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Representative Carney

**Cosponsors: Representatives Domenick, Murray, Daniels, Adams, R.,
Amstutz, Bacon, Batchelder, Beck, Belcher, Bolon, Boose, Boyd, Brown,
Bubp, Coley, Combs, DeBose, Driehaus, Dyer, Evans, Garland, Gerberry,
Goyal, Hackett, Harris, Harwood, Letson, Luckie, Lundy, Newcomb, Patten,
Pillich, Pryor, Reece, Sayre, Slesnick, Uecker, Weddington, Williams, B.,
Winburn, Yuko, Zehringer**

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A B I L L

To amend sections 4123.291, 4125.01, 4125.02, 1
4125.03, 4125.05, 4125.07, 4125.08, 4141.24, and 2
5747.07 and to enact sections 4125.041, 4125.042, 3
4125.051, 4125.10, and 4125.11 of the Revised Code 4
to establish certain financial capacity 5
requirements for professional employer 6
organizations, clarify rights and liabilities of 7
professional employer organizations and client 8
employers, and make other changes to the 9
professional employer organization law. 10

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

Section 1. That sections 4123.291, 4125.01, 4125.02, 4125.03, 11
4125.05, 4125.07, 4125.08, 4141.24, and 5747.07 be amended and 12
sections 4125.041, 4125.042, 4125.051, 4125.10, and 4125.11 of the 13
Revised Code be enacted to read as follows: 14

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

(B) An employer who is adversely affected by a decision of an adjudicating committee appointed by the administrator may appeal the decision of the committee to the administrator or the administrator's designee. The employer shall file the appeal in writing within thirty days after the employer receives the decision of the adjudicating committee. The administrator or the designee shall hear the appeal and hold a hearing, provided that the decision of the adjudicating committee relates to one of the following:

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

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

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

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

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

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

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

(C) The bureau of workers' compensation board of directors, based upon recommendations of the workers' compensation actuarial committee, shall establish the policy for all adjudicating committee procedures, including, but not limited to, specific criteria for manual premium rate adjustment.

Sec. 4125.01. As used in this chapter:

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

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

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

(D) "Professional employer organization agreement" means a written contract to coemploy employees between a professional employer organization and a client employer with a duration of not less than twelve months in accordance with the requirements of

this chapter. 76

(E) "Professional employer organization reporting entity" 77
means two or more professional employer organizations that are 78
majority owned or commonly controlled by the same entity, parent, 79
or controlling person and that satisfy reporting entity control 80
rules as defined by the financial accounting standards board and 81
under generally accepted accounting principles. 82

(F) "Shared employee" means an individual intended to be 83
assigned to a client employer on a permanent basis, not as a 84
temporary supplement to the client employer's workforce, who is 85
coemployed by a professional employer organization and a client 86
employer pursuant to a professional employer organization 87
agreement. 88

~~(F)~~(G) "Trade secret" has the same meaning as in section 89
1333.61 of the Revised Code. 90

Sec. 4125.02. The administrator of ~~the bureau of~~ workers' 91
compensation shall adopt rules in accordance with Chapter 119. of 92
the Revised Code to administer and enforce this chapter, including 93
rules to administer and enforce division (E) of section 4125.03 of 94
the Revised Code. 95

The administrator may adopt rules for the acceptance of 96
electronic filings in accordance with Chapter 1306. of the Revised 97
Code for applications, documents, reports, and other filings 98
required by this chapter. 99

The administrator may adopt rules allowing an independent 100
assurance organization to act on behalf of a professional employer 101
organization in complying with this chapter and any rules adopted 102
under it. Those rules shall require that the assurance 103
organization be approved by the administrator before acting under 104
the rules and shall include standards and procedures for that 105

approval. The rules also shall permit a professional employer 106
organization to authorize an assurance organization approved by 107
the administrator to act on behalf of the professional employer 108
organization, and the rules shall specify certain provisions of 109
this chapter that may be satisfied by an assurance organization 110
acting with that authority. 111

Sec. 4125.03. (A) The professional employer organization with 112
whom a shared employee is coemployed shall do all of the 113
following: 114

(1) Pay wages associated with a shared employee pursuant to 115
the terms and conditions of compensation in the professional 116
employer organization agreement between the professional employer 117
organization and the client employer; 118

(2) Pay all related payroll taxes associated with a shared 119
employee independent of the terms and conditions contained in the 120
professional employer organization agreement between the 121
professional employer organization and the client employer; 122

(3) Maintain workers' compensation coverage, pay all workers' 123
compensation premiums and manage all workers' compensation claims, 124
filings, and related procedures associated with a shared employee 125
in compliance with Chapters 4121. and 4123. of the Revised Code, 126
except that when shared employees include family farm officers, 127
ordained ministers, or corporate officers of the client employer, 128
payroll reports shall include the entire amount of payroll 129
associated with those persons; 130

(4) Provide written notice to each shared employee it assigns 131
to perform services to a client employer of the relationship 132
between and the responsibilities of the professional employer 133
organization and the client employer; 134

(5) Maintain complete records separately listing the manual 135

classifications of each client employer and the payroll reported 136
to each manual classification for each client employer for each 137
payroll reporting period during the time period covered in the 138
professional employer organization agreement; 139

(6) Maintain a record of workers' compensation claims for 140
each client employer; 141

(7) Within fourteen days after receiving notice from the 142
bureau of workers' compensation that a refund or rebate will be 143
applied to workers' compensation premiums, provide a copy of that 144
notice to any client employer to whom that notice is relevant. 145

(B) The Except as provided in section 4125.08 of the Revised 146
Code and unless otherwise agreed to in the professional employer 147
organization agreement, the professional employer organization 148
with whom a shared employee is coemployed has a right of direction 149
and control over each shared employee assigned to a client 150
employer's location. However, a client employer shall retain 151
sufficient direction and control over a shared employee as is 152
necessary to do any of the following: 153

(1) Conduct the client employer's business, including 154
training and supervising shared employees; 155

(2) Ensure the quality, adequacy, and safety of the goods or 156
services produced or sold in the client employer's business; 157

(3) Discharge any fiduciary responsibility that the client 158
employer may have; 159

(4) Comply with any applicable licensure, regulatory, or 160
statutory requirement of the client employer. 161

(C) ~~Notwithstanding division (B) of this section, a client~~ 162
~~employer may retain sufficient direction and control over a shared~~ 163
~~employee as is necessary to conduct the client employer's business~~ 164
~~and to discharge any fiduciary responsibility that it may have, or~~ 165

