

As Reported by the House Insurance Committee

**129th General Assembly
Regular Session
2011-2012**

H. B. No. 123

Representative Hottinger

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A B I L L

To amend sections 4121.12, 4121.123, 4121.125, 1
4121.32, 4121.41, 4121.44, 4121.68, 4123.35, 2
4123.512, and 4123.52 and to repeal sections 3
4121.124 and 4121.99 of the Revised Code to allow 4
the Administrator of Workers' Compensation to 5
waive criteria certain public employers must 6
satisfy to become self-insuring employers; to 7
require bills for medical and vocational 8
rehabilitation services in claims that are 9
ultimately denied to be paid from the Surplus Fund 10
Account under specified circumstances; to make 11
other changes to the Workers' Compensation Law; to 12
make appropriations for the Bureau of Workers' 13
Compensation and for the Workers' Compensation 14
Council for the biennium beginning July 1, 2011, 15
and ending June 30, 2013; and to provide 16
authorization and conditions for the operation of 17
the Bureau's and the Council's programs. 18

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

Section 101. That sections 4121.12, 4121.123, 4121.125, 19
4121.32, 4121.41, 4121.44, 4121.68, 4123.35, 4123.512, and 4123.52 20
of the Revised Code be amended to read as follows: 21

Sec. 4121.12. (A) There is hereby created the bureau of 22
workers' compensation board of directors consisting of eleven 23
members to be appointed by the governor with the advice and 24
consent of the senate. One member shall be an individual who, on 25
account of the individual's previous vocation, employment, or 26
affiliations, can be classed as a representative of employees; two 27
members shall be individuals who, on account of their previous 28
vocation, employment, or affiliations, can be classed as 29
representatives of employee organizations and at least one of 30
these two individuals shall be a member of the executive committee 31
of the largest statewide labor federation; three members shall be 32
individuals who, on account of their previous vocation, 33
employment, or affiliations, can be classed as representatives of 34
employers, one of whom represents self-insuring employers, one of 35
whom is a state fund employer who employs one hundred or more 36
employees, and one of whom is a state fund employer who employs 37
less than one hundred employees; two members shall be individuals 38
who, on account of their vocation, employment, or affiliations, 39
can be classed as investment and securities experts who have 40
direct experience in the management, analysis, supervision, or 41
investment of assets and are residents of this state; one member 42
who shall be a certified public accountant; one member who shall 43
be an actuary who is a member in good standing with the American 44
academy of actuaries or who is an associate or fellow with the 45
casualty actuarial society ~~of actuaries~~; and one member shall 46
represent the public and also be an individual who, on account of 47
the individual's previous vocation, employment, or affiliations, 48
cannot be classed as either predominantly representative of 49
employees or of employers. The governor shall select the 50
chairperson of the board who shall serve as chairperson at the 51
pleasure of the governor. 52

None of the members of the board, within one year immediately 53

preceding the member's appointment, shall have been employed by 54
the bureau of workers' compensation or by any person, partnership, 55
or corporation that has provided to the bureau services of a 56
financial or investment nature, including the management, 57
analysis, supervision, or investment of assets. 58

(B) Of the initial appointments made to the board, the 59
governor shall appoint the member who represents employees, one 60
member who represents employers, and the member who represents the 61
public to a term ending one year after June 11, 2007; one member 62
who represents employers, one member who represents employee 63
organizations, one member who is an investment and securities 64
expert, and the member who is a certified public accountant to a 65
term ending two years after June 11, 2007; and one member who 66
represents employers, one member who represents employee 67
organizations, one member who is an investment and securities 68
expert, and the member who is an actuary to a term ending three 69
years after June 11, 2007. Thereafter, terms of office shall be 70
for three years, with each term ending on the same day of the same 71
month as did the term that it succeeds. Each member shall hold 72
office from the date of the member's appointment until the end of 73
the term for which the member was appointed. 74

Members may be reappointed. Any member appointed to fill a 75
vacancy occurring prior to the expiration date of the term for 76
which the member's predecessor was appointed shall hold office as 77
a member for the remainder of that term. A member shall continue 78
in office subsequent to the expiration date of the member's term 79
until a successor takes office or until a period of sixty days has 80
elapsed, whichever occurs first. 81

(C) In making appointments to the board, the governor shall 82
select the members from the list of names submitted by the 83
workers' compensation board of directors nominating committee 84
pursuant to this division. The nominating committee shall submit 85

to the governor a list containing four separate names for each of 86
the members on the board. Within fourteen days after the 87
submission of the list, the governor shall appoint individuals 88
from the list. 89

At least thirty days prior to a vacancy occurring as a result 90
of the expiration of a term and within thirty days after other 91
vacancies occurring on the board, the nominating committee shall 92
submit an initial list containing four names for each vacancy. 93
Within fourteen days after the submission of the initial list, the 94
governor either shall appoint individuals from that list or 95
request the nominating committee to submit another list of four 96
names for each member the governor has not appointed from the 97
initial list, which list the nominating committee shall submit to 98
the governor within fourteen days after the governor's request. 99
The governor then shall appoint, within seven days after the 100
submission of the second list, one of the individuals from either 101
list to fill the vacancy for which the governor has not made an 102
appointment from the initial list. If the governor appoints an 103
individual to fill a vacancy occurring as a result of the 104
expiration of a term, the individual appointed shall begin serving 105
as a member of the board when the term for which the individual's 106
predecessor was appointed expires or immediately upon appointment 107
by the governor, whichever occurs later. With respect to the 108
filling of vacancies, the nominating committee shall provide the 109
governor with a list of four individuals who are, in the judgment 110
of the nominating committee, the most fully qualified to accede to 111
membership on the board. 112

In order for the name of an individual to be submitted to the 113
governor under this division, the nominating committee shall 114
approve the individual by an affirmative vote of a majority of its 115
members. 116

(D) All members of the board shall receive their reasonable 117

and necessary expenses pursuant to section 126.31 of the Revised Code while engaged in the performance of their duties as members and also shall receive an annual salary not to exceed sixty thousand dollars in total, payable on the following basis:

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

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

(3) Except as provided in division (D)(4) of this section, if a member serves on the workers' compensation audit committee, workers' compensation actuarial committee, or the workers' compensation investment committee, the member shall receive two thousand five hundred dollars during a month in which the member attends one or more meetings of the committee on which the member serves and shall receive no payment during any month in which the member attends no meeting of that committee.

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

The chairperson of the board shall set the meeting dates of the board as necessary to perform the duties of the board under this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code. The board shall meet at least twelve times a

year. The administrator of workers' compensation shall provide 149
professional and clerical assistance to the board, as the board 150
considers appropriate. 151

(E) Before entering upon the duties of office, each appointed 152
member of the board shall take an oath of office as required by 153
sections 3.22 and 3.23 of the Revised Code and file in the office 154
of the secretary of state the bond required under section 4121.127 155
of the Revised Code. 156

(F) The board shall: 157

(1) Establish the overall administrative policy for the 158
bureau for the purposes of this chapter and Chapters 4123., 4125., 159
4127., 4131., and 4167. of the Revised Code; 160

(2) Review progress of the bureau in meeting its cost and 161
quality objectives and in complying with this chapter and Chapters 162
4123., 4125., 4127., 4131., and 4167. of the Revised Code; 163

(3) Submit an annual report to the president of the senate, 164
the speaker of the house of representatives, the governor, and the 165
workers' compensation council and include all of the following in 166
that report: 167

(a) An evaluation of the cost and quality objectives of the 168
bureau; 169

(b) A statement of the net assets available for the provision 170
of compensation and benefits under this chapter and Chapters 171
4123., 4127., and 4131. of the Revised Code as of the last day of 172
the fiscal year; 173

(c) A statement of any changes that occurred in the net 174
assets available, including employer premiums and net investment 175
income, for the provision of compensation and benefits and payment 176
of administrative expenses, between the first and last day of the 177
fiscal year immediately preceding the date of the report; 178

(d) The following information for each of the six consecutive fiscal years occurring previous to the report:	179 180
(i) A schedule of the net assets available for compensation and benefits;	181 182
(ii) The annual cost of the payment of compensation and benefits;	183 184
(iii) Annual administrative expenses incurred;	185
(iv) Annual employer premiums allocated for the provision of compensation and benefits.	186 187
(e) A description of any significant changes that occurred during the six years for which the board provided the information required under division (F)(3)(d) of this section that affect the ability of the board to compare that information from year to year.	188 189 190 191 192
(4) Review all independent financial audits of the bureau. The administrator shall provide access to records of the bureau to facilitate the review required under this division.	193 194 195
(5) Study issues as requested by the administrator or the governor;	196 197
(6) Contract with all of the following:	198
(a) An independent actuarial firm to assist the board in making recommendations to the administrator regarding premium rates;	199 200 201
(b) An outside investment counsel to assist the workers' compensation investment committee in fulfilling its duties;	202 203
(c) An independent fiduciary counsel to assist the board in the performance of its duties.	204 205
(7) Approve the investment policy developed by the workers' compensation investment committee pursuant to section 4121.129 of	206 207

the Revised Code if the policy satisfies the requirements	208
specified in section 4123.442 of the Revised Code.	209
(8) Review and publish the investment policy no less than	210
annually and make copies available to interested parties.	211
(9) Prohibit, on a prospective basis, any specific investment	212
it finds to be contrary to the investment policy approved by the	213
board.	214
(10) Vote to open each investment class and allow the	215
administrator to invest in an investment class only if the board,	216
by a majority vote, opens that class;	217
(11) After opening a class but prior to the administrator	218
investing in that class, adopt rules establishing due diligence	219
standards for employees of the bureau to follow when investing in	220
that class and establish policies and procedures to review and	221
monitor the performance and value of each investment class;	222
(12) Submit a report annually on the performance and value of	223
each investment class to the governor, the president and minority	224
leader of the senate, the speaker and minority leader of the house	225
of representatives, and the workers' compensation council.	226
(13) Advise and consent on all of the following:	227
(a) Administrative rules the administrator submits to it	228
pursuant to division (B)(5) of section 4121.121 of the Revised	229
Code for the classification of occupations or industries, for	230
premium rates and contributions, for the amount to be credited to	231
the surplus fund, for rules and systems of rating, rate revisions,	232
and merit rating;	233
(b) The duties and authority conferred upon the administrator	234
pursuant to section 4121.37 of the Revised Code;	235
(c) Rules the administrator adopts for the health partnership	236
program and the qualified health plan system, as provided in	237

sections 4121.44, 4121.441, and 4121.442 of the Revised Code;	238
(d) Rules the administrator submits to it pursuant to Chapter 4167. of the Revised Code regarding the public employment risk reduction program and the protection of public health care workers from exposure incidents.	239 240 241 242
As used in this division, "public health care worker" and "exposure incident" have the same meanings as in section 4167.25 of the Revised Code.	243 244 245
(14) Perform all duties required under this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;	246 247 248
(15) Meet with the governor on an annual basis to discuss the administrator's performance of the duties specified in this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;	249 250 251 252
(16) Develop and participate in a bureau of workers' compensation board of directors education program that consists of all of the following:	253 254 255
(a) An orientation component for newly appointed members;	256
(b) A continuing education component for board members who have served for at least one year;	257 258
(c) A curriculum that includes education about each of the following topics:	259 260
(i) Board member duties and responsibilities;	261
(ii) Compensation and benefits paid pursuant to this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;	262 263
(iii) Ethics;	264
(iv) Governance processes and procedures;	265
(v) Actuarial soundness;	266

