

As Reported by the Committee of Conference

128th General Assembly

Regular Session

2009-2010

Am. Sub. H. B. No. 15

Representative Sykes

**Cosponsors: Representatives Dodd, Bolon, Boyd, DeBose, Domenick, Dyer,
Foley, Harris, Koziura, Letson, Luckie, Mallory, Moran, Stewart, Szollosi,
Ujvagi, Weddington, Williams, B., Williams, S., Yates, Yuko
Senators Buehrer, Faber, Gibbs, Grendell, Niehaus, Harris**

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A B I L L

To amend sections 121.52, 4121.12, 4121.125, 4121.62, 1
4121.70, 4121.75, 4123.29, 4123.34, 4123.35, and 2
4123.82 of the Revised Code and to amend Section 3
512.45 of Am. Sub. H.B. 100 of the 127th General 4
Assembly to create the Deputy Inspector General 5
for the Bureau of Workers' Compensation and 6
Industrial Commission Fund; to create the 7
Competitive Workers' Compensation Task Force; to 8
make other changes to the Workers' Compensation 9
Law; to make appropriations for the Bureau of 10
Workers' Compensation and for the Workers' 11
Compensation Council for the biennium beginning 12
July 1, 2009, and ending June 30, 2011; and to 13
provide authorization and conditions for the 14
operation of the Bureau's and the Council's 15
programs. 16

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

Section 101. That sections 121.52, 4121.12, 4121.125, 17

4121.62, 4121.70, 4121.75, 4123.29, and 4123.34, 4123.35, and 18
4123.82 of the Revised Code be amended to read as follows: 19

Sec. 121.52. There is hereby created in the office of the 20
inspector general the office of deputy inspector general for the 21
bureau of workers' compensation and industrial commission. The 22
inspector general shall appoint the deputy inspector general, and 23
the deputy inspector general shall serve at the pleasure of the 24
inspector general. A person employed as the deputy inspector 25
general shall have the same qualifications as those specified in 26
section 121.49 of the Revised Code for the inspector general. The 27
inspector general shall provide professional and clerical 28
assistance to the deputy inspector general. 29

The deputy inspector general for the bureau of workers' 30
compensation and the industrial commission shall investigate 31
wrongful acts or omissions that have been committed by or are 32
being committed by officers or employees of the bureau of workers' 33
compensation and the industrial commission. The deputy inspector 34
general has the same powers and duties regarding matters 35
concerning the bureau and the commission as those specified in 36
sections 121.42, 121.43, and 121.45 of the Revised Code for the 37
inspector general. Complaints may be filed with the deputy 38
inspector general in the same manner as prescribed for complaints 39
filed with the inspector general under section 121.46 of the 40
Revised Code. All investigations conducted and reports issued by 41
the deputy inspector general are subject to section 121.44 of the 42
Revised Code. 43

There is hereby created in the state treasury the deputy 44
inspector general for the bureau of workers' compensation and 45
industrial commission fund, which shall consist of moneys 46
deposited into it that the inspector general receives from the 47
administrator of workers' compensation and receives from the 48

industrial commission in accordance with this section. The 49
inspector general shall use the fund to pay the costs incurred by 50
the deputy inspector general in performing the duties of the 51
deputy inspector general as required under this section. 52

The members of the industrial commission, bureau of workers' 53
compensation board of directors, workers' compensation audit 54
committee, workers' compensation actuarial committee, and workers' 55
compensation investment committee, and the administrator of 56
~~workers' compensation~~, and employees of the industrial commission 57
and the bureau shall cooperate with and provide assistance to the 58
deputy inspector general in the performance of any investigation 59
conducted by the deputy inspector general. In particular, those 60
persons shall make their premises, equipment, personnel, books, 61
records, and papers readily available to the deputy inspector 62
general. In the course of an investigation, the deputy inspector 63
general may question any person employed by the industrial 64
commission or the administrator and any person transacting 65
business with the industrial commission, the board, the audit 66
committee, the actuarial committee, the investment committee, the 67
administrator, or the bureau and may inspect and copy any books, 68
records, or papers in the possession of those persons or entities, 69
taking care to preserve the confidentiality of information 70
contained in responses to questions or the books, records, or 71
papers that are made confidential by law. 72

In performing any investigation, the deputy inspector general 73
shall avoid interfering with the ongoing operations of the 74
entities being investigated, except insofar as is reasonably 75
necessary to successfully complete the investigation. 76

At the conclusion of an investigation conducted by the deputy 77
inspector general for the bureau of workers' compensation and 78
industrial commission, the deputy inspector general shall deliver 79
to the board, the administrator, the industrial commission, and 80

the governor any case for which remedial action is necessary. The 81
deputy inspector general shall maintain a public record of the 82
activities of the office of the deputy inspector general to the 83
extent permitted under this section, ensuring that the rights of 84
the parties involved in each case are protected. The inspector 85
general shall include in the annual report required under section 86
121.48 of the Revised Code a summary of the activities of the 87
deputy inspector general during the previous year. 88

No person shall disclose any information that is designated 89
as confidential in accordance with section 121.44 of the Revised 90
Code or any confidential information that is acquired in the 91
course of an investigation conducted under this section ~~121.53~~ of 92
~~the Revised Code~~ to any person who is not legally entitled to 93
disclosure of that information. 94

Sec. 4121.12. (A) There is hereby created the bureau of 95
workers' compensation board of directors consisting of eleven 96
members to be appointed by the governor with the advice and 97
consent of the senate. One member shall be an individual who, on 98
account of the individual's previous vocation, employment, or 99
affiliations, can be classed as a representative of employees; two 100
members shall be individuals who, on account of their previous 101
vocation, employment, or affiliations, can be classed as 102
representatives of employee organizations and at least one of 103
these two individuals shall be a member of the executive committee 104
of the largest statewide labor federation; three members shall be 105
individuals who, on account of their previous vocation, 106
employment, or affiliations, can be classed as representatives of 107
employers, one of whom represents self-insuring employers, one of 108
whom is a state fund employer who employs one hundred or more 109
employees, and one of whom is a state fund employer who employs 110
less than one hundred employees; two members shall be individuals 111
who, on account of their vocation, employment, or affiliations, 112

can be classed as investment and securities experts who have 113
direct experience in the management, analysis, supervision, or 114
investment of assets and are residents of this state; one member 115
who shall be a certified public accountant; one member who shall 116
be an actuary who is a member in good standing with the American 117
academy of actuaries or who is an associate or fellow with the 118
society of actuaries; and one member shall represent the public 119
and also be an individual who, on account of the individual's 120
previous vocation, employment, or affiliations, cannot be classed 121
as either predominantly representative of employees or of 122
employers. The governor shall select the chairperson of the board 123
who shall serve as chairperson at the pleasure of the governor. 124

None of the members of the board, within one year immediately 125
preceding the member's appointment, shall have been employed by 126
the bureau of workers' compensation or by any person, partnership, 127
or corporation that has provided to the bureau services of a 128
financial or investment nature, including the management, 129
analysis, supervision, or investment of assets. 130

(B) Of the initial appointments made to the board, the 131
governor shall appoint the member who represents employees, one 132
member who represents employers, and the member who represents the 133
public to a term ending one year after ~~the effective date of this~~ 134
~~amendment~~ June 11, 2007; one member who represents employers, one 135
member who represents employee organizations, one member who is an 136
investment and securities expert, and the member who is a 137
certified public accountant to a term ending two years after ~~the~~ 138
~~effective date of this amendment~~ June 11, 2007; and one member who 139
represents employers, one member who represents employee 140
organizations, one member who is an investment and securities 141
expert, and the member who is an actuary to a term ending three 142
years after ~~the effective date of this amendment~~ June 11, 2007. 143
Thereafter, terms of office shall be for three years, with each 144

term ending on the same day of the same month as did the term that 145
it succeeds. Each member shall hold office from the date of the 146
member's appointment until the end of the term for which the 147
member was appointed. 148

Members may be reappointed. Any member appointed to fill a 149
vacancy occurring prior to the expiration date of the term for 150
which the member's predecessor was appointed shall hold office as 151
a member for the remainder of that term. A member shall continue 152
in office subsequent to the expiration date of the member's term 153
until a successor takes office or until a period of sixty days has 154
elapsed, whichever occurs first. 155

(C) In making appointments to the board, the governor shall 156
select the members from the list of names submitted by the 157
workers' compensation board of directors nominating committee 158
pursuant to this division. The nominating committee shall submit 159
to the governor a list containing four separate names for each of 160
the members on the board. Within fourteen days after the 161
submission of the list, the governor shall appoint individuals 162
from the list. 163

~~Within sixty~~ At least thirty days after prior to a vacancy 164
occurring as a result of the expiration of a term and within 165
thirty days after other vacancies occurring on the board, the 166
nominating committee shall submit an initial list containing four 167
names for each vacancy. Within fourteen days after the submission 168
of the initial list, the governor either shall appoint individuals 169
from that list or request the nominating committee to submit 170
another list of four names for each member the governor has not 171
appointed from the initial list, which list the nominating 172
committee shall submit to the governor within fourteen days after 173
the governor's request. The governor then shall appoint, within 174
seven days after the submission of the second list, one of the 175
individuals from either list to fill the vacancy for which the 176

governor has not made an appointment from the initial list. If the 177
governor appoints an individual to fill a vacancy occurring as a 178
result of the expiration of a term, the individual appointed shall 179
begin serving as a member of the board when the term for which the 180
individual's predecessor was appointed expires or immediately upon 181
appointment by the governor, whichever occurs later. With respect 182
to the filling of vacancies, the nominating committee shall 183
provide the governor with a list of four individuals who are, in 184
the judgment of the nominating committee, the most fully qualified 185
to accede to membership on the board. 186

In order for the name of an individual to be submitted to the 187
governor under this division, the nominating committee shall 188
approve the individual by an affirmative vote of a majority of its 189
members. 190
191

(D) All members of the board shall receive their reasonable 192
and necessary expenses pursuant to section 126.31 of the Revised 193
Code while engaged in the performance of their duties as members 194
and also shall receive an annual salary not to exceed sixty 195
thousand dollars in total, payable on the following basis: 196

(1) Except as provided in division (D)(2) of this section, a 197
member shall receive two thousand five hundred dollars during a 198
month in which the member attends one or more meetings of the 199
board and shall receive no payment during a month in which the 200
member attends no meeting of the board. 201

(2) A member may receive no more than thirty thousand dollars 202
per year to compensate the member for attending meetings of the 203
board, regardless of the number of meetings held by the board 204
during a year or the number of meetings in excess of twelve within 205
a year that the member attends. 206

(3) Except as provided in division (D)(4) of this section, if 207

a member serves on the workers' compensation audit committee, 208
workers' compensation actuarial committee, or the workers' 209
compensation investment committee, the member shall receive two 210
thousand five hundred dollars during a month in which the member 211
attends one or more meetings of the committee on which the member 212
serves and shall receive no payment during any month in which the 213
member attends no meeting of that committee. 214

(4) A member may receive no more than thirty thousand dollars 215
per year to compensate the member for attending meetings of any of 216
the committees specified in division (D)(3) of this section, 217
regardless of the number of meetings held by a committee during a 218
year or the number of committees on which a member serves. 219

The chairperson of the board shall set the meeting dates of 220
the board as necessary to perform the duties of the board under 221
this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of 222
the Revised Code. The board shall meet at least twelve times a 223
year. The administrator of workers' compensation shall provide 224
professional and clerical assistance to the board, as the board 225
considers appropriate. 226

(E) Before entering upon the duties of office, each appointed 227
member of the board shall take an oath of office as required by 228
sections 3.22 and 3.23 of the Revised Code and file in the office 229
of the secretary of state the bond required under section 4121.127 230
of the Revised Code. 231

(F) The board shall: 232

(1) Establish the overall administrative policy for the 233
bureau for the purposes of this chapter and Chapters 4123., 4125., 234
4127., 4131., and 4167. of the Revised Code; 235

(2) Review progress of the bureau in meeting its cost and 236
quality objectives and in complying with this chapter and Chapters 237
4123., 4125., 4127., 4131., and 4167. of the Revised Code; 238

(3) Submit an annual report to the president of the senate,	239
the speaker of the house of representatives, the governor, and the	240
workers' compensation council and include all of the following in	241
that report:	242
(a) An evaluation of the cost and quality objectives of the	243
bureau;	244
(b) A statement of the net assets available for the provision	245
of compensation and benefits under this chapter and Chapters	246
4123., 4127., and 4131. of the Revised Code as of the last day of	247
the fiscal year;	248
(c) A statement of any changes that occurred in the net	249
assets available, including employer premiums and net investment	250
income, for the provision of compensation and benefits and payment	251
of administrative expenses, between the first and last day of the	252
fiscal year immediately preceding the date of the report;	253
(d) The following information for each of the six consecutive	254
fiscal years occurring previous to the report:	255
(i) A schedule of the net assets available for compensation	256
and benefits;	257
(ii) The annual cost of the payment of compensation and	258
benefits;	259
(iii) Annual administrative expenses incurred;	260
(iv) Annual employer premiums allocated for the provision of	261
compensation and benefits.	262
(e) A description of any significant changes that occurred	263
during the six years for which the board provided the information	264
required under division (F)(3)(d) of this section that affect the	265
ability of the board to compare that information from year to	266
year.	267
(4) Review all independent financial audits of the bureau.	268

The administrator shall provide access to records of the bureau to facilitate the review required under this division.	269 270
(5) Study issues as requested by the administrator or the governor;	271 272
(6) Contract with all of the following:	273
(a) An independent actuarial firm to assist the board in making recommendations to the administrator regarding premium rates;	274 275 276
(b) An outside investment counsel to assist the workers' compensation investment committee in fulfilling its duties;	277 278
(c) An independent fiduciary counsel to assist the board in the performance of its duties.	279 280
(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.	281 282 283 284
(8) Review and publish the investment policy no less than annually and make copies available to interested parties.	285 286
(9) Prohibit, on a prospective basis, any specific investment it finds to be contrary to the investment policy approved by the board.	287 288 289
(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;	290 291 292
(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;	293 294 295 296 297
(12) Submit a report annually on the performance and value of	298

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, and the workers' compensation council.