~~to comply with any applicable licensure, regulatory, or statutory~~ 166
~~requirement of the client employer Unless otherwise agreed to in~~ 167
~~the professional employer organization agreement, liability for~~ 168
~~acts, errors, and omissions shall be determined as follows:~~ 169

(1) A professional employer organization shall not be liable 170
for the acts, errors, and omissions of a client employer or a 171
shared employee when those acts, errors, and omissions occur under 172
the direction and control of the client employer. 173

(2) A client employer shall not be liable for the acts, 174
errors, and omissions of a professional employer organization or a 175
shared employee when those acts, errors, and omissions occur under 176
the direction and control of the professional employer 177
organization. 178

(D) Nothing in divisions (B) and (C) of this section shall be 179
construed to limit any liability or obligation specifically agreed 180
to in the professional employer organization agreement. 181

(E) No professional employer organization shall coemploy an 182
individual who is an independent contractor of the client employer 183
or knowingly misclassify a shared employee as an independent 184
contractor. A client employer is solely responsible for the proper 185
classification and compliance with all state laws with regard to 186
the classification of an individual as an independent contractor. 187
As used in this division, "independent contractor" means an 188
individual who contracts with a client employer to perform labor 189
or services for the client employer and who satisfies less than 190
ten of the criteria listed in division (A)(1)(c) of section 191
4123.01 of the Revised Code or less than ten of the criteria 192
listed in division (B)(2)(k) of section 4141.01 of the Revised 193
Code. 194

Sec. 4125.041. A shared employee under a professional 195
employer organization agreement shall not, solely as a result of 196

being a shared employee, be considered an employee of the 197
professional employer organization for purposes of general 198
liability insurance, fidelity bonds, surety bonds, employer 199
liability not otherwise covered by Chapters 4121. and 4123. of the 200
Revised Code, or liquor liability insurance carried by the 201
professional employer organization, unless the professional 202
employer organization agreement and applicable prearranged 203
employment contract, insurance contract, or bond specifically 204
states otherwise. 205

Sec. 4125.042. (A) For purposes of determining tax credits 206
and other economic incentives that are provided by this state or 207
any political subdivision and based on employment, shared 208
employees under a professional employer organization agreement 209
shall be considered employees solely of the client employer. 210

(1) A client employer shall be entitled to the benefit of any 211
tax credit, economic incentive, or similar benefit arising as the 212
result of the client employer's employment of shared employees. If 213
the grant or amount of any tax credit, economic incentive, or 214
other benefit is based on number of employees, each client 215
employer shall be treated as employing only those shared employees 216
coemployed by the client employer. Shared employees working for 217
other client employers of the professional employer organization 218
shall not be counted as employees for that purpose. 219

(2) Upon request by a client employer or an agency or 220
department of this state, a professional employer organization 221
shall provide employment information reasonably required by the 222
agency or department responsible for administration of the tax 223
credit or economic incentive and necessary to support any request, 224
claim, application, or other action by a client employer seeking 225
the tax credit or economic incentive. 226

(B) Shared employees whose services are subject to sales tax 227

shall be considered the employees of the client employer for 228
purposes of collecting and levying sales tax on the services 229
performed by the shared employee. Nothing contained in this 230
chapter shall relieve a client employer of any sales tax liability 231
with respect to its goods or services. 232

(C) Any tax assessed on a per capita or per employee basis 233
shall be assessed against the client employer for shared employees 234
and against the professional employer organization for employees 235
of the professional employer organization who are not shared 236
employees coemployed with a client employer. 237

(D) For purposes of computing any tax that is imposed or 238
calculated upon the basis of total payroll, the professional 239
employer organization shall be eligible to use any small business 240
allowance or exemption that is available to the client employer 241
for the shared employees. 242

Sec. 4125.05. (A) Not later than thirty days after November 243
5, 2004, or not later than thirty days after the formation of a 244
professional employer organization, whichever date occurs later, a 245
professional employer organization operating in this state shall 246
register with the administrator of ~~the bureau of workers'~~ 247
compensation on forms provided by the administrator. Following 248
initial registration, each professional employer organization 249
shall register with the administrator annually on or before the 250
thirty-first day of December. 251

(B) Initial registration and each annual registration renewal 252
shall include all of the following: 253

(1) A list of each of the professional employer 254
organization's client employers current as of the date of 255
registration for purposes of initial registration or current as of 256
the date of annual registration renewal, or within fourteen days 257
of adding or releasing a client, that includes the client 258

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| employer's name, address, federal tax identification number, and | 259 |
| bureau of workers' compensation risk number; | 260 |
| (2) A fee as determined by the administrator; | 261 |
| (3) The name or names under which the professional employer organization conducts business; | 262 263 |
| (4) The address of the professional employer organization's principal place of business and the address of each office it maintains in this state; | 264 265 266 |
| (5) The professional employer organization's taxpayer or employer identification number; | 267 268 |
| (6) A list of each state in which the professional employer organization has operated in the preceding five years, and the name, corresponding with each state, under which the professional employer organization operated in each state, including any alternative names, names of predecessors, and if known, successor business entities; | 269 270 271 272 273 274 |
| <u>(7) A financial statement prepared and audited in accordance with division (B) of section 4125.051 of the Revised Code;</u> | 275 276 |
| <u>(8) If there is any deficit in the working capital required under division (A) of section 4125.051 of the Revised Code, a bond, irrevocable letter of credit, or securities with a minimum market value in an amount sufficient to cover the deficit in accordance with the requirements of that section.</u> | 277 278 279 280 281 |
| <u>(C) Upon terms and for periods that the administrator considers appropriate, the administrator may issue a limited registration to a professional employer organization or professional employer organization reporting entity that provides all of the following items:</u> | 282 283 284 285 286 |
| <u>(1) A properly executed request for limited registration on a form provided by the administrator;</u> | 287 288 |