(vi) Investments;	267
(vii) Any other subject matter the board believes is reasonably related to the duties of a board member.	268 269
(17) Submit the program developed pursuant to division (F)(16) of this section to the workers' compensation council for approval;	270 271 272
(18) Hold all sessions, classes, and other events for the program developed pursuant to division (F)(16) of this section in this state.	273 274 275
(G) The board may do both of the following:	276
(1) Vote to close any investment class;	277
(2) Create any committees in addition to the workers' compensation audit committee, the workers' compensation actuarial committee, and the workers' compensation investment committee that the board determines are necessary to assist the board in performing its duties.	278 279 280 281 282
(H) The office of a member of the board who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be deemed vacant. The vacancy shall be filled in the same manner as the original appointment. A person who has pleaded guilty to or been convicted of an offense of that nature is ineligible to be a member of the board. A member who receives a bill of indictment for any of the offenses specified in this section shall be automatically suspended from the board pending resolution of the criminal matter.	283 284 285 286 287 288 289 290 291 292 293 294
(I) For the purposes of division (G)(1) of section 121.22 of the Revised Code, the meeting between the governor and the board	295 296

to review the administrator's performance as required under 297
division (F)(15) of this section shall be considered a meeting 298
regarding the employment of the administrator. 299

Sec. 4121.123. (A) There is hereby created the workers' 300
compensation board of directors nominating committee consisting of 301
the following: 302

(1) Three individuals who are members of affiliated employee 303
organizations of the Ohio chapter of the American federation of 304
labor-congress of industrial organizations, who are selected by 305
the Ohio chapter of the American federation of labor-congress of 306
industrial organizations and who, on account of their previous 307
vocation, employment, or affiliations, can be classed as 308
representative of employees who are members of an employee 309
organization. Terms of office shall be for one year, with each 310
term ending on the same day of the same month as did the term that 311
it succeeds. 312

(2) Two individuals who, on account of their previous 313
vocation, employment, or affiliations, can be classed as 314
representative of employees, one of whom shall be an injured 315
worker with a valid, open, and active workers' compensation claim 316
and at least one of these two representatives also shall represent 317
employees who are not members of an employee organization. The 318
president of the senate and the speaker of the house of 319
representatives each shall appoint annually one of these members. 320
The member who is an injured worker shall serve for a full term 321
even if the member's workers' compensation claim is invalidated, 322
closed, or inactivated during the member's term. 323

(3) The chief executive officer, or the equivalent of the 324
chief executive officer, of the Ohio chamber of commerce, the Ohio 325
manufacturers' association, the Ohio self-insurers' association, 326
the Ohio council of retail merchants, ~~and of either~~ the national 327

federation of independent business ~~or, and~~ the Ohio farm bureau ~~as~~ 328
~~jointly selected by the national federation of independent~~ 329
~~business and the Ohio farm bureau;~~ 330

(4) The director of development; 331

(5) The president of ~~the Ohio municipal league,~~ the Ohio 332
township association, and the president of the Ohio county 333
commissioners association, or, in the event of a vacancy in the 334
presidency, a designee appointed by the governing body authorized 335
to appoint the president. A designee so appointed shall serve on 336
the nominating committee only until the vacancy in the presidency 337
is filled. 338

(B) Each member appointed under divisions (A)(1) and (2) of 339
this section shall hold office from the date of the member's 340
appointment until the end of the term for which the member was 341
appointed. Such members may be reappointed. Vacancies shall be 342
filled in the manner provided for original appointments. Any such 343
member appointed to fill a vacancy occurring prior to the 344
expiration date of the term for which the member's predecessor was 345
appointed shall hold office as a member for the remainder of that 346
term. Such a member shall continue in office subsequent to the 347
expiration date of the member's term until the member's successor 348
takes office or until a period of sixty days has elapsed, 349
whichever occurs first. 350

(C) The nominating committee shall meet at the request of the 351
governor or as the nominating committee determines appropriate in 352
order to make recommendations to the governor for the appointment 353
of members of the bureau of workers' compensation board of 354
directors under section 4121.12 of the Revised Code. 355

(D) The director of development shall serve as chairperson of 356
the nominating committee and have no voting rights on matters 357
coming before the nominating committee, except that the director 358

may vote in the event of a tie vote of the nominating committee. 359
Annually, the nominating committee shall select a secretary from 360
among its members. The nominating committee may adopt by-laws 361
governing its proceedings. 362

(E) Members of the nominating committee shall be paid their 363
reasonable and necessary expenses pursuant to section 126.31 of 364
the Revised Code while engaged in the performance of their duties 365
as members of the nominating committee. 366

(F) The nominating committee shall: 367

(1) Review and evaluate possible appointees for the board. In 368
reviewing and evaluating possible appointees for the board, the 369
nominating committee may accept comments from, cooperate with, and 370
request information from any person. 371

(2) Make recommendations to the governor for the appointment 372
of members to the board as provided in division (C) of section 373
4121.12 of the Revised Code. 374

(G) The nominating committee may make recommendations to the 375
general assembly concerning changes in legislation that will 376
assist the nominating committee in the performance of its duties. 377

Sec. 4121.125. (A) The bureau of workers' compensation board 378
of directors, based upon recommendations of the workers' 379
compensation actuarial committee, may contract with one or more 380
outside actuarial firms and other professional persons, as the 381
board determines necessary, to assist the board in measuring the 382
performance of Ohio's workers' compensation system and in 383
comparing Ohio's workers' compensation system to other state and 384
private workers' compensation systems. The board, actuarial firm 385
or firms, and professional persons shall make such measurements 386
and comparisons using accepted insurance industry standards, 387
including, but not limited to, standards promulgated by the 388

National Council on Compensation Insurance. 389

(B) The board may contract with one or more outside firms to 390
conduct management and financial audits of the workers' 391
compensation system, including audits of the reserve fund 392
belonging to the state insurance fund, and to establish objective 393
quality management principles and methods by which to review the 394
performance of the workers' compensation system. 395

(C) The board shall do all of the following: 396

(1) Contract to have prepared annually by or under the 397
supervision of an actuary a report that meets the requirements 398
specified under division (E) of this section and that consists of 399
an actuarial valuation of the assets, liabilities, and funding 400
requirements of the state insurance fund and all other funds 401
specified in this chapter and Chapters 4123., 4127., and 4131. of 402
the Revised Code; 403

(2) Require that the actuary or person supervised by an 404
actuary referred to in division (C)(1) of this section complete 405
the valuation in accordance with the actuarial standards of 406
practice promulgated by the actuarial standards board of the 407
American academy of actuaries; 408

(3) Submit the report referred to in division (C)(1) of this 409
section to the workers' compensation council and the standing 410
committees of the house of representatives and the senate with 411
primary responsibility for workers' compensation legislation on or 412
before the first day of November following the year for which the 413
valuation was made; 414

(4) Have an actuary or a person who provides actuarial 415
services under the supervision of an actuary, at such time as the 416
board determines, and at least once during the five-year period 417
that commences on September 10, 2007, and once within each 418
five-year period thereafter, conduct an actuarial investigation of 419

the experience of employers, the mortality, service, and injury 420
rate of employees, and the payment of temporary total disability, 421
permanent partial disability, and permanent total disability under 422
sections 4123.56 to 4123.58 of the Revised Code to update the 423
actuarial assumptions used in the report required by division 424
(C)(1) of this section; 425

(5) Submit the report required under division (F) of this 426
section to the council and the standing committees of the house of 427
representatives and the senate with primary responsibility for 428
workers' compensation legislation not later than the first day of 429
November following the fifth year of the period that the report 430
covers; 431

(6) Have prepared by or under the supervision of an actuary 432
an actuarial analysis of any introduced legislation expected to 433
have a measurable financial impact on the workers' compensation 434
system; 435

(7) Submit the report required under division (G) of this 436
section to the legislative service commission, the standing 437
committees of the house of representatives and the senate with 438
primary responsibility for workers' compensation legislation, and 439
the council not later than sixty days after the date of 440
introduction of the legislation. 441

(D) The administrator of workers' compensation and the 442
industrial commission shall compile information and provide access 443
to records of the bureau and the industrial commission to the 444
board to the extent necessary for fulfillment of both of the 445
following requirements: 446

(1) Conduct of the measurements and comparisons described in 447
division (A) of this section; 448

(2) Conduct of the management and financial audits and 449
establishment of the principles and methods described in division 450

(B) of this section. 451

(E) The firm or person with whom the board contracts pursuant 452
to division (C)(1) of this section shall prepare a report of the 453
valuation and submit the report to the board. The firm or person 454
shall include all of the following information in the report that 455
is required under division (C)(1) of this section: 456

(1) A summary of the compensation and benefit provisions 457
evaluated; 458

~~(2) A summary of the census data and financial information 459
used in the valuation; 460~~

~~(3) A description of the actuarial assumptions, and actuarial 461
cost method, and asset valuation method used in the valuation; 462~~

~~(4) A summary of findings that includes a statement of the 463
actuarial accrued compensation and benefit liabilities and 464
unfunded actuarial accrued compensation and benefit liabilities; 465~~

~~(5)~~(3) A schedule showing the effect of any changes in the 466
compensation and benefit provisions, actuarial assumptions, or 467
cost methods since the previous annual actuarial valuation report 468
was submitted to the board. 469

(F) The actuary or person whom the board designates to 470
conduct an actuarial investigation under division (C)(4) of this 471
section shall prepare a report of the actuarial investigation and 472
shall submit the report to the board. The actuary or person shall 473
prepare the report and make any recommended changes in actuarial 474
assumptions in accordance with the actuarial standards of practice 475
promulgated by the actuarial standards board of the American 476
academy of actuaries. The actuary or person shall include all of 477
the following information in the report: 478

(1) A summary of relevant decrement and economic assumption 479
experience; 480

(2) Recommended changes in actuarial assumptions to be used	481
in subsequent actuarial valuations required by division (C)(1) of	482
this section;	483
(3) A measurement of the financial effect of the recommended	484
changes in actuarial assumptions.	485
(G) The actuary or person whom the board designates to	486
conduct the actuarial analysis under division (C)(6) of this	487
section shall prepare a report of the actuarial analysis and shall	488
submit that report to the board. The actuary or person shall	489
complete the analysis in accordance with the actuarial standards	490
of practice promulgated by the actuarial standards board of the	491
American academy of actuaries. The actuary or person shall include	492
all of the following information in the report:	493
(1) A summary of the statutory changes being evaluated;	494
(2) A description of or reference to the actuarial	495
assumptions and actuarial cost method used in the report;	496
(3) A description of the participant group or groups included	497
in the report;	498
(4) A statement of the financial impact of the legislation,	499
including the resulting increase, if any, in employer premiums, in	500
actuarial accrued liabilities, and, if an increase in actuarial	501
accrued liabilities is predicted, the per cent of premium increase	502
that would be required to amortize the increase in those	503
liabilities as a level per cent of employer premiums over a period	504
not to exceed thirty years.	505
(5) A statement of whether the employer premiums paid to the	506
bureau of workers' compensation after the proposed change is	507
enacted are expected to be sufficient to satisfy the funding	508
objectives established by the board.	509
(H) The board may, at any time, request an actuary to make	510

any studies or actuarial valuations to determine the adequacy of 511
the premium rates established by the administrator in accordance 512
with sections 4123.29 and 4123.34 of the Revised Code, and may 513
adjust those rates as recommended by the actuary. 514

