

As Introduced

**129th General Assembly
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S. B. No. 139

Senator Hughes

Cosponsors: Senators Schaffer, Seitz, Patton

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A B I L L

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

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

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

Sec. 4123.291. (A) An adjudicating committee appointed by the 15
administrator of workers' compensation to hear any matter 16
specified in divisions (B)(1) to (7) of this section shall hear 17
the matter within sixty days of the date on which an employer 18
files the request, protest, or petition. An employer desiring to 19

file a request, protest, or petition regarding any matter 20
specified in divisions (B)(1) to (7) of this section shall file 21
the request, protest, or petition to the adjudicating committee on 22
or before twenty-four months after the administrator sends notice 23
of the determination about which the employer is filing the 24
request, protest, or petition. 25

(B) An employer who is adversely affected by a decision of an 26
adjudicating committee appointed by the administrator may appeal 27
the decision of the committee to the administrator or the 28
administrator's designee. The employer shall file the appeal in 29
writing within thirty days after the employer receives the 30
decision of the adjudicating committee. The administrator or the 31
designee shall hear the appeal and hold a hearing, provided that 32
the decision of the adjudicating committee relates to one of the 33
following: 34

(1) An employer request for a waiver of a default in the 35
payment of premiums pursuant to section 4123.37 of the Revised 36
Code; 37

(2) An employer request for the settlement of liability as a 38
noncomplying employer under section 4123.75 of the Revised Code; 39

(3) An employer petition objecting to the assessment of a 40
premium pursuant to section 4123.37 of the Revised Code and the 41
rules adopted pursuant to that section; 42

(4) An employer request for the abatement of penalties 43
assessed pursuant to section 4123.32 of the Revised Code and the 44
rules adopted pursuant to that section; 45

(5) An employer protest relating to an audit finding or a 46
determination of a manual classification, experience rating, or 47
transfer or combination of risk experience; 48

(6) Any decision relating to any other risk premium matter 49
under Chapters 4121., 4123., and 4131. of the Revised Code; 50

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

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

Sec. 4125.01. As used in this chapter:

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

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

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

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

(E) "Professional employer organization reporting entity" means two or more professional employer organizations that are majority owned or commonly controlled by the same entity, parent, or controlling person and that satisfy reporting entity control

rules as defined by the financial accounting standards board and 81
under generally accepted accounting principles. 82

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

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

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

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

The administrator may adopt rules allowing an independent 100
assurance organization to act on behalf of a professional employer 101
organization in complying with this chapter and any rules adopted 102
under it. Those rules shall require that the assurance 103
organization be approved by the administrator before acting under 104
the rules and shall include standards and procedures for that 105
approval. The rules also shall permit a professional employer 106
organization to authorize an assurance organization approved by 107
the administrator to act on behalf of the professional employer 108
organization, and the rules shall specify certain provisions of 109
this chapter that may be satisfied by an assurance organization 110
acting with that authority. 111

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

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

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

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

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

(5) Maintain complete records separately listing the manual 135
classifications of each client employer and the payroll reported 136
to each manual classification for each client employer for each 137
payroll reporting period during the time period covered in the 138
professional employer organization agreement; 139

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

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

(B) The professional employer organization with whom a shared employee is coemployed shall provide a list of all of the following information to the client employer upon the written request of the client employer:

(1) All workers' compensation claims associated with that client employer;

(2) Compensation and benefits paid and reserves established for each claim listed under division (B)(1) of this section;

(3) Any other information available to the professional employer organization from the bureau of workers' compensation regarding that client employer.

(C)(1) A professional employer organization shall provide the information required under division (B) of this section in writing to the requesting client employer within sixty days after receiving a written request from the client employer.

(2) For purposes of division (C) of this section, a professional employer organization has provided the required information to the client employer when the information is received by the United States postal service or when the information is personally delivered directly to the client employer.

(D) Except as provided in section 4125.08 of the Revised Code and unless otherwise agreed to in the professional employer organization agreement, the professional employer organization with whom a shared employee is coemployed has a right of direction and control over each shared employee assigned to a client employer's location. However, a client employer shall retain

sufficient direction and control over a shared employee as is 173
necessary to do any of the following: 174

(1) Conduct the client employer's business, including 175
training and supervising shared employees; 176

(2) Ensure the quality, adequacy, and safety of the goods or 177
services produced or sold in the client employer's business; 178

(3) Discharge any fiduciary responsibility that the client 179
employer may have; 180

(4) Comply with any applicable licensure, regulatory, or 181
statutory requirement of the client employer. 182

~~(C) Notwithstanding division (B) of this section, a client~~ 183
~~employer may retain sufficient direction and control over a shared~~ 184
~~employee as is necessary to conduct the client employer's business~~ 185
~~and to discharge any fiduciary responsibility that it may have, or~~ 186
~~to comply with any applicable licensure, regulatory, or statutory~~ 187
~~requirement of the client employer~~ 188

(E) Unless otherwise agreed to in the professional employer 189
organization agreement, liability for acts, errors, and omissions 190
shall be determined as follows: 191

(1) A professional employer organization shall not be liable 192
for the acts, errors, and omissions of a client employer or a 193
shared employee when those acts, errors, and omissions occur under 194
the direction and control of the client employer. 195

(2) A client employer shall not be liable for the acts, 196
errors, and omissions of a professional employer organization or a 197
shared employee when those acts, errors, and omissions occur under 198
the direction and control of the professional employer 199
organization. 200

(F) Nothing in divisions (D) and (E) of this section shall be 201
construed to limit any liability or obligation specifically agreed 202

to in the professional employer organization agreement. 203

(G) No professional employer organization shall coemploy an 204
individual who is an independent contractor of the client employer 205
or knowingly misclassify a shared employee as an independent 206
contractor. A client employer is solely responsible for the proper 207
classification and compliance with all state laws with regard to 208
the classification of an individual as an independent contractor. 209
As used in this division, "independent contractor" means an 210
individual who contracts with a client employer to perform labor 211
or services for the client employer and who satisfies less than 212
ten of the criteria listed in division (A)(1)(c) of section 213
4123.01 of the Revised Code or less than ten of the criteria 214
listed in division (B)(2)(k) of section 4141.01 of the Revised 215
Code. 216

