

As Introduced

**128th General Assembly
Regular Session
2009-2010**

S. B. No. 213

Senator Faber

Cosponsors: Senators Schaffer, Jones, Grendell, Hughes, Cates

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A B I L L

To amend section 4123.29 of the Revised Code to 1
require the Administrator of Workers' Compensation 2
to make specified changes concerning workers' 3
compensation premium rates. 4

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

Section 1. That section 4123.29 of the Revised Code be 5
amended to read as follows: 6

Sec. 4123.29. (A) The administrator of workers' compensation, 7
subject to the approval of the bureau of workers' compensation 8
board of directors, shall do all of the following: 9

(1) Classify occupations or industries with respect to their 10
degree of hazard and determine the risks of the different classes 11
according to the categories the national council on compensation 12
insurance establishes that are applicable to employers in this 13
state; 14

(2)(a) Fix the rates of premium of the risks of the classes 15
based upon the total payroll in each of the classes of occupation 16
or industry sufficiently large to provide a fund for the 17
compensation provided for in this chapter and to maintain a state 18
insurance fund from year to year. The administrator shall set the 19

rates at a level that assures the solvency of the fund. Where the 20
payroll cannot be obtained or, in the opinion of the 21
administrator, is not an adequate measure for determining the 22
premium to be paid for the degree of hazard, the administrator may 23
determine the rates of premium upon such other basis, consistent 24
with insurance principles, as is equitable in view of the degree 25
of hazard, and whenever in this chapter reference is made to 26
payroll or expenditure of wages with reference to fixing premiums, 27
the reference shall be construed to have been made also to such 28
other basis for fixing the rates of premium as the administrator 29
may determine under this section. 30

(b) If an employer elects to obtain other-states' coverage 31
pursuant to section 4123.292 of the Revised Code through either 32
the administrator, if the administrator elects to offer such 33
coverage, or an other-states' insurer, calculate the employer's 34
premium for the state insurance fund in the same manner as 35
otherwise required under division (A) of this section and section 36
4123.34 of the Revised Code, except that when the administrator 37
determines the expenditure of wages, payroll, or both upon which 38
to base the employer's premium, the administrator shall use only 39
the expenditure of wages, payroll, or both attributable to the 40
labor performed and services provided by that employer's employees 41
when those employees performed labor and provided services in this 42
state only and to which the other-states' coverage does not apply. 43

(c) The administrator in setting or revising rates shall 45
furnish to employers an adequate explanation of the basis for the 46
rates set. 47

(3) Develop and make available to employers who are paying 48
premiums to the state insurance fund alternative premium plans. 49
Alternative premium plans shall include retrospective rating 50
plans. The administrator may make available plans under which an 51

advanced deposit may be applied against a specified deductible amount per claim. 52
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(4)(a) Offer to insure the obligations of employers under this chapter under a plan that groups, for rating purposes, employers, and pools the risk of the employers within the group provided that the employers meet all of the following conditions: 54
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(i) All of the employers within the group are members of an organization that has been in existence for at least two years prior to the date of application for group coverage; 58
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(ii) The organization was formed for purposes other than that of obtaining group workers' compensation under this division; 61
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(iii) The employers' business in the organization is substantially similar such that the risks which are grouped are substantially homogeneous; 63
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(iv) The group of employers consists of at least one hundred members or the aggregate workers' compensation premiums of the members, as determined by the administrator, are expected to exceed one hundred fifty thousand dollars during the coverage period; 66
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(v) The formation and operation of the group program in the organization will substantially improve accident prevention and claims handling for the employers in the group; 71
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(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. 74
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(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 79
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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) The administrator shall develop classifications of

occupations or industries that are sufficiently distinct so as not 113
to group employers in classifications that unfairly represent the 114
risks of employment with the employer. 115

(5) Generally promote employer participation in the state 116
insurance fund through the regular dissemination of information to 117
all classes of employers describing the advantages and benefits of 118
opting to make premium payments to the fund. To that end, the 119
administrator shall regularly make employers aware of the various 120
workers' compensation premium packages developed and offered 121
pursuant to this section. 122