(I) The board shall have an independent auditor, at least 515
once every ten years, conduct a fiduciary performance audit of the 516
investment program of the bureau of workers' compensation. That 517
audit shall include an audit of the investment policies approved 518
by the board and investment procedures of the bureau. The board 519
shall submit a copy of that audit to the auditor of state. 520

(J) The administrator, with the advice and consent of the 521
board, shall employ an internal auditor who shall report findings 522
directly to the board, workers' compensation audit committee, and 523
administrator, except that the internal auditor shall not report 524
findings directly to the administrator when those findings involve 525
malfeasance, misfeasance, or nonfeasance on the part of the 526
administrator. The board and the workers' compensation audit 527
committee may request and review internal audits conducted by the 528
internal auditor. 529

(K) The administrator shall pay the expenses incurred by the 530
board to effectively fulfill its duties and exercise its powers 531
under this section as the administrator pays other operating 532
expenses of the bureau. 533

Sec. 4121.32. (A) The rules covering operating procedure and 534
criteria for decision-making that the administrator of workers' 535
compensation and the industrial commission are required to adopt 536
pursuant to section 4121.31 of the Revised Code shall be 537
supplemented with operating manuals setting forth the procedural 538
steps in detail for performing each of the assigned tasks of each 539
section of the bureau of workers' compensation and commission. The 540
administrator and commission jointly shall adopt such manuals. No 541

employee may deviate from manual procedures without authorization 542
of the section chief. 543

(B) Manuals shall set forth the procedure for the assignment 544
and transfer of claims within sections and be designed to provide 545
performance objectives and may require employees to record 546
sufficient data to reasonably measure the efficiency of functions 547
in all sections. The ~~bureau's division of research and statistics~~ 548
bureau shall perform periodic cost-effectiveness analyses ~~which~~ 549
that shall be made available to the general assembly, the 550
governor, and to the public during normal working hours. 551

(C) The bureau and commission jointly shall develop, adopt, 552
and use a policy manual setting forth the guidelines and bases for 553
decision-making for any decision which is the responsibility of 554
the bureau, district hearing officers, staff hearing officers, or 555
the commission. Guidelines shall be set forth in the policy manual 556
by the bureau and commission to the extent of their respective 557
jurisdictions for deciding at least the following specific 558
matters: 559

(1) Reasonable ambulance services; 560

(2) Relationship of drugs to injury; 561

(3) Awarding lump-sum advances for creditors; 562

(4) Awarding lump-sum advances for attorney's fees; 563

(5) Placing a claimant into rehabilitation; 564

(6) Transferring costs of a claim from employer costs to the 565
statutory surplus fund pursuant to section 4123.343 of the Revised 566
Code; 567

(7) Utilization of physician specialist reports; 568

(8) Determining the percentage of permanent partial 569
disability, temporary partial disability, temporary total 570
disability, violations of specific safety requirements, an award 571

under division (B) of section 4123.57 of the Revised Code, and 572
permanent total disability. 573

(D) The bureau shall establish, adopt, and implement policy 574
guidelines and bases for decisions involving reimbursement issues 575
including, but not limited to, the adjustment of invoices, the 576
reduction of payments for future services when an internal audit 577
concludes that a health care provider was overpaid or improperly 578
paid for past services, reimbursement fees, or other adjustments 579
to payments. These policy guidelines and bases for decisions, and 580
any changes to the guidelines and bases, shall be set forth in a 581
reimbursement manual and provider bulletins. 582

Neither the policy guidelines nor the bases set forth in the 583
reimbursement manual or provider bulletins referred to in this 584
division is a rule as defined in section 119.01 of the Revised 585
Code. 586

(E) With respect to any determination of disability under 587
Chapter 4123. of the Revised Code, when the physician makes a 588
determination based upon statements or information furnished by 589
the claimant or upon subjective evidence, ~~he~~ the physician shall 590
clearly indicate this fact in ~~his~~ the physician's report. 591

(F) The administrator shall publish the manuals and make 592
copies of all manuals available to interested parties at cost. 593

Sec. 4121.41. (A) The administrator of workers' compensation 594
shall operate a program designed to inform employees and employers 595
of their rights and responsibilities under Chapter 4123. of the 596
Revised Code and as part of that program prepare and distribute 597
pamphlets, which clearly and simply explain at least all of the 598
following: 599

(1) The rights and responsibilities of claimants and 600
employers; 601

(2) The procedures for processing claims;	602
(3) The procedure for fulfilling employer responsibility;	603
(4) All applicable statutes of limitation;	604
(5) The availability of services and benefits;	605
(6) The claimant's right to representation in the processing of a claim or to elect no representation.	606 607
The administrator shall ensure that the provisions of this section are faithfully and speedily implemented.	608 609
(B) The bureau <u>of workers' compensation</u> shall maintain an ongoing program to identify employers subject to Chapter 4123. of the Revised Code and to audit employers to ensure an optimum level of premium payment. The bureau shall coordinate such efforts with other governmental agencies which have information as to employers who are subject to Chapter 4123. of the Revised Code.	610 611 612 613 614 615
(C) The administrator of the bureau shall handle complaints through the service offices, the claims section, and the ombudsman <u>ombudsperson</u> program. The administrator shall provide toll free telephone lines for employers and claimants in order to expedite the handling of complaints. The bureau shall monitor complaint traffic to ensure an adequacy of telephone service to bureau offices. The division of research and statistics in the bureau shall compile statistics on complaint subjects. Based upon those compilations, the bureau shall revise procedures and rules to correct major problem areas and submit data and recommendations annually to the appropriate committees of the general assembly.	616 617 618 619 620 621 622 623 624 625 626
Sec. 4121.44. (A) The administrator of workers' compensation shall oversee the implementation of the Ohio workers' compensation qualified health plan system as established under section 4121.442 of the Revised Code.	627 628 629 630
(B) The administrator shall direct the implementation of the	631

health partnership program administered by the bureau as set forth 632
in section 4121.441 of the Revised Code. To implement the health 633
partnership program, the bureau: 634

(1) Shall certify one or more external vendors, which shall 635
be known as "managed care organizations," to provide medical 636
management and cost containment services in the health partnership 637
program for a period of two years beginning on the date of 638
certification, consistent with the standards established under 639
this section; 640

(2) May recertify external vendors for additional periods of 641
two years; and 642

(3) May integrate the certified vendors with bureau staff and 643
existing bureau services for purposes of operation and training to 644
allow the bureau to assume operation of the health partnership 645
program at the conclusion of the certification periods set forth 646
in division (B)(1) or (2) of this section. 647

(C) Any vendor selected shall demonstrate all of the 648
following: 649

(1) Arrangements and reimbursement agreements with a 650
substantial number of the medical, professional and pharmacy 651
providers currently being utilized by claimants. 652

(2) Ability to accept a common format of medical bill data in 653
an electronic fashion from any provider who wishes to submit 654
medical bill data in that form. 655

(3) A computer system able to handle the volume of medical 656
bills and willingness to customize that system to the bureau's 657
needs and to be operated by the vendor's staff, bureau staff, or 658
some combination of both staffs. 659

(4) A prescription drug system where pharmacies on a 660
statewide basis have access to the eligibility and pricing, at a 661

discounted rate, of all prescription drugs. 662

(5) A tracking system to record all telephone calls from 663
claimants and providers regarding the status of submitted medical 664
bills so as to be able to track each inquiry. 665

(6) Data processing capacity to absorb all of the bureau's 666
medical bill processing or at least that part of the processing 667
which the bureau arranges to delegate. 668

(7) Capacity to store, retrieve, array, simulate, and model 669
in a relational mode all of the detailed medical bill data so that 670
analysis can be performed in a variety of ways and so that the 671
bureau and its governing authority can make informed decisions. 672

(8) Wide variety of software programs which translate medical 673
terminology into standard codes, and which reveal if a provider is 674
manipulating the procedures codes, commonly called "unbundling." 675

(9) Necessary professional staff to conduct, at a minimum, 676
authorizations for treatment, medical necessity, utilization 677
review, concurrent review, post-utilization review, and have the 678
attendant computer system which supports such activity and 679
measures the outcomes and the savings. 680

(10) Management experience and flexibility to be able to 681
react quickly to the needs of the bureau in the case of required 682
change in federal or state requirements. 683

(D)(1) Information contained in a vendor's application for 684
certification in the health partnership program, and other 685
information furnished to the bureau by a vendor for purposes of 686
obtaining certification or to comply with performance and 687
financial auditing requirements established by the administrator, 688
is for the exclusive use and information of the bureau in the 689
discharge of its official duties, and shall not be open to the 690
public or be used in any court in any proceeding pending therein, 691
unless the bureau is a party to the action or proceeding, but the 692

information may be tabulated and published by the bureau in 693
statistical form for the use and information of other state 694
departments and the public. No employee of the bureau, except as 695
otherwise authorized by the administrator, shall divulge any 696
information secured by the employee while in the employ of the 697
bureau in respect to a vendor's application for certification or 698
in respect to the business or other trade processes of any vendor 699
to any person other than the administrator or to the employee's 700
superior. 701

(2) Notwithstanding the restrictions imposed by division 702
(D)(1) of this section, the governor, members of select or 703
standing committees of the senate or house of representatives, the 704
auditor of state, the attorney general, or their designees, 705
pursuant to the authority granted in this chapter and Chapter 706
4123. of the Revised Code, may examine any vendor application or 707
other information furnished to the bureau by the vendor. None of 708
those individuals shall divulge any information secured in the 709
exercise of that authority in respect to a vendor's application 710
for certification or in respect to the business or other trade 711
processes of any vendor to any person. 712

(E) On and after January 1, 2001, a vendor shall not be any 713
insurance company holding a certificate of authority issued 714
pursuant to Title XXXIX of the Revised Code or any health insuring 715
corporation holding a certificate of authority under Chapter 1751. 716
of the Revised Code. 717

(F) The administrator may limit freedom of choice of health 718
care provider or supplier by requiring, beginning with the period 719
set forth in division (B)(1) or (2) of this section, that 720
claimants shall pay an appropriate out-of-plan copayment for 721
selecting a medical provider not within the health partnership 722
program as provided for in this section. 723

(G) The administrator, six months prior to the expiration of 724

the bureau's certification or recertification of the vendor or 725
vendors as set forth in division (B)(1) or (2) of this section, 726
may certify and provide evidence to the governor, the speaker of 727
the house of representatives, and the president of the senate that 728
the existing bureau staff is able to match or exceed the 729
performance and outcomes of the external vendor or vendors and 730
that the bureau should be permitted to internally administer the 731
health partnership program upon the expiration of the 732
certification or recertification as set forth in division (B)(1) 733
or (2) of this section. 734

(H) The administrator shall establish and operate a bureau of 735
workers' compensation health care data program. The administrator 736
shall develop reporting requirements from all employees, employers 737
and medical providers, medical vendors, and plans that participate 738
in the workers' compensation system. The administrator shall do 739
all of the following: 740

(1) Utilize the collected data to measure and perform 741
comparison analyses of costs, quality, appropriateness of medical 742
care, and effectiveness of medical care delivered by all 743
components of the workers' compensation system. 744

(2) Compile data to support activities of the selected vendor 745
or vendors and to measure the outcomes and savings of the health 746
partnership program. 747