Sec. 4125.041. A shared employee under a professional 217
employer organization agreement shall not, solely as a result of 218
being a shared employee, be considered an employee of the 219
professional employer organization for purposes of general 220
liability insurance, fidelity bonds, surety bonds, employer 221
liability not otherwise covered by Chapters 4121. and 4123. of the 222
Revised Code, or liquor liability insurance carried by the 223
professional employer organization, unless the professional 224
employer organization agreement and applicable prearranged 225
employment contract, insurance contract, or bond specifically 226
states otherwise. 227

Sec. 4125.042. (A) For purposes of determining tax credits 228
and other economic incentives that are provided by this state or 229
any political subdivision and based on employment, shared 230
employees under a professional employer organization agreement 231
shall be considered employees solely of the client employer. 232

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

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

(B) Shared employees whose services are subject to sales tax shall be considered the employees of the client employer for purposes of collecting and levying sales tax on the services performed by the shared employee. Nothing contained in this chapter shall relieve a client employer of any sales tax liability with respect to its goods or services.

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

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

Sec. 4125.05. (A) Not later than thirty days after November 265
5, 2004, or not later than thirty days after the formation of a 266
professional employer organization, whichever date occurs later, a 267
professional employer organization operating in this state shall 268
register with the administrator of ~~the bureau of workers'~~ 269
compensation on forms provided by the administrator. Following 270
initial registration, each professional employer organization 271
shall register with the administrator annually on or before the 272
thirty-first day of December. 273

(B) Initial registration and each annual registration renewal 274
shall include all of the following: 275

(1) A list of each of the professional employer 276
organization's client employers current as of the date of 277
registration for purposes of initial registration or current as of 278
the date of annual registration renewal, or within fourteen days 279
of adding or releasing a client, that includes the client 280
employer's name, address, federal tax identification number, and 281
bureau of workers' compensation risk number; 282

(2) A fee as determined by the administrator; 283

(3) The name or names under which the professional employer 284
organization conducts business; 285

(4) The address of the professional employer organization's 286
principal place of business and the address of each office it 287
maintains in this state; 288

(5) The professional employer organization's taxpayer or 289
employer identification number; 290

(6) A list of each state in which the professional employer 291
organization has operated in the preceding five years, and the 292
name, corresponding with each state, under which the professional 293
employer organization operated in each state, including any 294

alternative names, names of predecessors, and if known, successor
business entities; 295
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(7) A financial statement prepared and audited in accordance 297
with division (B) of section 4125.051 of the Revised Code; 298

(8) If there is any deficit in the working capital required 299
under division (A) of section 4125.051 of the Revised Code, a 300
bond, irrevocable letter of credit, or securities with a minimum 301
market value in an amount sufficient to cover the deficit in 302
accordance with the requirements of that section. 303

(C) Upon terms and for periods that the administrator 304
considers appropriate, the administrator may issue a limited 305
registration to a professional employer organization or 306
professional employer organization reporting entity that provides 307
all of the following items: 308

(1) A properly executed request for limited registration on a 309
form provided by the administrator; 310

(2) All information and materials required for registration 311
in divisions (B)(1) to (6) of this section; 312

(3) Information and documentation necessary to show that the 313
professional employer organization or professional employer 314
organization reporting entity satisfies all of the following 315
criteria: 316

(a) It is domiciled outside of this state. 317

(b) It is licensed or registered as a professional employer 318
organization in another state. 319

(c) It does not maintain an office in this state. 320

(d) It does not participate in direct solicitations for 321
client employers located or domiciled in this state. 322

(e) It has fifty or fewer shared employees employed or 323
domiciled in this state on any given day. 324

(D)(1) The administrator, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules in accordance with Chapter 119. of the Revised Code to require, in addition to the requirement under division (B)(8) of this section and except as otherwise specified in division ~~(C)~~(D)(2) of this section, a professional employer organization to provide security in the form of a bond or letter of credit assignable to the Ohio bureau of workers' compensation not to exceed an amount equal to the premiums and assessments incurred for the two most recent payroll periods, prior to any discounts or dividends, to meet the financial obligations of the professional employer organization pursuant to this chapter and Chapters 4121. and 4123. of the Revised Code.

(2) As an alternative to providing security in the form of a bond or letter of credit under division (D)(1) of this section, the administrator shall permit a professional employer organization to make periodic payments of prospective premiums and assessments to the bureau ~~or to submit proof of being certified by either a nationally recognized organization that certifies professional employer organizations or by a government entity approved by the administrator.~~

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

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

specified in rules adopted pursuant to that division. 357

~~(E)~~(F) Except to the extent necessary for the administrator 358
to administer the statutory duties of the administrator and for 359
employees of the state to perform their official duties, all 360
records, reports, client lists, and other information obtained 361
from a professional employer organization and professional 362
employer organization reporting entity under divisions (A), (B), 363
and ~~(B)~~(C) of this section are confidential and shall be 364
considered trade secrets and shall not be published or open to 365
public inspection. 366

~~(F)~~(G) The list described in division (B)(1) of this section 367
shall be considered a trade secret. 368

~~(G)~~(H) The administrator shall establish the fee described in 369
division (B)(2) of this section in an amount that does not exceed 370
the cost of the administration of the initial and renewal 371
registration process. 372

(I) A financial statement required under division (B)(7) of 373
this section for initial registration shall be the most recent 374
financial statement of the professional employer organization or 375
professional employer organization reporting entity of which the 376
professional employer organization is a member and shall not be 377
older than thirteen months. For each registration renewal, the 378
professional employer organization shall file the required 379
financial statement within one hundred eighty days after the end 380
of the professional employer organization's or professional 381
employer organization reporting entity's fiscal year. A 382
professional employer organization may apply to the administrator 383
for an extension beyond that time if the professional employer 384
organization provides the administrator with a letter from the 385
professional employer organization's auditor stating the reason 386
for delay and the anticipated completion date. 387

