

As Passed by the Senate

129th General Assembly

Regular Session

2011-2012

Sub. S. B. No. 139

Senator Hughes

Cosponsors: Senators Schaffer, Seitz, Patton, Bacon, Beagle, Daniels,

Faber, Hite, Jones, Niehaus, Obhof, Tavares

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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 51
required under division ~~(C)~~(D) of section 4125.05 of the Revised 52
Code and the rules adopted pursuant to that section. 53

(C) The bureau of workers' compensation board of directors, 54
based upon recommendations of the workers' compensation actuarial 55
committee, shall establish the policy for all adjudicating 56
committee procedures, including, but not limited to, specific 57
criteria for manual premium rate adjustment. 58

Sec. 4125.01. As used in this chapter: 59

(A) "Assurance organization" means an independent and 60
qualified entity approved by the administrator of workers' 61
compensation to certify the qualifications of a professional 62
employer organization or professional employer organization 63
reporting entity. 64

(B) "Client employer" means a sole proprietor, partnership, 65
association, limited liability company, or corporation that enters 66
into a professional employer organization agreement and is 67
assigned shared employees by the professional employer 68
organization. 69

~~(B)~~(C) "Coemploy" means the sharing of the responsibilities 70
and liabilities of being an employer. 71

~~(C)~~(D) "Professional employer organization" means a sole 72
proprietor, partnership, association, limited liability company, 73
or corporation that enters into an agreement with one or more 74
client employers for the purpose of coemploying all or part of the 75
client employer's workforce at the client employer's work site. 76

~~(D)~~(E) "Professional employer organization agreement" means a 77
written contract to coemploy employees between a professional 78
employer organization and a client employer with a duration of not 79

less than twelve months in accordance with the requirements of 80
this chapter. 81

~~(E)~~(F) "Professional employer organization reporting entity" 82
means two or more professional employer organizations that are 83
majority owned or commonly controlled by the same entity, parent, 84
or controlling person and that satisfy reporting entity control 85
rules as defined by the financial accounting standards board and 86
under generally accepted accounting principles. 87

(G) "Shared employee" means an individual intended to be 88
assigned to a client employer on a permanent basis, not as a 89
temporary supplement to the client employer's workforce, who is 90
coemployed by a professional employer organization and a client 91
employer pursuant to a professional employer organization 92
agreement. 93

~~(F)~~(H) "Trade secret" has the same meaning as in section 94
1333.61 of the Revised Code. 95

(I) "Working capital" means the excess of current assets over 96
current liabilities as determined by generally accepted accounting 97
principles. 98

Sec. 4125.02. The administrator of ~~the bureau of~~ workers' 99
compensation shall adopt rules in accordance with Chapter 119. of 100
the Revised Code to administer and enforce this chapter, including 101
rules to administer and enforce divisions (B) and (G) of section 102
4125.03 of the Revised Code. 103

The administrator may adopt rules for the acceptance of 104
electronic filings in accordance with Chapter 1306. of the Revised 105
Code for applications, documents, reports, and other filings 106
required by this chapter. 107

The administrator may allow an independent assurance 108
organization to act on behalf of a professional employer 109

organization or professional employer organization reporting 110
entity in complying with this chapter and any rules adopted under 111
it. The assurance organization shall be approved by the 112
administrator before acting on behalf of the professional employer 113
organization or the professional employer organization reporting 114
entity and shall abide by all standards and procedures established 115
by the administrator for that approval. The administrator may 116
permit a professional employer organization or professional 117
employer organization reporting entity to authorize an assurance 118
organization approved by the administrator to act on behalf of the 119
professional employer organization or professional employer 120
organization reporting entity, and the administrator shall specify 121
certain provisions of this chapter that may be satisfied by an 122
assurance organization acting with that authority. The rules shall 123
also stipulate that the use of an assurance organization by a 124
professional employer organization to comply with this chapter is 125
not required and is strictly voluntary. 126

Sec. 4125.03. (A) The professional employer organization with 127
whom a shared employee is coemployed shall do all of the 128
following: 129

(1) Pay wages associated with a shared employee pursuant to 130
the terms and conditions of compensation in the professional 131
employer organization agreement between the professional employer 132
organization and the client employer; 133

(2) Pay all related payroll taxes associated with a shared 134
employee independent of the terms and conditions contained in the 135
professional employer organization agreement between the 136
professional employer organization and the client employer; 137

(3) Maintain workers' compensation coverage, pay all workers' 138
compensation premiums and manage all workers' compensation claims, 139
filings, and related procedures associated with a shared employee 140

in compliance with Chapters 4121. and 4123. of the Revised Code, 141
except that when shared employees include family farm officers, 142
ordained ministers, or corporate officers of the client employer, 143
payroll reports shall include the entire amount of payroll 144
associated with those persons; 145

(4) Provide written notice to each shared employee it assigns 146
to perform services to a client employer of the relationship 147
between and the responsibilities of the professional employer 148
organization and the client employer; 149

(5) Maintain complete records separately listing the manual 150
classifications of each client employer and the payroll reported 151
to each manual classification for each client employer for each 152
payroll reporting period during the time period covered in the 153
professional employer organization agreement; 154

(6) Maintain a record of workers' compensation claims for 155
each client employer; 156

(7) Make periodic reports, as determined by the administrator 157
of workers' compensation, of client employers and total workforce 158
to the administrator; 159

(8) Report individual client employer payroll, claims, and 160
classification data under a separate and unique subaccount to the 161
administrator; 162

(9) Within fourteen days after receiving notice from the 163
bureau of workers' compensation that a refund or rebate will be 164
applied to workers' compensation premiums, provide a copy of that 165
notice to any client employer to whom that notice is relevant. 166

(B) The professional employer organization with whom a shared 167
employee is coemployed shall provide a list of all of the 168
following information to the client employer upon the written 169
request of the client employer: 170