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| <u>(2) All information and materials required for registration</u> | 289 |
| <u>in divisions (B)(1) to (6) of this section;</u> | 290 |
| <u>(3) Information and documentation necessary to show that the</u> | 291 |
| <u>professional employer organization or professional employer</u> | 292 |
| <u>organization reporting entity satisfies the following criteria:</u> | 293 |
| <u>(a) It is domiciled outside of this state.</u> | 294 |
| <u>(b) It is licensed or registered as a professional employer</u> | 295 |
| <u>organization in another state.</u> | 296 |
| <u>(c) It does not maintain an office in this state.</u> | 297 |
| <u>(d) It does not participate in direct solicitations for</u> | 298 |
| <u>client employers located or domiciled in this state.</u> | 299 |
| <u>(e) It has fifty or fewer shared employees employed or</u> | 300 |
| <u>domiciled in this state on any given day.</u> | 301 |
| <u>(D)(1) The administrator, with the advice and consent of the</u> | 302 |
| bureau of workers' compensation board of directors, shall adopt | 303 |
| rules in accordance with Chapter 119. of the Revised Code to | 304 |
| require, <u>in addition to the requirement under division (B)(8) of</u> | 305 |
| <u>this section and</u> except as otherwise specified in division | 306 |
| (C) <u>(D)(2)</u> of this section, a professional employer organization to | 307 |
| provide security in the form of a bond or letter of credit | 308 |
| assignable to the Ohio bureau of workers' compensation not to | 309 |
| exceed an amount equal to the premiums and assessments incurred | 310 |
| for the two most recent payroll periods, prior to any discounts or | 311 |
| dividends, to meet the financial obligations of the professional | 312 |
| employer organization pursuant to this chapter and Chapters 4121. | 313 |
| and 4123. of the Revised Code. | 314 |
| (2) As an alternative to providing security in the form of a | 315 |
| bond or letter of credit <u>under division (D)(1) of this section,</u> | 316 |
| the administrator shall permit a professional employer | 317 |
| organization to make periodic payments of prospective premiums and | 318 |

assessments to the bureau ~~or to submit proof of being certified by~~ 319
~~either a nationally recognized organization that certifies~~ 320
~~professional employer organizations or by a government entity~~ 321
~~approved by the administrator.~~ 322

(3) A professional employer organization may appeal the 323
amount of the security required pursuant to rules adopted under 324
division ~~(C)~~(D)(1) of this section in accordance with section 325
4123.291 of the Revised Code. 326

~~(D)~~(E) Notwithstanding division ~~(C)~~(D) of this section, a 327
professional employer organization that qualifies for 328
self-insurance or retrospective rating under section 4123.29 or 329
4123.35 of the Revised Code shall abide by the financial 330
disclosure and security requirements pursuant to those sections 331
and the rules adopted under those sections in place of the 332
requirements specified in division ~~(C)~~(D) of this section or 333
specified in rules adopted pursuant to that division. 334

~~(E)~~(F) Except to the extent necessary for the administrator 335
to administer the statutory duties of the administrator and for 336
employees of the state to perform their official duties, all 337
records, reports, client lists, and other information obtained 338
from a professional employer organization and professional 339
employer organization reporting entity under divisions (A), (B), 340
and ~~(B)~~(C) of this section are confidential and shall be 341
considered trade secrets and shall not be published or open to 342
public inspection. 343

~~(F)~~(G) The list described in division (B)(1) of this section 344
shall be considered a trade secret. 345

~~(G)~~(H) The administrator shall establish the fee described in 346
division (B)(2) of this section in an amount that does not exceed 347
the cost of the administration of the initial and renewal 348
registration process. 349

(I) A financial statement required under division (B)(7) of this section for initial registration shall be the most recent financial statement of the professional employer organization or professional employer organization reporting entity of which the professional employer organization is a member and shall not be older than thirteen months. For each registration renewal, the professional employer organization shall file the required financial statement within one hundred eighty days after the end of the professional employer organization's or professional employer organization reporting entity's fiscal year. A professional employer organization may apply to the administrator for an extension beyond that time if the professional employer organization provides the administrator with a letter from the professional employer organization's auditor stating the reason for delay and the anticipated completion date.

(J) Multiple, unrelated professional employer organizations shall not combine together for purposes of obtaining workers' compensation coverage or for forming any type of self-insurance arrangement available under this chapter. Multiple, unrelated professional employer organization reporting entities shall not combine together for purposes of obtaining workers' compensation coverage or for forming any type of self-insurance arrangement available under this chapter.

(K) The administrator shall maintain a list of professional employer organizations and professional employer organization reporting entities registered under this section that is readily available to the public by electronic or other means.

Sec. 4125.051. (A) A professional employer organization, or a professional employer organization reporting entity of which the professional employer organization is a member, shall maintain positive working capital as defined by generally accepted

accounting principles. If a deficit in working capital exists at 381
any time, the professional employer organization or the 382
professional employer organization reporting entity shall do both 383
of the following: 384

(1) Obtain a bond, irrevocable letter of credit, or 385
securities with a minimum market value in an amount sufficient to 386
cover the deficit in working capital; 387

(2) Submit to the administrator of workers' compensation a 388
quarterly financial statement for each calendar quarter during 389
which there is a deficit in working capital, accompanied by an 390
attestation of the chief executive officer of the professional 391
employer organization that all wages, taxes, workers' compensation 392
premiums, and employee benefits have been paid by the professional 393
employer organization or members of the professional employer 394
organization reporting entity. 395

The bond, letter of credit, or securities required under 396
division (A)(1) of this section shall be held by a depository 397
designated by the administrator and shall secure payment by the 398
professional employer organization of all taxes, wages, benefits, 399
or other entitlements due or otherwise pertaining to shared 400
employees, if the professional employer organization does not make 401
those payments when due. 402

(B) A professional employer organization, or a professional 403
employer organization reporting entity of which the professional 404
employer organization is a member, shall prepare a financial 405
statement for registration and registration renewal under section 406
4125.05 of the Revised Code in accordance with generally accepted 407
accounting principles. The financial statement shall clearly 408
demonstrate the professional employer organization's or 409
professional employer organization reporting entity's compliance 410
with the financial capacity requirements of division (A) of this 411
section and shall be unqualified as to the going concern status of 412

the professional employer organization or professional employer organization reporting entity. 413
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The financial statement shall be audited by an independent certified public accountant authorized to practice in the jurisdiction in which that accountant is located. However, if a professional employer organization does not have at least twelve months of operating history on which to base an audit, the financial statement shall be reviewed by a certified public accountant. 415
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(C) Professional employer organizations in a professional employer organization reporting entity may satisfy the requirements of this section on a combined or consolidated basis provided that each member of the professional employer organization reporting entity guarantees each other members' satisfaction of the requirements under division (A) of this section. 422
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For purposes of satisfying the registration and registration renewal requirements described in division (B)(7) of section 4125.05 of the Revised Code, a professional employer organization reporting entity may submit a combined or consolidated financial statement that satisfies the requirements of this section. If the combined or consolidated financial statement includes entities that are not professional employer organizations or that are not in the professional employer organization reporting entity, the controlling entity of the professional employer organization reporting entity that is submitting the consolidated or combined financial statement shall guarantee that the professional employer organizations of the professional employer organization reporting entity have satisfied the requirements under division (A) of this section and shall include supplemental combining schedules to guarantee that the requirements under division (A) of this section are satisfied by the professional employer organization or 429
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professional employer organization reporting entity. 445