(J) Multiple, unrelated professional employer organizations shall not combine together for purposes of obtaining workers' compensation coverage or for forming any type of self-insurance arrangement available under this chapter. Multiple, unrelated professional employer organization reporting entities shall not combine together for purposes of obtaining workers' compensation coverage or for forming any type of self-insurance arrangement available under this chapter. 388
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(K) The administrator shall maintain a list of professional employer organizations and professional employer organization reporting entities registered under this section that is readily available to the public by electronic or other means. 396
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Sec. 4125.051. (A) A professional employer organization, or a professional employer organization reporting entity of which the professional employer organization is a member, shall maintain positive working capital as defined by generally accepted accounting principles. If a deficit in working capital exists at any time, the professional employer organization or the professional employer organization reporting entity shall do both of the following: 400
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(1) Obtain a bond, irrevocable letter of credit, or securities with a minimum market value in an amount sufficient to cover the deficit in working capital; 408
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(2) Submit to the administrator of workers' compensation a quarterly financial statement for each calendar quarter during which there is a deficit in working capital, accompanied by an attestation of the chief executive officer of the professional employer organization that all wages, taxes, workers' compensation premiums, and employee benefits have been paid by the professional employer organization or members of the professional employer organization reporting entity. 411
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The bond, letter of credit, or securities required under 419
division (A)(1) of this section shall be held by a depository 420
designated by the administrator and shall secure payment by the 421
professional employer organization of all taxes, wages, benefits, 422
or other entitlements due or otherwise pertaining to shared 423
employees, if the professional employer organization does not make 424
those payments when due. 425

(B) A professional employer organization, or a professional 426
employer organization reporting entity of which the professional 427
employer organization is a member, shall prepare a financial 428
statement for registration and registration renewal under section 429
4125.05 of the Revised Code in accordance with generally accepted 430
accounting principles. The financial statement shall clearly 431
demonstrate the professional employer organization's or 432
professional employer organization reporting entity's compliance 433
with the financial capacity requirements of division (A) of this 434
section and shall be unqualified as to the going concern status of 435
the professional employer organization or professional employer 436
organization reporting entity. 437

The financial statement shall be audited by an independent 438
certified public accountant authorized to practice in the 439
jurisdiction in which that accountant is located. However, if a 440
professional employer organization does not have at least twelve 441
months of operating history on which to base an audit, the 442
financial statement shall be reviewed by a certified public 443
accountant. 444

(C) Professional employer organizations in a professional 445
employer organization reporting entity may satisfy the 446
requirements of this section on a combined or consolidated basis 447
provided that each member of the professional employer 448
organization reporting entity guarantees each other members' 449
satisfaction of the requirements under division (A) of this 450

section. 451

For purposes of satisfying the registration and registration 452
renewal requirements described in division (B)(7) of section 453
4125.05 of the Revised Code, a professional employer organization 454
reporting entity may submit a combined or consolidated financial 455
statement that satisfies the requirements of this section. If the 456
combined or consolidated financial statement includes entities 457
that are not professional employer organizations or that are not 458
in the professional employer organization reporting entity, the 459
controlling entity of the professional employer organization 460
reporting entity that is submitting the consolidated or combined 461
financial statement shall guarantee that the professional employer 462
organizations of the professional employer organization reporting 463
entity have satisfied the requirements under division (A) of this 464
section and shall include supplemental combining schedules to 465
guarantee that the requirements under division (A) of this section 466
are satisfied by the professional employer organization or 467
professional employer organization reporting entity. 468

Sec. 4125.07. Not later than fourteen calendar days after the 469
date on which a professional employer organization agreement is 470
terminated, the professional employer organization is adjudged 471
bankrupt, the professional employer organization ceases operations 472
within the state of Ohio, or the registration of the professional 473
employer organization is revoked, the professional employer 474
organization shall submit to the administrator ~~of the bureau~~ of 475
workers' compensation and each client employer associated with 476
that professional employer organization a completed workers' 477
compensation lease termination notice form provided by the 478
administrator. The completed form shall include all client payroll 479
and claim information listed in a format specified by the 480
administrator and notice of all workers' compensation claims that 481
have been reported to the professional employer organization in 482

accordance with its internal reporting policies. 483

A professional employer organization shall report any 484
transfer of employees between related professional employer 485
organization entities or professional employer organization 486
reporting entities to the administrator within fourteen calendar 487
days after the date of the transfer on a form prescribed by the 488
administrator. The professional employer organization or 489
professional employer organization reporting entity shall include 490
in the form all client payroll and claim information regarding the 491
transferred employees listed in a format specified by the 492
administrator and a notice of all workers' compensation claims 493
that have been reported to the professional employer organization 494
or professional employer organization reporting entity in 495
accordance with the internal reporting policies of the 496
professional employer organization or professional employer 497
organization reporting entity. 498

Sec. 4125.08. Nothing in this chapter exempts a professional 499
employer organization, client employer, or shared employee from 500
any applicable federal, state, or local licensing, registration, 501
or certification statutes or regulations. An individual required 502
to obtain and maintain a license, registration, or certification 503
under law and who is a shared employee of a professional employer 504
organization and a client employer is an employee of the client 505
employer for purposes of obtaining and maintaining the appropriate 506
license, registration, or certification as required by law. A 507
professional employer organization does not engage in any 508
occupation, trade, or profession that requires a license, 509
certification, or registration solely by entering into a 510
professional employer agreement with a client employer or 511
coemploying a shared employee. 512

A client employer shall have the sole right of direction and 513

control of the professional or licensed activities of shared 514
employees and of the client employer's business. The shared 515
employees and client employers shall remain subject to regulation 516
by the board, commission, or agency responsible for licensing, 517
registration, or certification of the shared employees or client 518
employers. 519

Sec. 4125.10. Nothing contained in this chapter or in any 520
professional employer organization agreement shall do any of the 521
following: 522

(A) Diminish, abolish, or remove the rights and obligations 523
of client employers and shared employees existing prior to the 524
effective date of the professional employer organization 525
agreement; 526

(B) Affect, modify, or amend any contractual relationship or 527
restrictive covenant between a shared employee and any client 528
employer in effect at the time a professional employer 529
organization agreement becomes effective; 530

(C) Prohibit or amend any contractual relationship or 531
restrictive covenant between a client employer and a shared 532
employee that is entered into after the professional employer 533
organization agreement becomes effective; 534

(D) Create any new or additional enforcement right of a 535
shared employee against a professional employer organization that 536
is not specifically provided by the professional employer 537
organization agreement or this chapter. 538