<u>(1) All workers' compensation claims, premiums, and payroll</u>	171
<u>associated with that client employer;</u>	172
<u>(2) Compensation and benefits paid and reserves established</u>	173
<u>for each claim listed under division (B)(1) of this section;</u>	174
<u>(3) Any other information available to the professional</u>	175
<u>employer organization from the bureau of workers' compensation</u>	176
<u>regarding that client employer.</u>	177
<u>(C)(1) A professional employer organization shall provide the</u>	178
<u>information required under division (B) of this section in writing</u>	179
<u>to the requesting client employer within forty-five days after</u>	180
<u>receiving a written request from the client employer.</u>	181
<u>(2) For purposes of division (C) of this section, a</u>	182
<u>professional employer organization has provided the required</u>	183
<u>information to the client employer when the information is</u>	184
<u>received by the United States postal service or when the</u>	185
<u>information is personally delivered, in writing, directly to the</u>	186
<u>client employer.</u>	187
<u>(D) Except as provided in section 4125.08 of the Revised Code</u>	188
<u>and unless otherwise agreed to in the professional employer</u>	189
<u>organization agreement, the professional employer organization</u>	190
<u>with whom a shared employee is coemployed has a right of direction</u>	191
<u>and control over each shared employee assigned to a client</u>	192
<u>employer's location. However, a client employer shall retain</u>	193
<u>sufficient direction and control over a shared employee as is</u>	194
<u>necessary to do any of the following:</u>	195
<u>(1) Conduct the client employer's business, including</u>	196
<u>training and supervising shared employees;</u>	197
<u>(2) Ensure the quality, adequacy, and safety of the goods or</u>	198
<u>services produced or sold in the client employer's business;</u>	199
<u>(3) Discharge any fiduciary responsibility that the client</u>	200

<u>employer may have;</u>	201
<u>(4) Comply with any applicable licensure, regulatory, or</u>	202
<u>statutory requirement of the client employer.</u>	203
(C) Notwithstanding division (B) of this section, a client	204
employer may retain sufficient direction and control over a shared	205
employee as is necessary to conduct the client employer's business	206
and to discharge any fiduciary responsibility that it may have, or	207
to comply with any applicable licensure, regulatory, or statutory	208
requirement of the client employer	209
<u>(E) Unless otherwise agreed to in the professional employer</u>	210
<u>organization agreement, liability for acts, errors, and omissions</u>	211
<u>shall be determined as follows:</u>	212
<u>(1) A professional employer organization shall not be liable</u>	213
<u>for the acts, errors, and omissions of a client employer or a</u>	214
<u>shared employee when those acts, errors, and omissions occur under</u>	215
<u>the direction and control of the client employer.</u>	216
<u>(2) A client employer shall not be liable for the acts,</u>	217
<u>errors, and omissions of a professional employer organization or a</u>	218
<u>shared employee when those acts, errors, and omissions occur under</u>	219
<u>the direction and control of the professional employer</u>	220
<u>organization.</u>	221
<u>(F) Nothing in divisions (D) and (E) of this section shall be</u>	222
<u>construed to limit any liability or obligation specifically agreed</u>	223
<u>to in the professional employer organization agreement.</u>	224
<u>Sec. 4125.041. A shared employee under a professional</u>	225
<u>employer organization agreement shall not, solely as a result of</u>	226
<u>being a shared employee, be considered an employee of the</u>	227
<u>professional employer organization for purposes of general</u>	228
<u>liability insurance, fidelity bonds, surety bonds, employer</u>	229
<u>liability not otherwise covered by Chapters 4121. and 4123. of the</u>	230

Revised Code, or liquor liability insurance carried by the 231
professional employer organization, unless the professional 232
employer organization agreement and applicable prearranged 233
employment contract, insurance contract, or bond specifically 234
states otherwise. 235

Sec. 4125.042. (A) For purposes of determining tax credits 236
and other economic incentives that are provided by this state or 237
any political subdivision and based on employment, shared 238
employees under a professional employer organization agreement 239
shall be considered employees solely of the client employer. 240

(1) A client employer shall be entitled to the benefit of any 241
tax credit, economic incentive, or similar benefit arising as the 242
result of the client employer's employment of shared employees. If 243
the grant or amount of any tax credit, economic incentive, or 244
other benefit is based on number of employees, each client 245
employer shall be treated as employing only those shared employees 246
coemployed by the client employer. Shared employees working for 247
other client employers of the professional employer organization 248
shall not be counted as employees for that purpose. 249

(2) Upon request by a client employer or an agency or 250
department of this state, a professional employer organization 251
shall provide employment information reasonably required by the 252
agency or department responsible for administration of the tax 253
credit or economic incentive and necessary to support any request, 254
claim, application, or other action by a client employer seeking 255
the tax credit or economic incentive. 256

(B) Shared employees whose services are subject to sales tax 257
shall be considered the employees of the client employer for 258
purposes of collecting and levying sales tax on the services 259
performed by the shared employee. Nothing contained in this 260
chapter shall relieve a client employer or professional employer 261

organization of any sales tax liability with respect to its goods 262
or services. 263

(C) Any tax assessed on a per capita or per employee basis 264
shall be assessed against the client employer for shared employees 265
and against the professional employer organization for employees 266
of the professional employer organization who are not shared 267
employees coemployed with a client employer. 268

(D) For purposes of computing any tax that is imposed or 269
calculated upon the basis of total payroll, the professional 270
employer organization shall be eligible to use any small business 271
allowance or exemption that is available to the client employer 272
for the shared employees. 273

Sec. 4125.05. (A) Not later than thirty days after November 274
5, 2004, or not later than thirty days after the formation of a 275
professional employer organization, whichever date occurs later, a 276
professional employer organization operating in this state shall 277
register with the administrator of ~~the bureau of~~ workers' 278
compensation on forms provided by the administrator. Following 279
initial registration, each professional employer organization 280
shall register with the administrator annually on or before the 281
thirty-first day of December. Commonly owned or controlled 282
applicants may register as a professional employer organization 283
reporting entity or register individually. Registration as a part 284
of a professional employer organization reporting entity shall not 285
disqualify an individual professional employer organization from 286
participating in a group-rated plan under division (A)(4) of 287
section 4123.29 of the Revised Code. 288

(B) Initial registration and each annual registration renewal 289
shall include all of the following: 290