(3) Publish and report compiled data ~~to the governor, the~~ 748
~~speaker of the house of representatives, and the president of the~~ 749
~~senate on the first day of each January and July, on~~ the measures 750
of outcomes and savings of the health partnership program and 751
submit the report to the president of the senate, the speaker of 752
the house of representatives, the governor, and the workers' 753
compensation council with the annual report prepared under 754
division (F)(3) of section 4121.12 of the Revised Code. The 755
administrator shall protect the confidentiality of all proprietary 756

pricing data. 757

(I) Any rehabilitation facility the bureau operates is 758
eligible for inclusion in the Ohio workers' compensation qualified 759
health plan system or the health partnership program under the 760
same terms as other providers within health care plans or the 761
program. 762

(J) In areas outside the state or within the state where no 763
qualified health plan or an inadequate number of providers within 764
the health partnership program exist, the administrator shall 765
permit employees to use a nonplan or nonprogram health care 766
provider and shall pay the provider for the services or supplies 767
provided to or on behalf of an employee for an injury or 768
occupational disease that is compensable under this chapter or 769
Chapter 4123., 4127., or 4131. of the Revised Code on a fee 770
schedule the administrator adopts. 771

(K) No health care provider, whether certified or not, shall 772
charge, assess, or otherwise attempt to collect from an employee, 773
employer, a managed care organization, or the bureau any amount 774
for covered services or supplies that is in excess of the allowed 775
amount paid by a managed care organization, the bureau, or a 776
qualified health plan. 777

(L) The administrator shall permit any employer or group of 778
employers who agree to abide by the rules adopted under this 779
section and sections 4121.441 and 4121.442 of the Revised Code to 780
provide services or supplies to or on behalf of an employee for an 781
injury or occupational disease that is compensable under this 782
chapter or Chapter 4123., 4127., or 4131. of the Revised Code 783
through qualified health plans of the Ohio workers' compensation 784
qualified health plan system pursuant to section 4121.442 of the 785
Revised Code or through the health partnership program pursuant to 786
section 4121.441 of the Revised Code. No amount paid under the 787
qualified health plan system pursuant to section 4121.442 of the 788

Revised Code by an employer who is a state fund employer shall be 789
charged to the employer's experience or otherwise be used in 790
merit-rating or determining the risk of that employer for the 791
purpose of the payment of premiums under this chapter, and if the 792
employer is a self-insuring employer, the employer shall not 793
include that amount in the paid compensation the employer reports 794
under section 4123.35 of the Revised Code. 795

Sec. 4121.68. In the event a claimant sustains an injury or 796
occupational disease or dies as a result of any injury or disease 797
received in the course of and arising out of ~~his~~ the claimant's 798
participation in a rehabilitation program, the claimant or, in the 799
case of death, a dependent of the claimant, may file a claim for 800
compensation and benefits ~~as if the claimant's employer were the~~ 801
~~bureau of workers' compensation.~~ All compensation and benefit 802
awards made as a result of the injury, disease, or death shall be 803
charged to the surplus fund account, created pursuant to section 804
4123.34 of the Revised Code, and not charged through the state 805
insurance fund to the employer against which the claim was allowed 806
so long as the employer pays assessments into the surplus fund 807
account for the payment of such compensation and benefits. 808

Sec. 4123.35. (A) Except as provided in this section, every 809
employer mentioned in division (B)(2) of section 4123.01 of the 810
Revised Code, and every publicly owned utility shall pay 811
semiannually in the months of January and July into the state 812
insurance fund the amount of annual premium the administrator of 813
workers' compensation fixes for the employment or occupation of 814
the employer, the amount of which premium to be paid by each 815
employer to be determined by the classifications, rules, and rates 816
made and published by the administrator. The employer shall pay 817
semiannually a further sum of money into the state insurance fund 818
as may be ascertained to be due from the employer by applying the 819

rules of the administrator, and a receipt or certificate 820
certifying that payment has been made, along with a written notice 821
as is required in section 4123.54 of the Revised Code, shall be 822
mailed immediately to the employer by the bureau of workers' 823
compensation. The receipt or certificate is prima-facie evidence 824
of the payment of the premium, and the proper posting of the 825
notice constitutes the employer's compliance with the notice 826
requirement mandated in section 4123.54 of the Revised Code. 827

The bureau of workers' compensation shall verify with the 828
secretary of state the existence of all corporations and 829
organizations making application for workers' compensation 830
coverage and shall require every such application to include the 831
employer's federal identification number. 832

An employer as defined in division (B)(2) of section 4123.01 833
of the Revised Code who has contracted with a subcontractor is 834
liable for the unpaid premium due from any subcontractor with 835
respect to that part of the payroll of the subcontractor that is 836
for work performed pursuant to the contract with the employer. 837

Division (A) of this section providing for the payment of 838
premiums semiannually does not apply to any employer who was a 839
subscriber to the state insurance fund prior to January 1, 1914, 840
or who may first become a subscriber to the fund in any month 841
other than January or July. Instead, the semiannual premiums shall 842
be paid by those employers from time to time upon the expiration 843
of the respective periods for which payments into the fund have 844
been made by them. 845

The administrator shall adopt rules to permit employers to 846
make periodic payments of the semiannual premium due under this 847
division. The rules shall include provisions for the assessment of 848
interest charges, where appropriate, and for the assessment of 849
penalties when an employer fails to make timely premium payments. 850
An employer who timely pays the amounts due under this division is 851

entitled to all of the benefits and protections of this chapter. 852
Upon receipt of payment, the bureau immediately shall mail a 853
receipt or certificate to the employer certifying that payment has 854
been made, which receipt is prima-facie evidence of payment. 855
Workers' compensation coverage under this chapter continues 856
uninterrupted upon timely receipt of payment under this division. 857

Every public employer, except public employers that are 858
self-insuring employers under this section, shall comply with 859
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 860
regard to the contribution of moneys to the public insurance fund. 861

(B) Employers who will abide by the rules of the 862
administrator and who may be of sufficient financial ability to 863
render certain the payment of compensation to injured employees or 864
the dependents of killed employees, and the furnishing of medical, 865
surgical, nursing, and hospital attention and services and 866
medicines, and funeral expenses, equal to or greater than is 867
provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 868
to 4123.67 of the Revised Code, and who do not desire to insure 869
the payment thereof or indemnify themselves against loss sustained 870
by the direct payment thereof, upon a finding of such facts by the 871
administrator, may be granted the privilege to pay individually 872
compensation, and furnish medical, surgical, nursing, and hospital 873
services and attention and funeral expenses directly to injured 874
employees or the dependents of killed employees, thereby being 875
granted status as a self-insuring employer. The administrator may 876
charge employers who apply for the status as a self-insuring 877
employer a reasonable application fee to cover the bureau's costs 878
in connection with processing and making a determination with 879
respect to an application. 880

All employers granted status as self-insuring employers shall 881
demonstrate sufficient financial and administrative ability to 882
assure that all obligations under this section are promptly met. 883

The administrator shall deny the privilege where the employer is 884
unable to demonstrate the employer's ability to promptly meet all 885
the obligations imposed on the employer by this section. 886

(1) The administrator shall consider, but is not limited to, 887
the following factors, where applicable, in determining the 888
employer's ability to meet all of the obligations imposed on the 889
employer by this section: 890

(a) The employer employs a minimum of five hundred employees 891
in this state; 892

(b) The employer has operated in this state for a minimum of 893
two years, provided that an employer who has purchased, acquired, 894
or otherwise succeeded to the operation of a business, or any part 895
thereof, situated in this state that has operated for at least two 896
years in this state, also shall qualify; 897

(c) Where the employer previously contributed to the state 898
insurance fund or is a successor employer as defined by bureau 899
rules, the amount of the buyout, as defined by bureau rules; 900

(d) The sufficiency of the employer's assets located in this 901
state to insure the employer's solvency in paying compensation 902
directly; 903

(e) The financial records, documents, and data, certified by 904
a certified public accountant, necessary to provide the employer's 905
full financial disclosure. The records, documents, and data 906
include, but are not limited to, balance sheets and profit and 907
loss history for the current year and previous four years. 908

(f) The employer's organizational plan for the administration 909
of the workers' compensation law; 910

(g) The employer's proposed plan to inform employees of the 911
change from a state fund insurer to a self-insuring employer, the 912
procedures the employer will follow as a self-insuring employer, 913

and the employees' rights to compensation and benefits; and 914

(h) The employer has either an account in a financial 915
institution in this state, or if the employer maintains an account 916
with a financial institution outside this state, ensures that 917
workers' compensation checks are drawn from the same account as 918
payroll checks or the employer clearly indicates that payment will 919
be honored by a financial institution in this state. 920

The administrator may waive the requirements of divisions 921
(B)(1)(a) and (b) of this section and the requirement of division 922
(B)(1)(e) of this section that the financial records, documents, 923
and data be certified by a certified public accountant. The 924
administrator shall adopt rules establishing the criteria that an 925
employer shall meet in order for the administrator to waive the 926
requirement of division (B)(1)(e) of this section. Such rules may 927
require additional security of that employer pursuant to division 928
(E) of section 4123.351 of the Revised Code. 929

The administrator shall not grant the status of self-insuring 930
employer to the state, except that the administrator may grant the 931
status of self-insuring employer to a state institution of higher 932
education, excluding its hospitals, that meets the requirements of 933
division (B)(2) of this section. 934

(2) When considering the application of a public employer, 935
except for a board of county commissioners described in division 936
(G) of section 4123.01 of the Revised Code, a board of a county 937
hospital, or a publicly owned utility, the administrator shall 938
verify that the public employer satisfies all of the following 939
requirements as the requirements apply to that public employer: 940

(a) For the two-year period preceding application under this 941
section, the public employer has maintained an unvoted debt 942
capacity equal to at least two times the amount of the current 943
annual premium established by the administrator under this chapter 944

for that public employer for the year immediately preceding the 945
year in which the public employer makes application under this 946
section. 947

(b) For each of the two fiscal years preceding application 948
under this section, the unreserved and undesignated year-end fund 949
balance in the public employer's general fund is equal to at least 950
five per cent of the public employer's general fund revenues for 951
the fiscal year computed in accordance with generally accepted 952
accounting principles. 953

(c) For the five-year period preceding application under this 954
section, the public employer, to the extent applicable, has 955
complied fully with the continuing disclosure requirements 956
established in rules adopted by the United States securities and 957
exchange commission under 17 C.F.R. 240.15c 2-12. 958

(d) For the five-year period preceding application under this 959
section, the public employer has not had its local government fund 960
distribution withheld on account of the public employer being 961
indebted or otherwise obligated to the state. 962

(e) For the five-year period preceding application under this 963
section, the public employer has not been under a fiscal watch or 964
fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 965
of the Revised Code. 966

(f) For the public employer's fiscal year preceding 967
application under this section, the public employer has obtained 968
an annual financial audit as required under section 117.10 of the 969
Revised Code, which has been released by the auditor of state 970
within seven months after the end of the public employer's fiscal 971
year. 972

(g) On the date of application, the public employer holds a 973
debt rating of Aa3 or higher according to Moody's investors 974
service, inc., or a comparable rating by an independent rating 975

agency similar to Moody's investors service, inc. 976

(h) The public employer agrees to generate an annual 977
accumulating book reserve in its financial statements reflecting 978
an actuarially generated reserve adequate to pay projected claims 979
under this chapter for the applicable period of time, as 980
determined by the administrator. 981

(i) For a public employer that is a hospital, the public 982
employer shall submit audited financial statements showing the 983
hospital's overall liquidity characteristics, and the 984
administrator shall determine, on an individual basis, whether the 985
public employer satisfies liquidity standards equivalent to the 986
liquidity standards of other public employers. 987