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

(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;

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

(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;

(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.

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.

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

(15) 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;

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

compensation board of directors education program that consists of	329
all of the following:	330
(a) An orientation component for newly appointed members;	331
(b) A continuing education component for board members who have served for at least one year;	332 333
(c) A curriculum that includes education about each of the following topics:	334 335
(i) Board member duties and responsibilities;	336
(ii) Compensation and benefits paid pursuant to this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;	337 338
(iii) Ethics;	339
(iv) Governance processes and procedures;	340
(v) Actuarial soundness;	341
(vi) Investments;	342
(vii) Any other subject matter the board believes is reasonably related to the duties of a board member.	343 344
(17) Submit the program developed pursuant to division (F)(16) of this section to the workers' compensation council for approval;	345 346 347
(18) Hold all sessions, classes, and other events for the program developed pursuant to division (F)(16) of this section in this state.	348 349 350
(G) The board may do both of the following:	351
(1) Vote to close any investment class;	352
(2) Create 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	353 354 355 356

performing its duties. 357

(H) The office of a member of the board who is convicted of 358
or pleads guilty to a felony, a theft offense as defined in 359
section 2913.01 of the Revised Code, or a violation of section 360
102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 361
2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be 362
deemed vacant. The vacancy shall be filled in the same manner as 363
the original appointment. A person who has pleaded guilty to or 364
been convicted of an offense of that nature is ineligible to be a 365
member of the board. A member who receives a bill of indictment 366
for any of the offenses specified in this section shall be 367
automatically suspended from the board pending resolution of the 368
criminal matter. 369

(I) For the purposes of division (G)(1) of section 121.22 of 370
the Revised Code, the meeting between the governor and the board 371
to review the administrator's performance as required under 372
division (F)(15) of this section shall be considered a meeting 373
regarding the employment of the administrator. 374

Sec. 4121.125. (A) The bureau of workers' compensation board 375
of directors, based upon recommendations of the workers' 376
compensation actuarial committee, may contract with one or more 377
outside actuarial firms and other professional persons, as the 378
board determines necessary, to assist the board in measuring the 379
performance of Ohio's workers' compensation system and in 380
comparing Ohio's workers' compensation system to other state and 381
private workers' compensation systems. The board, actuarial firm 382
or firms, and professional persons shall make such measurements 383
and comparisons using accepted insurance industry standards, 384
including, but not limited to, standards promulgated by the 385
National Council on Compensation Insurance. 386

(B) The board may contract with one or more outside firms to 387

conduct management and financial audits of the workers' 388
compensation system, including audits of the reserve fund 389
belonging to the state insurance fund, and to establish objective 390
quality management principles and methods by which to review the 391
performance of the workers' compensation system. 392

(C) The board shall do all of the following: 393

(1) Contract to have prepared annually by or under the 394
supervision of an actuary a report that meets the requirements 395
specified under division (E) of this section and that consists of 396
an actuarial valuation of the assets, liabilities, and funding 397
requirements of the state insurance fund and all other funds 398
specified in this chapter and Chapters 4123., 4127., and 4131. of 399
the Revised Code; 400

(2) Require that the actuary or person supervised by an 401
actuary referred to in division (C)(1) of this section complete 402
the valuation in accordance with the actuarial standards of 403
practice promulgated by the actuarial standards board of the 404
American academy of actuaries; 405

(3) Submit the report referred to in division (C)(1) of this 406
section to the workers' compensation council and the standing 407
committees of the house of representatives and the senate with 408
primary responsibility for workers' compensation legislation ~~not~~ 409
~~later than~~ on or before the first day of ~~September~~ November 410
following the year for which the valuation was made; 411

(4) Have an actuary or a person who provides actuarial 412
services under the supervision of an actuary, at such time as the 413
board determines, and at least once during the five-year period 414
that commences on ~~the effective date of this amendment~~ September 415
10, 2007, and once within each five-year period thereafter, 416
conduct an actuarial investigation of the experience of employers, 417
the mortality, service, and injury rate of employees, and the 418

payment of temporary total disability, permanent partial 419
disability, and permanent total disability under sections 4123.56 420
to 4123.58 of the Revised Code to update the actuarial assumptions 421
used in the report required by division (C)(1) of this section; 422
423

(5) Submit the report required under division (F) of this 424
section to the council and the standing committees of the house of 425
representatives and the senate with primary responsibility for 426
workers' compensation legislation not later than the first day of 427
November following the fifth year of the period that the report 428
covers; 429

(6) Have prepared by or under the supervision of an actuary 430
an actuarial analysis of any introduced legislation expected to 431
have a measurable financial impact on the workers' compensation 432
system; 433

(7) Submit the report required under division (G) of this 434
section to the legislative service commission, the standing 435
committees of the house of representatives and the senate with 436
primary responsibility for workers' compensation legislation, and 437
the council not later than sixty days after the date of 438
introduction of the legislation. 439

(D) The administrator of workers' compensation and the 440
industrial commission shall compile information and provide access 441
to records of the bureau and the industrial commission to the 442
board to the extent necessary for fulfillment of both of the 443
following requirements: 444

(1) Conduct of the measurements and comparisons described in 445
division (A) of this section; 446

(2) Conduct of the management and financial audits and 447
establishment of the principles and methods described in division 448
(B) of this section. 449

(E) The firm or person with whom the board contracts pursuant to division (C)(1) of this section shall prepare a report of the valuation and submit the report to the board. The firm or person shall include all of the following information in the report that is required under division (C)(1) of this section:

(1) A summary of the compensation and benefit provisions evaluated;

(2) A summary of the census data and financial information used in the valuation;

(3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation;

(4) A summary of findings that includes a statement of the actuarial accrued compensation and benefit liabilities and unfunded actuarial accrued compensation and benefit liabilities;

(5) A schedule showing the effect of any changes in the compensation and benefit provisions, actuarial assumptions, or cost methods since the previous annual actuarial valuation report was submitted to the board.

(F) The actuary or person whom the board designates to conduct an actuarial investigation under division (C)(4) of this section shall prepare a report of the actuarial investigation and shall submit the report to the board. The actuary or person shall prepare the report and make any recommended changes in actuarial assumptions in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary or person shall include all of the following information in the report:

(1) A summary of relevant decrement and economic assumption experience;

(2) Recommended changes in actuarial assumptions to be used

in subsequent actuarial valuations required by division (C)(1) of 480
this section; 481

(3) A measurement of the financial effect of the recommended 482
changes in actuarial assumptions. 483

(G) The actuary or person whom the board designates to 484
conduct the actuarial analysis under division (C)(6) of this 485
section shall prepare a report of the actuarial analysis and shall 486
submit that report to the board. The actuary or person shall 487
complete the analysis in accordance with the actuarial standards 488
of practice promulgated by the actuarial standards board of the 489
American academy of actuaries. The actuary or person shall include 490
all of the following information in the report: 491

(1) A summary of the statutory changes being evaluated; 492

(2) A description of or reference to the actuarial 493
assumptions and actuarial cost method used in the report; 494

(3) A description of the participant group or groups included 495
in the report; 496

(4) A statement of the financial impact of the legislation, 497
including the resulting increase, if any, in employer premiums, in 498
actuarial accrued liabilities, and, if an increase in actuarial 499
accrued liabilities is predicted, the per cent of premium increase 500
that would be required to amortize the increase in those 501
liabilities as a level per cent of employer premiums over a period 502
not to exceed thirty years. 503

(5) A statement of whether the employer premiums paid to the 504
bureau of workers' compensation after the proposed change is 505
enacted are expected to be sufficient to satisfy the funding 506
objectives established by the board. 507

(H) The board may, at any time, request an actuary to make 508
any studies or actuarial valuations to determine the adequacy of 509

the premium rates established by the administrator in accordance 510
with sections 4123.29 and 4123.34 of the Revised Code, and may 511
adjust those rates as recommended by the actuary. 512

(I) The board shall have an independent auditor, at least 513
once every ten years, conduct a fiduciary performance audit of the 514
investment program of the bureau of workers' compensation. That 515
audit shall include an audit of the investment policies approved 516
by the board and investment procedures of the bureau. The board 517
shall submit a copy of that audit to the auditor of state. 518

(J) The administrator, with the advice and consent of the 519
board, shall employ an internal auditor who shall report findings 520
directly to the board, workers' compensation audit committee, and 521
administrator, except that the internal auditor shall not report 522
findings directly to the administrator when those findings involve 523
malfeasance, misfeasance, or nonfeasance on the part of the 524
administrator. The board and the workers' compensation audit 525
committee may request and review internal audits conducted by the 526
internal auditor. 527

(K) The administrator shall pay the expenses incurred by the 528
board to effectively fulfill its duties and exercise its powers 529
under this section as the administrator pays other operating 530
expenses of the bureau. 531

Sec. 4121.62. (A) The authority granted to the administrator 532
of workers' compensation pursuant to sections 4121.61 to 4121.69 533
of the Revised Code includes the authority to do all of the 534
following: 535

(1) Contract with any public or private person for the 536
rendition of rehabilitation services; 537

(2) Take actions and utilize money in the state insurance 538
fund as necessary to obtain federal funds and assistance in the 539

maximum amounts and most advantageous proportions and terms 540
possible; 541

(3) Conduct rehabilitation educational programs for employers 542
and employees; 543

~~(4) Establish within the bureau of workers' compensation a 544
rehabilitation division under the supervision of a director of 545
rehabilitation appointed by and responsible to the administrator. 546~~

~~(B) The director of the division established is in the 547
unclassified civil service of the state. The appointing authority 548
may designate up to three positions at each facility under the 549
jurisdiction of the division, and up to six positions in the 550
division which are part of the director's immediate staff as being 551
in the unclassified service of the state as long as the 552
administrator determines that the positions are primarily and 553
distinctively administrative, managerial, or professional. All 554
other full time employees of the division are in the classified 555
civil service. 556~~

~~(C) The administrator shall establish fees for use of 557
services offered by the division of rehabilitation, including, 558
without limitation, the expense of providing rehabilitation 559
services, counseling, and training. The administrator shall adopt 560
rules, in accordance with Chapter 119. of the Revised Code, which 561
establish the specific services the division offers and the amount 562
of the fee for those services, which amount shall be based upon 563
the actual cost of the division providing the services to the 564
employer and employee. 565~~

~~(D) Nothing in sections 4121.61 to 4121.69 of the Revised 566
Code shall be interpreted to grant authority to the administrator 567
to require a claimant to utilize a public provider of 568
rehabilitation services, counseling, or training. 569~~

Sec. 4121.70. (A) There is hereby created the 570
labor-management government advisory council consisting of ~~twelve~~ 571
fifteen members appointed as follows: 572