(1) A list of each of the professional employer 291
organization's client employers current as of the date of 292

registration for purposes of initial registration or current as of 293
the date of annual registration renewal, or within fourteen days 294
of adding or releasing a client, that includes the client 295
employer's name, address, federal tax identification number, and 296
bureau of workers' compensation risk number; 297

(2) A fee as determined by the administrator; 298

(3) The name or names under which the professional employer 299
organization conducts business; 300

(4) The address of the professional employer organization's 301
principal place of business and the address of each office it 302
maintains in this state; 303

(5) The professional employer organization's taxpayer or 304
employer identification number; 305

(6) A list of each state in which the professional employer 306
organization has operated in the preceding five years, and the 307
name, corresponding with each state, under which the professional 308
employer organization operated in each state, including any 309
alternative names, names of predecessors, and if known, successor 310
business entities; 311

(7) The most recent financial statement prepared and audited 312
pursuant to division (B) of section 4125.051 of the Revised Code; 313

(8) If there is any deficit in the working capital required 314
under division (A) of section 4125.051 of the Revised Code, a 315
bond, irrevocable letter of credit, or securities with a minimum 316
market value in an amount sufficient to cover the deficit in 317
accordance with the requirements of that section; 318

(9) An attestation of the accuracy of the data submissions 319
from the chief executive officer of the professional employer 320
organization. 321

(C) Upon terms and for periods that the administrator 322

considers appropriate, the administrator may issue a limited 323
registration to a professional employer organization or 324
professional employer organization reporting entity that provides 325
all of the following items: 326

(1) A properly executed request for limited registration on a 327
form provided by the administrator; 328

(2) All information and materials required for registration 329
in divisions (B)(1) to (6) of this section; 330

(3) Information and documentation necessary to show that the 331
professional employer organization or professional employer 332
organization reporting entity satisfies all of the following 333
criteria: 334

(a) It is domiciled outside of this state. 335

(b) It is licensed or registered as a professional employer 336
organization in another state. 337

(c) It does not maintain an office in this state. 338

(d) It does not participate in direct solicitations for 339
client employers located or domiciled in this state. 340

(e) It has fifty or fewer shared employees employed or 341
domiciled in this state on any given day. 342

(D)(1) The administrator, with the advice and consent of the 343
bureau of workers' compensation board of directors, shall adopt 344
rules in accordance with Chapter 119. of the Revised Code to 345
require, in addition to the requirement under division (B)(8) of 346
this section and except as otherwise specified in division 347
~~(C)~~(D)(2) of this section, a professional employer organization to 348
provide security in the form of a bond or letter of credit 349
assignable to the Ohio bureau of workers' compensation not to 350
exceed an amount equal to the premiums and assessments incurred 351
for the two most recent payroll periods, prior to any discounts or 352

dividends, to meet the financial obligations of the professional 353
employer organization pursuant to this chapter and Chapters 4121. 354
and 4123. of the Revised Code. 355

(2) As an alternative to providing security in the form of a 356
bond or letter of credit under division (D)(1) of this section, 357
the administrator shall permit a professional employer 358
organization to make periodic payments of prospective premiums and 359
assessments to the bureau ~~or to submit proof of being certified by~~ 360
~~either a nationally recognized organization that certifies~~ 361
~~professional employer organizations or by a government entity~~ 362
~~approved by the administrator.~~ 363

(3) A professional employer organization may appeal the 364
amount of the security required pursuant to rules adopted under 365
division ~~(C)~~(D)(1) of this section in accordance with section 366
4123.291 of the Revised Code. 367

~~(D)~~(E) Notwithstanding division ~~(C)~~(D) of this section, a 368
professional employer organization that qualifies for 369
self-insurance or retrospective rating under section 4123.29 or 370
4123.35 of the Revised Code shall abide by the financial 371
disclosure and security requirements pursuant to those sections 372
and the rules adopted under those sections in place of the 373
requirements specified in division ~~(C)~~(D) of this section or 374
specified in rules adopted pursuant to that division. 375

~~(E)~~(F) Except to the extent necessary for the administrator 376
to administer the statutory duties of the administrator and for 377
employees of the state to perform their official duties, all 378
records, reports, client lists, and other information obtained 379
from a professional employer organization and professional 380
employer organization reporting entity under divisions (A), (B), 381
and ~~(B)~~(C) of this section are confidential and shall be 382
considered trade secrets and shall not be published or open to 383
public inspection. 384

~~(F)~~(G) The list described in division (B)(1) of this section 385
shall be considered a trade secret. 386

~~(G)~~(H) The administrator shall establish the fee described in 387
division (B)(2) of this section in an amount that does not exceed 388
the cost of the administration of the initial and renewal 389
registration process. 390

(I) A financial statement required under division (B)(7) of 391
this section for initial registration shall be the most recent 392
financial statement of the professional employer organization or 393
professional employer organization reporting entity of which the 394
professional employer organization is a member and shall not be 395
older than thirteen months. For each registration renewal, the 396
professional employer organization shall file the required 397
financial statement within one hundred eighty days after the end 398
of the professional employer organization's or professional 399
employer organization reporting entity's fiscal year. A 400
professional employer organization may apply to the administrator 401
for an extension beyond that time if the professional employer 402
organization provides the administrator with a letter from the 403
professional employer organization's auditor stating the reason 404
for delay and the anticipated completion date. 405

(J) Multiple, unrelated professional employer organizations 406
shall not combine together for purposes of obtaining workers' 407
compensation coverage or for forming any type of self-insurance 408
arrangement available under this chapter. Multiple, unrelated 409
professional employer organization reporting entities shall not 410
combine together for purposes of obtaining workers' compensation 411
coverage or for forming any type of self-insurance arrangement 412
available under this chapter. 413

(K) The administrator shall maintain a list of professional 414
employer organizations and professional employer organization 415
reporting entities registered under this section that is readily 416

available to the public by electronic or other means.

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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 at initial or annual registration, as reflected in the financial statements submitted to the bureau. If a deficit in working capital is reflected in the financial statements submitted to the bureau, the professional employer organization or the professional employer organization reporting entity shall do both of the following for that registration period:

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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;

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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.