(6) Make available to every employer who is paying premiums 123
to the state insurance fund a program whereby the employer or the 124
employer's agent pays to the claimant or on behalf of the claimant 125
the first fifteen thousand dollars of a compensable workers' 126
compensation medical-only claim filed by that claimant that is 127
related to the same injury or occupational disease. No formal 128
application is required; however, an employer must elect to 129
participate by telephoning the bureau after July 1, 1995. Once an 130
employer has elected to participate in the program, the employer 131
will be responsible for all bills in all medical-only claims with 132
a date of injury the same or later than the election date, unless 133
the employer notifies the bureau within fourteen days of receipt 134
of the notification of a claim being filed that it does not wish 135
to pay the bills in that claim, or the employer notifies the 136
bureau that the fifteen thousand dollar maximum has been paid, or 137
the employer notifies the bureau of the last day of service on 138
which it will be responsible for the bills in a particular 139
medical-only claim. If an employer elects to enter the program, 140
the administrator shall not reimburse the employer for such 141
amounts paid and shall not charge the first fifteen thousand 142
dollars of any medical-only claim paid by an employer to the 143
employer's experience or otherwise use it in merit rating or 144

determining the risks of any employer for the purpose of payment 145
of premiums under this chapter. A certified health care provider 146
shall extend to an employer who participates in this program the 147
same rates for services rendered to an employee of that employer 148
as the provider bills the administrator for the same type of 149
medical claim processed by the bureau and shall not charge, 150
assess, or otherwise attempt to collect from an employee any 151
amount for covered services or supplies that is in excess of that 152
rate. If an employer elects to enter the program and the employer 153
fails to pay a bill for a medical-only claim included in the 154
program, the employer shall be liable for that bill and the 155
employee for whom the employer failed to pay the bill shall not be 156
liable for that bill. The administrator shall adopt rules to 157
implement and administer division (A)(6) of this section. Upon 158
written request from the bureau, the employer shall provide 159
documentation to the bureau of all medical-only bills that they 160
are paying directly. Such requests from the bureau may not be made 161
more frequently than on a semiannual basis. Failure to provide 162
such documentation to the bureau within thirty days of receipt of 163
the request may result in the employer's forfeiture of 164
participation in the program for such injury. The provisions of 165
this section shall not apply to claims in which an employer with 166
knowledge of a claimed compensable injury or occupational disease, 167
has paid wages in lieu of compensation or total disability. 168

(B) The administrator, with the advice and consent of the 169
board, by rule, may do both of the following: 170

(1) Grant an employer who makes the employer's semiannual 171
premium payment at least one month prior to the last day on which 172
the payment may be made without penalty, a discount as the 173
administrator fixes from time to time; 174

(2) Levy a minimum annual administrative charge upon risks 175
where semiannual premium reports develop a charge less than the 176

administrator considers adequate to offset administrative costs of 177
processing. 178

(C) The administrator shall adopt a rule that sets the 179
discount for programs or alternative premium plans not later than 180
the first day of September prior to the policy year in which the 181
discount for programs or alternative premium plans is to be in 182
effect. 183

Section 2. That existing section 4123.29 of the Revised Code 184
is hereby repealed. 185

Section 3. (A) As used in this section, "breakeven factor" 186
means an adjustment factor applied to the group rated experience 187
modification used to calculate the workers' compensation premium 188
rate of an employer that participates in the group rating program 189
created under division (A)(4) of section 4123.29 of the Revised 190
Code. 191

(B) Beginning on the effective date of this section, the 192
Administrator of Workers' Compensation shall suspend the use of a 193
breakeven factor for a period of two years. During that two-year 194
period, the Administrator shall not lower the maximum premium 195
discount for employers who participate in the group rating program 196
created under division (A)(4) of section 4123.29 of the Revised 197
Code below sixty-five per cent, and neither the Administrator nor 198
the Bureau of Workers' Compensation Board of Directors shall make 199
or approve any changes to the group rating program. 200

(C) During the first year of the two-year period described in 202
division (B) of this section, the Administrator shall study the 203
premium rating system. The study shall be a collaborative effort 204
with stakeholders in the workers' compensation system. The 205
Administrator shall submit a report summarizing the results of the 206

study by the end of that first year to the Governor, the President 207
and Minority Leader of the Senate, the Speaker and Minority Leader 208
of the House of Representatives, and the chairpersons of the 209
standing committees of the Senate and the House of Representatives 210
to which legislation concerning workers' compensation customarily 211
is referred. The Administrator shall include in that report a 212
determination of the direction of future premium rates and 213
supporting evidence of that determination and, if the 214
Administrator determines that changes to Chapter 4121., 4123., 215
4127., or 4131. of the Revised Code are necessary to implement the 216
report, a list of those recommended changes. 217

(D) During the second year of the two-year period described 218
in division (B) of this section, the Administrator, subject to the 219
approval of the Bureau of Workers' Compensation Board of 220
Directors, may adopt rules in accordance with section 4123.29 of 221
the Revised Code, as amended by this act, and section 4123.34 of 222
the Revised Code to make changes to the rating system to implement 223
the results of the study required under division (C) of this 224
section. 225