(1) The governor, with the advice and consent of the senate, 573
shall appoint three members who, by training and vocation, are 574
representative of labor and three members who, by training and 575
vocation, are representative of employers. 576

(2) Ex officio, the chairpersons of the standing committees 577
of the house of representatives and the senate to which 578
legislation concerned with workers' compensation is customarily 579
referred. A chairperson may designate the vice-chairperson of the 580
committee to serve instead. 581

(3) One person who by training and vocation represents labor 582
and one person who by training and vocation represents employers 583
of differing political parties appointed by the speaker of the 584
house of representatives. 585

(4) One person who by training and vocation represents labor 586
and one person who by training and vocation represents employers 587
of differing political parties appointed by the president of the 588
senate. 589

(5) One person who by training and vocation represents 590
nonprofit vocational rehabilitation services providers that 591
deliver services to injured workers, appointed by the speaker of 592
the house of representatives; 593

(6) One person who by training and vocation represents 594
nonprofit vocational rehabilitation services providers that 595
deliver services to injured workers, appointed by the president of 596
the senate; 597

(7) The governor, with the advice and consent of the senate, 598
shall appoint one member who, by training and vocation, represents 599

a nonprofit association of vocational rehabilitation services 600
providers that deliver services to injured workers. 601

(B) Members appointed by the governor shall serve for a term 602
of six years with each term ending on the same day of the year in 603
which the member was first appointed, except that each member 604
shall serve for a period of sixty additional days at the end of 605
the member's term or until the member's successor is appointed and 606
qualifies, whichever date occurs first. Of the members first 607
appointed to the council by the governor, one member each 608
representing labor and management shall serve an initial term of 609
two years, one member each representing labor and management shall 610
serve a term of four years, and the remaining two members shall 611
serve full six-year terms. The members initially appointed by the 612
speaker of the house of representatives and the president of the 613
senate shall serve a term of six years. Thereafter, members shall 614
be appointed to and serve full six-year terms. Members are 615
eligible for reappointment to any number of additional terms. 616

Legislative members shall serve a term that coincides with 617
the two-year legislative session in which they are first appointed 618
with each term ending on the thirty-first day of December of the 619
even-numbered year. Legislative members are eligible for 620
reappointment. 621

Vacancies on the council shall be filled in the same manner 622
as the original appointment. All members of the council shall 623
serve without additional compensation but shall be reimbursed by 624
the bureau of workers' compensation for actual and necessary 625
expenses. 626

The council shall advise the bureau of workers' compensation 627
board of directors and the administrator of workers' compensation 628
on the quality and effectiveness of rehabilitation services and 629
make recommendations pertaining to the bureau's rehabilitation 630
program, including the operation of that program. 631

~~The labor management government advisory council shall
recommend to the administrator three candidates for the position
of director of rehabilitation. The candidates shall be chosen for
their ability and background in the field of rehabilitation. The
administrator shall select a director from the list of candidates.~~

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

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

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

~~(3) Five members jointly appointed by the president of the
senate and the speaker of the house of representatives, not more
than three of whom shall be members of the same political party,
one of whom~~ One member, appointed by the speaker of the house of
representatives, who shall represent employers who employ one
hundred or more employees, one of whom;

(4) One member, appointed by the president of the senate,
shall represent employers who employ less than one hundred
employees, ~~one of whom;~~

(5) One member, appointed by the speaker of the house of

representatives, who shall represent employees, one of whom; 662

(6) One member, appointed by the president of the senate, who 663
shall represent injured workers, and one of whom; 664

(7) One member, who shall represent the public and also be an 665
individual who, on account of the individual's previous vocation, 666
employment, or affiliations, cannot be classed as either 667
predominantly representative of employees or of employers and who 668
the speaker of the house of representatives and the president of 669
the senate, shall alternate in the appointment of for a term. Of 670
these 671

(8) Of the five members appointed in divisions (A)(3), (4), 672
(5), (6), and (7) of this section, at least one shall be a person 673
with investment expertise. 674

(B) The council also shall consist of the chairperson of the 675
industrial commission and the administrator of workers' 676
compensation, who shall be nonvoting ex officio members of the 677
council. 678

(C) The president of the senate and the speaker of the house 679
of representatives shall make the initial appointments required 680
under divisions (A)(1) and (2) of this section not later than 681
thirty days after September 10, 2007. The members of the council 682
who are appointed from the membership of the senate and the house 683
of representatives shall serve during their terms as members of 684
the general assembly. Notwithstanding the adjournment of the 685
general assembly of which the member is a member or the expiration 686
of the member's term as a member of such general assembly, a 687
member shall continue in office subsequent to the expiration date 688
of the member's term on the council until the member's successor 689
takes office or until a period of sixty days has elapsed, 690
whichever occurs first. 691

(D) The president of the senate and the speaker of the house 692

of representatives shall make the initial appointments required 693
under division (A)(3) of this section not later than ninety days 694
after September 10, 2007. Of these initial appointments to the 695
council, one member shall be appointed for a term ending one year 696
after September 10, 2007, two members shall be appointed for terms 697
ending two years after September 10, 2007, and two members shall 698
be appointed for terms ending three years after September 10, 699
2007. Thereafter, terms shall be for three years, except for the 700
term of the member appointed under division (A)(7) of this section 701
who shall serve a term of two years, with each term ending on the 702
same day of the same month as did the term that it succeeds. Each 703
member appointed under ~~division~~ divisions (A)(3), (4), (5), (6), 704
and (7) of this section shall hold office from the date of 705
appointment until the end of the term for which the appointment 706
was made. Members may be reappointed. Any member appointed 707
pursuant to ~~division~~ divisions (A)(3), (4), (5), (6), and (7) of 708
this section to fill a vacancy occurring prior to the expiration 709
of the term for which the member's predecessor was appointed shall 710
hold office for the remainder of that term. Each member appointed 711
pursuant to ~~division~~ divisions (A)(3), (4), (5), (6), and (7) of 712
this section shall continue in office subsequent to the expiration 713
date of the member's term until the member's successor takes 714
office ~~or until a period of sixty days has elapsed, whichever~~ 715
~~occurs first.~~ 716

(E) Vacancies shall be filled in the manner prescribed for 717
original appointments. 718

Sec. 4123.29. (A) The administrator of workers' compensation, 719
subject to the approval of the bureau of workers' compensation 720
board of directors, shall do all of the following: 721

(1) Classify occupations or industries with respect to their 722
degree of hazard and determine the risks of the different classes 723

according to the categories the national council on compensation 724
insurance establishes that are applicable to employers in this 725
state; 726

(2)(a) Fix the rates of premium of the risks of the classes 727
based upon the total payroll in each of the classes of occupation 728
or industry sufficiently large to provide a fund for the 729
compensation provided for in this chapter and to maintain a state 730
insurance fund from year to year. The administrator shall set the 731
rates at a level that assures the solvency of the fund. Where the 732
payroll cannot be obtained or, in the opinion of the 733
administrator, is not an adequate measure for determining the 734
premium to be paid for the degree of hazard, the administrator may 735
determine the rates of premium upon such other basis, consistent 736
with insurance principles, as is equitable in view of the degree 737
of hazard, and whenever in this chapter reference is made to 738
payroll or expenditure of wages with reference to fixing premiums, 739
the reference shall be construed to have been made also to such 740
other basis for fixing the rates of premium as the administrator 741
may determine under this section. 742

(b) If an employer elects to obtain other-states' coverage 743
pursuant to section 4123.292 of the Revised Code through either 744
the administrator, if the administrator elects to offer such 745
coverage, or an other-states' insurer, calculate the employer's 746
premium for the state insurance fund in the same manner as 747
otherwise required under division (A) of this section and section 748
4123.34 of the Revised Code, except that when the administrator 749
determines the expenditure of wages, payroll, or both upon which 750
to base the employer's premium, the administrator shall use only 751
the expenditure of wages, payroll, or both attributable to the 752
labor performed and services provided by that employer's employees 753
when those employees performed labor and provided services in this 754
state only and to which the other-states' coverage does not apply. 755

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(c) The administrator in setting or revising rates shall 757
furnish to employers an adequate explanation of the basis for the 758
rates set. 759

(3) Develop and make available to employers who are paying 760
premiums to the state insurance fund alternative premium plans. 761
Alternative premium plans shall include retrospective rating 762
plans. The administrator may make available plans under which an 763
advanced deposit may be applied against a specified deductible 764
amount per claim. 765

(4)(a) Offer to insure the obligations of employers under 766
this chapter under a plan that groups, for rating purposes, 767
employers, and pools the risk of the employers within the group 768
provided that the employers meet all of the following conditions: 769

(i) All of the employers within the group are members of an 770
organization that has been in existence for at least two years 771
prior to the date of application for group coverage; 772

(ii) The organization was formed for purposes other than that 773
of obtaining group workers' compensation under this division; 774

(iii) The employers' business in the organization is 775
substantially similar such that the risks which are grouped are 776
substantially homogeneous; 777

(iv) The group of employers consists of at least one hundred 778
members or the aggregate workers' compensation premiums of the 779
members, as determined by the administrator, are expected to 780
exceed one hundred fifty thousand dollars during the coverage 781
period; 782

(v) The formation and operation of the group program in the 783
organization will substantially improve accident prevention and 784
claims handling for the employers in the group; 785

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

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

(c) In providing employer group plans under division (A)(4) of this section, the administrator shall consider an employer group as a single employing entity for purposes of group rating. No employer may be a member of more than one group for the purpose of obtaining workers' compensation coverage under this division.

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

(e) In providing employer group plans under division (A)(4) of this section, the administrator shall establish a program designed to mitigate the impact of a significant claim that would come into the experience of a private, state fund group-rated employer for the first time and be a contributing factor in that employer being excluded from a group-rated plan. The administrator shall establish eligibility criteria and requirements that such employers must satisfy in order to participate in this program.

For purposes of this program, the administrator shall establish a discount on premium rates applicable to employers who qualify for the program.

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

(g)(i) An employer that is merging operations with another employer shall notify the administrator of workers' compensation of the merger not more than thirty days after the merger takes effect.

(ii) If the administrator receives a notice from one or more employers of a merger of operations between those employers as described in division (A)(4)(f)(i) of this section, and if any employer involved in the merger participates in a group plan established under this section, the administrator shall provide a written notice to the organization that sponsors and the third party administrator that administers the group plan in which an employer who is involved in the merger participates informing that organization and the third party administrator about the merger.

(iii) The administrator shall comply with the notice requirements of division (A)(4)(f)(i) of this section relative to every employer that participates in a group plan that is involved in a merger about which the administrator receives a notice described in that division.