Sec. 4125.07. Not later than fourteen calendar days after the 446
date on which a professional employer organization agreement is 447
terminated, the professional employer organization is adjudged 448
bankrupt, the professional employer organization ceases operations 449
within the state of Ohio, or the registration of the professional 450
employer organization is revoked, the professional employer 451
organization shall submit to the administrator ~~of the bureau~~ of 452
workers' compensation and each client employer associated with 453
that professional employer organization a completed workers' 454
compensation lease termination notice form provided by the 455
administrator. The completed form shall include all client payroll 456
and claim information listed in a format specified by the 457
administrator and notice of all workers' compensation claims that 458
have been reported to the professional employer organization in 459
accordance with its internal reporting policies. 460

A professional employer organization shall report any 461
transfer of employees between related professional employer 462
organization entities or professional employer organization 463
reporting entities to the administrator within fourteen calendar 464
days after the date of the transfer on a form prescribed by the 465
administrator. The professional employer organization or 466
professional employer organization reporting entity shall include 467
in the form all client payroll and claim information regarding the 468
transferred employees listed in a format specified by the 469
administrator and a notice of all workers' compensation claims 470
that have been reported to the professional employer organization 471
or professional employer organization reporting entity in 472
accordance with the internal reporting policies of the 473
professional employer organization or professional employer 474
organization reporting entity. 475

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

A client employer shall have the sole right of direction and control of the professional or licensed activities of shared employees and of the client employer's business. The shared employees and client employers shall remain subject to regulation by the board, commission, or agency responsible for licensing, registration, or certification of the shared employees or client employers.

Sec. 4125.10. Nothing contained in this chapter or in any professional employer organization agreement shall do any of the following:

(A) Diminish, abolish, or remove the rights and obligations of client employers and shared employees existing prior to the effective date of the professional employer organization agreement;

(B) Affect, modify, or amend any contractual relationship or restrictive covenant between a shared employee and any client

employer in effect at the time a professional employer 506
organization agreement becomes effective; 507

(C) Prohibit or amend any contractual relationship or 508
restrictive covenant between a client employer and a shared 509
employee that is entered into after the professional employer 510
organization agreement becomes effective; 511

(D) Create any new or additional enforcement right of a 512
shared employee against a professional employer organization that 513
is not specifically provided by the professional employer 514
organization agreement or this chapter. 515

A professional employer organization shall have no 516
responsibility or liability in connection with, or arising out of, 517
any contractual relationship or restrictive covenant between a 518
client employer and a shared employee unless the professional 519
employer organization has specifically agreed otherwise in 520
writing. 521

Sec. 4125.11. For purposes of a bid, contract, purchase 522
order, or agreement entered into with the state or any political 523
subdivision, a client employer's status or certification as a 524
small, minority-owned, disadvantaged, or woman-owned business 525
enterprise or as a historically underutilized business shall not 526
be affected as a result of the client employer entering into a 527
professional employer organization agreement or using the services 528
of a professional employer organization. 529

Sec. 4141.24. (A)(1) The director of job and family services 530
shall maintain a separate account for each employer and, except as 531
otherwise provided in division (B) of section 4141.25 of the 532
Revised Code respecting mutualized contributions, shall credit 533
such employer's account with all the contributions, or payments in 534
lieu of contributions, which the employer has paid on the 535

employer's own behalf. 536

(2) If, as of the computation date, a contributory employer's 537
account shows a negative balance computed as provided in division 538
(A)(3) of section 4141.25 of the Revised Code, less any 539
contributions due and unpaid on such date, which negative balance 540
is in excess of the limitations imposed by divisions (A)(2)(a), 541
(b), and (c) of this section and if the employer's account is 542
otherwise eligible for the transfer, then before the employer's 543
contribution rate is computed for the next succeeding contribution 544
period, an amount equal to the amount of the excess eligible for 545
transfer shall be permanently transferred from the account of such 546
employer and charged to the mutualized account provided in 547
division (B) of section 4141.25 of the Revised Code. 548

(a) If as of any computation date, a contributory employer's 549
account shows a negative balance in excess of ten per cent of the 550
employer's average annual payroll, then before the employer's 551
contribution rate is computed for the next succeeding contribution 552
period, an amount equal to the amount of the excess shall be 553
transferred from the account as provided in this division. No 554
contributory employer's account may have any excess transferred 555
pursuant to division (A)(2)(a) of this section, unless the 556
employer's account has shown a positive balance for at least two 557
consecutive computation dates prior to the computation date with 558
respect to which the transfer is proposed. Each time a transfer is 559
made pursuant to division (A)(2)(a) of this section, the 560
employer's account is ineligible for any additional transfers 561
under that division, until the account shows a positive balance 562
for at least two consecutive computation dates subsequent to the 563
computation date of which the most recent transfer occurs pursuant 564
to division (A)(2)(a), (b), or (c) of this section. 565

(b) If at the next computation date after the computation 566

date at which a transfer from the account occurs pursuant to 567
division (A)(2)(a) of this section, a contributory employer's 568
account shows a negative balance in excess of fifteen per cent of 569
the employer's average annual payroll, then before the employer's 570
contribution rate is computed for the next succeeding contribution 571
period an amount equal to the amount of the excess shall be 572
permanently transferred from the account as provided in this 573
division. 574

(c) If at the next computation date subsequent to the 575
computation date at which a transfer from a contributory 576
employer's account occurs pursuant to division (A)(2)(b) of this 577
section, the employer's account shows a negative balance in excess 578
of twenty per cent of the employer's average annual payroll, then 579
before the employer's contribution rate is computed for the next 580
succeeding contribution period, an amount equal to the amount of 581
the excess shall be permanently transferred from the account as 582
provided in this division. 583

(d) If no transfer occurs pursuant to division (A)(2)(b) or 584
(c) of this section, the employer's account is ineligible for any 585
additional transfers under division (A)(2) of this section until 586
the account requalifies for a transfer pursuant to division 587
(A)(2)(a) of this section. 588

(B) Any employer may make voluntary payments in addition to 589
the contributions required under this chapter, in accordance with 590
rules established by the director. Such payments shall be included 591
in the employer's account as of the computation date, provided 592
they are received by the director by the thirty-first day of 593
December following such computation date. Such voluntary payment, 594
when accepted from an employer, will not be refunded in whole or 595
in part. In determining whether an employer's account has a 596
positive balance on two consecutive computation dates and is 597
eligible for transfers under division (A)(2) of this section, the 598

director shall exclude any voluntary payments made subsequent to 599
the last transfer made under division (A)(2) of this section. 600