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

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(B) A professional employer organization, or a professional employer organization reporting entity of which the professional

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employer organization is a member, shall prepare financial 448
statements in accordance with generally accepted accounting 449
principles and submit them for registration and registration 450
renewal under section 4125.05 of the Revised Code. 451

The financial statements shall be audited by an independent 452
certified public accountant authorized to practice in the 453
jurisdiction in which that accountant is located. 454

(1) The resulting report of the auditor shall not include 455
either of the following: 456

(a) A qualification or disclaimer of opinion as to adherence 457
to generally accepted accounting principles; 458

(b) A statement expressing substantial doubt about the 459
ability of the professional employer organization or professional 460
employer organization reporting entity to continue as a going 461
concern. 462

(2) However, if a professional employer organization does not 463
have at least twelve months of operating history on which to base 464
financial statements, the financial statements shall be reviewed 465
by a certified public accountant. 466

(3) Notwithstanding division (B)(1)(a) of this section, if a 467
professional employer organization or professional employer 468
organization reporting entity is a subsidiary or is related to a 469
variable interest entity, the professional employer organization 470
or professional employer organization entity may submit financial 471
statements of the professional employer organization or 472
professional employer organization reporting entity. 473

(C) The bureau shall deny initial or annual registration to 474
an applicant or professional employer organization reporting 475
entity that does not meet the requirements of this section. 476

(D) Professional employer organizations in a professional 477

employer organization reporting entity may satisfy the 478
requirements of this section on a combined or consolidated basis 479
provided that each member of the professional employer 480
organization reporting entity guarantees each other members' 481
satisfaction of the requirements under division (A) of this 482
section. 483

For purposes of satisfying the registration and registration 484
renewal requirements described in division (B)(7) of section 485
4125.05 of the Revised Code, a professional employer organization 486
reporting entity may submit a combined or consolidated financial 487
statement that satisfies the requirements of this section. If the 488
combined or consolidated financial statement includes entities 489
that are not professional employer organizations or that are not 490
in the professional employer organization reporting entity, the 491
controlling entity of the professional employer organization 492
reporting entity that is submitting the consolidated or combined 493
financial statement shall guarantee that the professional employer 494
organizations of the professional employer organization reporting 495
entity have satisfied the requirements under division (A) of this 496
section and shall include supplemental combining schedules to 497
guarantee that the requirements under division (A) of this section 498
are satisfied by the professional employer organization or 499
professional employer organization reporting entity. 500

Sec. 4125.07. Not later than fourteen calendar days after the 501
date on which a professional employer organization agreement is 502
terminated, the professional employer organization is adjudged 503
bankrupt, the professional employer organization ceases operations 504
within the state of Ohio, or the registration of the professional 505
employer organization is revoked, the professional employer 506
organization shall submit to the administrator ~~of the bureau~~ of 507
workers' compensation and each client employer associated with 508
that professional employer organization a completed workers' 509

compensation lease termination notice form provided by the 510
administrator. The completed form shall include all client payroll 511
and claim information listed in a format specified by the 512
administrator and notice of all workers' compensation claims that 513
have been reported to the professional employer organization in 514
accordance with its internal reporting policies. 515

A professional employer organization shall report any 516
transfer of employees between related professional employer 517
organization entities or professional employer organization 518
reporting entities to the administrator within fourteen calendar 519
days after the date of the transfer on a form prescribed by the 520
administrator. The professional employer organization or 521
professional employer organization reporting entity shall include 522
in the form all client payroll and claim information regarding the 523
transferred employees listed in a format specified by the 524
administrator and a notice of all workers' compensation claims 525
that have been reported to the professional employer organization 526
or professional employer organization reporting entity in 527
accordance with the internal reporting policies of the 528
professional employer organization or professional employer 529
organization reporting entity. 530

Sec. 4125.08. Nothing in this chapter exempts a professional 531
employer organization, client employer, or shared employee from 532
any applicable federal, state, or local licensing, registration, 533
or certification statutes or regulations. An individual required 534
to obtain and maintain a license, registration, or certification 535
under law and who is a shared employee of a professional employer 536
organization and a client employer is an employee of the client 537
employer for purposes of obtaining and maintaining the appropriate 538
license, registration, or certification as required by law. A 539
professional employer organization does not engage in any 540

occupation, trade, or profession that requires a license, 541
certification, or registration solely by entering into a 542
professional employer agreement with a client employer or 543
coemploying a shared employee. 544

A client employer shall have the sole right of direction and 545
control of the professional or licensed activities of shared 546
employees and of the client employer's business. The shared 547
employees and client employers shall remain subject to regulation 548
by the board, commission, or agency responsible for licensing, 549
registration, or certification of the shared employees or client 550
employers. 551

Sec. 4125.10. Nothing contained in this chapter or in any 552
professional employer organization agreement shall do any of the 553
following: 554

(A) Diminish, abolish, or remove the rights and obligations 555
of client employers and shared employees existing prior to the 556
effective date of the professional employer organization 557
agreement; 558

(B) Affect, modify, or amend any contractual relationship or 559
restrictive covenant between a shared employee and any client 560
employer in effect at the time a professional employer 561
organization agreement becomes effective; 562

(C) Prohibit or amend any contractual relationship or 563
restrictive covenant between a client employer and a shared 564
employee that is entered into after the professional employer 565
organization agreement becomes effective; 566

(D) Create any new or additional enforcement right of a 567
shared employee against a professional employer organization that 568
is not specifically provided by the professional employer 569
organization agreement or this chapter. 570

A professional employer organization shall have no 571
responsibility or liability in connection with, or arising out of, 572
any contractual relationship or restrictive covenant between a 573
client employer and a shared employee unless the professional 574
employer organization has specifically agreed otherwise in 575
writing. 576

Sec. 4125.11. For purposes of a bid, contract, purchase 577
order, or agreement entered into with the state or any political 578
subdivision, a client employer's status or certification as a 579
small, minority-owned, disadvantaged, or woman-owned business 580
enterprise or as a historically underutilized business shall not 581
be affected as a result of the client employer entering into a 582
professional employer organization agreement or using the services 583
of a professional employer organization. 584