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

(5) Generally promote employer participation in the state insurance fund through the regular dissemination of information to

all classes of employers describing the advantages and benefits of 849
opting to make premium payments to the fund. To that end, the 850
administrator shall regularly make employers aware of the various 851
workers' compensation premium packages developed and offered 852
pursuant to this section. 853

(6) Make available to every employer who is paying premiums 854
to the state insurance fund a program whereby the employer or the 855
employer's agent pays to the claimant or on behalf of the claimant 856
the first fifteen thousand dollars of a compensable workers' 857
compensation medical-only claim filed by that claimant that is 858
related to the same injury or occupational disease. No formal 859
application is required; however, an employer must elect to 860
participate by telephoning the bureau after July 1, 1995. Once an 861
employer has elected to participate in the program, the employer 862
will be responsible for all bills in all medical-only claims with 863
a date of injury the same or later than the election date, unless 864
the employer notifies the bureau within fourteen days of receipt 865
of the notification of a claim being filed that it does not wish 866
to pay the bills in that claim, or the employer notifies the 867
bureau that the fifteen thousand dollar maximum has been paid, or 868
the employer notifies the bureau of the last day of service on 869
which it will be responsible for the bills in a particular 870
medical-only claim. If an employer elects to enter the program, 871
the administrator shall not reimburse the employer for such 872
amounts paid and shall not charge the first fifteen thousand 873
dollars of any medical-only claim paid by an employer to the 874
employer's experience or otherwise use it in merit rating or 875
determining the risks of any employer for the purpose of payment 876
of premiums under this chapter. A certified health care provider 877
shall extend to an employer who participates in this program the 878
same rates for services rendered to an employee of that employer 879
as the provider bills the administrator for the same type of 880
medical claim processed by the bureau and shall not charge, 881

assess, or otherwise attempt to collect from an employee any 882
amount for covered services or supplies that is in excess of that 883
rate. If an employer elects to enter the program and the employer 884
fails to pay a bill for a medical-only claim included in the 885
program, the employer shall be liable for that bill and the 886
employee for whom the employer failed to pay the bill shall not be 887
liable for that bill. The administrator shall adopt rules to 888
implement and administer division (A)(6) of this section. Upon 889
written request from the bureau, the employer shall provide 890
documentation to the bureau of all medical-only bills that they 891
are paying directly. Such requests from the bureau may not be made 892
more frequently than on a semiannual basis. Failure to provide 893
such documentation to the bureau within thirty days of receipt of 894
the request may result in the employer's forfeiture of 895
participation in the program for such injury. The provisions of 896
this section shall not apply to claims in which an employer with 897
knowledge of a claimed compensable injury or occupational disease, 898
has paid wages in lieu of compensation or total disability. 899

(B) The administrator shall supply an employer, at the time 900
the employer institutes coverage under this chapter and first 901
selects a managed care organization under the health partnership 902
program, with a list of all groups participating in the group 903
rating program created pursuant to this section and a list of all 904
premium discount programs offered by the administrator pursuant to 905
this chapter. 906

(C) The administrator, with the advice and consent of the 907
board, by rule, may do both of the following: 908

(1) Grant an employer who makes the employer's semiannual 909
premium payment at least one month prior to the last day on which 910
the payment may be made without penalty, a discount as the 911
administrator fixes from time to time; 912

(2) Levy a minimum annual administrative charge upon risks 913

where semiannual premium reports develop a charge less than the 914
administrator considers adequate to offset administrative costs of 915
processing. 916

(D) The administrator shall adopt a rule that sets an 917
estimated discount for programs or alternative premium plans not 918
later than the first day of September prior to the policy year in 919
which the premium rate is to be in effect and shall adopt a rule 920
that sets the actual discount for programs or alternative premium 921
plans not later than the first day of January of the year in which 922
the discount for programs or alternative premium plans is to be in 923
effect, except for the premium year starting July 1, 2010, in 924
which case the rule that sets the estimate shall not be adopted. 925

Sec. 4123.34. It shall be the duty of the bureau of workers' 926
compensation board of directors and the administrator of workers' 927
compensation to safeguard and maintain the solvency of the state 928
insurance fund and all other funds specified in this chapter and 929
Chapters 4121., 4127., and 4131. of the Revised Code. The 930
administrator, in the exercise of the powers and discretion 931
conferred upon the administrator in section 4123.29 of the Revised 932
Code, shall fix and maintain, with the advice and consent of the 933
board, for each class of occupation or industry, the lowest 934
possible rates of premium consistent with the maintenance of a 935
solvent state insurance fund and the creation and maintenance of a 936
reasonable surplus, after the payment of legitimate claims for 937
injury, occupational disease, and death that the administrator 938
authorizes to be paid from the state insurance fund for the 939
benefit of injured, diseased, and the dependents of killed 940
employees. In establishing rates, the administrator shall take 941
into account the necessity of ensuring sufficient money is set 942
aside in the premium payment security fund to cover any defaults 943
in premium obligations. The administrator shall observe all of the 944
following requirements in fixing the rates of premium for the 945

risks of occupations or industries: 946

(A) The administrator shall keep an accurate account of the 947
money paid in premiums by each of the several classes of 948
occupations or industries, and the losses on account of injuries, 949
occupational disease, and death of employees thereof, and also 950
keep an account of the money received from each individual 951
employer and the amount of losses incurred against the state 952
insurance fund on account of injuries, occupational disease, and 953
death of the employees of the employer. 954

(B) ~~Ten per cent~~ A portion of the money paid into the state 955
insurance fund shall be set aside for the creation of a surplus 956
~~until the surplus amounts to the sum of one hundred thousand~~ 957
~~dollars, after which time, whenever necessary in the judgment of~~ 958
~~the administrator to guarantee a solvent~~ fund account within the 959
state insurance fund, ~~a sum not exceeding five per cent of all the~~ 960
~~money paid into the state insurance fund shall be credited to the~~ 961
~~surplus fund.~~ Any references in this chapter or in Chapter 4121., 962
4125., 4127., or 4131. of the Revised Code to the surplus fund, 963
the surplus created in this division, the statutory surplus fund, 964
or the statutory surplus of the state insurance fund are hereby 965
deemed to be references to the surplus fund account. The 966
administrator may transfer the portion of the state insurance fund 967
to the surplus fund account as the administrator determines is 968
necessary to satisfy the needs of the surplus fund account and to 969
guarantee the solvency of the state insurance fund and the surplus 970
fund account. In addition to all statutory authority under this 971
chapter and Chapter 4121. of the Revised Code, the administrator 972
has discretionary and contingency authority to make charges to the 973
surplus fund account. The administrator shall account for all 974
charges, whether statutory, discretionary, or contingency, that 975
the administrator may make to the surplus fund account. A revision 976
of basic rates shall be made annually on the first day of July. 977

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Notwithstanding any provision of the law to the contrary, one
hundred eighty days after the effective date on which
self-insuring employers first may elect under division (D) of
section 4121.66 of the Revised Code to directly pay for
rehabilitation expenses, the administrator shall calculate the
deficit, if any, in the portion of the surplus fund account that
is used for reimbursement to self-insuring employers for all
expenses other than handicapped reimbursement under section
4123.343 of the Revised Code. The administrator, from time to
time, may determine whether the surplus fund account has such a
deficit and may assess all self-insuring employers who
participated in the portion of the surplus fund account during the
accrual of the deficit and who during that time period have not
made the election under division (D) of section 4121.66 of the
Revised Code the amount the administrator determines necessary to
reduce the deficit.

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

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(C) The administrator may apply that form of rating system
that the administrator finds is best calculated to merit rate or

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individually rate the risk more equitably, predicated upon the 1010
basis of its individual industrial accident and occupational 1011
disease experience, and may encourage and stimulate accident 1012
prevention. The administrator shall develop fixed and equitable 1013
rules controlling the rating system, which rules shall conserve to 1014
each risk the basic principles of workers' compensation insurance. 1015

(D) The administrator, from the money paid into the state 1016
insurance fund, shall set aside into an account of the state 1017
insurance fund titled a premium payment security fund sufficient 1018
money to pay for any premiums due from an employer and uncollected 1019
that are in excess of the employer's premium security deposit. 1020

The fund shall be in the custody of the treasurer of state. 1021
All investment earnings of the fund shall be deposited in the 1022
fund. Disbursements from the fund shall be made by the bureau of 1023
workers' compensation upon order of the administrator to the state 1024
insurance fund. The use of the moneys held by the premium payment 1025
security fund is restricted to reimbursement to the state 1026
insurance fund of premiums due and uncollected in excess of an 1027
employer's premium security deposit. The moneys constituting the 1028
premium payment security fund shall be maintained without regard 1029
to or reliance upon any other fund. This section does not prevent 1030
the deposit or investment of the premium payment security fund 1031
with any other fund created by this chapter, but the premium 1032
payment security fund is separate and distinct for every other 1033
purpose and a strict accounting thereof shall be maintained. 1034

(E) The administrator may grant discounts on premium rates 1035
for employers who meet either of the following requirements: 1036

(1) Have not incurred a compensable injury for one year or 1037
more and who maintain an employee safety committee or similar 1038
organization or make periodic safety inspections of the workplace. 1039

(2) Successfully complete a loss prevention program 1040

prescribed by the superintendent of the division of safety and 1041
hygiene and conducted by the division or by any other person 1042
approved by the superintendent. 1043

(F)(1) In determining the premium rates for the construction 1044
industry the administrator shall calculate the employers' premiums 1045
based upon the actual remuneration construction industry employees 1046
receive from construction industry employers, provided that the 1047
amount of remuneration the administrator uses in calculating the 1048
premiums shall not exceed an average weekly wage equal to one 1049
hundred fifty per cent of the statewide average weekly wage as 1050
defined in division (C) of section 4123.62 of the Revised Code. 1051

(2) Division (F)(1) of this section shall not be construed as 1052
affecting the manner in which benefits to a claimant are awarded 1053
under this chapter. 1054

(3) As used in division (F) of this section, "construction 1055
industry" includes any activity performed in connection with the 1056
erection, alteration, repair, replacement, renovation, 1057
installation, or demolition of any building, structure, highway, 1058
or bridge. 1059

(G) Commencing with the bureau of workers' compensation 1060
policy year beginning on July 1, 2010, the administrator shall 1061
offer a workplace safety program to all employers, whether or not 1062
the employers participate in a group as described in division 1063
(A)(4) of section 4123.29 of the Revised Code. The administrator 1064
shall provide any employer who participates in the workplace 1065
safety program a discount on the employer's premiums of not less 1066
than two per cent. 1067

(H) Commencing with the bureau of workers' compensation 1068
policy year beginning on July 1, 2010, the administrator shall 1069
offer a drug free workplace program to all employers, whether or 1070
not the employers participate in a group as described in division 1071

(A)(4) of section 4123.29 of the Revised Code. The administrator shall provide any employer who participates in the drug free workplace program a discount of not less than three per cent per year on the employer's premiums for each year the employer participates in the program.

(I) The administrator of workers' compensation shall not place a limit on the length of time that an employer may participate in the bureau of workers' compensation drug free workplace and workplace safety programs.

Sec. 4123.35. (A) Except as provided in this section, every employer mentioned in division (B)(2) of section 4123.01 of the Revised Code, and every publicly owned utility shall pay semiannually in the months of January and July into the state insurance fund the amount of annual premium the administrator of workers' compensation fixes for the employment or occupation of the employer, the amount of which premium to be paid by each employer to be determined by the classifications, rules, and rates made and published by the administrator. The employer shall pay semiannually a further sum of money into the state insurance fund as may be ascertained to be due from the employer by applying the rules of the administrator, and a receipt or certificate certifying that payment has been made, along with a written notice as is required in section 4123.54 of the Revised Code, shall be mailed immediately to the employer by the bureau of workers' compensation. The receipt or certificate is prima-facie evidence of the payment of the premium, and the proper posting of the notice constitutes the employer's compliance with the notice requirement mandated in section 4123.54 of the Revised Code.

The bureau of workers' compensation shall verify with the secretary of state the existence of all corporations and organizations making application for workers' compensation

coverage and shall require every such application to include the 1103
employer's federal identification number. 1104

An employer as defined in division (B)(2) of section 4123.01 1105
of the Revised Code who has contracted with a subcontractor is 1106
liable for the unpaid premium due from any subcontractor with 1107
respect to that part of the payroll of the subcontractor that is 1108
for work performed pursuant to the contract with the employer. 1109

Division (A) of this section providing for the payment of 1110
premiums semiannually does not apply to any employer who was a 1111
subscriber to the state insurance fund prior to January 1, 1914, 1112
or who may first become a subscriber to the fund in any month 1113
other than January or July. Instead, the semiannual premiums shall 1114
be paid by those employers from time to time upon the expiration 1115
of the respective periods for which payments into the fund have 1116
been made by them. 1117

The administrator shall adopt rules to permit employers to 1118
make periodic payments of the semiannual premium due under this 1119
division. The rules shall include provisions for the assessment of 1120
interest charges, where appropriate, and for the assessment of 1121
penalties when an employer fails to make timely premium payments. 1122
An employer who timely pays the amounts due under this division is 1123
entitled to all of the benefits and protections of this chapter. 1124
Upon receipt of payment, the bureau immediately shall mail a 1125
receipt or certificate to the employer certifying that payment has 1126
been made, which receipt is prima-facie evidence of payment. 1127
Workers' compensation coverage under this chapter continues 1128
uninterrupted upon timely receipt of payment under this division. 1129

Every public employer, except public employers that are 1130
self-insuring employers under this section, shall comply with 1131
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 1132
regard to the contribution of moneys to the public insurance fund. 1133

(B) Employers who will abide by the rules of the administrator and who may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and who do not desire to insure the payment thereof or indemnify themselves against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. The administrator may charge employers who apply for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application.