(C) All contributions to the fund shall be pooled and 601
available to pay benefits to any individual entitled to benefits 602
irrespective of the source of such contributions. 603

(D)(1) For the purposes of this section and sections 4141.241 604
and 4141.242 of the Revised Code, an employer's account shall be 605
charged only for benefits based on remuneration paid by such 606
employer. Benefits paid to an eligible individual shall be charged 607
against the account of each employer within the claimant's base 608
period in the proportion to which wages attributable to each 609
employer of the claimant bears to the claimant's total base period 610
wages. Charges to the account of a base period employer with whom 611
the claimant is employed part-time at the time the claimant's 612
application for a determination of benefits rights is filed shall 613
be charged to the mutualized account when all of the following 614
conditions are met: 615

(a) The claimant also worked part-time for the employer 616
during the base period of the claim. 617

(b) The claimant is unemployed due to loss of other 618
employment. 619

(c) The employer is not a reimbursing employer under section 620
4141.241 or 4141.242 of the Revised Code. 621

(2) Notwithstanding division (D)(1) of this section, charges 622
to the account of any employer, including any reimbursing 623
employer, shall be charged to the mutualized account if it finally 624
is determined by a court on appeal that the employer's account is 625
not chargeable for the benefits. 626

(3) Any benefits paid to a claimant under section 4141.28 of 627
the Revised Code prior to a final determination of the claimant's 628
right to the benefits shall be charged to the employer's account 629

as provided in division (D)(1) of this section, provided that if 630
there is no final determination of the claim by the subsequent 631
thirtieth day of June, the employer's account shall be credited 632
with the total amount of benefits that has been paid prior to that 633
date, based on the determination that has not become final. The 634
total amount credited to the employer's account shall be charged 635
to a suspense account, which shall be maintained as a separate 636
bookkeeping account and administered as a part of this section, 637
and shall not be used in determining the account balance of the 638
employer for the purpose of computing the employer's contribution 639
rate under section 4141.25 of the Revised Code. 640

If it is finally determined that the claimant is entitled to 641
all or a part of the benefits in dispute, the suspense account 642
shall be credited and the appropriate employer's account charged 643
with the benefits. If it is finally determined that the claimant 644
is not entitled to all or any portion of the benefits in dispute, 645
the benefits shall be credited to the suspense account and a 646
corresponding charge made to the mutualized account established in 647
division (B) of section 4141.25 of the Revised Code, provided 648
that, except as otherwise provided in this section, if benefits 649
are chargeable to an employer or group of employers who is 650
required or elects to make payments to the fund in lieu of 651
contributions under section 4141.241 of the Revised Code, the 652
benefits shall be charged to the employer's account in the manner 653
provided in division (D)(1) of this section and division (B) of 654
section 4141.241 of the Revised Code, and no part of the benefits 655
may be charged to the suspense account provided in this division. 656

To the extent that benefits that have been paid to a claimant 657
and charged to the employer's account are found not to be due the 658
claimant and are recovered by the director as provided in section 659
4141.35 of the Revised Code, they shall be credited to the 660
employer's account. 661

(4) The director shall notify each employer at least once 662
each month of the benefits charged to the employer's account since 663
the last preceding notice; except that for the purposes of 664
sections 4141.241 and 4141.242 of the Revised Code which provides 665
the billing of employers on a payment in lieu of a contribution 666
basis, the director may prescribe a quarterly or less frequent 667
notice of benefits charged to the employer's account. Such notice 668
will show a summary of the amount of benefits paid which were 669
charged to the employer's account. This notice shall not be deemed 670
a determination of the claimant's eligibility for benefits. Any 671
employer so notified, however, may file within fifteen days after 672
the mailing date of the notice, an exception to charges appearing 673
on the notice on the grounds that such charges are not in 674
accordance with this section. The director shall promptly examine 675
the exception to such charges and shall notify the employer of the 676
director's decision thereon, which decision shall become final 677
unless appealed to the unemployment compensation review commission 678
in the manner provided in section 4141.26 of the Revised Code. For 679
the purposes of this division, an exception is considered timely 680
filed when it has been received as provided in division (D)(1) of 681
section 4141.281 of the Revised Code. 682

(E) The director shall terminate and close the account of any 683
contributory employer who has been subject to this chapter if the 684
enterprise for which the account was established is no longer in 685
operation and it has had no payroll and its account has not been 686
chargeable with benefits for a period of five consecutive years. 687
The amount of any positive balance, computed as provided in 688
division (A)(3) of section 4141.25 of the Revised Code, in an 689
account closed and terminated as provided in this section shall be 690
credited to the mutualized account as provided in division 691
(B)(2)(b) of section 4141.25 of the Revised Code. The amount of 692
any negative balance, computed as provided in division (A)(3) of 693
section 4141.25 of the Revised Code, in an account closed and 694

terminated as provided in this section shall be charged to the 695
mutualized account as provided in division (B)(1)(b) of section 696
4141.25 of the Revised Code. The amount of any positive balance or 697
negative balance, credited or charged to the mutualized account 698
after the termination and closing of an employer's account, shall 699
not thereafter be considered in determining the contribution rate 700
of such employer. The closing of an employer's account as provided 701
in this division shall not relieve such employer from liability 702
for any unpaid contributions or payment in lieu of contributions 703
which are due for periods prior to such closing. 704

If the director finds that a contributory employer's business 705
is closed solely because of the entrance of one or more of the 706
owners, officers, or partners, or the majority stockholder, into 707
the armed forces of the United States, or any of its allies, or of 708
the United Nations after July 1, 1950, such employer's account 709
shall not be terminated and if the business is resumed within two 710
years after the discharge or release of such persons from active 711
duty in the armed forces, the employer's experience shall be 712
deemed to have been continuous throughout such period. The reserve 713
ratio of any such employer shall be the total contributions paid 714
by such employer minus all benefits, including benefits paid to 715
any individual during the period such employer was in the armed 716
forces, based upon wages paid by the employer prior to the 717
employer's entrance into the armed forces divided by the average 718
of the employer's annual payrolls for the three most recent years 719
during the whole of which the employer has been in business. 720

(F) If an employer transfers all of its trade or business to 721
another employer or person, the acquiring employer or person shall 722
be the successor in interest to the transferring employer and 723
shall assume the resources and liabilities of such transferring 724
employer's account, and continue the payment of all contributions, 725
or payments in lieu of contributions, due under this chapter. 726

If an employer or person acquires substantially all, or a clearly segregable and identifiable portion of an employer's trade or business, then upon the director's approval of a properly completed application for successorship, the employer or person acquiring the trade or business, or portion thereof, shall be the successor in interest. The director by rule may prescribe procedures for effecting transfers of experience as provided for in this section.