Sec. 4141.24. (A)(1) The director of job and family services 585
shall maintain a separate account for each employer and, except as 586
otherwise provided in division (B) of section 4141.25 of the 587
Revised Code respecting mutualized contributions, shall credit 588
such employer's account with all the contributions, or payments in 589
lieu of contributions, which the employer has paid on the 590
employer's own behalf. 591

(2) If, as of the computation date, a contributory employer's 592
account shows a negative balance computed as provided in division 593
(A)(3) of section 4141.25 of the Revised Code, less any 594
contributions due and unpaid on such date, which negative balance 595
is in excess of the limitations imposed by divisions (A)(2)(a), 596
(b), and (c) of this section and if the employer's account is 597
otherwise eligible for the transfer, then before the employer's 598
contribution rate is computed for the next succeeding contribution 599
period, an amount equal to the amount of the excess eligible for 600
transfer shall be permanently transferred from the account of such 601

employer and charged to the mutualized account provided in 602
division (B) of section 4141.25 of the Revised Code. 603

(a) If as of any computation date, a contributory employer's 604
account shows a negative balance in excess of ten per cent of the 605
employer's average annual payroll, then before the employer's 606
contribution rate is computed for the next succeeding contribution 607
period, an amount equal to the amount of the excess shall be 608
transferred from the account as provided in this division. No 609
contributory employer's account may have any excess transferred 610
pursuant to division (A)(2)(a) of this section, unless the 611
employer's account has shown a positive balance for at least two 612
consecutive computation dates prior to the computation date with 613
respect to which the transfer is proposed. Each time a transfer is 614
made pursuant to division (A)(2)(a) of this section, the 615
employer's account is ineligible for any additional transfers 616
under that division, until the account shows a positive balance 617
for at least two consecutive computation dates subsequent to the 618
computation date of which the most recent transfer occurs pursuant 619
to division (A)(2)(a), (b), or (c) of this section. 620

(b) If at the next computation date after the computation 621
date at which a transfer from the account occurs pursuant to 622
division (A)(2)(a) of this section, a contributory employer's 623
account shows a negative balance in excess of fifteen per cent of 624
the employer's average annual payroll, then before the employer's 625
contribution rate is computed for the next succeeding contribution 626
period an amount equal to the amount of the excess shall be 627
permanently transferred from the account as provided in this 628
division. 629

(c) If at the next computation date subsequent to the 630
computation date at which a transfer from a contributory 631
employer's account occurs pursuant to division (A)(2)(b) of this 632
section, the employer's account shows a negative balance in excess 633

of twenty per cent of the employer's average annual payroll, then 634
before the employer's contribution rate is computed for the next 635
succeeding contribution period, an amount equal to the amount of 636
the excess shall be permanently transferred from the account as 637
provided in this division. 638

(d) If no transfer occurs pursuant to division (A)(2)(b) or 639
(c) of this section, the employer's account is ineligible for any 640
additional transfers under division (A)(2) of this section until 641
the account requalifies for a transfer pursuant to division 642
(A)(2)(a) of this section. 643

(B) Any employer may make voluntary payments in addition to 644
the contributions required under this chapter, in accordance with 645
rules established by the director. Such payments shall be included 646
in the employer's account as of the computation date, provided 647
they are received by the director by the thirty-first day of 648
December following such computation date. Such voluntary payment, 649
when accepted from an employer, will not be refunded in whole or 650
in part. In determining whether an employer's account has a 651
positive balance on two consecutive computation dates and is 652
eligible for transfers under division (A)(2) of this section, the 653
director shall exclude any voluntary payments made subsequent to 654
the last transfer made under division (A)(2) of this section. 655

(C) All contributions to the fund shall be pooled and 656
available to pay benefits to any individual entitled to benefits 657
irrespective of the source of such contributions. 658

(D)(1) For the purposes of this section and sections 4141.241 659
and 4141.242 of the Revised Code, an employer's account shall be 660
charged only for benefits based on remuneration paid by such 661
employer. Benefits paid to an eligible individual shall be charged 662
against the account of each employer within the claimant's base 663
period in the proportion to which wages attributable to each 664
employer of the claimant bears to the claimant's total base period 665

wages. Charges to the account of a base period employer with whom 666
the claimant is employed part-time at the time the claimant's 667
application for a determination of benefits rights is filed shall 668
be charged to the mutualized account when all of the following 669
conditions are met: 670

(a) The claimant also worked part-time for the employer 671
during the base period of the claim. 672

(b) The claimant is unemployed due to loss of other 673
employment. 674

(c) The employer is not a reimbursing employer under section 675
4141.241 or 4141.242 of the Revised Code. 676

(2) Notwithstanding division (D)(1) of this section, charges 677
to the account of any employer, including any reimbursing 678
employer, shall be charged to the mutualized account if it finally 679
is determined by a court on appeal that the employer's account is 680
not chargeable for the benefits. 681

(3) Any benefits paid to a claimant under section 4141.28 of 682
the Revised Code prior to a final determination of the claimant's 683
right to the benefits shall be charged to the employer's account 684
as provided in division (D)(1) of this section, provided that if 685
there is no final determination of the claim by the subsequent 686
thirtieth day of June, the employer's account shall be credited 687
with the total amount of benefits that has been paid prior to that 688
date, based on the determination that has not become final. The 689
total amount credited to the employer's account shall be charged 690
to a suspense account, which shall be maintained as a separate 691
bookkeeping account and administered as a part of this section, 692
and shall not be used in determining the account balance of the 693
employer for the purpose of computing the employer's contribution 694
rate under section 4141.25 of the Revised Code. 695

If it is finally determined that the claimant is entitled to 696

all or a part of the benefits in dispute, the suspense account 697
shall be credited and the appropriate employer's account charged 698
with the benefits. If it is finally determined that the claimant 699
is not entitled to all or any portion of the benefits in dispute, 700
the benefits shall be credited to the suspense account and a 701
corresponding charge made to the mutualized account established in 702
division (B) of section 4141.25 of the Revised Code, provided 703
that, except as otherwise provided in this section, if benefits 704
are chargeable to an employer or group of employers who is 705
required or elects to make payments to the fund in lieu of 706
contributions under section 4141.241 of the Revised Code, the 707
benefits shall be charged to the employer's account in the manner 708
provided in division (D)(1) of this section and division (B) of 709
section 4141.241 of the Revised Code, and no part of the benefits 710
may be charged to the suspense account provided in this division. 711