A professional employer organization shall have no 539
responsibility or liability in connection with, or arising out of, 540
any contractual relationship or restrictive covenant between a 541
client employer and a shared employee unless the professional 542
employer organization has specifically agreed otherwise in 543

writing. 544

Sec. 4125.11. For purposes of a bid, contract, purchase 545
order, or agreement entered into with the state or any political 546
subdivision, a client employer's status or certification as a 547
small, minority-owned, disadvantaged, or woman-owned business 548
enterprise or as a historically underutilized business shall not 549
be affected as a result of the client employer entering into a 550
professional employer organization agreement or using the services 551
of a professional employer organization. 552

Sec. 4141.24. (A)(1) The director of job and family services 553
shall maintain a separate account for each employer and, except as 554
otherwise provided in division (B) of section 4141.25 of the 555
Revised Code respecting mutualized contributions, shall credit 556
such employer's account with all the contributions, or payments in 557
lieu of contributions, which the employer has paid on the 558
employer's own behalf. 559

(2) If, as of the computation date, a contributory employer's 560
account shows a negative balance computed as provided in division 561
(A)(3) of section 4141.25 of the Revised Code, less any 562
contributions due and unpaid on such date, which negative balance 563
is in excess of the limitations imposed by divisions (A)(2)(a), 564
(b), and (c) of this section and if the employer's account is 565
otherwise eligible for the transfer, then before the employer's 566
contribution rate is computed for the next succeeding contribution 567
period, an amount equal to the amount of the excess eligible for 568
transfer shall be permanently transferred from the account of such 569
employer and charged to the mutualized account provided in 570
division (B) of section 4141.25 of the Revised Code. 571

(a) If as of any computation date, a contributory employer's 572
account shows a negative balance in excess of ten per cent of the 573

employer's average annual payroll, then before the employer's 574
contribution rate is computed for the next succeeding contribution 575
period, an amount equal to the amount of the excess shall be 576
transferred from the account as provided in this division. No 577
contributory employer's account may have any excess transferred 578
pursuant to division (A)(2)(a) of this section, unless the 579
employer's account has shown a positive balance for at least two 580
consecutive computation dates prior to the computation date with 581
respect to which the transfer is proposed. Each time a transfer is 582
made pursuant to division (A)(2)(a) of this section, the 583
employer's account is ineligible for any additional transfers 584
under that division, until the account shows a positive balance 585
for at least two consecutive computation dates subsequent to the 586
computation date of which the most recent transfer occurs pursuant 587
to division (A)(2)(a), (b), or (c) of this section. 588

(b) If at the next computation date after the computation 589
date at which a transfer from the account occurs pursuant to 590
division (A)(2)(a) of this section, a contributory employer's 591
account shows a negative balance in excess of fifteen per cent of 592
the employer's average annual payroll, then before the employer's 593
contribution rate is computed for the next succeeding contribution 594
period an amount equal to the amount of the excess shall be 595
permanently transferred from the account as provided in this 596
division. 597

(c) If at the next computation date subsequent to the 598
computation date at which a transfer from a contributory 599
employer's account occurs pursuant to division (A)(2)(b) of this 600
section, the employer's account shows a negative balance in excess 601
of twenty per cent of the employer's average annual payroll, then 602
before the employer's contribution rate is computed for the next 603
succeeding contribution period, an amount equal to the amount of 604
the excess shall be permanently transferred from the account as 605

provided in this division. 606

(d) If no transfer occurs pursuant to division (A)(2)(b) or 607
(c) of this section, the employer's account is ineligible for any 608
additional transfers under division (A)(2) of this section until 609
the account requalifies for a transfer pursuant to division 610
(A)(2)(a) of this section. 611

(B) Any employer may make voluntary payments in addition to 612
the contributions required under this chapter, in accordance with 613
rules established by the director. Such payments shall be included 614
in the employer's account as of the computation date, provided 615
they are received by the director by the thirty-first day of 616
December following such computation date. Such voluntary payment, 617
when accepted from an employer, will not be refunded in whole or 618
in part. In determining whether an employer's account has a 619
positive balance on two consecutive computation dates and is 620
eligible for transfers under division (A)(2) of this section, the 621
director shall exclude any voluntary payments made subsequent to 622
the last transfer made under division (A)(2) of this section. 623

(C) All contributions to the fund shall be pooled and 624
available to pay benefits to any individual entitled to benefits 625
irrespective of the source of such contributions. 626

(D)(1) For the purposes of this section and sections 4141.241 627
and 4141.242 of the Revised Code, an employer's account shall be 628
charged only for benefits based on remuneration paid by such 629
employer. Benefits paid to an eligible individual shall be charged 630
against the account of each employer within the claimant's base 631
period in the proportion to which wages attributable to each 632
employer of the claimant bears to the claimant's total base period 633
wages. Charges to the account of a base period employer with whom 634
the claimant is employed part-time at the time the claimant's 635
application for a determination of benefits rights is filed shall 636
be charged to the mutualized account when all of the following 637

conditions are met: 638

(a) The claimant also worked part-time for the employer 639
during the base period of the claim. 640

(b) The claimant is unemployed due to loss of other 641
employment. 642

(c) The employer is not a reimbursing employer under section 643
4141.241 or 4141.242 of the Revised Code. 644

(2) Notwithstanding division (D)(1) of this section, charges 645
to the account of any employer, including any reimbursing 646
employer, shall be charged to the mutualized account if it finally 647
is determined by a court on appeal that the employer's account is 648
not chargeable for the benefits. 649

(3) Any benefits paid to a claimant under section 4141.28 of 650
the Revised Code prior to a final determination of the claimant's 651
right to the benefits shall be charged to the employer's account 652
as provided in division (D)(1) of this section, provided that if 653
there is no final determination of the claim by the subsequent 654
thirtieth day of June, the employer's account shall be credited 655
with the total amount of benefits that has been paid prior to that 656
date, based on the determination that has not become final. The 657
total amount credited to the employer's account shall be charged 658
to a suspense account, which shall be maintained as a separate 659
bookkeeping account and administered as a part of this section, 660
and shall not be used in determining the account balance of the 661
employer for the purpose of computing the employer's contribution 662
rate under section 4141.25 of the Revised Code. 663

