

As Passed by the Senate

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

Sub. S. B. No. 213

Senator Faber

**Cosponsors: Senators Schaffer, Jones, Grendell, Hughes, Cates, Buehrer,
Carey, Gibbs, Gillmor, Goodman, Harris, Niehaus, Patton**

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A B I L L

To amend sections 4123.29 and 4123.321 of the Revised 1
Code to require the Administrator of Workers' 2
Compensation to make specified changes concerning 3
workers' compensation premium rates and to 4
prohibit the Bureau of Workers' Compensation Board 5
of Directors from issuing a refund or rebate to 6
subscribers to the State Insurance Fund without 7
approval of the General Assembly. 8

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

Section 1. That sections 4123.29 and 4123.321 of the Revised 9
Code be amended to read as follows: 10

Sec. 4123.29. (A) The administrator of workers' compensation, 11
subject to the approval of the bureau of workers' compensation 12
board of directors, shall do all of the following: 13

(1) Classify occupations or industries with respect to their 14
degree of hazard and determine the risks of the different classes 15
according to the categories the national council on compensation 16
insurance establishes that are applicable to employers in this 17
state; 18

(2)(a) Fix the rates of premium of the risks of the classes 19
based upon the total payroll in each of the classes of occupation 20
or industry sufficiently large to provide a fund for the 21
compensation provided for in this chapter and to maintain a state 22
insurance fund from year to year. The administrator shall set the 23
rates at a level that assures the solvency of the fund. Where the 24
payroll cannot be obtained or, in the opinion of the 25
administrator, is not an adequate measure for determining the 26
premium to be paid for the degree of hazard, the administrator may 27
determine the rates of premium upon such other basis, consistent 28
with insurance principles, as is equitable in view of the degree 29
of hazard, and whenever in this chapter reference is made to 30
payroll or expenditure of wages with reference to fixing premiums, 31
the reference shall be construed to have been made also to such 32
other basis for fixing the rates of premium as the administrator 33
may determine under this section. 34

(b) If an employer elects to obtain other-states' coverage 35
pursuant to section 4123.292 of the Revised Code through either 36
the administrator, if the administrator elects to offer such 37
coverage, or an other-states' insurer, calculate the employer's 38
premium for the state insurance fund in the same manner as 39
otherwise required under division (A) of this section and section 40
4123.34 of the Revised Code, except that when the administrator 41
determines the expenditure of wages, payroll, or both upon which 42
to base the employer's premium, the administrator shall use only 43
the expenditure of wages, payroll, or both attributable to the 44
labor performed and services provided by that employer's employees 45
when those employees performed labor and provided services in this 46
state only and to which the other-states' coverage does not apply. 47

(c) The administrator in setting or revising rates shall 48
furnish to employers an adequate explanation of the basis for the 49
rates set. 50

(3) Develop and make available to employers who are paying 51
premiums to the state insurance fund alternative premium plans. 52
Alternative premium plans shall include retrospective rating 53
plans. The administrator may make available plans under which an 54
advanced deposit may be applied against a specified deductible 55
amount per claim. 56

(4)(a) Offer to insure the obligations of employers under 57
this chapter under a plan that groups, for rating purposes, 58
employers, and pools the risk of the employers within the group 59
provided that the employers meet all of the following conditions: 60

(i) All of the employers within the group are members of an 61
organization that has been in existence for at least two years 62
prior to the date of application for group coverage; 63

(ii) The organization was formed for purposes other than that 64
of obtaining group workers' compensation under this division; 65

(iii) The employers' business in the organization is 66
substantially similar such that the risks which are grouped are 67
substantially homogeneous; 68

(iv) The group of employers consists of at least one hundred 69
members or the aggregate workers' compensation premiums of the 70
members, as determined by the administrator, are expected to 71
exceed one hundred fifty thousand dollars during the coverage 72
period; 73

(v) The formation and operation of the group program in the 74
organization will substantially improve accident prevention and 75
claims handling for the employers in the group; 76

(vi) Each employer seeking to enroll in a group for workers' 77
compensation coverage has an industrial insurance account in good 78
standing with the bureau of workers' compensation such that at the 79
time the agreement is processed no outstanding premiums, 80
penalties, or assessments are due from any of the employers. 81