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

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

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

(b) The employer has operated in this state for a minimum of

two years, provided that an employer who has purchased, acquired, 1166
or otherwise succeeded to the operation of a business, or any part 1167
thereof, situated in this state that has operated for at least two 1168
years in this state, also shall qualify; 1169

(c) Where the employer previously contributed to the state 1170
insurance fund or is a successor employer as defined by bureau 1171
rules, the amount of the buyout, as defined by bureau rules; 1172

(d) The sufficiency of the employer's assets located in this 1173
state to insure the employer's solvency in paying compensation 1174
directly; 1175

(e) The financial records, documents, and data, certified by 1176
a certified public accountant, necessary to provide the employer's 1177
full financial disclosure. The records, documents, and data 1178
include, but are not limited to, balance sheets and profit and 1179
loss history for the current year and previous four years. 1180

(f) The employer's organizational plan for the administration 1181
of the workers' compensation law; 1182

(g) The employer's proposed plan to inform employees of the 1183
change from a state fund insurer to a self-insuring employer, the 1184
procedures the employer will follow as a self-insuring employer, 1185
and the employees' rights to compensation and benefits; and 1186

(h) The employer has either an account in a financial 1187
institution in this state, or if the employer maintains an account 1188
with a financial institution outside this state, ensures that 1189
workers' compensation checks are drawn from the same account as 1190
payroll checks or the employer clearly indicates that payment will 1191
be honored by a financial institution in this state. 1192

The administrator may waive the requirements of divisions 1193
(B)(1)(a) and (b) of this section and the requirement of division 1194
(B)(1)(e) of this section that the financial records, documents, 1195
and data be certified by a certified public accountant. The 1196

administrator shall adopt rules establishing the criteria that an 1197
employer shall meet in order for the administrator to waive the 1198
requirement of division (B)(1)(e) of this section. Such rules may 1199
require additional security of that employer pursuant to division 1200
(E) of section 4123.351 of the Revised Code. 1201

The administrator shall not grant the status of self-insuring 1202
employer to the state, except that the administrator may grant the 1203
status of self-insuring employer to a state institution of higher 1204
education, excluding its hospitals, that meets the requirements of 1205
division (B)(2) of this section. 1206

(2) When considering the application of a public employer, 1207
except for a board of county commissioners described in division 1208
(G) of section 4123.01 of the Revised Code, a board of a county 1209
hospital, or a publicly owned utility, the administrator shall 1210
verify that the public employer satisfies all of the following 1211
requirements as the requirements apply to that public employer: 1212

(a) For the two-year period preceding application under this 1213
section, the public employer has maintained an unvoted debt 1214
capacity equal to at least two times the amount of the current 1215
annual premium established by the administrator under this chapter 1216
for that public employer for the year immediately preceding the 1217
year in which the public employer makes application under this 1218
section. 1219

(b) For each of the two fiscal years preceding application 1220
under this section, the unreserved and undesignated year-end fund 1221
balance in the public employer's general fund is equal to at least 1222
five per cent of the public employer's general fund revenues for 1223
the fiscal year computed in accordance with generally accepted 1224
accounting principles. 1225

(c) For the five-year period preceding application under this 1226
section, the public employer, to the extent applicable, has 1227

complied fully with the continuing disclosure requirements 1228
established in rules adopted by the United States securities and 1229
exchange commission under 17 C.F.R. 240.15c 2-12. 1230

(d) For the five-year period preceding application under this 1231
section, the public employer has not had its local government fund 1232
distribution withheld on account of the public employer being 1233
indebted or otherwise obligated to the state. 1234

(e) For the five-year period preceding application under this 1235
section, the public employer has not been under a fiscal watch or 1236
fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 1237
of the Revised Code. 1238

(f) For the public employer's fiscal year preceding 1239
application under this section, the public employer has obtained 1240
an annual financial audit as required under section 117.10 of the 1241
Revised Code, which has been released by the auditor of state 1242
within seven months after the end of the public employer's fiscal 1243
year. 1244

(g) On the date of application, the public employer holds a 1245
debt rating of Aa3 or higher according to Moody's investors 1246
service, inc., or a comparable rating by an independent rating 1247
agency similar to Moody's investors service, inc. 1248

(h) The public employer agrees to generate an annual 1249
accumulating book reserve in its financial statements reflecting 1250
an actuarially generated reserve adequate to pay projected claims 1251
under this chapter for the applicable period of time, as 1252
determined by the administrator. 1253

(i) For a public employer that is a hospital, the public 1254
employer shall submit audited financial statements showing the 1255
hospital's overall liquidity characteristics, and the 1256
administrator shall determine, on an individual basis, whether the 1257
public employer satisfies liquidity standards equivalent to the 1258

liquidity standards of other public employers. 1259

(j) Any additional criteria that the administrator adopts by 1260
rule pursuant to division (E) of this section. 1261

The administrator shall not approve the application of a 1262
public employer, except for a board of county commissioners 1263
described in division (G) of section 4123.01 of the Revised Code, 1264
a board of a county hospital, or publicly owned utility, who does 1265
not satisfy all of the requirements listed in division (B)(2) of 1266
this section. 1267

(C) A board of county commissioners described in division (G) 1268
of section 4123.01 of the Revised Code, as an employer, that will 1269
abide by the rules of the administrator and that may be of 1270
sufficient financial ability to render certain the payment of 1271
compensation to injured employees or the dependents of killed 1272
employees, and the furnishing of medical, surgical, nursing, and 1273
hospital attention and services and medicines, and funeral 1274
expenses, equal to or greater than is provided for in sections 1275
4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised 1276
Code, and that does not desire to insure the payment thereof or 1277
indemnify itself against loss sustained by the direct payment 1278
thereof, upon a finding of such facts by the administrator, may be 1279
granted the privilege to pay individually compensation, and 1280
furnish medical, surgical, nursing, and hospital services and 1281
attention and funeral expenses directly to injured employees or 1282
the dependents of killed employees, thereby being granted status 1283
as a self-insuring employer. The administrator may charge a board 1284
of county commissioners described in division (G) of section 1285
4123.01 of the Revised Code that applies for the status as a 1286
self-insuring employer a reasonable application fee to cover the 1287
bureau's costs in connection with processing and making a 1288
determination with respect to an application. All employers 1289
granted such status shall demonstrate sufficient financial and 1290

administrative ability to assure that all obligations under this 1291
section are promptly met. The administrator shall deny the 1292
privilege where the employer is unable to demonstrate the 1293
employer's ability to promptly meet all the obligations imposed on 1294
the employer by this section. The administrator shall consider, 1295
but is not limited to, the following factors, where applicable, in 1296
determining the employer's ability to meet all of the obligations 1297
imposed on the board as an employer by this section: 1298

(1) The board as an employer employs a minimum of five 1299
hundred employees in this state; 1300

(2) The board has operated in this state for a minimum of two 1301
years; 1302

(3) Where the board previously contributed to the state 1303
insurance fund or is a successor employer as defined by bureau 1304
rules, the amount of the buyout, as defined by bureau rules; 1305

(4) The sufficiency of the board's assets located in this 1306
state to insure the board's solvency in paying compensation 1307
directly; 1308

(5) The financial records, documents, and data, certified by 1309
a certified public accountant, necessary to provide the board's 1310
full financial disclosure. The records, documents, and data 1311
include, but are not limited to, balance sheets and profit and 1312
loss history for the current year and previous four years. 1313

(6) The board's organizational plan for the administration of 1314
the workers' compensation law; 1315

(7) The board's proposed plan to inform employees of the 1316
proposed self-insurance, the procedures the board will follow as a 1317
self-insuring employer, and the employees' rights to compensation 1318
and benefits; 1319

(8) The board has either an account in a financial 1320

institution in this state, or if the board maintains an account 1321
with a financial institution outside this state, ensures that 1322
workers' compensation checks are drawn from the same account as 1323
payroll checks or the board clearly indicates that payment will be 1324
honored by a financial institution in this state; 1325

(9) The board shall provide the administrator a surety bond 1326
in an amount equal to one hundred twenty-five per cent of the 1327
projected losses as determined by the administrator. 1328

(D) The administrator shall require a surety bond from all 1329
self-insuring employers, issued pursuant to section 4123.351 of 1330
the Revised Code, that is sufficient to compel, or secure to 1331
injured employees, or to the dependents of employees killed, the 1332
payment of compensation and expenses, which shall in no event be 1333
less than that paid or furnished out of the state insurance fund 1334
in similar cases to injured employees or to dependents of killed 1335
employees whose employers contribute to the fund, except when an 1336
employee of the employer, who has suffered the loss of a hand, 1337
arm, foot, leg, or eye prior to the injury for which compensation 1338
is to be paid, and thereafter suffers the loss of any other of the 1339
members as the result of any injury sustained in the course of and 1340
arising out of the employee's employment, the compensation to be 1341
paid by the self-insuring employer is limited to the disability 1342
suffered in the subsequent injury, additional compensation, if 1343
any, to be paid by the bureau out of the surplus created by 1344
section 4123.34 of the Revised Code. 1345

(E) In addition to the requirements of this section, the 1346
administrator shall make and publish rules governing the manner of 1347
making application and the nature and extent of the proof required 1348
to justify a finding of fact by the administrator as to granting 1349
the status of a self-insuring employer, which rules shall be 1350
general in their application, one of which rules shall provide 1351
that all self-insuring employers shall pay into the state 1352

insurance fund such amounts as are required to be credited to the 1353
surplus fund in division (B) of section 4123.34 of the Revised 1354
Code. The administrator may adopt rules establishing requirements 1355
in addition to the requirements described in division (B)(2) of 1356
this section that a public employer shall meet in order to qualify 1357
for self-insuring status. 1358

Employers shall secure directly from the bureau central 1359
offices application forms upon which the bureau shall stamp a 1360
designating number. Prior to submission of an application, an 1361
employer shall make available to the bureau, and the bureau shall 1362
review, the information described in division (B)(1) of this 1363
section, and public employers shall make available, and the bureau 1364
shall review, the information necessary to verify whether the 1365
public employer meets the requirements listed in division (B)(2) 1366
of this section. An employer shall file the completed application 1367
forms with an application fee, which shall cover the costs of 1368
processing the application, as established by the administrator, 1369
by rule, with the bureau at least ninety days prior to the 1370
effective date of the employer's new status as a self-insuring 1371
employer. The application form is not deemed complete until all 1372
the required information is attached thereto. The bureau shall 1373
only accept applications that contain the required information. 1374

(F) The bureau shall review completed applications within a 1375
reasonable time. If the bureau determines to grant an employer the 1376
status as a self-insuring employer, the bureau shall issue a 1377
statement, containing its findings of fact, that is prepared by 1378
the bureau and signed by the administrator. If the bureau 1379
determines not to grant the status as a self-insuring employer, 1380
the bureau shall notify the employer of the determination and 1381
require the employer to continue to pay its full premium into the 1382
state insurance fund. The administrator also shall adopt rules 1383
establishing a minimum level of performance as a criterion for 1384

granting and maintaining the status as a self-insuring employer 1385
and fixing time limits beyond which failure of the self-insuring 1386
employer to provide for the necessary medical examinations and 1387
evaluations may not delay a decision on a claim. 1388

(G) The administrator shall adopt rules setting forth 1389
procedures for auditing the program of self-insuring employers. 1390
The bureau shall conduct the audit upon a random basis or whenever 1391
the bureau has grounds for believing that a self-insuring employer 1392
is not in full compliance with bureau rules or this chapter. 1393

The administrator shall monitor the programs conducted by 1394
self-insuring employers, to ensure compliance with bureau 1395
requirements and for that purpose, shall develop and issue to 1396
self-insuring employers standardized forms for use by the 1397
self-insuring employer in all aspects of the self-insuring 1398
employers' direct compensation program and for reporting of 1399
information to the bureau. 1400

The bureau shall receive and transmit to the self-insuring 1401
employer all complaints concerning any self-insuring employer. In 1402
the case of a complaint against a self-insuring employer, the 1403
administrator shall handle the complaint through the 1404
self-insurance division of the bureau. The bureau shall maintain a 1405
file by employer of all complaints received that relate to the 1406
employer. The bureau shall evaluate each complaint and take 1407
appropriate action. 1408

The administrator shall adopt as a rule a prohibition against 1409
any self-insuring employer from harassing, dismissing, or 1410
otherwise disciplining any employee making a complaint, which rule 1411
shall provide for a financial penalty to be levied by the 1412
administrator payable by the offending self-insuring employer. 1413

(H) For the purpose of making determinations as to whether to 1414
grant status as a self-insuring employer, the administrator may 1415

subscribe to and pay for a credit reporting service that offers 1416
financial and other business information about individual 1417
employers. The costs in connection with the bureau's subscription 1418
or individual reports from the service about an applicant may be 1419
included in the application fee charged employers under this 1420
section. 1421