To the extent that benefits that have been paid to a claimant 712
and charged to the employer's account are found not to be due the 713
claimant and are recovered by the director as provided in section 714
4141.35 of the Revised Code, they shall be credited to the 715
employer's account. 716

(4) The director shall notify each employer at least once 717
each month of the benefits charged to the employer's account since 718
the last preceding notice; except that for the purposes of 719
sections 4141.241 and 4141.242 of the Revised Code which provides 720
the billing of employers on a payment in lieu of a contribution 721
basis, the director may prescribe a quarterly or less frequent 722
notice of benefits charged to the employer's account. Such notice 723
will show a summary of the amount of benefits paid which were 724
charged to the employer's account. This notice shall not be deemed 725
a determination of the claimant's eligibility for benefits. Any 726
employer so notified, however, may file within fifteen days after 727
the mailing date of the notice, an exception to charges appearing 728

on the notice on the grounds that such charges are not in 729
accordance with this section. The director shall promptly examine 730
the exception to such charges and shall notify the employer of the 731
director's decision thereon, which decision shall become final 732
unless appealed to the unemployment compensation review commission 733
in the manner provided in section 4141.26 of the Revised Code. For 734
the purposes of this division, an exception is considered timely 735
filed when it has been received as provided in division (D)(1) of 736
section 4141.281 of the Revised Code. 737

(E) The director shall terminate and close the account of any 738
contributory employer who has been subject to this chapter if the 739
enterprise for which the account was established is no longer in 740
operation and it has had no payroll and its account has not been 741
chargeable with benefits for a period of five consecutive years. 742
The amount of any positive balance, computed as provided in 743
division (A)(3) of section 4141.25 of the Revised Code, in an 744
account closed and terminated as provided in this section shall be 745
credited to the mutualized account as provided in division 746
(B)(2)(b) of section 4141.25 of the Revised Code. The amount of 747
any negative balance, computed as provided in division (A)(3) of 748
section 4141.25 of the Revised Code, in an account closed and 749
terminated as provided in this section shall be charged to the 750
mutualized account as provided in division (B)(1)(b) of section 751
4141.25 of the Revised Code. The amount of any positive balance or 752
negative balance, credited or charged to the mutualized account 753
after the termination and closing of an employer's account, shall 754
not thereafter be considered in determining the contribution rate 755
of such employer. The closing of an employer's account as provided 756
in this division shall not relieve such employer from liability 757
for any unpaid contributions or payment in lieu of contributions 758
which are due for periods prior to such closing. 759

If the director finds that a contributory employer's business 760

is closed solely because of the entrance of one or more of the 761
owners, officers, or partners, or the majority stockholder, into 762
the armed forces of the United States, or any of its allies, or of 763
the United Nations after July 1, 1950, such employer's account 764
shall not be terminated and if the business is resumed within two 765
years after the discharge or release of such persons from active 766
duty in the armed forces, the employer's experience shall be 767
deemed to have been continuous throughout such period. The reserve 768
ratio of any such employer shall be the total contributions paid 769
by such employer minus all benefits, including benefits paid to 770
any individual during the period such employer was in the armed 771
forces, based upon wages paid by the employer prior to the 772
employer's entrance into the armed forces divided by the average 773
of the employer's annual payrolls for the three most recent years 774
during the whole of which the employer has been in business. 775

(F) If an employer transfers all of its trade or business to 776
another employer or person, the acquiring employer or person shall 777
be the successor in interest to the transferring employer and 778
shall assume the resources and liabilities of such transferring 779
employer's account, and continue the payment of all contributions, 780
or payments in lieu of contributions, due under this chapter. 781

If an employer or person acquires substantially all, or a 782
clearly segregable and identifiable portion of an employer's trade 783
or business, then upon the director's approval of a properly 784
completed application for successorship, the employer or person 785
acquiring the trade or business, or portion thereof, shall be the 786
successor in interest. The director by rule may prescribe 787
procedures for effecting transfers of experience as provided for 788
in this section. 789

(G) Notwithstanding sections 4141.09, 4141.23, 4141.24, 790
4141.241, 4141.242, 4141.25, 4141.26, and 4141.27 of the Revised 791
Code, both of the following apply regarding assignment of rates 792

and transfers of experience: 793

(1) If an employer transfers its trade or business, or a 794
portion thereof, to another employer and, at the time of the 795
transfer, both employers are under substantially common ownership, 796
management, or control, then the unemployment experience 797
attributable to the transferred trade or business, or portion 798
thereof, shall be transferred to the employer to whom the business 799
is so transferred. The director shall recalculate the rates of 800
both employers and those rates shall be effective immediately upon 801
the date of the transfer of the trade or business. 802

(2) Whenever a person is not an employer under this chapter 803
at the time the person acquires the trade or business of an 804
employer, the unemployment experience of the acquired trade or 805
business shall not be transferred to the person if the director 806
finds that the person acquired the trade or business solely or 807
primarily for the purpose of obtaining a lower rate of 808
contributions. Instead, that person shall be assigned the 809
applicable new employer rate under division (A)(1) of section 810
4141.25 of the Revised Code. 811

(H) The director shall establish procedures to identify the 812
transfer or acquisition of a trade or business for purposes of 813
this section and shall adopt rules prescribing procedures for 814
effecting transfers of experience as described in this section. 815

(I) No rate of contribution less than two and seven-tenths 816
per cent shall be permitted a contributory employer succeeding to 817
the experience of another contributory employer pursuant to this 818
section for any period subsequent to such succession, except in 819
accordance with rules prescribed by the director, which rules 820
shall be consistent with federal requirements for additional 821
credit allowance in section 3303 of the "Internal Revenue Code of 822
1954" and consistent with this chapter, except that such rules may 823
establish a computation date for any such period different from 824

the computation date generally prescribed by this chapter, and may 825
define "calendar year" as meaning a twelve-consecutive-month 826
period ending on the same day of the year as that on which such 827
computation date occurs. 828