(b) If an organization sponsors more than one employer group 82
to participate in group plans established under this section, that 83
organization may submit a single application that supplies all of 84
the information necessary for each group of employers that the 85
organization wishes to sponsor. 86

(c) In providing employer group plans under division (A)(4) 87
of this section, the administrator shall consider an employer 88
group as a single employing entity for purposes of group rating. 89
No employer may be a member of more than one group for the purpose 90
of obtaining workers' compensation coverage under this division. 91

(d) At the time the administrator revises premium rates 92
pursuant to this section and section 4123.34 of the Revised Code, 93
if the premium rate of an employer who participates in a group 94
plan established under this section changes from the rate 95
established for the previous year, the administrator, in addition 96
to sending the invoice with the rate revision to that employer, 97
shall send a copy of that invoice to the third-party administrator 98
that administers the group plan for that employer's group. 99

(e) In providing employer group plans under division (A)(4) 100
of this section, the administrator shall establish a program 101
designed to mitigate the impact of a significant claim that would 102
come into the experience of a private, state fund group-rated 103
employer for the first time and be a contributing factor in that 104
employer being excluded from a group-rated plan. The administrator 105
shall establish eligibility criteria and requirements that such 106
employers must satisfy in order to participate in this program. 107
For purposes of this program, the administrator shall establish a 108
discount on premium rates applicable to employers who qualify for 109
the program. 110

(f) In no event shall division (A)(4) of this section be 111
construed as granting to an employer status as a self-insuring 112
employer. 113

(g) The administrator shall develop classifications of 114
occupations or industries that are sufficiently distinct so as not 115
to group employers in classifications that unfairly represent the 116
risks of employment with the employer. 117

(5) Generally promote employer participation in the state 118
insurance fund through the regular dissemination of information to 119
all classes of employers describing the advantages and benefits of 120
opting to make premium payments to the fund. To that end, the 121
administrator shall regularly make employers aware of the various 122
workers' compensation premium packages developed and offered 123
pursuant to this section. 124

(6) Make available to every employer who is paying premiums 125
to the state insurance fund a program whereby the employer or the 126
employer's agent pays to the claimant or on behalf of the claimant 127
the first fifteen thousand dollars of a compensable workers' 128
compensation medical-only claim filed by that claimant that is 129
related to the same injury or occupational disease. No formal 130
application is required; however, an employer must elect to 131
participate by telephoning the bureau after July 1, 1995. Once an 132
employer has elected to participate in the program, the employer 133
will be responsible for all bills in all medical-only claims with 134
a date of injury the same or later than the election date, unless 135
the employer notifies the bureau within fourteen days of receipt 136
of the notification of a claim being filed that it does not wish 137
to pay the bills in that claim, or the employer notifies the 138
bureau that the fifteen thousand dollar maximum has been paid, or 139
the employer notifies the bureau of the last day of service on 140
which it will be responsible for the bills in a particular 141
medical-only claim. If an employer elects to enter the program, 142
the administrator shall not reimburse the employer for such 143
amounts paid and shall not charge the first fifteen thousand 144
dollars of any medical-only claim paid by an employer to the 145

employer's experience or otherwise use it in merit rating or 146
determining the risks of any employer for the purpose of payment 147
of premiums under this chapter. A certified health care provider 148
shall extend to an employer who participates in this program the 149
same rates for services rendered to an employee of that employer 150
as the provider bills the administrator for the same type of 151
medical claim processed by the bureau and shall not charge, 152
assess, or otherwise attempt to collect from an employee any 153
amount for covered services or supplies that is in excess of that 154
rate. If an employer elects to enter the program and the employer 155
fails to pay a bill for a medical-only claim included in the 156
program, the employer shall be liable for that bill and the 157
employee for whom the employer failed to pay the bill shall not be 158
liable for that bill. The administrator shall adopt rules to 159
implement and administer division (A)(6) of this section. Upon 160
written request from the bureau, the employer shall provide 161
documentation to the bureau of all medical-only bills that they 162
are paying directly. Such requests from the bureau may not be made 163
more frequently than on a semiannual basis. Failure to provide 164
such documentation to the bureau within thirty days of receipt of 165
the request may result in the employer's forfeiture of 166
participation in the program for such injury. The provisions of 167
this section shall not apply to claims in which an employer with 168
knowledge of a claimed compensable injury or occupational disease, 169
has paid wages in lieu of compensation or total disability. 170