(j) Any additional criteria that the administrator adopts by 988
rule pursuant to division (E) of this section. 989

The administrator ~~shall not approve the application of~~ may 990
wave any of the requirements listed in divisions (B)(2)(a) to (j) 991
of this section for a public employer, except for a board of 992
county commissioners described in division (G) of section 4123.01 993
of the Revised Code, a board of a county hospital, or publicly 994
owned utility, who does not satisfy all of the those requirements 995
listed in division (B)(2) of this section. The administrator may 996
adopt rules establishing the criteria that a public employer shall 997
satisfy in order for the administrator to waive any of the 998
requirements listed in divisions (B)(2)(a) to (j) of this section. 999
The rules may require additional security from that employer 1000
pursuant to division (E) of section 4123.351 of the Revised Code. 1001

(C) A board of county commissioners described in division (G) 1002
of section 4123.01 of the Revised Code, as an employer, that will 1003
abide by the rules of the administrator and that may be of 1004
sufficient financial ability to render certain the payment of 1005
compensation to injured employees or the dependents of killed 1006

employees, and the furnishing of medical, surgical, nursing, and 1007
hospital attention and services and medicines, and funeral 1008
expenses, equal to or greater than is provided for in sections 1009
4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised 1010
Code, and that does not desire to insure the payment thereof or 1011
indemnify itself against loss sustained by the direct payment 1012
thereof, upon a finding of such facts by the administrator, may be 1013
granted the privilege to pay individually compensation, and 1014
furnish medical, surgical, nursing, and hospital services and 1015
attention and funeral expenses directly to injured employees or 1016
the dependents of killed employees, thereby being granted status 1017
as a self-insuring employer. The administrator may charge a board 1018
of county commissioners described in division (G) of section 1019
4123.01 of the Revised Code that applies for the status as a 1020
self-insuring employer a reasonable application fee to cover the 1021
bureau's costs in connection with processing and making a 1022
determination with respect to an application. All employers 1023
granted such status shall demonstrate sufficient financial and 1024
administrative ability to assure that all obligations under this 1025
section are promptly met. The administrator shall deny the 1026
privilege where the employer is unable to demonstrate the 1027
employer's ability to promptly meet all the obligations imposed on 1028
the employer by this section. The administrator shall consider, 1029
but is not limited to, the following factors, where applicable, in 1030
determining the employer's ability to meet all of the obligations 1031
imposed on the board as an employer by this section: 1032

(1) The board as an employer employs a minimum of five 1033
hundred employees in this state; 1034

(2) The board has operated in this state for a minimum of two 1035
years; 1036

(3) Where the board previously contributed to the state 1037
insurance fund or is a successor employer as defined by bureau 1038

rules, the amount of the buyout, as defined by bureau rules;	1039
(4) The sufficiency of the board's assets located in this	1040
state to insure the board's solvency in paying compensation	1041
directly;	1042
(5) The financial records, documents, and data, certified by	1043
a certified public accountant, necessary to provide the board's	1044
full financial disclosure. The records, documents, and data	1045
include, but are not limited to, balance sheets and profit and	1046
loss history for the current year and previous four years.	1047
(6) The board's organizational plan for the administration of	1048
the workers' compensation law;	1049
(7) The board's proposed plan to inform employees of the	1050
proposed self-insurance, the procedures the board will follow as a	1051
self-insuring employer, and the employees' rights to compensation	1052
and benefits;	1053
(8) The board has either an account in a financial	1054
institution in this state, or if the board maintains an account	1055
with a financial institution outside this state, ensures that	1056
workers' compensation checks are drawn from the same account as	1057
payroll checks or the board clearly indicates that payment will be	1058
honored by a financial institution in this state;	1059
(9) The board shall provide the administrator a surety bond	1060
in an amount equal to one hundred twenty-five per cent of the	1061
projected losses as determined by the administrator.	1062
(D) The administrator shall require a surety bond from all	1063
self-insuring employers, issued pursuant to section 4123.351 of	1064
the Revised Code, that is sufficient to compel, or secure to	1065
injured employees, or to the dependents of employees killed, the	1066
payment of compensation and expenses, which shall in no event be	1067
less than that paid or furnished out of the state insurance fund	1068
in similar cases to injured employees or to dependents of killed	1069

employees whose employers contribute to the fund, except when an 1070
employee of the employer, who has suffered the loss of a hand, 1071
arm, foot, leg, or eye prior to the injury for which compensation 1072
is to be paid, and thereafter suffers the loss of any other of the 1073
members as the result of any injury sustained in the course of and 1074
arising out of the employee's employment, the compensation to be 1075
paid by the self-insuring employer is limited to the disability 1076
suffered in the subsequent injury, additional compensation, if 1077
any, to be paid by the bureau out of the surplus created by 1078
section 4123.34 of the Revised Code. 1079

(E) In addition to the requirements of this section, the 1080
administrator shall make and publish rules governing the manner of 1081
making application and the nature and extent of the proof required 1082
to justify a finding of fact by the administrator as to granting 1083
the status of a self-insuring employer, which rules shall be 1084
general in their application, one of which rules shall provide 1085
that all self-insuring employers shall pay into the state 1086
insurance fund such amounts as are required to be credited to the 1087
surplus fund in division (B) of section 4123.34 of the Revised 1088
Code. The administrator may adopt rules establishing requirements 1089
in addition to the requirements described in division (B)(2) of 1090
this section that a public employer shall meet in order to qualify 1091
for self-insuring status. 1092

Employers shall secure directly from the bureau central 1093
offices application forms upon which the bureau shall stamp a 1094
designating number. Prior to submission of an application, an 1095
employer shall make available to the bureau, and the bureau shall 1096
review, the information described in division (B)(1) of this 1097
section, and public employers shall make available, and the bureau 1098
shall review, the information necessary to verify whether the 1099
public employer meets the requirements listed in division (B)(2) 1100
of this section. An employer shall file the completed application 1101

forms with an application fee, which shall cover the costs of 1102
processing the application, as established by the administrator, 1103
by rule, with the bureau at least ninety days prior to the 1104
effective date of the employer's new status as a self-insuring 1105
employer. The application form is not deemed complete until all 1106
the required information is attached thereto. The bureau shall 1107
only accept applications that contain the required information. 1108

(F) The bureau shall review completed applications within a 1109
reasonable time. If the bureau determines to grant an employer the 1110
status as a self-insuring employer, the bureau shall issue a 1111
statement, containing its findings of fact, that is prepared by 1112
the bureau and signed by the administrator. If the bureau 1113
determines not to grant the status as a self-insuring employer, 1114
the bureau shall notify the employer of the determination and 1115
require the employer to continue to pay its full premium into the 1116
state insurance fund. The administrator also shall adopt rules 1117
establishing a minimum level of performance as a criterion for 1118
granting and maintaining the status as a self-insuring employer 1119
and fixing time limits beyond which failure of the self-insuring 1120
employer to provide for the necessary medical examinations and 1121
evaluations may not delay a decision on a claim. 1122

(G) The administrator shall adopt rules setting forth 1123
procedures for auditing the program of self-insuring employers. 1124
The bureau shall conduct the audit upon a random basis or whenever 1125
the bureau has grounds for believing that a self-insuring employer 1126
is not in full compliance with bureau rules or this chapter. 1127

The administrator shall monitor the programs conducted by 1128
self-insuring employers, to ensure compliance with bureau 1129
requirements and for that purpose, shall develop and issue to 1130
self-insuring employers standardized forms for use by the 1131
self-insuring employer in all aspects of the self-insuring 1132
employers' direct compensation program and for reporting of 1133

information to the bureau. 1134

The bureau shall receive and transmit to the self-insuring 1135
employer all complaints concerning any self-insuring employer. In 1136
the case of a complaint against a self-insuring employer, the 1137
administrator shall handle the complaint through the 1138
self-insurance division of the bureau. The bureau shall maintain a 1139
file by employer of all complaints received that relate to the 1140
employer. The bureau shall evaluate each complaint and take 1141
appropriate action. 1142

The administrator shall adopt as a rule a prohibition against 1143
any self-insuring employer from harassing, dismissing, or 1144
otherwise disciplining any employee making a complaint, which rule 1145
shall provide for a financial penalty to be levied by the 1146
administrator payable by the offending self-insuring employer. 1147

(H) For the purpose of making determinations as to whether to 1148
grant status as a self-insuring employer, the administrator may 1149
subscribe to and pay for a credit reporting service that offers 1150
financial and other business information about individual 1151
employers. The costs in connection with the bureau's subscription 1152
or individual reports from the service about an applicant may be 1153
included in the application fee charged employers under this 1154
section. 1155

(I) The administrator, notwithstanding other provisions of 1156
this chapter, may permit a self-insuring employer to resume 1157
payment of premiums to the state insurance fund with appropriate 1158
credit modifications to the employer's basic premium rate as such 1159
rate is determined pursuant to section 4123.29 of the Revised 1160
Code. 1161

(J) On the first day of July of each year, the administrator 1162
shall calculate separately each self-insuring employer's 1163
assessments for the safety and hygiene fund, administrative costs 1164

pursuant to section 4123.342 of the Revised Code, and for the 1165
portion of the surplus fund under division (B) of section 4123.34 1166
of the Revised Code that is not used for handicapped 1167
reimbursement, on the basis of the paid compensation attributable 1168
to the individual self-insuring employer according to the 1169
following calculation: 1170

(1) The total assessment against all self-insuring employers 1171
as a class for each fund and for the administrative costs for the 1172
year that the assessment is being made, as determined by the 1173
administrator, divided by the total amount of paid compensation 1174
for the previous calendar year attributable to all amenable 1175
self-insuring employers; 1176

(2) Multiply the quotient in division (J)(1) of this section 1177
by the total amount of paid compensation for the previous calendar 1178
year that is attributable to the individual self-insuring employer 1179
for whom the assessment is being determined. Each self-insuring 1180
employer shall pay the assessment that results from this 1181
calculation, unless the assessment resulting from this calculation 1182
falls below a minimum assessment, which minimum assessment the 1183
administrator shall determine on the first day of July of each 1184
year with the advice and consent of the bureau of workers' 1185
compensation board of directors, in which event, the self-insuring 1186
employer shall pay the minimum assessment. 1187

In determining the total amount due for the total assessment 1188
against all self-insuring employers as a class for each fund and 1189
the administrative assessment, the administrator shall reduce 1190
proportionately the total for each fund and assessment by the 1191
amount of money in the self-insurance assessment fund as of the 1192
date of the computation of the assessment. 1193

The administrator shall calculate the assessment for the 1194
portion of the surplus fund under division (B) of section 4123.34 1195
of the Revised Code that is used for handicapped reimbursement in 1196

the same manner as set forth in divisions (J)(1) and (2) of this 1197
section except that the administrator shall calculate the total 1198
assessment for this portion of the surplus fund only on the basis 1199
of those self-insuring employers that retain participation in the 1200
handicapped reimbursement program and the individual self-insuring 1201
employer's proportion of paid compensation shall be calculated 1202
only for those self-insuring employers who retain participation in 1203
the handicapped reimbursement program. The administrator, as the 1204
administrator determines appropriate, may determine the total 1205
assessment for the handicapped portion of the surplus fund in 1206
accordance with sound actuarial principles. 1207

The administrator shall calculate the assessment for the 1208
portion of the surplus fund under division (B) of section 4123.34 1209
of the Revised Code that under division (D) of section 4121.66 of 1210
the Revised Code is used for rehabilitation costs in the same 1211
manner as set forth in divisions (J)(1) and (2) of this section, 1212
except that the administrator shall calculate the total assessment 1213
for this portion of the surplus fund only on the basis of those 1214
self-insuring employers who have not made the election to make 1215
payments directly under division (D) of section 4121.66 of the 1216
Revised Code and an individual self-insuring employer's proportion 1217
of paid compensation only for those self-insuring employers who 1218
have not made that election. 1219

The administrator shall calculate the assessment for the 1220
portion of the surplus fund under division (B) of section 4123.34 1221
of the Revised Code that is used for reimbursement to a 1222
self-insuring employer under division (H) of section 4123.512 of 1223
the Revised Code in the same manner as set forth in divisions 1224
(J)(1) and (2) of this section except that the administrator shall 1225
calculate the total assessment for this portion of the surplus 1226
fund only on the basis of those self-insuring employers that 1227
retain participation in reimbursement to the self-insuring 1228

employer under division (H) of section 4123.512 of the Revised Code and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code.