If it is finally determined that the claimant is entitled to 664
all or a part of the benefits in dispute, the suspense account 665
shall be credited and the appropriate employer's account charged 666
with the benefits. If it is finally determined that the claimant 667
is not entitled to all or any portion of the benefits in dispute, 668

the benefits shall be credited to the suspense account and a 669
corresponding charge made to the mutualized account established in 670
division (B) of section 4141.25 of the Revised Code, provided 671
that, except as otherwise provided in this section, if benefits 672
are chargeable to an employer or group of employers who is 673
required or elects to make payments to the fund in lieu of 674
contributions under section 4141.241 of the Revised Code, the 675
benefits shall be charged to the employer's account in the manner 676
provided in division (D)(1) of this section and division (B) of 677
section 4141.241 of the Revised Code, and no part of the benefits 678
may be charged to the suspense account provided in this division. 679

To the extent that benefits that have been paid to a claimant 680
and charged to the employer's account are found not to be due the 681
claimant and are recovered by the director as provided in section 682
4141.35 of the Revised Code, they shall be credited to the 683
employer's account. 684

(4) The director shall notify each employer at least once 685
each month of the benefits charged to the employer's account since 686
the last preceding notice; except that for the purposes of 687
sections 4141.241 and 4141.242 of the Revised Code which provides 688
the billing of employers on a payment in lieu of a contribution 689
basis, the director may prescribe a quarterly or less frequent 690
notice of benefits charged to the employer's account. Such notice 691
will show a summary of the amount of benefits paid which were 692
charged to the employer's account. This notice shall not be deemed 693
a determination of the claimant's eligibility for benefits. Any 694
employer so notified, however, may file within fifteen days after 695
the mailing date of the notice, an exception to charges appearing 696
on the notice on the grounds that such charges are not in 697
accordance with this section. The director shall promptly examine 698
the exception to such charges and shall notify the employer of the 699
director's decision thereon, which decision shall become final 700

unless appealed to the unemployment compensation review commission 701
in the manner provided in section 4141.26 of the Revised Code. For 702
the purposes of this division, an exception is considered timely 703
filed when it has been received as provided in division (D)(1) of 704
section 4141.281 of the Revised Code. 705

(E) The director shall terminate and close the account of any 706
contributory employer who has been subject to this chapter if the 707
enterprise for which the account was established is no longer in 708
operation and it has had no payroll and its account has not been 709
chargeable with benefits for a period of five consecutive years. 710
The amount of any positive balance, computed as provided in 711
division (A)(3) of section 4141.25 of the Revised Code, in an 712
account closed and terminated as provided in this section shall be 713
credited to the mutualized account as provided in division 714
(B)(2)(b) of section 4141.25 of the Revised Code. The amount of 715
any negative balance, computed as provided in division (A)(3) of 716
section 4141.25 of the Revised Code, in an account closed and 717
terminated as provided in this section shall be charged to the 718
mutualized account as provided in division (B)(1)(b) of section 719
4141.25 of the Revised Code. The amount of any positive balance or 720
negative balance, credited or charged to the mutualized account 721
after the termination and closing of an employer's account, shall 722
not thereafter be considered in determining the contribution rate 723
of such employer. The closing of an employer's account as provided 724
in this division shall not relieve such employer from liability 725
for any unpaid contributions or payment in lieu of contributions 726
which are due for periods prior to such closing. 727

If the director finds that a contributory employer's business 728
is closed solely because of the entrance of one or more of the 729
owners, officers, or partners, or the majority stockholder, into 730
the armed forces of the United States, or any of its allies, or of 731
the United Nations after July 1, 1950, such employer's account 732

shall not be terminated and if the business is resumed within two 733
years after the discharge or release of such persons from active 734
duty in the armed forces, the employer's experience shall be 735
deemed to have been continuous throughout such period. The reserve 736
ratio of any such employer shall be the total contributions paid 737
by such employer minus all benefits, including benefits paid to 738
any individual during the period such employer was in the armed 739
forces, based upon wages paid by the employer prior to the 740
employer's entrance into the armed forces divided by the average 741
of the employer's annual payrolls for the three most recent years 742
during the whole of which the employer has been in business. 743

(F) If an employer transfers all of its trade or business to 744
another employer or person, the acquiring employer or person shall 745
be the successor in interest to the transferring employer and 746
shall assume the resources and liabilities of such transferring 747
employer's account, and continue the payment of all contributions, 748
or payments in lieu of contributions, due under this chapter. 749

If an employer or person acquires substantially all, or a 750
clearly segregable and identifiable portion of an employer's trade 751
or business, then upon the director's approval of a properly 752
completed application for successorship, the employer or person 753
acquiring the trade or business, or portion thereof, shall be the 754
successor in interest. The director by rule may prescribe 755
procedures for effecting transfers of experience as provided for 756
in this section. 757

(G) Notwithstanding sections 4141.09, 4141.23, 4141.24, 758
4141.241, 4141.242, 4141.25, 4141.26, and 4141.27 of the Revised 759
Code, both of the following apply regarding assignment of rates 760
and transfers of experience: 761

(1) If an employer transfers its trade or business, or a 762
portion thereof, to another employer and, at the time of the 763
transfer, both employers are under substantially common ownership, 764

management, or control, then the unemployment experience 765
attributable to the transferred trade or business, or portion 766
thereof, shall be transferred to the employer to whom the business 767
is so transferred. The director shall recalculate the rates of 768
both employers and those rates shall be effective immediately upon 769
the date of the transfer of the trade or business. 770

(2) Whenever a person is not an employer under this chapter 771
at the time the person acquires the trade or business of an 772
employer, the unemployment experience of the acquired trade or 773
business shall not be transferred to the person if the director 774
finds that the person acquired the trade or business solely or 775
primarily for the purpose of obtaining a lower rate of 776
contributions. Instead, that person shall be assigned the 777
applicable new employer rate under division (A)(1) of section 778
4141.25 of the Revised Code. 779

(H) The director shall establish procedures to identify the 780
transfer or acquisition of a trade or business for purposes of 781
this section and shall adopt rules prescribing procedures for 782
effecting transfers of experience as described in this section. 783