(I) The administrator, notwithstanding other provisions of 1422
this chapter, may permit a self-insuring employer to resume 1423
payment of premiums to the state insurance fund with appropriate 1424
credit modifications to the employer's basic premium rate as such 1425
rate is determined pursuant to section 4123.29 of the Revised 1426
Code. 1427

(J) On the first day of July of each year, the administrator 1428
shall calculate separately each self-insuring employer's 1429
assessments for the safety and hygiene fund, administrative costs 1430
pursuant to section 4123.342 of the Revised Code, and for the 1431
portion of the surplus fund under division (B) of section 4123.34 1432
of the Revised Code that is not used for handicapped 1433
reimbursement, on the basis of the paid compensation attributable 1434
to the individual self-insuring employer according to the 1435
following calculation: 1436

(1) The total assessment against all self-insuring employers 1437
as a class for each fund and for the administrative costs for the 1438
year that the assessment is being made, as determined by the 1439
administrator, divided by the total amount of paid compensation 1440
for the previous calendar year attributable to all amenable 1441
self-insuring employers; 1442

(2) Multiply the quotient in division (J)(1) of this section 1443
by the total amount of paid compensation for the previous calendar 1444
year that is attributable to the individual self-insuring employer 1445
for whom the assessment is being determined. Each self-insuring 1446
employer shall pay the assessment that results from this 1447

calculation, unless the assessment resulting from this calculation 1448
falls below a minimum assessment, which minimum assessment the 1449
administrator shall determine on the first day of July of each 1450
year with the advice and consent of the bureau of workers' 1451
compensation board of directors, in which event, the self-insuring 1452
employer shall pay the minimum assessment. 1453

In determining the total amount due for the total assessment 1454
against all self-insuring employers as a class for each fund and 1455
the administrative assessment, the administrator shall reduce 1456
proportionately the total for each fund and assessment by the 1457
amount of money in the self-insurance assessment fund as of the 1458
date of the computation of the assessment. 1459

The administrator shall calculate the assessment for the 1460
portion of the surplus fund under division (B) of section 4123.34 1461
of the Revised Code that is used for handicapped reimbursement in 1462
the same manner as set forth in divisions (J)(1) and (2) of this 1463
section except that the administrator shall calculate the total 1464
assessment for this portion of the surplus fund only on the basis 1465
of those self-insuring employers that retain participation in the 1466
handicapped reimbursement program and the individual self-insuring 1467
employer's proportion of paid compensation shall be calculated 1468
only for those self-insuring employers who retain participation in 1469
the handicapped reimbursement program. The administrator, as the 1470
administrator determines appropriate, may determine the total 1471
assessment for the handicapped portion of the surplus fund in 1472
accordance with sound actuarial principles. 1473

The administrator shall calculate the assessment for the 1474
portion of the surplus fund under division (B) of section 4123.34 1475
of the Revised Code that under division (D) of section 4121.66 of 1476
the Revised Code is used for rehabilitation costs in the same 1477
manner as set forth in divisions (J)(1) and (2) of this section, 1478
except that the administrator shall calculate the total assessment 1479

for this portion of the surplus fund only on the basis of those 1480
self-insuring employers who have not made the election to make 1481
payments directly under division (D) of section 4121.66 of the 1482
Revised Code and an individual self-insuring employer's proportion 1483
of paid compensation only for those self-insuring employers who 1484
have not made that election. 1485

The administrator shall calculate the assessment for the 1486
portion of the surplus fund under division (B) of section 4123.34 1487
of the Revised Code that is used for reimbursement to a 1488
self-insuring employer under division (H) of section 4123.512 of 1489
the Revised Code in the same manner as set forth in divisions 1490
(J)(1) and (2) of this section except that the administrator shall 1491
calculate the total assessment for this portion of the surplus 1492
fund only on the basis of those self-insuring employers that 1493
retain participation in reimbursement to the self-insuring 1494
employer under division (H) of section 4123.512 of the Revised 1495
Code and the individual self-insuring employer's proportion of 1496
paid compensation shall be calculated only for those self-insuring 1497
employers who retain participation in reimbursement to the 1498
self-insuring employer under division (H) of section 4123.512 of 1499
the Revised Code. 1500

An employer who no longer is a self-insuring employer in this 1501
state or who no longer is operating in this state, shall continue 1502
to pay assessments for administrative costs and for the portion of 1503
the surplus fund under division (B) of section 4123.34 of the 1504
Revised Code that is not used for handicapped reimbursement, based 1505
upon paid compensation attributable to claims that occurred while 1506
the employer was a self-insuring employer within this state. 1507

(K) The administrator shall deposit any moneys received from 1508
a self-insuring employer for the self-insuring employer's 1509
assessment to pay the costs solely attributable to the workers' 1510
compensation council into the administrative assessment account 1511

described in division (B) of section 4123.342 of the Revised Code 1512
for the administrative cost assessment collected by the 1513
administrator for the council. There is hereby created in the 1514
state treasury the self-insurance assessment fund. All investment 1515
earnings of the fund shall be deposited in the fund. The 1516
administrator shall use the money in the self-insurance assessment 1517
fund only for administrative costs as specified in section 1518
4123.341 of the Revised Code. 1519

(L) Every self-insuring employer shall certify, in affidavit 1520
form subject to the penalty for perjury, to the bureau the amount 1521
of the self-insuring employer's paid compensation for the previous 1522
calendar year. In reporting paid compensation paid for the 1523
previous year, a self-insuring employer shall exclude from the 1524
total amount of paid compensation any reimbursement the 1525
self-insuring employer receives in the previous calendar year from 1526
the surplus fund pursuant to section 4123.512 of the Revised Code 1527
for any paid compensation. The self-insuring employer also shall 1528
exclude from the paid compensation reported any amount recovered 1529
under section 4123.931 of the Revised Code and any amount that is 1530
determined not to have been payable to or on behalf of a claimant 1531
in any final administrative or judicial proceeding. The 1532
self-insuring employer shall exclude such amounts from the paid 1533
compensation reported in the reporting period subsequent to the 1534
date the determination is made. The administrator shall adopt 1535
rules, in accordance with Chapter 119. of the Revised Code, that 1536
provide for all of the following: 1537

(1) Establishing the date by which self-insuring employers 1538
must submit such information and the amount of the assessments 1539
provided for in division (J) of this section for employers who 1540
have been granted self-insuring status within the last calendar 1541
year; 1542

(2) If an employer fails to pay the assessment when due, the 1543

administrator may add a late fee penalty of not more than five 1544
hundred dollars to the assessment plus an additional penalty 1545
amount as follows: 1546

(a) For an assessment from sixty-one to ninety days past due, 1547
the prime interest rate, multiplied by the assessment due; 1548

(b) For an assessment from ninety-one to one hundred twenty 1549
days past due, the prime interest rate plus two per cent, 1550
multiplied by the assessment due; 1551

(c) For an assessment from one hundred twenty-one to one 1552
hundred fifty days past due, the prime interest rate plus four per 1553
cent, multiplied by the assessment due; 1554

(d) For an assessment from one hundred fifty-one to one 1555
hundred eighty days past due, the prime interest rate plus six per 1556
cent, multiplied by the assessment due; 1557

(e) For an assessment from one hundred eighty-one to two 1558
hundred ten days past due, the prime interest rate plus eight per 1559
cent, multiplied by the assessment due; 1560

(f) For each additional thirty-day period or portion thereof 1561
that an assessment remains past due after it has remained past due 1562
for more than two hundred ten days, the prime interest rate plus 1563
eight per cent, multiplied by the assessment due. 1564

(3) An employer may appeal a late fee penalty and penalty 1565
assessment to the administrator. 1566

For purposes of division (L)(2) of this section, "prime 1567
interest rate" means the average bank prime rate, and the 1568
administrator shall determine the prime interest rate in the same 1569
manner as a county auditor determines the average bank prime rate 1570
under section 929.02 of the Revised Code. 1571

The administrator shall include any assessment and penalties 1572
that remain unpaid for previous assessment periods in the 1573

calculation and collection of any assessments due under this 1574
division or division (J) of this section. 1575

(M) As used in this section, "paid compensation" means all 1576
amounts paid by a self-insuring employer for living maintenance 1577
benefits, all amounts for compensation paid pursuant to sections 1578
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 1579
4123.64 of the Revised Code, all amounts paid as wages in lieu of 1580
such compensation, all amounts paid in lieu of such compensation 1581
under a nonoccupational accident and sickness program fully funded 1582
by the self-insuring employer, and all amounts paid by a 1583
self-insuring employer for a violation of a specific safety 1584
standard pursuant to Section 35 of Article II, Ohio Constitution 1585
and section 4121.47 of the Revised Code. 1586

(N) Should any section of this chapter or Chapter 4121. of 1587
the Revised Code providing for self-insuring employers' 1588
assessments based upon compensation paid be declared 1589
unconstitutional by a final decision of any court, then that 1590
section of the Revised Code declared unconstitutional shall revert 1591
back to the section in existence prior to November 3, 1989, 1592
providing for assessments based upon payroll. 1593

(O) The administrator may grant a self-insuring employer the 1594
privilege to self-insure a construction project entered into by 1595
the self-insuring employer that is scheduled for completion within 1596
six years after the date the project begins, and the total cost of 1597
which is estimated to exceed one hundred million dollars or, for 1598
employers described in division (R) of this section, if the 1599
construction project is estimated to exceed twenty-five million 1600
dollars. The administrator may waive such cost and time criteria 1601
and grant a self-insuring employer the privilege to self-insure a 1602
construction project regardless of the time needed to complete the 1603
construction project and provided that the cost of the 1604
construction project is estimated to exceed fifty million dollars. 1605

A self-insuring employer who desires to self-insure a construction project shall submit to the administrator an application listing the dates the construction project is scheduled to begin and end, the estimated cost of the construction project, the contractors and subcontractors whose employees are to be self-insured by the self-insuring employer, the provisions of a safety program that is specifically designed for the construction project, and a statement as to whether a collective bargaining agreement governing the rights, duties, and obligations of each of the parties to the agreement with respect to the construction project exists between the self-insuring employer and a labor organization.

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

(1) All contractors and subcontractors who perform labor or work or provide materials for the construction project;

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

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

The administrator shall maintain a record of the contractors and subcontractors whose employees are covered under the certificate issued to the self-insured employer. A self-insuring

employer immediately shall notify the administrator when any 1637
contractor or subcontractor is added or eliminated from inclusion 1638
under the certificate. 1639

Upon approval of the application, the self-insuring employer 1640
is responsible for the administration and payment of all claims 1641
under this chapter and Chapter 4121. of the Revised Code for the 1642
employees of the contractor and subcontractors covered under the 1643
certificate who receive injuries or are killed in the course of 1644
and arising out of employment on the construction project, or who 1645
contract an occupational disease in the course of employment on 1646
the construction project. For purposes of this chapter and Chapter 1647
4121. of the Revised Code, a claim that is administered and paid 1648
in accordance with this division is considered a claim against the 1649
self-insuring employer listed in the certificate. A contractor or 1650
subcontractor included under the certificate shall report to the 1651
self-insuring employer listed in the certificate, all claims that 1652
arise under this chapter and Chapter 4121. of the Revised Code in 1653
connection with the construction project for which the certificate 1654
is issued. 1655

A self-insuring employer who complies with this division is 1656
entitled to the protections provided under this chapter and 1657
Chapter 4121. of the Revised Code with respect to the employees of 1658
the contractors and subcontractors covered under a certificate 1659
issued under this division for death or injuries that arise out 1660
of, or death, injuries, or occupational diseases that arise in the 1661
course of, those employees' employment on that construction 1662
project, as if the employees were employees of the self-insuring 1663
employer, provided that the self-insuring employer also complies 1664
with this section. No employee of the contractors and 1665
subcontractors covered under a certificate issued under this 1666
division shall be considered the employee of the self-insuring 1667
employer listed in that certificate for any purposes other than 1668

this chapter and Chapter 4121. of the Revised Code. Nothing in 1669
this division gives a self-insuring employer authority to control 1670
the means, manner, or method of employment of the employees of the 1671
contractors and subcontractors covered under a certificate issued 1672
under this division. 1673

The contractors and subcontractors included under a 1674
certificate issued under this division are entitled to the 1675
protections provided under this chapter and Chapter 4121. of the 1676
Revised Code with respect to the contractor's or subcontractor's 1677
employees who are employed on the construction project which is 1678
the subject of the certificate, for death or injuries that arise 1679
out of, or death, injuries, or occupational diseases that arise in 1680
the course of, those employees' employment on that construction 1681
project. 1682