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

(K) The administrator shall deposit any moneys received from a self-insuring employer for the self-insuring employer's assessment to pay the costs solely attributable to the workers' compensation council into the administrative assessment account described in division (B) of section 4123.342 of the Revised Code for the administrative cost assessment collected by the administrator for the council. There is hereby created in the state treasury the self-insurance assessment fund. All investment earnings of the fund shall be deposited in the fund. The administrator shall use the money in the self-insurance assessment fund only for administrative costs as specified in section 4123.341 of the Revised Code.

(L) Every self-insuring employer shall certify, in affidavit form subject to the penalty for perjury, to the bureau the amount of the self-insuring employer's paid compensation for the previous calendar year. In reporting paid compensation paid for the previous year, a self-insuring employer shall exclude from the total amount of paid compensation any reimbursement the self-insuring employer receives in the previous calendar year from

the surplus fund pursuant to section 4123.512 of the Revised Code 1261
for any paid compensation. The self-insuring employer also shall 1262
exclude from the paid compensation reported any amount recovered 1263
under section 4123.931 of the Revised Code and any amount that is 1264
determined not to have been payable to or on behalf of a claimant 1265
in any final administrative or judicial proceeding. The 1266
self-insuring employer shall exclude such amounts from the paid 1267
compensation reported in the reporting period subsequent to the 1268
date the determination is made. The administrator shall adopt 1269
rules, in accordance with Chapter 119. of the Revised Code, that 1270
provide for all of the following: 1271

(1) Establishing the date by which self-insuring employers 1272
must submit such information and the amount of the assessments 1273
provided for in division (J) of this section for employers who 1274
have been granted self-insuring status within the last calendar 1275
year; 1276

(2) If an employer fails to pay the assessment when due, the 1277
administrator may add a late fee penalty of not more than five 1278
hundred dollars to the assessment plus an additional penalty 1279
amount as follows: 1280

(a) For an assessment from sixty-one to ninety days past due, 1281
the prime interest rate, multiplied by the assessment due; 1282

(b) For an assessment from ninety-one to one hundred twenty 1283
days past due, the prime interest rate plus two per cent, 1284
multiplied by the assessment due; 1285

(c) For an assessment from one hundred twenty-one to one 1286
hundred fifty days past due, the prime interest rate plus four per 1287
cent, multiplied by the assessment due; 1288

(d) For an assessment from one hundred fifty-one to one 1289
hundred eighty days past due, the prime interest rate plus six per 1290
cent, multiplied by the assessment due; 1291

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

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

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

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

The administrator shall include any assessment and penalties that remain unpaid for previous assessment periods in the calculation and collection of any assessments due under this division or division (J) of this section.

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

(N) Should any section of this chapter or Chapter 4121. of the Revised Code providing for self-insuring employers'

assessments based upon compensation paid be declared 1323
unconstitutional by a final decision of any court, then that 1324
section of the Revised Code declared unconstitutional shall revert 1325
back to the section in existence prior to November 3, 1989, 1326
providing for assessments based upon payroll. 1327

(O) The administrator may grant a self-insuring employer the 1328
privilege to self-insure a construction project entered into by 1329
the self-insuring employer that is scheduled for completion within 1330
six years after the date the project begins, and the total cost of 1331
which is estimated to exceed one hundred million dollars or, for 1332
employers described in division (R) of this section, if the 1333
construction project is estimated to exceed twenty-five million 1334
dollars. The administrator may waive such cost and time criteria 1335
and grant a self-insuring employer the privilege to self-insure a 1336
construction project regardless of the time needed to complete the 1337
construction project and provided that the cost of the 1338
construction project is estimated to exceed fifty million dollars. 1339
A self-insuring employer who desires to self-insure a construction 1340
project shall submit to the administrator an application listing 1341
the dates the construction project is scheduled to begin and end, 1342
the estimated cost of the construction project, the contractors 1343
and subcontractors whose employees are to be self-insured by the 1344
self-insuring employer, the provisions of a safety program that is 1345
specifically designed for the construction project, and a 1346
statement as to whether a collective bargaining agreement 1347
governing the rights, duties, and obligations of each of the 1348
parties to the agreement with respect to the construction project 1349
exists between the self-insuring employer and a labor 1350
organization. 1351

A self-insuring employer may apply to self-insure the 1352
employees of either of the following: 1353

(1) All contractors and subcontractors who perform labor or 1354

work or provide materials for the construction project; 1355

(2) All contractors and, at the administrator's discretion, a 1356
substantial number of all the subcontractors who perform labor or 1357
work or provide materials for the construction project. 1358

Upon approval of the application, the administrator shall 1359
mail a certificate granting the privilege to self-insure the 1360
construction project to the self-insuring employer. The 1361
certificate shall contain the name of the self-insuring employer 1362
and the name, address, and telephone number of the self-insuring 1363
employer's representatives who are responsible for administering 1364
workers' compensation claims for the construction project. The 1365
self-insuring employer shall post the certificate in a conspicuous 1366
place at the site of the construction project. 1367

The administrator shall maintain a record of the contractors 1368
and subcontractors whose employees are covered under the 1369
certificate issued to the self-insured employer. A self-insuring 1370
employer immediately shall notify the administrator when any 1371
contractor or subcontractor is added or eliminated from inclusion 1372
under the certificate. 1373

Upon approval of the application, the self-insuring employer 1374
is responsible for the administration and payment of all claims 1375
under this chapter and Chapter 4121. of the Revised Code for the 1376
employees of the contractor and subcontractors covered under the 1377
certificate who receive injuries or are killed in the course of 1378
and arising out of employment on the construction project, or who 1379
contract an occupational disease in the course of employment on 1380
the construction project. For purposes of this chapter and Chapter 1381
4121. of the Revised Code, a claim that is administered and paid 1382
in accordance with this division is considered a claim against the 1383
self-insuring employer listed in the certificate. A contractor or 1384
subcontractor included under the certificate shall report to the 1385
self-insuring employer listed in the certificate, all claims that 1386

arise under this chapter and Chapter 4121. of the Revised Code in 1387
connection with the construction project for which the certificate 1388
is issued. 1389

A self-insuring employer who complies with this division is 1390
entitled to the protections provided under this chapter and 1391
Chapter 4121. of the Revised Code with respect to the employees of 1392
the contractors and subcontractors covered under a certificate 1393
issued under this division for death or injuries that arise out 1394
of, or death, injuries, or occupational diseases that arise in the 1395
course of, those employees' employment on that construction 1396
project, as if the employees were employees of the self-insuring 1397
employer, provided that the self-insuring employer also complies 1398
with this section. No employee of the contractors and 1399
subcontractors covered under a certificate issued under this 1400
division shall be considered the employee of the self-insuring 1401
employer listed in that certificate for any purposes other than 1402
this chapter and Chapter 4121. of the Revised Code. Nothing in 1403
this division gives a self-insuring employer authority to control 1404
the means, manner, or method of employment of the employees of the 1405
contractors and subcontractors covered under a certificate issued 1406
under this division. 1407

The contractors and subcontractors included under a 1408
certificate issued under this division are entitled to the 1409
protections provided under this chapter and Chapter 4121. of the 1410
Revised Code with respect to the contractor's or subcontractor's 1411
employees who are employed on the construction project which is 1412
the subject of the certificate, for death or injuries that arise 1413
out of, or death, injuries, or occupational diseases that arise in 1414
the course of, those employees' employment on that construction 1415
project. 1416

The contractors and subcontractors included under a 1417
certificate issued under this division shall identify in their 1418

payroll records the employees who are considered the employees of 1419
the self-insuring employer listed in that certificate for purposes 1420
of this chapter and Chapter 4121. of the Revised Code, and the 1421
amount that those employees earned for employment on the 1422
construction project that is the subject of that certificate. 1423
Notwithstanding any provision to the contrary under this chapter 1424
and Chapter 4121. of the Revised Code, the administrator shall 1425
exclude the payroll that is reported for employees who are 1426
considered the employees of the self-insuring employer listed in 1427
that certificate, and that the employees earned for employment on 1428
the construction project that is the subject of that certificate, 1429
when determining those contractors' or subcontractors' premiums or 1430
assessments required under this chapter and Chapter 4121. of the 1431
Revised Code. A self-insuring employer issued a certificate under 1432
this division shall include in the amount of paid compensation it 1433
reports pursuant to division (L) of this section, the amount of 1434
paid compensation the self-insuring employer paid pursuant to this 1435
division for the previous calendar year. 1436

Nothing in this division shall be construed as altering the 1437
rights of employees under this chapter and Chapter 4121. of the 1438
Revised Code as those rights existed prior to September 17, 1996. 1439
Nothing in this division shall be construed as altering the rights 1440
devolved under sections 2305.31 and 4123.82 of the Revised Code as 1441
those rights existed prior to September 17, 1996. 1442

As used in this division, "privilege to self-insure a 1443
construction project" means privilege to pay individually 1444
compensation, and to furnish medical, surgical, nursing, and 1445
hospital services and attention and funeral expenses directly to 1446
injured employees or the dependents of killed employees. 1447

(P) A self-insuring employer whose application is granted 1448
under division (O) of this section shall designate a safety 1449
professional to be responsible for the administration and 1450

enforcement of the safety program that is specifically designed 1451
for the construction project that is the subject of the 1452
application. 1453

A self-insuring employer whose application is granted under 1454
division (O) of this section shall employ an ombudsperson for the 1455
construction project that is the subject of the application. The 1456
ombudsperson shall have experience in workers' compensation or the 1457
construction industry, or both. The ombudsperson shall perform all 1458
of the following duties: 1459

(1) Communicate with and provide information to employees who 1460
are injured in the course of, or whose injury arises out of 1461
employment on the construction project, or who contract an 1462
occupational disease in the course of employment on the 1463
construction project; 1464

(2) Investigate the status of a claim upon the request of an 1465
employee to do so; 1466

(3) Provide information to claimants, third party 1467
administrators, employers, and other persons to assist those 1468
persons in protecting their rights under this chapter and Chapter 1469
4121. of the Revised Code. 1470

A self-insuring employer whose application is granted under 1471
division (O) of this section shall post the name of the safety 1472
professional and the ombudsperson and instructions for contacting 1473
the safety professional and the ombudsperson in a conspicuous 1474
place at the site of the construction project. 1475

(Q) The administrator may consider all of the following when 1476
deciding whether to grant a self-insuring employer the privilege 1477
to self-insure a construction project as provided under division 1478
(O) of this section: 1479

