shall be separate from 1910
the funds established and administered pursuant to Chapter 4123. 1911
of the Revised Code. The marine industry fund shall consist of 1912
premiums and other payments thereto by marine industry employers 1913
who apply to the bureau of workers' compensation for permission to 1914
subscribe to the fund to insure the payment of benefits required 1915
by the federal act. 1916

By rule, the administrator of workers' compensation shall 1917
establish criteria for the acceptance or rejection of applications 1918
by marine industry employers who apply to subscribe to the fund. 1919

(B) The marine industry fund shall be in the custody of the 1920
treasurer of state. The bureau shall make disbursements from the 1921
fund to those persons entitled to payment therefrom and in the 1922
amounts required pursuant to the federal act. The auditor of state 1923
annually shall complete a fiscal audit of the fund. All investment 1924
earnings of the fund shall be credited to the fund. 1925

(C) The administrator ~~shall have the same powers to~~ may 1926
~~invest any of the surplus or and~~ reserve belonging to the marine 1927
industry fund ~~as are delegated to him under~~ in accordance with 1928
section 4123.44 of the Revised Code ~~with respect to the state~~ 1929
~~insurance fund.~~ 1930

(D) If the bureau of workers' compensation board of directors 1931
determines that reinsurance of the risks of the marine industry 1932
fund is necessary to assure solvency of the fund, the board may: 1933

(1) Enter into contracts for the purchase of reinsurance 1934
coverage of the risks of the fund with any company or agency 1935
authorized by law to issue contracts of reinsurance; 1936

(2) Require the administrator to pay the cost of reinsurance 1937
from the fund; 1938

(3) Include the costs of reinsurance as a liability and 1939
estimated liability of the fund. 1940

(E) For the purpose of maintaining the solvency of the marine 1941
industry fund, the administrator may borrow money from the state 1942
insurance fund as is necessary. Money borrowed from the state 1943
insurance fund shall be repaid from the marine industry fund 1944
together with an appropriate interest rate not to exceed the 1945
average yield of fixed income investments of the state insurance 1946
fund for the six-month period ended on the last day of the month 1947

preceding the month in which the money is borrowed. Loans made 1948
pursuant to this division are a proper investment of the surplus 1949
or reserve of the state insurance fund. 1950

(F) In no event shall any of the assets of any of the funds 1951
created and administered pursuant to Chapter 4123. of the Revised 1952
Code be disbursed in payment of any cost or obligation of or 1953
insured by the marine industry fund. This division shall not be 1954
construed to prohibit as a proper investment loans made from the 1955
state insurance fund to the marine industry fund pursuant to 1956
division (E) of this section. 1957

Section 2. That existing sections 109.579, 4121.12, 4121.121, 1958
4123.01, 4123.34, 4123.351, 4123.412, 4123.44, 4123.442, 4123.443, 1959
4123.444, 4123.445, 4127.05, 4131.03, and 4131.13 of the Revised 1960
Code are hereby repealed. 1961

Section 3. The Bureau of Workers' Compensation Board of 1962
Directors shall approve an investment policy that meets the 1963
requirements of sections 4121.12 and 4123.442 of the Revised Code, 1964
as amended by this act, no later than ninety days after the 1965
effective date of this act. The investment policy in existence on 1966
the effective date of this act shall remain in effect until the 1967
Board approves the new investment policy. 1968

Section 4. This act applies to investments made on or after 1969
the effective date of the investment policy approved by the Bureau 1970
of Workers' Compensation Board of Directors pursuant to Section 3 1971
of this act. 1972