(G) Notwithstanding sections 4141.09, 4141.23, 4141.24, 4141.241, 4141.242, 4141.25, 4141.26, and 4141.27 of the Revised Code, both of the following apply regarding assignment of rates and transfers of experience:

(1) If an employer transfers its trade or business, or a portion thereof, to another employer and, at the time of the transfer, both employers are under substantially common ownership, management, or control, then the unemployment experience attributable to the transferred trade or business, or portion thereof, shall be transferred to the employer to whom the business is so transferred. The director shall recalculate the rates of both employers and those rates shall be effective immediately upon the date of the transfer of the trade or business.

(2) Whenever a person is not an employer under this chapter at the time the person acquires the trade or business of an employer, the unemployment experience of the acquired trade or business shall not be transferred to the person if the director finds that the person acquired the trade or business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, that person shall be assigned the applicable new employer rate under division (A)(1) of section 4141.25 of the Revised Code.

(H) The director shall establish procedures to identify the transfer or acquisition of a trade or business for purposes of

this section and shall adopt rules prescribing procedures for 759
effecting transfers of experience as described in this section. 760

(I) No rate of contribution less than two and seven-tenths 761
per cent shall be permitted a contributory employer succeeding to 762
the experience of another contributory employer pursuant to this 763
section for any period subsequent to such succession, except in 764
accordance with rules prescribed by the director, which rules 765
shall be consistent with federal requirements for additional 766
credit allowance in section 3303 of the "Internal Revenue Code of 767
1954" and consistent with this chapter, except that such rules may 768
establish a computation date for any such period different from 769
the computation date generally prescribed by this chapter, and may 770
define "calendar year" as meaning a twelve-consecutive-month 771
period ending on the same day of the year as that on which such 772
computation date occurs. 773

(J) The director may prescribe rules for the establishment, 774
maintenance, and dissolution of common contribution rates for two 775
or more contributory employers, and in accordance with such rules 776
and upon application by two or more employers shall establish such 777
common rate to be computed by merging the several contribution 778
rate factors of such employers for the purpose of establishing a 779
common contribution rate applicable to all such employers. 780

(K) The director shall adopt rules applicable to professional 781
employer organizations and professional employer organization 782
reporting entities to address the method in which a professional 783
employer organization or professional employer organization 784
reporting entity reports quarterly wages and contributions to the 785
director for shared employees. 786

(1) The rules shall recognize a professional employer 787
organization or professional employer organization reporting 788
entity as the employer of record of the shared employees of the 789
professional employer organization or professional employer 790

organization reporting entity for reporting purposes; however, the 791
rules may require that each shared employee of a single client 792
employer be reported under a separate and unique subaccount of the 793
professional employer organization or professional employer 794
organization reporting entity to reflect the experience of the 795
shared employees of that client employer. 796

(2) The director shall use a subaccount solely to determine 797
experience rates for that individual subaccount on an annual basis 798
and shall recognize a professional employer organization or 799
professional employer organization reporting entity as the 800
employer of record associated with each subaccount. The director 801
shall combine the rate experience that existed on a client 802
employer's account prior to entering into a professional employer 803
organization agreement with the experience accumulated as a 804
subaccount of the professional employer organization or 805
professional employer organization reporting entity. The combined 806
experience shall remain with the client account upon termination 807
of the professional employer organization agreement. 808

(3) A professional employer organization or professional 809
employer organization reporting entity shall provide a power of 810
attorney or other evidence, which evidence may be included as part 811
of a professional employer organization agreement, completed by 812
each client employer of the professional employer organization or 813
professional employer organization reporting entity, authorizing 814
the professional employer organization or professional employer 815
organization reporting entity to act on behalf of the client 816
employer in accordance with the requirements of this chapter. 817

(4) Any rule adopted pursuant to division (K) of this section 818
also shall include administrative requirements that permit a 819
professional employer organization or a professional employer 820
organization reporting entity to transmit any reporting and 821
payment data required under division (K)(1) of this section 822

collectively as a single filing with the director. 823

(5) As used in division (K) of this section, "client 824
employer," "professional employer organization," "professional 825
employer organization agreement," "professional employer 826
organization reporting entity," and "shared employee" have the 827
same meanings as in section 4125.01 of the Revised Code. 828

Sec. 5747.07. (A) As used in this section: 829

(1) "Partial weekly withholding period" means a period during 830
which an employer directly, indirectly, or constructively pays 831
compensation to, or credits compensation to the benefit of, an 832
employee, and that consists of a consecutive Saturday, Sunday, 833
Monday, and Tuesday or a consecutive Wednesday, Thursday, and 834
Friday. There are two partial weekly withholding periods each 835
week, except that a partial weekly withholding period cannot 836
extend from one calendar year into the next calendar year; if the 837
first day of January falls on a day other than Saturday or 838
Wednesday, the partial weekly withholding period ends on the 839
thirty-first day of December and there are three partial weekly 840
withholding periods during that week. 841

(2) "Undeposited taxes" means the taxes an employer is 842
required to deduct and withhold from an employee's compensation 843
pursuant to section 5747.06 of the Revised Code that have not been 844
remitted to the tax commissioner pursuant to this section or to 845
the treasurer of state pursuant to section 5747.072 of the Revised 846
Code. 847

(3) A "week" begins on Saturday and concludes at the end of 848
the following Friday. 849

(4) "Client employer," "professional employer organization," 850
"professional employer organization agreement," and "professional 851
employer organization reporting entity" have the same meanings as 852

in section 4125.01 of the Revised Code. 853

(B) Except as provided in divisions (C) and (D) of this 854
section and in division (A) of section 5747.072 of the Revised 855
Code, every employer required to deduct and withhold any amount 856
under section 5747.06 of the Revised Code shall file a return and 857
shall pay the amount required by law as follows: 858

(1) An employer who accumulates or is required to accumulate 859
undeposited taxes of one hundred thousand dollars or more during a 860
partial weekly withholding period shall make the payment of the 861
undeposited taxes by the close of the first banking day after the 862
day on which the accumulation reaches one hundred thousand 863
dollars. If required under division (I) of this section, the 864
payment shall be made by electronic funds transfer under section 865
5747.072 of the Revised Code. 866

(2)(a) Except as required by division (B)(1) of this section, 867
an employer described in division (B)(2)(b) of this section shall 868
make the payment of undeposited taxes within three banking days 869
after the close of a partial weekly withholding period during 870
which the employer was required to deduct and withhold any amount 871
under this chapter. If required under division (I) of this 872
section, the payment shall be made by electronic funds transfer 873
under section 5747.072 of the Revised Code. 874