(J) The director may prescribe rules for the establishment, 829
maintenance, and dissolution of common contribution rates for two 830
or more contributory employers, and in accordance with such rules 831
and upon application by two or more employers shall establish such 832
common rate to be computed by merging the several contribution 833
rate factors of such employers for the purpose of establishing a 834
common contribution rate applicable to all such employers. 835

(K) The director shall adopt rules applicable to professional 836
employer organizations and professional employer organization 837
reporting entities to address the method in which a professional 838
employer organization or professional employer organization 839
reporting entity reports quarterly wages and contributions to the 840
director for shared employees. 841

(1) The rules shall recognize a professional employer 842
organization or professional employer organization reporting 843
entity as the employer of record of the shared employees of the 844
professional employer organization or professional employer 845
organization reporting entity for reporting purposes; however, the 846
rules shall require that each shared employee of a single client 847
employer be reported under a separate and unique subaccount of the 848
professional employer organization or professional employer 849
organization reporting entity to reflect the experience of the 850
shared employees of that client employer. 851

(2) The director shall use a subaccount solely to determine 852
experience rates for that individual subaccount on an annual basis 853
and shall recognize a professional employer organization or 854
professional employer organization reporting entity as the 855
employer of record associated with each subaccount. The director 856

shall combine the rate experience that existed on a client 857
employer's account prior to entering into a professional employer 858
organization agreement with the experience accumulated as a 859
subaccount of the professional employer organization or 860
professional employer organization reporting entity. The combined 861
experience shall remain with the client account upon termination 862
of the professional employer organization agreement. 863

(3) A professional employer organization or professional 864
employer organization reporting entity shall provide a power of 865
attorney or other evidence, which evidence may be included as part 866
of a professional employer organization agreement, completed by 867
each client employer of the professional employer organization or 868
professional employer organization reporting entity, authorizing 869
the professional employer organization or professional employer 870
organization reporting entity to act on behalf of the client 871
employer in accordance with the requirements of this chapter. 872

(4) Any rule adopted pursuant to division (K) of this section 873
also shall include administrative requirements that permit a 874
professional employer organization or a professional employer 875
organization reporting entity to transmit any reporting and 876
payment data required under division (K)(1) of this section 877
collectively as a single filing with the director. 878

(5) As used in division (K) of this section, "client 879
employer," "professional employer organization," "professional 880
employer organization agreement," "professional employer 881
organization reporting entity," and "shared employee" have the 882
same meanings as in section 4125.01 of the Revised Code. 883

Sec. 5747.07. (A) As used in this section: 884

(1) "Partial weekly withholding period" means a period during 885
which an employer directly, indirectly, or constructively pays 886
compensation to, or credits compensation to the benefit of, an 887

employee, and that consists of a consecutive Saturday, Sunday, 888
Monday, and Tuesday or a consecutive Wednesday, Thursday, and 889
Friday. There are two partial weekly withholding periods each 890
week, except that a partial weekly withholding period cannot 891
extend from one calendar year into the next calendar year; if the 892
first day of January falls on a day other than Saturday or 893
Wednesday, the partial weekly withholding period ends on the 894
thirty-first day of December and there are three partial weekly 895
withholding periods during that week. 896

(2) "Undeposited taxes" means the taxes an employer is 897
required to deduct and withhold from an employee's compensation 898
pursuant to section 5747.06 of the Revised Code that have not been 899
remitted to the tax commissioner pursuant to this section or to 900
the treasurer of state pursuant to section 5747.072 of the Revised 901
Code. 902

(3) A "week" begins on Saturday and concludes at the end of 903
the following Friday. 904

(4) "Client employer," "professional employer organization," 905
"professional employer organization agreement," and "professional 906
employer organization reporting entity" have the same meanings as 907
in section 4125.01 of the Revised Code. 908

(B) Except as provided in divisions (C) and (D) of this 909
section and in division (A) of section 5747.072 of the Revised 910
Code, every employer required to deduct and withhold any amount 911
under section 5747.06 of the Revised Code shall file a return and 912
shall pay the amount required by law as follows: 913

(1) An employer who accumulates or is required to accumulate 914
undeposited taxes of one hundred thousand dollars or more during a 915
partial weekly withholding period shall make the payment of the 916
undeposited taxes by the close of the first banking day after the 917
day on which the accumulation reaches one hundred thousand 918

dollars. If required under division (I) of this section, the 919
payment shall be made by electronic funds transfer under section 920
5747.072 of the Revised Code. 921

(2)(a) Except as required by division (B)(1) of this section, 922
an employer described in division (B)(2)(b) of this section shall 923
make the payment of undeposited taxes within three banking days 924
after the close of a partial weekly withholding period during 925
which the employer was required to deduct and withhold any amount 926
under this chapter. If required under division (I) of this 927
section, the payment shall be made by electronic funds transfer 928
under section 5747.072 of the Revised Code. 929

(b) For amounts required to be deducted and withheld during 930
1994, an employer described in division (B)(2)(b) of this section 931
is one whose actual or required payments under this section 932
exceeded one hundred eighty thousand dollars during the 933
twelve-month period ending June 30, 1993. For amounts required to 934
be deducted and withheld during 1995 and each year thereafter, an 935
employer described in division (B)(2)(b) of this section is one 936
whose actual or required payments under this section were at least 937
eighty-four thousand dollars during the twelve-month period ending 938
on the thirtieth day of June of the preceding calendar year. 939

(3) Except as required by divisions (B)(1) and (2) of this 940
section, if an employer's actual or required payments were more 941
than two thousand dollars during the twelve-month period ending on 942
the thirtieth day of June of the preceding calendar year, the 943
employer shall make the payment of undeposited taxes for each 944
month during which they were required to be withheld no later than 945
fifteen days following the last day of that month. The employer 946
shall file the return prescribed by the tax commissioner with the 947
payment. 948

(4) Except as required by divisions (B)(1), (2), and (3) of 949
this section, an employer shall make the payment of undeposited 950

taxes for each calendar quarter during which they were required to 951
be withheld no later than the last day of the month following the 952
last day of March, June, September, and December each year. The 953
employer shall file the return prescribed by the tax commissioner 954
with the payment. 955