(B) The administrator, with the advice and consent of the 171
board, by rule, may do both of the following: 172

(1) Grant an employer who makes the employer's semiannual 173
premium payment at least one month prior to the last day on which 174
the payment may be made without penalty, a discount as the 175
administrator fixes from time to time; 176

(2) Levy a minimum annual administrative charge upon risks 177

where semiannual premium reports develop a charge less than the 178
administrator considers adequate to offset administrative costs of 179
processing. 180

(C) The administrator shall adopt a rule that sets the 181
discount for programs or alternative premium plans not later than 182
the first day of September prior to the policy year in which the 183
discount for programs or alternative premium plans is to be in 184
effect. 185

Sec. 4123.321. (A) The bureau of workers' compensation board 186
of directors, based upon recommendations of the workers' 187
compensation actuarial committee, subject to division (B) of this 188
section, shall adopt a rule with respect to the collection, 189
maintenance, and disbursements of the state insurance fund 190
providing that in the event there is developed as of any given 191
rate revision date a surplus of earned premium over all losses 192
that, in the judgment of the board, is larger than is necessary 193
adequately to safeguard the solvency of the fund, the board may 194
return such excess surplus to the subscribers to the fund in 195
either the form of cash refunds or a reduction of premiums, 196
regardless of when the premium obligations have accrued. 197

(B) In any year in which a gubernatorial election occurs, the 198
board shall not return excess surplus to subscribers to the state 199
insurance fund in the form of a cash refund or rebate as described 200
in division (A) of this section without the approval of the 201
general assembly through the enactment of legislation. 202

Section 2. That existing sections 4123.29 and 4123.321 of the 203
Revised Code are hereby repealed. 204

Section 3. (A) As used in this section, "breakeven factor" 205
means an adjustment factor applied to the group rated experience 206
modification used to calculate the workers' compensation premium 207

rate of an employer that participates in the group rating program 208
created under division (A)(4) of section 4123.29 of the Revised 209
Code. 210

(B) Beginning on July 1, 2010, the Administrator of Workers' 211
Compensation shall suspend the use of a breakeven factor for a 212
period of two years. During that two-year period, the 213
Administrator shall not lower the maximum premium discount for 214
employers who participate in the group rating program created 215
under division (A)(4) of section 4123.29 of the Revised Code below 216
sixty-five per cent, and neither the Administrator nor the Bureau 217
of Workers' Compensation Board of Directors shall make or approve 218
any changes to the group rating program. 219

(C) During the first year of the two-year period described in 220
division (B) of this section, the Administrator shall study the 221
premium rating system. The study shall be a collaborative effort 222
with stakeholders in the workers' compensation system. The 223
Administrator shall submit a report summarizing the results of the 224
study by the end of that first year to the Governor, the President 225
and Minority Leader of the Senate, the Speaker and Minority Leader 226
of the House of Representatives, and the chairpersons of the 227
standing committees of the Senate and the House of Representatives 228
to which legislation concerning workers' compensation customarily 229
is referred. The Administrator shall include in that report a 230
determination of the direction of future premium rates and 231
supporting evidence of that determination and, if the 232
Administrator determines that changes to Chapter 4121., 4123., 233
4127., or 4131. of the Revised Code are necessary to implement the 234
report, a list of those recommended changes. 235

(D) During the second year of the two-year period described 236
in division (B) of this section, the Administrator, subject to the 237
approval of the Bureau of Workers' Compensation Board of 238
Directors, may adopt rules in accordance with section 4123.29 of 239

the Revised Code, as amended by this act, and section 4123.34 of 240
the Revised Code to make changes to the rating system to implement 241
the results of the study required under division (C) of this 242
section. 243