(b) For amounts required to be deducted and withheld during 875
1994, an employer described in division (B)(2)(b) of this section 876
is one whose actual or required payments under this section 877
exceeded one hundred eighty thousand dollars during the 878
twelve-month period ending June 30, 1993. For amounts required to 879
be deducted and withheld during 1995 and each year thereafter, an 880
employer described in division (B)(2)(b) of this section is one 881
whose actual or required payments under this section were at least 882
eighty-four thousand dollars during the twelve-month period ending 883
on the thirtieth day of June of the preceding calendar year. 884

(3) Except as required by divisions (B)(1) and (2) of this section, if an employer's actual or required payments were more than two thousand dollars during the twelve-month period ending on the thirtieth day of June of the preceding calendar year, the employer shall make the payment of undeposited taxes for each month during which they were required to be withheld no later than fifteen days following the last day of that month. The employer shall file the return prescribed by the tax commissioner with the payment.

(4) Except as required by divisions (B)(1), (2), and (3) of this section, an employer shall make the payment of undeposited taxes for each calendar quarter during which they were required to be withheld no later than the last day of the month following the last day of March, June, September, and December each year. The employer shall file the return prescribed by the tax commissioner with the payment.

(C) The return and payment schedules prescribed by divisions (B)(1) and (2) of this section do not apply to the return and payment of undeposited school district income taxes arising from taxes levied pursuant to Chapter 5748. of the Revised Code. Undeposited school district income taxes shall be returned and paid pursuant to divisions (B)(3) and (4) of this section, as applicable.

(D)(1) The requirements of division (B) of this section are met if the amount paid is not less than ninety-five per cent of the actual tax withheld or required to be withheld for the prior quarterly, monthly, or partial weekly withholding period, and the underpayment is not due to willful neglect. Any underpayment of withheld tax shall be paid within thirty days of the date on which the withheld tax was due without regard to division (D)(1) of this section. An employer described in division (B)(1) or (2) of this section shall make the payment by electronic funds transfer under

section 5747.072 of the Revised Code. 917

(2) If the tax commissioner believes that quarterly or 918
monthly payments would result in a delay that might jeopardize the 919
remittance of withholding payments, the commissioner may order 920
that the payments be made weekly, or more frequently if necessary, 921
and the payments shall be made no later than three banking days 922
following the close of the period for which the jeopardy order is 923
made. An order requiring weekly or more frequent payments shall be 924
delivered to the employer personally or by certified mail and 925
remains in effect until the commissioner notifies the employer to 926
the contrary. 927

(3) If compelling circumstances exist concerning the 928
remittance of undeposited taxes, the commissioner may order the 929
employer to make payments under any of the payment schedules under 930
division (B) of this section. The order shall be delivered to the 931
employer personally or by certified mail and shall remain in 932
effect until the commissioner notifies the employer to the 933
contrary. For purposes of division (D)(3) of this section, 934
"compelling circumstances" exist if either or both of the 935
following are true: 936

(a) Based upon annualization of payments made or required to 937
be made during the preceding calendar year and during the current 938
calendar year, the employer would be required for the next 939
calendar year to make payments under division (B)(2) of this 940
section. 941

(b) Based upon annualization of payments made or required to 942
be made during the current calendar year, the employer would be 943
required for the next calendar year to make payments under 944
division (B)(2) of this section. 945

(E)(1) An employer described in division (B)(1) or (2) of 946
this section shall file, not later than the last day of the month 947

following the end of each calendar quarter, a return covering, but 948
not limited to, both the actual amount deducted and withheld and 949
the amount required to be deducted and withheld for the tax 950
imposed under section 5747.02 of the Revised Code during each 951
partial weekly withholding period or portion of a partial weekly 952
withholding period during that quarter. The employer shall file 953
the quarterly return even if the aggregate amount required to be 954
deducted and withheld for the quarter is zero dollars. At the time 955
of filing the return, the employer shall pay any amounts of 956
undeposited taxes for the quarter, whether actually deducted and 957
withheld or required to be deducted and withheld, that have not 958
been previously paid. If required under division (I) of this 959
section, the payment shall be made by electronic funds transfer. 960
The tax commissioner shall prescribe the form and other 961
requirements of the quarterly return. 962

(2) In addition to other returns required to be filed and 963
payments required to be made under this section, every employer 964
required to deduct and withhold taxes shall file, not later than 965
the thirty-first day of January of each year, an annual return 966
covering, but not limited to, both the aggregate amount deducted 967
and withheld and the aggregate amount required to be deducted and 968
withheld during the entire preceding year for the tax imposed 969
under section 5747.02 of the Revised Code and for each tax imposed 970
under Chapter 5748. of the Revised Code. At the time of filing 971
that return, the employer shall pay over any amounts of 972
undeposited taxes for the preceding year, whether actually 973
deducted and withheld or required to be deducted and withheld, 974
that have not been previously paid. The employer shall make the 975
annual report, to each employee and to the tax commissioner, of 976
the compensation paid and each tax withheld, as the commissioner 977
by rule may prescribe. 978

Each employer required to deduct and withhold any tax is 979

liable for the payment of that amount required to be deducted and 980
withheld, whether or not the tax has in fact been withheld, unless 981
the failure to withhold was based upon the employer's good faith 982
in reliance upon the statement of the employee as to liability, 983
and the amount shall be deemed to be a special fund in trust for 984
the general revenue fund. 985

(F) Each employer shall file with the employer's annual 986
return the following items of information on employees for whom 987
withholding is required under section 5747.06 of the Revised Code: 988

(1) The full name of each employee, the employee's address, 989
the employee's school district of residence, and in the case of a 990
nonresident employee, the employee's principal county of 991
employment; 992

(2) The social security number of each employee; 993

(3) The total amount of compensation paid before any 994
deductions to each employee for the period for which the annual 995
return is made; 996

(4) The amount of the tax imposed by section 5747.02 of the 997
Revised Code and the amount of each tax imposed under Chapter 998
5748. of the Revised Code withheld from the compensation of the 999
employee for the period for which the annual return is made. The 1000
commissioner may extend upon good cause the period for filing any 1001
notice or return required to be filed under this section and may 1002
adopt rules relating to extensions of time. If the extension 1003
results in an extension of time for the payment of the amounts 1004
withheld with respect to which the return is filed, the employer 1005
shall pay, at the time the amount withheld is paid, an amount of 1006
interest computed at the rate per annum prescribed by section 1007
5703.47 of the Revised Code on that amount withheld, from the day 1008
that amount was originally required to be paid to the day of 1009
actual payment or to the day an assessment is issued under section 1010