(I) No rate of contribution less than two and seven-tenths 784
per cent shall be permitted a contributory employer succeeding to 785
the experience of another contributory employer pursuant to this 786
section for any period subsequent to such succession, except in 787
accordance with rules prescribed by the director, which rules 788
shall be consistent with federal requirements for additional 789
credit allowance in section 3303 of the "Internal Revenue Code of 790
1954" and consistent with this chapter, except that such rules may 791
establish a computation date for any such period different from 792
the computation date generally prescribed by this chapter, and may 793
define "calendar year" as meaning a twelve-consecutive-month 794
period ending on the same day of the year as that on which such 795
computation date occurs. 796

(J) The director may prescribe rules for the establishment, 797
maintenance, and dissolution of common contribution rates for two 798
or more contributory employers, and in accordance with such rules 799
and upon application by two or more employers shall establish such 800
common rate to be computed by merging the several contribution 801
rate factors of such employers for the purpose of establishing a 802
common contribution rate applicable to all such employers. 803

(K) The director shall adopt rules applicable to professional 804
employer organizations and professional employer organization 805
reporting entities to address the method in which a professional 806
employer organization or professional employer organization 807
reporting entity reports quarterly wages and contributions to the 808
director for shared employees. 809

(1) The rules shall recognize a professional employer 810
organization or professional employer organization reporting 811
entity as the employer of record of the shared employees of the 812
professional employer organization or professional employer 813
organization reporting entity for reporting purposes; however, the 814
rules may require that each shared employee of a single client 815
employer be reported under a separate and unique subaccount of the 816
professional employer organization or professional employer 817
organization reporting entity to reflect the experience of the 818
shared employees of that client employer. 819

(2) The director shall use a subaccount solely to determine 820
experience rates for that individual subaccount on an annual basis 821
and shall recognize a professional employer organization or 822
professional employer organization reporting entity as the 823
employer of record associated with each subaccount. The director 824
shall combine the rate experience that existed on a client 825
employer's account prior to entering into a professional employer 826
organization agreement with the experience accumulated as a 827
subaccount of the professional employer organization or 828

professional employer organization reporting entity. The combined 829
experience shall remain with the client account upon termination 830
of the professional employer organization agreement. 831

(3) A professional employer organization or professional 832
employer organization reporting entity shall provide a power of 833
attorney or other evidence, which evidence may be included as part 834
of a professional employer organization agreement, completed by 835
each client employer of the professional employer organization or 836
professional employer organization reporting entity, authorizing 837
the professional employer organization or professional employer 838
organization reporting entity to act on behalf of the client 839
employer in accordance with the requirements of this chapter. 840

(4) Any rule adopted pursuant to division (K) of this section 841
also shall include administrative requirements that permit a 842
professional employer organization or a professional employer 843
organization reporting entity to transmit any reporting and 844
payment data required under division (K)(1) of this section 845
collectively as a single filing with the director. 846

(5) As used in division (K) of this section, "client 847
employer," "professional employer organization," "professional 848
employer organization agreement," "professional employer 849
organization reporting entity," and "shared employee" have the 850
same meanings as in section 4125.01 of the Revised Code. 851

Sec. 5747.07. (A) As used in this section: 852

(1) "Partial weekly withholding period" means a period during 853
which an employer directly, indirectly, or constructively pays 854
compensation to, or credits compensation to the benefit of, an 855
employee, and that consists of a consecutive Saturday, Sunday, 856
Monday, and Tuesday or a consecutive Wednesday, Thursday, and 857
Friday. There are two partial weekly withholding periods each 858
week, except that a partial weekly withholding period cannot 859

extend from one calendar year into the next calendar year; if the 860
first day of January falls on a day other than Saturday or 861
Wednesday, the partial weekly withholding period ends on the 862
thirty-first day of December and there are three partial weekly 863
withholding periods during that week. 864

(2) "Undeposited taxes" means the taxes an employer is 865
required to deduct and withhold from an employee's compensation 866
pursuant to section 5747.06 of the Revised Code that have not been 867
remitted to the tax commissioner pursuant to this section or to 868
the treasurer of state pursuant to section 5747.072 of the Revised 869
Code. 870

(3) A "week" begins on Saturday and concludes at the end of 871
the following Friday. 872

(4) "Client employer," "professional employer organization," 873
"professional employer organization agreement," and "professional 874
employer organization reporting entity" have the same meanings as 875
in section 4125.01 of the Revised Code. 876

(B) Except as provided in divisions (C) and (D) of this 877
section and in division (A) of section 5747.072 of the Revised 878
Code, every employer required to deduct and withhold any amount 879
under section 5747.06 of the Revised Code shall file a return and 880
shall pay the amount required by law as follows: 881

(1) An employer who accumulates or is required to accumulate 882
undeposited taxes of one hundred thousand dollars or more during a 883
partial weekly withholding period shall make the payment of the 884
undeposited taxes by the close of the first banking day after the 885
day on which the accumulation reaches one hundred thousand 886
dollars. If required under division (I) of this section, the 887
payment shall be made by electronic funds transfer under section 888
5747.072 of the Revised Code. 889

(2)(a) Except as required by division (B)(1) of this section, 890

an employer described in division (B)(2)(b) of this section shall 891
make the payment of undeposited taxes within three banking days 892
after the close of a partial weekly withholding period during 893
which the employer was required to deduct and withhold any amount 894
under this chapter. If required under division (I) of this 895
section, the payment shall be made by electronic funds transfer 896
under section 5747.072 of the Revised Code. 897

(b) For amounts required to be deducted and withheld during 898
1994, an employer described in division (B)(2)(b) of this section 899
is one whose actual or required payments under this section 900
exceeded one hundred eighty thousand dollars during the 901
twelve-month period ending June 30, 1993. For amounts required to 902
be deducted and withheld during 1995 and each year thereafter, an 903
employer described in division (B)(2)(b) of this section is one 904
whose actual or required payments under this section were at least 905
eighty-four thousand dollars during the twelve-month period ending 906
on the thirtieth day of June of the preceding calendar year. 907

(3) Except as required by divisions (B)(1) and (2) of this 908
section, if an employer's actual or required payments were more 909
than two thousand dollars during the twelve-month period ending on 910
the thirtieth day of June of the preceding calendar year, the 911
employer shall make the payment of undeposited taxes for each 912
month during which they were required to be withheld no later than 913
fifteen days following the last day of that month. The employer 914
shall file the return prescribed by the tax commissioner with the 915
payment. 916