The contractors and subcontractors included under a 1683
certificate issued under this division shall identify in their 1684
payroll records the employees who are considered the employees of 1685
the self-insuring employer listed in that certificate for purposes 1686
of this chapter and Chapter 4121. of the Revised Code, and the 1687
amount that those employees earned for employment on the 1688
construction project that is the subject of that certificate. 1689
Notwithstanding any provision to the contrary under this chapter 1690
and Chapter 4121. of the Revised Code, the administrator shall 1691
exclude the payroll that is reported for employees who are 1692
considered the employees of the self-insuring employer listed in 1693
that certificate, and that the employees earned for employment on 1694
the construction project that is the subject of that certificate, 1695
when determining those contractors' or subcontractors' premiums or 1696
assessments required under this chapter and Chapter 4121. of the 1697
Revised Code. A self-insuring employer issued a certificate under 1698
this division shall include in the amount of paid compensation it 1699
reports pursuant to division (L) of this section, the amount of 1700

paid compensation the self-insuring employer paid pursuant to this 1701
division for the previous calendar year. 1702

Nothing in this division shall be construed as altering the 1703
rights of employees under this chapter and Chapter 4121. of the 1704
Revised Code as those rights existed prior to September 17, 1996. 1705
Nothing in this division shall be construed as altering the rights 1706
devolved under sections 2305.31 and 4123.82 of the Revised Code as 1707
those rights existed prior to September 17, 1996. 1708

As used in this division, "privilege to self-insure a 1709
construction project" means privilege to pay individually 1710
compensation, and to furnish medical, surgical, nursing, and 1711
hospital services and attention and funeral expenses directly to 1712
injured employees or the dependents of killed employees. 1713

(P) A self-insuring employer whose application is granted 1714
under division (O) of this section shall designate a safety 1715
professional to be responsible for the administration and 1716
enforcement of the safety program that is specifically designed 1717
for the construction project that is the subject of the 1718
application. 1719

A self-insuring employer whose application is granted under 1720
division (O) of this section shall employ an ombudsperson for the 1721
construction project that is the subject of the application. The 1722
ombudsperson shall have experience in workers' compensation or the 1723
construction industry, or both. The ombudsperson shall perform all 1724
of the following duties: 1725

(1) Communicate with and provide information to employees who 1726
are injured in the course of, or whose injury arises out of 1727
employment on the construction project, or who contract an 1728
occupational disease in the course of employment on the 1729
construction project; 1730

(2) Investigate the status of a claim upon the request of an 1731

employee to do so;	1732
(3) Provide information to claimants, third party administrators, employers, and other persons to assist those persons in protecting their rights under this chapter and Chapter 4121. of the Revised Code.	1733 1734 1735 1736
A self-insuring employer whose application is granted under division (O) of this section shall post the name of the safety professional and the ombudsperson and instructions for contacting the safety professional and the ombudsperson in a conspicuous place at the site of the construction project.	1737 1738 1739 1740 1741
(Q) The administrator may consider all of the following when deciding whether to grant a self-insuring employer the privilege to self-insure a construction project as provided under division (O) of this section:	1742 1743 1744 1745
(1) Whether the self-insuring employer has an organizational plan for the administration of the workers' compensation law;	1746 1747
(2) Whether the safety program that is specifically designed for the construction project provides for the safety of employees employed on the construction project, is applicable to all contractors and subcontractors who perform labor or work or provide materials for the construction project, and has as a component, a safety training program that complies with standards adopted pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing management and employee involvement;	1748 1749 1750 1751 1752 1753 1754 1755 1756
(3) Whether granting the privilege to self-insure the construction project will reduce the costs of the construction project;	1757 1758 1759
(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;	1760 1761

(5) Whether the self-insuring employer has sufficient surety 1762
to secure the payment of claims for which the self-insuring 1763
employer would be responsible pursuant to the granting of the 1764
privilege to self-insure a construction project under division (O) 1765
of this section. 1766

(R) As used in divisions (O), (P), and (Q), "self-insuring 1767
employer" includes the following employers, whether or not they 1768
have been granted the status of being a self-insuring employer 1769
under division (B) of this section: 1770

(1) A state institution of higher education; 1771

(2) A school district; 1772

(3) A county school financing district; 1773

(4) An educational service center; 1774

(5) A community school established under Chapter 3314. of the 1775
Revised Code; 1776

(6) A municipal power agency as defined in section 3734.058 1777
of the Revised Code. 1778

(S) As used in this section: 1779

(1) "Unvoted debt capacity" means the amount of money that a 1780
public employer may borrow without voter approval of a tax levy; 1781

(2) "State institution of higher education" means the state 1782
universities listed in section 3345.011 of the Revised Code, 1783
community colleges created pursuant to Chapter 3354. of the 1784
Revised Code, university branches created pursuant to Chapter 1785
3355. of the Revised Code, technical colleges created pursuant to 1786
Chapter 3357. of the Revised Code, and state community colleges 1787
created pursuant to Chapter 3358. of the Revised Code. 1788

Sec. 4123.82. (A) All contracts and agreements are void which 1789
undertake to indemnify or insure an employer against loss or 1790

liability for the payment of compensation to workers or their dependents for death, injury, or occupational disease occasioned in the course of the workers' employment, or which provide that the insurer shall pay the compensation, or which indemnify the employer against damages when the injury, disease, or death arises from the failure to comply with any lawful requirement for the protection of the lives, health, and safety of employees, or when the same is occasioned by the willful act of the employer or any of the employer's officers or agents, or by which it is agreed that the insurer shall pay any such damages. No license or authority to enter into any such agreements or issue any such policies of insurance shall be granted or issued by any public authority in this state. Any corporation organized or admitted under the laws of this state to transact liability insurance as defined in section 3929.01 of the Revised Code may by amendment of its articles of incorporation or by original articles of incorporation, provide therein for the authority and purpose to make insurance in states, territories, districts, and counties, other than the state of Ohio, and in the state of Ohio in respect of contracts permitted by division (B) of this section, indemnifying employers against loss or liability for payment of compensation to workers and employees and their dependents for death, injury, or occupational disease occasioned in the course of the employment and to insure and indemnify employers against loss, expense, and liability by risk of bodily injury or death by accident, disability, sickness, or disease suffered by workers and employees for which the employer may be liable or has assumed liability.

(B) Notwithstanding division (A) of this section:

(1) No contract because of that division is void which undertakes to indemnify a self-insuring employer against all or part of such employer's loss in excess of at least fifty thousand

dollars from any one disaster or event arising out of the 1823
employer's liability under this chapter, but no insurance 1824
corporation shall, directly or indirectly, represent an employer 1825
in the settlement, adjudication, determination, allowance, or 1826
payment of claims. The superintendent of insurance shall enforce 1827
this prohibition by such disciplinary orders directed against the 1828
offending insurance corporation as the superintendent of insurance 1829
deems appropriate in the circumstances and the administrator of 1830
workers' compensation shall enforce this prohibition by such 1831
disciplinary orders directed against the offending employer as the 1832
administrator deems appropriate in the circumstances, which orders 1833
may include revocation of the insurance corporation's right to 1834
enter into indemnity contracts and revocation of the employer's 1835
status as a self-insuring employer. 1836

(2) The administrator may enter into a contract of indemnity 1837
with any such employer upon such terms, payment of such premium, 1838
and for such amount and form of indemnity as the administrator 1839
determines and the bureau of workers' compensation board of 1840
directors may procure reinsurance of the liability of the public 1841
and private funds under this chapter, or any part of the liability 1842
in respect of either or both of the funds, upon such terms and 1843
premiums or other payments from the fund or funds as the 1844
administrator deems prudent in the maintenance of a solvent fund 1845
or funds from year to year. When making the finding of fact which 1846
the administrator is required by section 4123.35 of the Revised 1847
Code to make with respect to the financial ability of an employer, 1848
no contract of indemnity, or the ability of the employer to 1849
procure such a contract, shall be considered as increasing the 1850
financial ability of the employer. 1851

(C) Nothing in this section shall be construed to prohibit 1852
the administrator or an other-states' insurer from providing to 1853
employers in this state other-states' coverage in accordance with 1854

section 4123.292 of the Revised Code. 1855

(D) Notwithstanding any other section of the Revised Code, 1856
but subject to division (A) of this section, the superintendent of 1857
insurance shall have the sole authority to regulate any insurance 1858
products, except for the bureau of workers' compensation and those 1859
products offered by the bureau, that indemnify or insure employers 1860
against workers' compensation losses in this state or that are 1861
sold to employers in this state. 1862

Section 102. That existing sections 121.52, 4121.12, 1863
 4121.125, 4121.62, 4121.70, 4121.75, 4123.29, 4123.34, 4123.35, 1864
 and 4123.82 of the Revised Code are hereby repealed. 1865

Section 201. All items in Sections 201 and 203 of this act 1866
 are hereby appropriated out of any moneys in the state treasury to 1867
 the credit of the designated fund. For all appropriations made in 1868
 this act, those in the first column are for fiscal year 2010, and 1869
 those in the second column are for fiscal year 2011. 1870

FND	AI	AI TITLE	Appropriations		
		BWC BUREAU OF WORKERS' COMPENSATION			1872
		Workers' Compensation Fund Group			1873
7023	855401	William Green Lease	\$ 19,871,795	\$ 19,049,395	1874
		Payments to OBA			
7023	855407	Claims, Risk and	\$ 138,129,873	\$ 142,659,528	1875
		Medical Management			
7023	855408	Fraud Prevention	\$ 12,546,239	\$ 13,101,761	1876
7023	855409	Administrative	\$ 124,674,772	\$ 120,192,995	1877
		Services			
7023	855410	Attorney General	\$ 4,621,850	\$ 4,621,850	1878
		Payments			
8220	855606	Coal Workers' Fund	\$ 91,894	\$ 91,894	1879
8230	855608	Marine Industry	\$ 53,952	\$ 53,952	1880

8250	855605	Disabled Workers Relief Fund	\$	492,500	\$	492,500	1881
8260	855609	Safety and Hygiene Operating	\$	20,734,750	\$	20,734,750	1882
8260	855610	Gear Program	\$	4,000,000	\$	4,000,000	1883
8290	855604	Long Term Care Loan Program	\$	2,000,000	\$	2,000,000	1884
TOTAL WCF Workers' Compensation							1885
Fund Group			\$	327,217,625	\$	326,998,625	1886
Federal Special Revenue Fund Group							1887
3490	855601	OSHA Enforcement	\$	1,604,140	\$	1,604,140	1888
TOTAL FED Federal Special Revenue			\$	1,604,140	\$	1,604,140	1889
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	328,821,765	\$	328,602,765	1890

WILLIAM GREEN LEASE PAYMENTS 1891

The foregoing appropriation item 855401, William Green Lease 1892
 Payments to OBA, shall be used for lease payments to the Ohio 1893
 Building Authority, and these appropriations shall be used to meet 1894
 all payments at the times they are required to be made during the 1895
 period from July 1, 2009, to June 30, 2011, by the Bureau of 1896
 Workers' Compensation to the Ohio Building Authority pursuant to 1897
 leases and agreements made under Chapter 152. of the Revised Code 1898
 and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. 1899
 Of the amounts received in Fund 7023, appropriation item 855401, 1900
 William Green Lease Payments to OBA, up to \$38,921,190 shall be 1901
 restricted for lease rental payments to the Ohio Building 1902
 Authority. If it is determined that additional appropriations are 1903
 necessary for such purpose, such amounts are hereby appropriated. 1904

Notwithstanding any provision of law to the contrary, all 1905
 tenants of the William Green Building not funded by the Workers' 1906
 Compensation Fund (Fund 7023) shall pay their fair share of the 1907
 costs of lease payments to the Workers' Compensation Fund (Fund 1908