5747.13 of the Revised Code, whichever occurs first. 1011

(5) In addition to all other interest charges and penalties 1012
imposed, all amounts of taxes withheld or required to be withheld 1013
and remaining unpaid after the day the amounts are required to be 1014
paid shall bear interest from the date prescribed for payment at 1015
the rate per annum prescribed by section 5703.47 of the Revised 1016
Code on the amount unpaid, in addition to the amount withheld, 1017
until paid or until the day an assessment is issued under section 1018
5747.13 of the Revised Code, whichever occurs first. 1019

(G) An employee of a corporation, limited liability company, 1020
or business trust having control or supervision of or charged with 1021
the responsibility of filing the report and making payment, or an 1022
officer, member, manager, or trustee of a corporation, limited 1023
liability company, or business trust who is responsible for the 1024
execution of the corporation's, limited liability company's, or 1025
business trust's fiscal responsibilities, shall be personally 1026
liable for failure to file the report or pay the tax due as 1027
required by this section. The dissolution, termination, or 1028
bankruptcy of a corporation, limited liability company, or 1029
business trust does not discharge a responsible officer's, 1030
member's, manager's, employee's, or trustee's liability for a 1031
failure of the corporation, limited liability company, or business 1032
trust to file returns or pay tax due. 1033

(H) If an employer required to deduct and withhold income tax 1034
from compensation and to pay that tax to the state under sections 1035
5747.06 and 5747.07 of the Revised Code sells the employer's 1036
business or stock of merchandise or quits the employer's business, 1037
the taxes required to be deducted and withheld and paid to the 1038
state pursuant to those sections prior to that time, together with 1039
any interest and penalties imposed on those taxes, become due and 1040
payable immediately, and that person shall make a final return 1041
within fifteen days after the date of selling or quitting 1042

business. The employer's successor shall withhold a sufficient amount of the purchase money to cover the amount of the taxes, interest, and penalties due and unpaid, until the former owner produces a receipt from the tax commissioner showing that the taxes, interest, and penalties have been paid or a certificate indicating that no such taxes are due. If the purchaser of the business or stock of merchandise fails to withhold purchase money, the purchaser shall be personally liable for the payment of the taxes, interest, and penalties accrued and unpaid during the operation of the business by the former owner. If the amount of taxes, interest, and penalties outstanding at the time of the purchase exceeds the total purchase money, the tax commissioner in the commissioner's discretion may adjust the liability of the seller or the responsibility of the purchaser to pay that liability to maximize the collection of withholding tax revenue.

(I)(1) An employer described in division (I)(2) of this section shall make all payments required by this section for the year by electronic funds transfer under section 5747.072 of the Revised Code.

(2)(a) For 1994, an employer described in division (I)(2) of this section is one whose actual or required payments under this section exceeded five hundred thousand dollars during the twelve-month period ending June 30, 1993.

(b) For 1995, an employer described in division (I)(2) of this section is one whose actual or required payments under this section exceeded five hundred thousand dollars during the twelve-month period ending June 30, 1994.

(c) For 1996, an employer described in division (I)(2) of this section is one whose actual or required payments under this section exceeded three hundred thousand dollars during the twelve-month period ending June 30, 1995.

(d) For 1997 through 2000, an employer described in division 1074
(I)(2) of this section is one whose actual or required payments 1075
under this section exceeded one hundred eighty thousand dollars 1076
during the twelve-month period ending on the thirtieth day of June 1077
of the preceding calendar year. 1078

(e) For 2001 and thereafter, an employer described in 1079
division (I)(2) of this section is one whose actual or required 1080
payments under this section exceeded eighty-four thousand dollars 1081
during the twelve-month period ending on the thirtieth day of June 1082
of the preceding calendar year. 1083

(J)(1) Every professional employer organization and every 1084
professional employer organization reporting entity shall file a 1085
report with the tax commissioner within thirty days after 1086
commencing business in this state or within thirty days after the 1087
effective date of this amendment, whichever is later, that 1088
includes all of the following information: 1089

(a) The name, address, number the employer receives from the 1090
secretary of state to do business in this state, if applicable, 1091
and federal employer identification number of each client employer 1092
of the professional employer organization or professional employer 1093
organization reporting entity; 1094

(b) The date that each client employer became a client of the 1095
professional employer organization or professional employer 1096
organization reporting entity; 1097

(c) The names and mailing addresses of the chief executive 1098
officer and the chief financial officer of each client employer 1099
for taxation of the client employer. 1100

(2) Beginning with the calendar quarter ending after a 1101
professional employer organization or professional employer 1102
organization reporting entity files the report required under 1103
division (J)(1) of this section, and every calendar quarter 1104

thereafter, the professional employer organization or the 1105
professional employer organization reporting entity shall file an 1106
updated report with the tax commissioner. The professional 1107
employer organization or professional employer organization 1108
reporting entity shall file the updated report not later than the 1109
last day of the month following the end of the calendar quarter 1110
and shall include all of the following information in the report: 1111

(a) If an entity became a client employer of the professional 1112
employer organization or professional employer organization 1113
reporting entity at any time during the calendar quarter, all of 1114
the information required under division (J)(1) of this section for 1115
each new client employer; 1116

(b) If an entity terminated the professional employer 1117
organization agreement between the professional employer 1118
organization or professional employer organization reporting 1119
entity and the entity at any time during the calendar quarter, the 1120
information described in division (J)(1)(a) of this section for 1121
that entity, the date during the calendar quarter that the entity 1122
ceased being a client of the professional employer organization or 1123
professional employer organization reporting entity, if 1124
applicable, or the date the entity ceased business operations in 1125
this state, if applicable; 1126

(c) If the name or mailing address of the chief executive 1127
officer or the chief financial officer of a client employer has 1128
changed since the professional employer organization or 1129
professional employer organization reporting entity previously 1130
submitted a report under division (J)(1) or (2) of this section, 1131
the updated name or mailing address, or both, of the chief 1132
executive officer or the chief financial officer, as applicable; 1133

(d) If none of the events described in divisions (J)(2)(a) to 1134
(c) of this section occurred during the calendar quarter, a 1135
statement of that fact. 1136

Section 2. That existing sections 4123.291, 4125.01, 4125.02, 1137
4125.03, 4125.05, 4125.07, 4125.08, 4141.24, and 5747.07 of the 1138
Revised Code are hereby repealed. 1139

Section 3. Section 4125.05 of the Revised Code as amended by 1140
this act and section 4125.051 of the Revised Code as enacted by 1141
this act take effect January 1, 2011. 1142