(4) Except as required by divisions (B)(1), (2), and (3) of 917
this section, an employer shall make the payment of undeposited 918
taxes for each calendar quarter during which they were required to 919
be withheld no later than the last day of the month following the 920
last day of March, June, September, and December each year. The 921
employer shall file the return prescribed by the tax commissioner 922

with the payment. 923

(C) The return and payment schedules prescribed by divisions 924
(B)(1) and (2) of this section do not apply to the return and 925
payment of undeposited school district income taxes arising from 926
taxes levied pursuant to Chapter 5748. of the Revised Code. 927
Undeposited school district income taxes shall be returned and 928
paid pursuant to divisions (B)(3) and (4) of this section, as 929
applicable. 930

(D)(1) The requirements of division (B) of this section are 931
met if the amount paid is not less than ninety-five per cent of 932
the actual tax withheld or required to be withheld for the prior 933
quarterly, monthly, or partial weekly withholding period, and the 934
underpayment is not due to willful neglect. Any underpayment of 935
withheld tax shall be paid within thirty days of the date on which 936
the withheld tax was due without regard to division (D)(1) of this 937
section. An employer described in division (B)(1) or (2) of this 938
section shall make the payment by electronic funds transfer under 939
section 5747.072 of the Revised Code. 940

(2) If the tax commissioner believes that quarterly or 941
monthly payments would result in a delay that might jeopardize the 942
remittance of withholding payments, the commissioner may order 943
that the payments be made weekly, or more frequently if necessary, 944
and the payments shall be made no later than three banking days 945
following the close of the period for which the jeopardy order is 946
made. An order requiring weekly or more frequent payments shall be 947
delivered to the employer personally or by certified mail and 948
remains in effect until the commissioner notifies the employer to 949
the contrary. 950

(3) If compelling circumstances exist concerning the 951
remittance of undeposited taxes, the commissioner may order the 952
employer to make payments under any of the payment schedules under 953
division (B) of this section. The order shall be delivered to the 954

employer personally or by certified mail and shall remain in 955
effect until the commissioner notifies the employer to the 956
contrary. For purposes of division (D)(3) of this section, 957
"compelling circumstances" exist if either or both of the 958
following are true: 959

(a) Based upon annualization of payments made or required to 960
be made during the preceding calendar year and during the current 961
calendar year, the employer would be required for the next 962
calendar year to make payments under division (B)(2) of this 963
section. 964

(b) Based upon annualization of payments made or required to 965
be made during the current calendar year, the employer would be 966
required for the next calendar year to make payments under 967
division (B)(2) of this section. 968

(E)(1) An employer described in division (B)(1) or (2) of 969
this section shall file, not later than the last day of the month 970
following the end of each calendar quarter, a return covering, but 971
not limited to, both the actual amount deducted and withheld and 972
the amount required to be deducted and withheld for the tax 973
imposed under section 5747.02 of the Revised Code during each 974
partial weekly withholding period or portion of a partial weekly 975
withholding period during that quarter. The employer shall file 976
the quarterly return even if the aggregate amount required to be 977
deducted and withheld for the quarter is zero dollars. At the time 978
of filing the return, the employer shall pay any amounts of 979
undeposited taxes for the quarter, whether actually deducted and 980
withheld or required to be deducted and withheld, that have not 981
been previously paid. If required under division (I) of this 982
section, the payment shall be made by electronic funds transfer. 983
The tax commissioner shall prescribe the form and other 984
requirements of the quarterly return. 985

(2) In addition to other returns required to be filed and 986

payments required to be made under this section, every employer 987
required to deduct and withhold taxes shall file, not later than 988
the thirty-first day of January of each year, an annual return 989
covering, but not limited to, both the aggregate amount deducted 990
and withheld and the aggregate amount required to be deducted and 991
withheld during the entire preceding year for the tax imposed 992
under section 5747.02 of the Revised Code and for each tax imposed 993
under Chapter 5748. of the Revised Code. At the time of filing 994
that return, the employer shall pay over any amounts of 995
undeposited taxes for the preceding year, whether actually 996
deducted and withheld or required to be deducted and withheld, 997
that have not been previously paid. The employer shall make the 998
annual report, to each employee and to the tax commissioner, of 999
the compensation paid and each tax withheld, as the commissioner 1000
by rule may prescribe. 1001

Each employer required to deduct and withhold any tax is 1002
liable for the payment of that amount required to be deducted and 1003
withheld, whether or not the tax has in fact been withheld, unless 1004
the failure to withhold was based upon the employer's good faith 1005
in reliance upon the statement of the employee as to liability, 1006
and the amount shall be deemed to be a special fund in trust for 1007
the general revenue fund. 1008

(F) Each employer shall file with the employer's annual 1009
return the following items of information on employees for whom 1010
withholding is required under section 5747.06 of the Revised Code: 1011

(1) The full name of each employee, the employee's address, 1012
the employee's school district of residence, and in the case of a 1013
nonresident employee, the employee's principal county of 1014
employment; 1015

(2) The social security number of each employee; 1016

(3) The total amount of compensation paid before any 1017

deductions to each employee for the period for which the annual 1018
return is made; 1019

(4) The amount of the tax imposed by section 5747.02 of the 1020
Revised Code and the amount of each tax imposed under Chapter 1021
5748. of the Revised Code withheld from the compensation of the 1022
employee for the period for which the annual return is made. The 1023
commissioner may extend upon good cause the period for filing any 1024
notice or return required to be filed under this section and may 1025
adopt rules relating to extensions of time. If the extension 1026
results in an extension of time for the payment of the amounts 1027
withheld with respect to which the return is filed, the employer 1028
shall pay, at the time the amount withheld is paid, an amount of 1029
interest computed at the rate per annum prescribed by section 1030
5703.47 of the Revised Code on that amount withheld, from the day 1031
that amount was originally required to be paid to the day of 1032
actual payment or to the day an assessment is issued under section 1033
5747.13 of the Revised Code, whichever occurs first. 1034

(5) In addition to all other interest charges and penalties 1035
imposed, all amounts of taxes withheld or required to be withheld 1036
and remaining unpaid after the day the amounts are required to be 1037
paid shall bear interest from the date prescribed for payment at 1038
the rate per annum prescribed by section 5703.47 of the Revised 1039
Code on the amount unpaid, in addition to the amount withheld, 1040
until paid or until the day an assessment is issued under section 1041
5747.13 of the Revised Code, whichever occurs first. 1042