(1) Whether the self-insuring employer has an organizational 1480
plan for the administration of the workers' compensation law; 1481

(2) Whether the safety program that is specifically designed	1482
for the construction project provides for the safety of employees	1483
employed on the construction project, is applicable to all	1484
contractors and subcontractors who perform labor or work or	1485
provide materials for the construction project, and has as a	1486
component, a safety training program that complies with standards	1487
adopted pursuant to the "Occupational Safety and Health Act of	1488
1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing	1489
management and employee involvement;	1490
(3) Whether granting the privilege to self-insure the	1491
construction project will reduce the costs of the construction	1492
project;	1493
(4) Whether the self-insuring employer has employed an	1494
ombudsperson as required under division (P) of this section;	1495
(5) Whether the self-insuring employer has sufficient surety	1496
to secure the payment of claims for which the self-insuring	1497
employer would be responsible pursuant to the granting of the	1498
privilege to self-insure a construction project under division (O)	1499
of this section.	1500
(R) As used in divisions (O), (P), and (Q), "self-insuring	1501
employer" includes the following employers, whether or not they	1502
have been granted the status of being a self-insuring employer	1503
under division (B) of this section:	1504
(1) A state institution of higher education;	1505
(2) A school district;	1506
(3) A county school financing district;	1507
(4) An educational service center;	1508
(5) A community school established under Chapter 3314. of the	1509
Revised Code;	1510
(6) A municipal power agency as defined in section 3734.058	1511

of the Revised Code.	1512
(S) As used in this section:	1513
(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;	1514 1515
(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.	1516 1517 1518 1519 1520 1521 1522
Sec. 4123.512. (A) The claimant or the employer may appeal an order of the industrial commission made under division (E) of section 4123.511 of the Revised Code in any injury or occupational disease case, other than a decision as to the extent of disability to the court of common pleas of the county in which the injury was inflicted or in which the contract of employment was made if the injury occurred outside the state, or in which the contract of employment was made if the exposure occurred outside the state. If no common pleas court has jurisdiction for the purposes of an appeal by the use of the jurisdictional requirements described in this division, the appellant may use the venue provisions in the Rules of Civil Procedure to vest jurisdiction in a court. If the claim is for an occupational disease, the appeal shall be to the court of common pleas of the county in which the exposure which caused the disease occurred. Like appeal may be taken from an order of a staff hearing officer made under division (D) of section 4123.511 of the Revised Code from which the commission has refused to hear an appeal. The appellant shall file the notice of appeal with a court of common pleas within sixty days after the date of the receipt of the order appealed from or the date of	1523 1524 1525 1526 1527 1528 1529 1530 1531 1532 1533 1534 1535 1536 1537 1538 1539 1540 1541 1542

receipt of the order of the commission refusing to hear an appeal 1543
of a staff hearing officer's decision under division (D) of 1544
section 4123.511 of the Revised Code. The filing of the notice of 1545
the appeal with the court is the only act required to perfect the 1546
appeal. 1547

If an action has been commenced in a court of a county other 1548
than a court of a county having jurisdiction over the action, the 1549
court, upon notice by any party or upon its own motion, shall 1550
transfer the action to a court of a county having jurisdiction. 1551

Notwithstanding anything to the contrary in this section, if 1552
the commission determines under section 4123.522 of the Revised 1553
Code that an employee, employer, or their respective 1554
representatives have not received written notice of an order or 1555
decision which is appealable to a court under this section and 1556
which grants relief pursuant to section 4123.522 of the Revised 1557
Code, the party granted the relief has sixty days from receipt of 1558
the order under section 4123.522 of the Revised Code to file a 1559
notice of appeal under this section. 1560

(B) The notice of appeal shall state the names of the 1561
claimant and the employer, the number of the claim, the date of 1562
the order appealed from, and the fact that the appellant appeals 1563
therefrom. 1564

The administrator of workers' compensation, the claimant, and 1565
the employer shall be parties to the appeal and the court, upon 1566
the application of the commission, shall make the commission a 1567
party. The party filing the appeal shall serve a copy of the 1568
notice of appeal on the administrator at the central office of the 1569
bureau of workers' compensation in Columbus. The administrator 1570
shall notify the employer that if the employer fails to become an 1571
active party to the appeal, then the administrator may act on 1572
behalf of the employer and the results of the appeal could have an 1573
adverse effect upon the employer's premium rates. 1574

(C) The attorney general or one or more of the attorney 1575
general's assistants or special counsel designated by the attorney 1576
general shall represent the administrator and the commission. In 1577
the event the attorney general or the attorney general's 1578
designated assistants or special counsel are absent, the 1579
administrator or the commission shall select one or more of the 1580
attorneys in the employ of the administrator or the commission as 1581
the administrator's attorney or the commission's attorney in the 1582
appeal. Any attorney so employed shall continue the representation 1583
during the entire period of the appeal and in all hearings thereof 1584
except where the continued representation becomes impractical. 1585

(D) Upon receipt of notice of appeal, the clerk of courts 1586
shall provide notice to all parties who are appellees and to the 1587
commission. 1588

The claimant shall, within thirty days after the filing of 1589
the notice of appeal, file a petition containing a statement of 1590
facts in ordinary and concise language showing a cause of action 1591
to participate or to continue to participate in the fund and 1592
setting forth the basis for the jurisdiction of the court over the 1593
action. Further pleadings shall be had in accordance with the 1594
Rules of Civil Procedure, provided that service of summons on such 1595
petition shall not be required and provided that the claimant may 1596
not dismiss the complaint without the employer's consent if the 1597
employer is the party that filed the notice of appeal to court 1598
pursuant to this section. The clerk of the court shall, upon 1599
receipt thereof, transmit by certified mail a copy thereof to each 1600
party named in the notice of appeal other than the claimant. Any 1601
party may file with the clerk prior to the trial of the action a 1602
deposition of any physician taken in accordance with the 1603
provisions of the Revised Code, which deposition may be read in 1604
the trial of the action even though the physician is a resident of 1605
or subject to service in the county in which the trial is had. The 1606

bureau of workers' compensation shall pay the cost of the 1607
stenographic deposition filed in court and of copies of the 1608
stenographic deposition for each party from the surplus fund and 1609
charge the costs thereof against the unsuccessful party if the 1610
claimant's right to participate or continue to participate is 1611
finally sustained or established in the appeal. In the event the 1612
deposition is taken and filed, the physician whose deposition is 1613
taken is not required to respond to any subpoena issued in the 1614
trial of the action. The court, or the jury under the instructions 1615
of the court, if a jury is demanded, shall determine the right of 1616
the claimant to participate or to continue to participate in the 1617
fund upon the evidence adduced at the hearing of the action. 1618

(E) The court shall certify its decision to the commission 1619
and the certificate shall be entered in the records of the court. 1620
Appeals from the judgment are governed by the law applicable to 1621
the appeal of civil actions. 1622

(F) The cost of any legal proceedings authorized by this 1623
section, including an attorney's fee to the claimant's attorney to 1624
be fixed by the trial judge, based upon the effort expended, in 1625
the event the claimant's right to participate or to continue to 1626
participate in the fund is established upon the final 1627
determination of an appeal, shall be taxed against the employer or 1628
the commission if the commission or the administrator rather than 1629
the employer contested the right of the claimant to participate in 1630
the fund. The attorney's fee shall not exceed forty-two hundred 1631
dollars. 1632

(G) If the finding of the court or the verdict of the jury is 1633
in favor of the claimant's right to participate in the fund, the 1634
commission and the administrator shall thereafter proceed in the 1635
matter of the claim as if the judgment were the decision of the 1636
commission, subject to the power of modification provided by 1637
section 4123.52 of the Revised Code. 1638

(H)(1) An appeal from an order issued under division (E) of section 4123.511 of the Revised Code or any action filed in court in a case in which an award of compensation or medical benefits has been made shall not stay the payment of compensation or medical benefits under the award, or payment for subsequent periods of total disability or medical benefits during the pendency of the appeal. If, in a final administrative or judicial action, it is determined that payments of compensation or benefits, or both, made to or on behalf of a claimant should not have been made, the amount thereof shall be charged to the surplus fund account under division ~~(A)~~(B) of section 4123.34 of the Revised Code. In the event the employer is a state risk, the amount shall not be charged to the employer's experience, and the administrator shall adjust the employer's account accordingly. In the event the employer is a self-insuring employer, the self-insuring employer shall deduct the amount from the paid compensation the self-insuring employer reports to the administrator under division (L) of section 4123.35 of the Revised Code.

(2)(a) Notwithstanding a final determination that payments of benefits made to or on behalf of a claimant should not have been made, the administrator or self-insuring employer shall award payment of medical or vocational rehabilitation services submitted for payment after the date of the final determination if all of the following apply:

(i) The services were approved and were rendered by the provider in good faith prior to the date of the final determination.

(ii) The services were payable under division (I) of section 4123.511 of the Revised Code prior to the date of the final determination.

(iii) The request for payment is submitted within the time

limit set forth in section 4123.52 of the Revised Code. 1671

(b) Payments made under division (H)(1) of this section shall 1672
be charged to the surplus fund account under division (B) of 1673
section 4123.34 of the Revised Code. If the employer of the 1674
employee who is the subject of a claim described in division 1675
(H)(2)(a) of this section is a state fund employer, the payments 1676
made under that division shall not be charged to the employer's 1677
experience. If that employer is a self-insuring employer, the 1678
self-insuring employer shall deduct the amount from the paid 1679
compensation the self-insuring employer reports to the 1680
administrator under division (L) of section 4123.35 of the Revised 1681
Code. 1682

(c) Division (H)(2) of this section shall apply only to a 1683
claim under this chapter or Chapter 4121., 4127., or 4131. of the 1684
Revised Code arising on or after the effective date of this 1685
amendment. 1686

(3) A self-insuring employer may elect to pay compensation 1687
and benefits under this section directly to an employee or an 1688
employee's dependents by filing an application with the bureau of 1689
workers' compensation not more than one hundred eighty days and 1690
not less than ninety days before the first day of the employer's 1691
next six-month coverage period. If the self-insuring employer 1692
timely files the application, the application is effective on the 1693
first day of the employer's next six-month coverage period, 1694
provided that the administrator shall compute the employer's 1695
assessment for the surplus fund account due with respect to the 1696
period during which that application was filed without regard to 1697
the filing of the application. On and after the effective date of 1698
the employer's election, the self-insuring employer shall pay 1699
directly to an employee or to an employee's dependents 1700
compensation and benefits under this section regardless of the 1701
date of the injury or occupational disease, and the employer shall 1702

receive no money or credits from the surplus fund account on 1703
account of those payments and shall not be required to pay any 1704
amounts into the surplus fund account on account of this section. 1705
The election made under this division is irrevocable. 1706

(I) All actions and proceedings under this section which are 1707
the subject of an appeal to the court of common pleas or the court 1708
of appeals shall be preferred over all other civil actions except 1709
election causes, irrespective of position on the calendar. 1710

This section applies to all decisions of the commission or 1711
the administrator on November 2, 1959, and all claims filed 1712
thereafter are governed by sections 4123.511 and 4123.512 of the 1713
Revised Code. 1714

Any action pending in common pleas court or any other court 1715
on January 1, 1986, under this section is governed by former 1716
sections 4123.514, 4123.515, 4123.516, and 4123.519 and section 1717
4123.522 of the Revised Code. 1718