7023) by intrastate transfer voucher.	1909
WORKERS' COMPENSATION FRAUD UNIT	1910
The Workers' Compensation Section Fund (Fund 1950) that is	1911
used by the Attorney General shall receive payments from the	1912
Bureau of Workers' Compensation at the beginning of each quarter	1913
of each fiscal year to fund expenses of the Workers' Compensation	1914
Fraud Unit of the Attorney General's Office. Of the foregoing	1915
appropriation item 855410, Attorney General Payments, \$828,200 in	1916
fiscal year 2010 and \$828,200 in fiscal year 2011 shall be used to	1917
provide these payments.	1918
SAFETY AND HYGIENE	1919
Notwithstanding section 4121.37 of the Revised Code, the	1920
Administrator of Workers' Compensation shall transfer moneys from	1921
the State Insurance Fund so that appropriation item 855609, Safety	1922
and Hygiene Operating, is provided \$20,734,750 in fiscal year 2010	1923
and \$20,734,750 in fiscal year 2011.	1924
OSHA ON-SITE CONSULTATION PROGRAM	1925
The Bureau of Workers' Compensation may designate a portion	1926
of appropriation item 855609, Safety and Hygiene Operating, to be	1927
used to match federal funding for the federal Occupational Safety	1928
and Health Administration's (OSHA) on-site consultation program.	1929
VOCATIONAL REHABILITATION	1930
The Bureau of Workers' Compensation and the Rehabilitation	1931
Services Commission shall enter into an interagency agreement for	1932
the provision of vocational rehabilitation services and staff to	1933
mutually eligible clients. The bureau shall provide \$605,407 in	1934
fiscal year 2010 and \$605,407 in fiscal year 2011 from the State	1935
Insurance Fund to fund vocational rehabilitation services and	1936
staff in accordance with the interagency agreement.	1937
FUND BALANCE	1938

Any unencumbered cash balance in excess of \$45,000,000 in the 1939
Workers' Compensation Fund (Fund 7023) on the thirtieth day of 1940
June of each fiscal year shall be used to reduce the 1941
administrative cost rate charged to employers to cover 1942
appropriations for Bureau of Workers' Compensation operations. 1943

Section 203. WCC WORKERS' COMPENSATION COUNCIL 1944

5FV0 321600	Remuneration Expenses	\$	471,200	\$	471,200	1945
TOTAL 5FV0	Workers' Compensation	\$	471,200	\$	471,200	1946

Council Remuneration Fund

TOTAL ALL BUDGET FUND GROUPS		\$	471,200	\$	471,200	1947
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WORKERS' COMPENSATION COUNCIL 1948

The foregoing appropriation item 321600, Remuneration 1949
Expenses, shall be used to pay the payroll and fringe benefit 1950
costs for employees of the Workers' Compensation Council. 1951

Between July 1, 2009, and December 31, 2009, the 1952
Administrator of Workers' Compensation shall direct the Treasurer 1953
of State to transfer \$325,000 in cash from the Workers' 1954
Compensation Fund (Fund 7023) to the Workers' Compensation Council 1955
Fund, created in division (C) of section 4121.79 of the Revised 1956
Code, in three installments. These transfers shall be made 1957
according to a schedule agreed to by the Director of the Workers' 1958
Compensation Council and the Administrator of Workers' 1959
Compensation. 1960

If the Workers' Compensation Council contracts with an 1961
independent actuary to have that actuary perform an actuarial 1962
valuation as described in division (A)(1) of Section 512.45 of Am. 1963
Sub. H.B. 100 of the 127th General Assembly as amended by this 1964
act, or a review as described in division (A)(2), (3), or (4) of 1965
Section 512.45 of Am. Sub. H.B. 100 of the 127th General Assembly 1966
as amended by this act, on or before January 31, 2011, the 1967
Director of the Workers' Compensation Council shall request the 1968

funds necessary to cover the expenses of the valuation or review, 1969
which amount shall not exceed \$650,000, from the Administrator of 1970
Workers' Compensation. The Administrator shall direct the 1971
Treasurer of State to transfer the amount requested by the 1972
Director from the Workers' Compensation Fund (Fund 7023) to the 1973
Workers' Compensation Council Fund created in division (C) of 1974
section 4121.79 of the Revised Code. The Director and 1975
Administrator shall agree to a schedule for the transfer of these 1976
funds. 1977

Section 211. DEPUTY INSPECTOR GENERAL FOR BWC AND OIC FUNDING 1978

On July 1, 2009, January 1, 2010, July 1, 2010, and January 1979
1, 2011 or as soon after each date as possible, the Director of 1980
Budget and Management shall transfer \$212,500 in cash from the 1981
Workers' Compensation Fund (Fund 7023) to the Deputy Inspector 1982
General for the Bureau of Workers' Compensation and Industrial 1983
Commission Fund (Fund 5FT0). The amounts transferred are 1984
appropriated. 1985

Should additional amounts be necessary, the Inspector General 1986
may seek Controlling Board approval for additional transfers of 1987
cash and to increase the amount appropriated from appropriation 1988
item 965604, Deputy Inspector General for the Bureau of Workers' 1989
compensation and Industrial Commission, in the amount of the 1990
additional transfers. 1991

Section 215.01. That Section 512.45 of Am. Sub. H.B. 100 of 1992
the 127th General Assembly be amended to read as follows: 1993

Sec. 512.45. (A) The Workers' Compensation Council ~~shall~~ may 1994
contract with an independent actuary to have that actuary perform 1995
an any of the following work as the Council determines is 1996
necessary: 1997

<u>(1) An actuarial valuation of the assets, liabilities, and funding requirements of the funds specified in Chapters 4121., 4123., 4127., and 4131. of the Revised Code.—The;</u>	1998
	1999
	2000
<u>(2) A review of a recent actuarial valuation performed pursuant to division (C)(1) of section 4121.125 of the Revised Code;</u>	2001
	2002
	2003
<u>(3) A review of the study required by Section 512.50 of Am. Sub. H.B. 100 of the 127th General Assembly;</u>	2004
	2005
<u>(4) A review of any actuarial analysis of any of the funds specified in Chapters 4121., 4123., 4127., and 4131. of the Revised Code that is completed as required by the Auditor of State.</u>	2006
	2007
	2008
	2009
<u>(B) If the Council contracts with an actuary with whom the Council contracts under pursuant to division (A)(1) of this section, that actuary shall prepare a report of the valuation described in that division in accordance with the standards of practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries and shall submit that report to the Council. The actuary shall include all of the following information in the report:</u>	2010
	2011
	2012
	2013
	2014
	2015
	2016
	2017
<u>(A)(1) A summary of the compensation and benefit provisions evaluated;</u>	2018
	2019
<u>(B)(2) A summary of the census data and financial information used in the valuation;</u>	2020
	2021
<u>(C)(3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation;</u>	2022
	2023
<u>(D)(4) A summary of the findings that includes a statement of the actuarial accrued compensation and benefit liabilities and unfounded actuarial accrued compensation and benefit liabilities.</u>	2024
	2025
	2026
<u>The (C) If the Council contracts with an actuary pursuant to</u>	2027

division (A)(2), (3), or (4) of this section, that actuary shall 2028
prepare a report of the review in accordance with the standards of 2029
practice promulgated by the Actuarial Standards Board of the 2030
American Academy of Actuaries and shall submit that report to the 2031
Council. The actuary shall include all of the following 2032
information in the report: 2033

(1) A summary of the valuation, study, or analysis the 2034
actuary reviewed; 2035

(2) The actuarial assumptions and methods and the data 2036
underlying the valuation, study, or analysis, as appropriate; 2037

(3) An assessment of the adequacy of each of the funds 2038
specified in Chapters 4121., 4123., 4127., and 4131. of the 2039
Revised Code that were evaluated to pay the claims authorized 2040
under those chapters; 2041

(4) A discussion of the reasonableness of the findings of 2042
valuation, study, or analysis, and whether the valuation, study, 2043
or analysis was performed in accordance with the actuarial 2044
standards of practice promulgated by the Actuarial Standards Board 2045
of the American Academy of Actuaries; 2046

(5) A description of any additional studies the actuary 2047
recommends to assist the Council in the performance of its duties. 2048

(D) If the Council contracts with an actuary under this 2049
section, the Council shall submit to the ~~governor~~ Governor and the 2050
general assembly General Assembly a report summarizing the 2051
valuation required ~~any report completed~~ under this section not 2052
later than ~~two years after the effective date of section 4121.75~~ 2053
of the Revised Code, as enacted by this act ~~September 10, 2011.~~ 2054

Section 215.02. That existing Section 512.45 of Am. Sub. H.B. 2055
100 of the 127th General Assembly is hereby repealed. 2056

Section 217. All members serving on the Workers' Compensation Council on the effective date of section 4121.75 of the Revised Code as amended by this act shall serve the duration of their terms as appointed. Upon the expiration of the terms of the members serving on the Council on the effective date of section 4121.75 of the Revised Code as amended by this act, new appointments shall be made to the Council in accordance with section 4121.75 of the Revised Code as amended by this act. The President of the Senate shall make the initial appointment of the member described in division (A)(7) of section 4121.75 of the Revised Code as amended by this act, and thereafter the President and the Speaker of the House shall alternate appointments as described in division (A)(7) of section 4121.75 of the Revised Code as amended by this act.

Section 219. The Speaker of the House of Representatives, the President of the Senate, and the Governor shall make the initial appointments of the members of the Labor-Management Government Advisory Council described in divisions (A)(5), (6), and (7) of section 4121.70 of the Revised Code, as amended by this act, within sixty days after the effective date of section 4121.70 of the Revised Code, as amended by this act. The members appointed pursuant to this section shall serve terms of six years, as described in division (B) of section 4121.70 of the Revised Code. Subsequent appointments of the members described in divisions (A)(5), (6), and (7) of section 4121.70 of the Revised Code, as amended by this act, shall be made in accordance with section 4121.70 of the Revised Code, as amended by this act.

Section 220. (A) For the policy year beginning July 1, 2009 and ending June 30, 2010, and thereafter until the Bureau of Workers' Compensation completes the Bureau's transition to the

adoption of a split-experienced rating plan in conformity with the 2087
current methodology of the National Council of Compensation 2088
Insurance, the Bureau shall offer to an eligible construction 2089
industry employer a construction industry cap on the employer's 2090
experience modification as provided in this section. 2091

(B) The Bureau shall establish the employer's experience 2092
modifier at .99 for the policy year beginning July 1, 2009, and 2093
ending June 30, 2010, unless the employer opts to not participate. 2094
The Bureau shall adjust the premium rate calculation of a 2095
participating employer by including an adjustment factor in the 2096
calculation of the blended rate of the employer to establish a 2097
blended rate that the employer would have paid as established by 2098
using the initially calculated experience modifier. 2099

(C) The construction industry cap is available to a 2100
construction industry employer that satisfies all of the following 2101
requirements: 2102

(1) The employer's predominant premium for the policy year 2103
beginning July 1, 2007, is in Industry Group 4, Construction, as 2104
identified in Appendix A to section 4123-17-05 of the Ohio 2105
Administrative Code. 2106

(2) The employer had an experience modifier of less than or 2107
equal to 1.0 in the preceding policy year. 2108

(3) The experience modifier initially calculated for the 2109
employer for the current policy year is greater than 1.0 and not 2110
more than 1.5. 2111

(4) The employer participates in a safety program approved by 2112
the Bureau or by the Occupational Safety and Health Administration 2113
during the policy year to improve accident prevention. 2114

Section 221. Law contained in the Main Operating 2115
Appropriations Act of the 128th General Assembly that applies 2116

generally to the appropriations made in that act also applies 2117
generally to the appropriations made in this act. 2118

Section 301. The provisions of law contained in this act, and 2119
their applications, are severable. If any provision of law 2120
contained in this act, or if any application of any provision of 2121
law contained in this act, is held invalid, the invalidity does 2122
not affect other provisions of law contained in this act and their 2123
applications that can be given effect without the invalid 2124
provision or application. 2125

Section 311. Except as otherwise provided in this act, the 2126
amendment, enactment, or repeal by this act of a section of law is 2127
exempt from the referendum because it is or relates to an 2128
appropriation for current expenses within the meaning of Ohio 2129
Constitution, Article II, Section 1d and section 1.471 of the 2130
Revised Code and therefore takes effect immediately when this act 2131
becomes law. 2132

Section 313. The amendment, enactment, or repeal by this act 2133
of the divisions and sections of law listed below are subject to 2134
the referendum under Ohio Constitution, Article II, Section 1c and 2135
therefore take effect on the ninety-first day after this act is 2136
filed with the Secretary of State. 2137

The amendment by this act of divisions (A)(4)(g) and (B) of 2138
section 4123.29, division (B) of section 4123.34 and sections 2139
4121.12, 4121.125, 4121.62, 4121.70, and 4123.35 of the Revised 2140
Code. 2141