(G) An employee of a corporation, limited liability company, 1043
or business trust having control or supervision of or charged with 1044
the responsibility of filing the report and making payment, or an 1045
officer, member, manager, or trustee of a corporation, limited 1046
liability company, or business trust who is responsible for the 1047
execution of the corporation's, limited liability company's, or 1048
business trust's fiscal responsibilities, shall be personally 1049

liable for failure to file the report or pay the tax due as 1050
required by this section. The dissolution, termination, or 1051
bankruptcy of a corporation, limited liability company, or 1052
business trust does not discharge a responsible officer's, 1053
member's, manager's, employee's, or trustee's liability for a 1054
failure of the corporation, limited liability company, or business 1055
trust to file returns or pay tax due. 1056

(H) If an employer required to deduct and withhold income tax 1057
from compensation and to pay that tax to the state under sections 1058
5747.06 and 5747.07 of the Revised Code sells the employer's 1059
business or stock of merchandise or quits the employer's business, 1060
the taxes required to be deducted and withheld and paid to the 1061
state pursuant to those sections prior to that time, together with 1062
any interest and penalties imposed on those taxes, become due and 1063
payable immediately, and that person shall make a final return 1064
within fifteen days after the date of selling or quitting 1065
business. The employer's successor shall withhold a sufficient 1066
amount of the purchase money to cover the amount of the taxes, 1067
interest, and penalties due and unpaid, until the former owner 1068
produces a receipt from the tax commissioner showing that the 1069
taxes, interest, and penalties have been paid or a certificate 1070
indicating that no such taxes are due. If the purchaser of the 1071
business or stock of merchandise fails to withhold purchase money, 1072
the purchaser shall be personally liable for the payment of the 1073
taxes, interest, and penalties accrued and unpaid during the 1074
operation of the business by the former owner. If the amount of 1075
taxes, interest, and penalties outstanding at the time of the 1076
purchase exceeds the total purchase money, the tax commissioner in 1077
the commissioner's discretion may adjust the liability of the 1078
seller or the responsibility of the purchaser to pay that 1079
liability to maximize the collection of withholding tax revenue. 1080

(I)(1) An employer described in division (I)(2) of this 1081

section shall make all payments required by this section for the 1082
year by electronic funds transfer under section 5747.072 of the 1083
Revised Code. 1084

(2)(a) For 1994, an employer described in division (I)(2) of 1085
this section is one whose actual or required payments under this 1086
section exceeded five hundred thousand dollars during the 1087
twelve-month period ending June 30, 1993. 1088

(b) For 1995, an employer described in division (I)(2) of 1089
this section is one whose actual or required payments under this 1090
section exceeded five hundred thousand dollars during the 1091
twelve-month period ending June 30, 1994. 1092

(c) For 1996, an employer described in division (I)(2) of 1093
this section is one whose actual or required payments under this 1094
section exceeded three hundred thousand dollars during the 1095
twelve-month period ending June 30, 1995. 1096

(d) For 1997 through 2000, an employer described in division 1097
(I)(2) of this section is one whose actual or required payments 1098
under this section exceeded one hundred eighty thousand dollars 1099
during the twelve-month period ending on the thirtieth day of June 1100
of the preceding calendar year. 1101

(e) For 2001 and thereafter, an employer described in 1102
division (I)(2) of this section is one whose actual or required 1103
payments under this section exceeded eighty-four thousand dollars 1104
during the twelve-month period ending on the thirtieth day of June 1105
of the preceding calendar year. 1106

(J)(1) Every professional employer organization and every 1107
professional employer organization reporting entity shall file a 1108
report with the tax commissioner within thirty days after 1109
commencing business in this state or within thirty days after the 1110
effective date of this amendment, whichever is later, that 1111
includes all of the following information: 1112

(a) The name, address, number the employer receives from the secretary of state to do business in this state, if applicable, and federal employer identification number of each client employer of the professional employer organization or professional employer organization reporting entity; 1113
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1117

(b) The date that each client employer became a client of the professional employer organization or professional employer organization reporting entity; 1118
1119
1120

(c) The names and mailing addresses of the chief executive officer and the chief financial officer of each client employer for taxation of the client employer. 1121
1122
1123

(2) Beginning with the calendar quarter ending after a professional employer organization or professional employer organization reporting entity files the report required under division (J)(1) of this section, and every calendar quarter thereafter, the professional employer organization or the professional employer organization reporting entity shall file an updated report with the tax commissioner. The professional employer organization or professional employer organization reporting entity shall file the updated report not later than the last day of the month following the end of the calendar quarter and shall include all of the following information in the report: 1124
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(a) If an entity became a client employer of the professional employer organization or professional employer organization reporting entity at any time during the calendar quarter, all of the information required under division (J)(1) of this section for each new client employer; 1135
1136
1137
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(b) If an entity terminated the professional employer organization agreement between the professional employer organization or professional employer organization reporting entity and the entity at any time during the calendar quarter, the 1140
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information described in division (J)(1)(a) of this section for 1144
that entity, the date during the calendar quarter that the entity 1145
ceased being a client of the professional employer organization or 1146
professional employer organization reporting entity, if 1147
applicable, or the date the entity ceased business operations in 1148
this state, if applicable; 1149

(c) If the name or mailing address of the chief executive 1150
officer or the chief financial officer of a client employer has 1151
changed since the professional employer organization or 1152
professional employer organization reporting entity previously 1153
submitted a report under division (J)(1) or (2) of this section, 1154
the updated name or mailing address, or both, of the chief 1155
executive officer or the chief financial officer, as applicable; 1156

(d) If none of the events described in divisions (J)(2)(a) to 1157
(c) of this section occurred during the calendar quarter, a 1158
statement of that fact. 1159

Section 2. That existing sections 4123.291, 4125.01, 4125.02, 1160
4125.03, 4125.05, 4125.07, 4125.08, 4141.24, and 5747.07 of the 1161
Revised Code are hereby repealed. 1162

Section 3. Section 4125.05 of the Revised Code as amended by 1163
this act and section 4125.051 of the Revised Code as enacted by 1164
this act take effect January 1, 2012. 1165