Sec. 4123.52. (A) The jurisdiction of the industrial 1719
commission and the authority of the administrator of workers' 1720
compensation over each case is continuing, and the commission may 1721
make such modification or change with respect to former findings 1722
or orders with respect thereto, as, in its opinion is justified. 1723
No modification or change nor any finding or award in respect of 1724
any claim shall be made with respect to disability, compensation, 1725
dependency, or benefits, after five years from the date of injury 1726
in the absence of the payment of medical benefits under this 1727
chapter or in the absence of payment of compensation under section 1728
4123.57, 4123.58, or division (A) or (B) of section 4123.56 of the 1729
Revised Code or wages in lieu of compensation in a manner so as to 1730
satisfy the requirements of section 4123.84 of the Revised Code, 1731
in which event the modification, change, finding, or award shall 1732
be made within five years from the date of the last payment of 1733

compensation or from the date of death, nor unless written notice 1734
of claim for the specific part or parts of the body injured or 1735
disabled has been given as provided in section 4123.84 or 4123.85 1736
of the Revised Code. The commission shall not make any 1737
modification, change, finding, or award which shall award 1738
compensation for a back period in excess of two years prior to the 1739
date of filing application therefor. ~~This~~ 1740

(B) Notwithstanding division (A) of this section, neither the 1741
administrator nor the commission shall make any finding or award 1742
for payment of medical or vocational rehabilitation services 1743
submitted for payment more than one year after the date the 1744
services were rendered or more than one year after the date the 1745
services became payable under division (I) of section 4123.511 of 1746
the Revised Code, whichever is later. No medical or vocational 1747
rehabilitation provider shall bill a claimant for services 1748
rendered if the administrator or commission is prohibited from 1749
making that payment under this division. 1750

(C) This section does not affect the right of a claimant to 1751
compensation accruing subsequent to the filing of any such 1752
application, provided the application is filed within the time 1753
limit provided in this section. 1754

(D) This section does not deprive the commission of its 1755
continuing jurisdiction to determine the questions raised by any 1756
application for modification of award which has been filed with 1757
the commission after June 1, 1932, and prior to the expiration of 1758
the applicable period but in respect to which no award has been 1759
granted or denied during the applicable period. 1760

(E) The commission may, by general rules, provide for the 1761
destruction of files of cases in which no further action may be 1762
taken. 1763

(F) The commission and administrator of workers' compensation 1764

each may, by general rules, provide for the retention and 1765
destruction of all other records in their possession or under 1766
their control pursuant to section 121.211 and sections 149.34 to 1767
149.36 of the Revised Code. The bureau of workers' compensation 1768
may purchase or rent required equipment for the document retention 1769
media, as determined necessary to preserve the records. 1770
Photographs, microphotographs, microfilm, films, or other direct 1771
document retention media, when properly identified, have the same 1772
effect as the original record and may be offered in like manner 1773
and may be received as evidence in proceedings before the 1774
industrial commission, staff hearing officers, and district 1775
hearing officers, and in any court where the original record could 1776
have been introduced. 1777

Section 102. That existing sections 4121.12, 4121.123, 1778
4121.125, 4121.32, 4121.41, 4121.44, 4121.68, 4123.35, 4123.512, 1779
and 4123.52 and sections 4121.124 and 4121.99 of the Revised Code 1780
are hereby repealed. 1781

Section 201. All items in Sections 201 and 203 of this act 1782
are hereby appropriated out of any moneys in the state treasury to 1783
the credit of the designated fund. For all appropriations made in 1784
this act, those in the first column are for fiscal year 2012, and 1785
those in the second column are for fiscal year 2013. 1786

FND AI	AI TITLE	Appropriations		
	BWC BUREAU OF WORKERS' COMPENSATION			1788
	Workers' Compensation Fund Group			1789
7023 855401	William Green Lease	\$ 18,291,365	\$ 17,533,370	1790
	Payments to OBA			
7023 855407	Claims, Risk and	\$ 125,427,732	\$ 124,192,959	1791
	Medical Management			
7023 855408	Fraud Prevention	\$ 11,331,154	\$ 11,164,226	1792

7023	855409	Administrative Services	\$	101,724,950	\$	104,136,037	1793
7023	855410	Attorney General Payments	\$	4,621,850	\$	4,621,850	1794
8220	855606	Coal Workers' Fund	\$	1,050,586	\$	1,047,666	1795
8230	855608	Marine Industry	\$	76,532	\$	75,527	1796
8250	855605	Disabled Workers Relief Fund	\$	322,266	\$	319,718	1797
8260	855609	Safety and Hygiene Operating	\$	20,382,567	\$	20,161,132	1798
8260	855610	Gear Program	\$	4,000,000	\$	4,000,000	1799
8290	855604	Long Term Care Loan Program	\$	1,000,000	\$	1,000,000	1800
TOTAL WCF Workers' Compensation							1801
Fund Group			\$	288,229,002	\$	288,252,485	1802
Federal Special Revenue Fund Group							1803
3490	855601	OSHA Enforcement	\$	1,670,998	\$	1,647,515	1804
TOTAL FED Federal Special Revenue			\$	1,670,998	\$	1,647,515	1805
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	289,900,000	\$	289,900,000	1806
WILLIAM GREEN LEASE PAYMENTS							1807
The foregoing appropriation item 855401, William Green Lease							1808
Payments to OBA, shall be used for lease payments to the Ohio							1809
Building Authority, and these appropriations shall be used to meet							1810
all payments at the times they are required to be made during the							1811
period from July 1, 2011, to June 30, 2013, by the Bureau of							1812
Workers' Compensation to the Ohio Building Authority pursuant to							1813
leases and agreements made under Chapter 152. of the Revised Code							1814
and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly.							1815
Of the amounts received in Fund 7023, appropriation item 855401,							1816
William Green Lease Payments to OBA, up to \$35,824,735 shall be							1817
restricted for lease rental payments to the Ohio Building							1818

Authority. If it is determined that additional appropriations are 1819
necessary for such purpose, such amounts are hereby appropriated. 1820

Notwithstanding any provision of law to the contrary, all 1821
tenants of the William Green Building not funded by the Workers'
Compensation Fund (Fund 7023) shall pay their fair share of the 1822
costs of lease payments to the Workers' Compensation Fund (Fund 1823
7023) by intrastate transfer voucher. 1824
1825

WORKERS' COMPENSATION FRAUD UNIT 1826

The Workers' Compensation Section Fund (Fund 1950) 1827
administered by the Attorney General shall receive payments from 1828
the Bureau of Workers' Compensation at the beginning of each 1829
quarter of each fiscal year to fund expenses of the Workers'
Compensation Fraud Unit within the Attorney General's Office. Of 1830
the foregoing appropriation item 855410, Attorney General 1831
Payments, \$828,200 in fiscal year 2012 and \$828,200 in fiscal year 1832
2013 shall be used to provide these payments. 1833
1834

SAFETY AND HYGIENE 1835

Notwithstanding section 4121.37 of the Revised Code, the 1836
Treasurer of State shall transfer \$20,382,567 cash in fiscal year 1837
2012 and \$20,161,132 cash in fiscal year 2013 from the State 1838
Insurance Fund to the Safety and Hygiene Fund (Fund 8260). 1839

OSHA ON-SITE CONSULTATION PROGRAM 1840

The Bureau of Workers' Compensation may designate a portion 1841
of appropriation item 855609, Safety and Hygiene Operating, to be 1842
used to match federal funding for the federal Occupational Safety 1843
and Health Administration's (OSHA) on-site consultation program. 1844

VOCATIONAL REHABILITATION 1845

The Bureau of Workers' Compensation and the Rehabilitation 1846
Services Commission shall enter into an interagency agreement for 1847
the provision of vocational rehabilitation services and staff to 1848

mutually eligible clients. The bureau shall provide \$605,407 in 1849
fiscal year 2012 and \$605,407 in fiscal year 2013 from the State 1850
Insurance Fund to fund vocational rehabilitation services and 1851
staff in accordance with the interagency agreement. 1852

FUND BALANCE 1853

Any unencumbered cash balance in excess of \$45,000,000 in the 1854
Workers' Compensation Fund (Fund 7023) on the thirtieth day of 1855
June of each fiscal year shall be used to reduce the 1856
administrative cost rate charged to employers to cover 1857
appropriations for Bureau of Workers' Compensation operations. 1858

Section 211. WCC WORKERS' COMPENSATION COUNCIL 1859

5FV0 321600 Remuneration Expenses \$ 471,200 \$ 471,200 1860

TOTAL 5FV0 Workers' Compensation \$ 471,200 \$ 471,200 1861

Council Remuneration Fund

TOTAL ALL BUDGET FUND GROUPS \$ 471,200 \$ 471,200 1862

WORKERS' COMPENSATION COUNCIL 1863

The foregoing appropriation item 321600, Remuneration 1864
Expenses, shall be used to pay the payroll and fringe benefit 1865
costs for employees of the Workers' Compensation Council. 1866

Section 221. DEPUTY INSPECTOR GENERAL FOR BWC AND OIC FUNDING 1867

To pay for the FY 2012 costs related to the Deputy Inspector 1868
General for the Bureau of Workers' Compensation and Industrial 1869
Commission, on July 1, 2011, and on January 1, 2012, or as soon as 1870
possible after each date, the Director of Budget and Management 1871
shall transfer \$212,500 in cash from the Workers' Compensation 1872
Fund (Fund 7023) to the Deputy Inspector General for the Bureau of 1873
Workers' Compensation and Industrial Commission Fund (Fund 5FT0). 1874

To pay for the FY 2013 costs related to the Deputy Inspector 1875
General for the Bureau of Workers' Compensation and Industrial 1876

Commission, on July 1, 2012, and on January 1, 2013, or as soon as 1877
possible after each date, the Director of Budget and Management 1878
shall transfer \$212,500 in cash from the Workers' Compensation 1879
Fund (Fund 7023) to the Deputy Inspector General for the Bureau of 1880
Workers' Compensation and Industrial Commission Fund (Fund 5FT0). 1881

If additional amounts are needed, the Inspector General may 1882
seek Controlling Board approval for additional transfers of cash 1883
and to increase the amount appropriated in appropriation item 1884
965604, Deputy Inspector General for the Bureau of Workers' 1885
Compensation and Industrial Commission. 1886

Section 301. Law contained in the Main Operating 1887
Appropriations Act of the 129th General Assembly that applies 1888
generally to the appropriations made in that act also applies 1889
generally to the appropriations made in this act. 1890

Section 311. The provisions of law contained in this act, and 1891
their applications, are severable. If any provision of law 1892
contained in this act, or if any application of any provision of 1893
law contained in this act, is held invalid, the invalidity does 1894
not affect other provisions of law contained in this act and their 1895
applications that can be given effect without the invalid 1896
provision or application. 1897

Section 321. Except as otherwise provided in this act, the 1898
amendment, enactment, or repeal by this act of a section of law is 1899
exempt from the referendum under Ohio Constitution, Article II, 1900
Section 1d and section 1.471 of the Revised Code and therefore 1901
takes effect immediately when this act becomes law. 1902

Section 322. The amendment, enactment, or repeal by this act 1903
of the divisions and sections of law listed below are subject to 1904
the referendum under Ohio Constitution, Article II, Section 1c and 1905
therefore take effect on the ninety-first day after this act is 1906

filed with the Secretary of State.	1907
All Revised Code sections in Section 101 of this act.	1908
The repeal of sections 4121.124 and 4121.99 of the Revised Code.	1909 1910