(C) The return and payment schedules prescribed by divisions 956
(B)(1) and (2) of this section do not apply to the return and 957
payment of undeposited school district income taxes arising from 958
taxes levied pursuant to Chapter 5748. of the Revised Code. 959
Undeposited school district income taxes shall be returned and 960
paid pursuant to divisions (B)(3) and (4) of this section, as 961
applicable. 962

(D)(1) The requirements of division (B) of this section are 963
met if the amount paid is not less than ninety-five per cent of 964
the actual tax withheld or required to be withheld for the prior 965
quarterly, monthly, or partial weekly withholding period, and the 966
underpayment is not due to willful neglect. Any underpayment of 967
withheld tax shall be paid within thirty days of the date on which 968
the withheld tax was due without regard to division (D)(1) of this 969
section. An employer described in division (B)(1) or (2) of this 970
section shall make the payment by electronic funds transfer under 971
section 5747.072 of the Revised Code. 972

(2) If the tax commissioner believes that quarterly or 973
monthly payments would result in a delay that might jeopardize the 974
remittance of withholding payments, the commissioner may order 975
that the payments be made weekly, or more frequently if necessary, 976
and the payments shall be made no later than three banking days 977
following the close of the period for which the jeopardy order is 978
made. An order requiring weekly or more frequent payments shall be 979
delivered to the employer personally or by certified mail and 980
remains in effect until the commissioner notifies the employer to 981
the contrary. 982

(3) If compelling circumstances exist concerning the 983
remittance of undeposited taxes, the commissioner may order the 984
employer to make payments under any of the payment schedules under 985
division (B) of this section. The order shall be delivered to the 986
employer personally or by certified mail and shall remain in 987
effect until the commissioner notifies the employer to the 988
contrary. For purposes of division (D)(3) of this section, 989
"compelling circumstances" exist if either or both of the 990
following are true: 991

(a) Based upon annualization of payments made or required to 992
be made during the preceding calendar year and during the current 993
calendar year, the employer would be required for the next 994
calendar year to make payments under division (B)(2) of this 995
section. 996

(b) Based upon annualization of payments made or required to 997
be made during the current calendar year, the employer would be 998
required for the next calendar year to make payments under 999
division (B)(2) of this section. 1000

(E)(1) An employer described in division (B)(1) or (2) of 1001
this section shall file, not later than the last day of the month 1002
following the end of each calendar quarter, a return covering, but 1003
not limited to, both the actual amount deducted and withheld and 1004
the amount required to be deducted and withheld for the tax 1005
imposed under section 5747.02 of the Revised Code during each 1006
partial weekly withholding period or portion of a partial weekly 1007
withholding period during that quarter. The employer shall file 1008
the quarterly return even if the aggregate amount required to be 1009
deducted and withheld for the quarter is zero dollars. At the time 1010
of filing the return, the employer shall pay any amounts of 1011
undeposited taxes for the quarter, whether actually deducted and 1012
withheld or required to be deducted and withheld, that have not 1013
been previously paid. If required under division (I) of this 1014

section, the payment shall be made by electronic funds transfer. 1015
The tax commissioner shall prescribe the form and other 1016
requirements of the quarterly return. 1017

(2) In addition to other returns required to be filed and 1018
payments required to be made under this section, every employer 1019
required to deduct and withhold taxes shall file, not later than 1020
the thirty-first day of January of each year, an annual return 1021
covering, but not limited to, both the aggregate amount deducted 1022
and withheld and the aggregate amount required to be deducted and 1023
withheld during the entire preceding year for the tax imposed 1024
under section 5747.02 of the Revised Code and for each tax imposed 1025
under Chapter 5748. of the Revised Code. At the time of filing 1026
that return, the employer shall pay over any amounts of 1027
undeposited taxes for the preceding year, whether actually 1028
deducted and withheld or required to be deducted and withheld, 1029
that have not been previously paid. The employer shall make the 1030
annual report, to each employee and to the tax commissioner, of 1031
the compensation paid and each tax withheld, as the commissioner 1032
by rule may prescribe. 1033

Each employer required to deduct and withhold any tax is 1034
liable for the payment of that amount required to be deducted and 1035
withheld, whether or not the tax has in fact been withheld, unless 1036
the failure to withhold was based upon the employer's good faith 1037
in reliance upon the statement of the employee as to liability, 1038
and the amount shall be deemed to be a special fund in trust for 1039
the general revenue fund. 1040

(F) Each employer shall file with the employer's annual 1041
return the following items of information on employees for whom 1042
withholding is required under section 5747.06 of the Revised Code: 1043

(1) The full name of each employee, the employee's address, 1044
the employee's school district of residence, and in the case of a 1045
nonresident employee, the employee's principal county of 1046

employment; 1047

(2) The social security number of each employee; 1048

(3) The total amount of compensation paid before any 1049
deductions to each employee for the period for which the annual 1050
return is made; 1051

(4) The amount of the tax imposed by section 5747.02 of the 1052
Revised Code and the amount of each tax imposed under Chapter 1053
5748. of the Revised Code withheld from the compensation of the 1054
employee for the period for which the annual return is made. The 1055
commissioner may extend upon good cause the period for filing any 1056
notice or return required to be filed under this section and may 1057
adopt rules relating to extensions of time. If the extension 1058
results in an extension of time for the payment of the amounts 1059
withheld with respect to which the return is filed, the employer 1060
shall pay, at the time the amount withheld is paid, an amount of 1061
interest computed at the rate per annum prescribed by section 1062
5703.47 of the Revised Code on that amount withheld, from the day 1063
that amount was originally required to be paid to the day of 1064
actual payment or to the day an assessment is issued under section 1065
5747.13 of the Revised Code, whichever occurs first. 1066

(5) In addition to all other interest charges and penalties 1067
imposed, all amounts of taxes withheld or required to be withheld 1068
and remaining unpaid after the day the amounts are required to be 1069
paid shall bear interest from the date prescribed for payment at 1070
the rate per annum prescribed by section 5703.47 of the Revised 1071
Code on the amount unpaid, in addition to the amount withheld, 1072
until paid or until the day an assessment is issued under section 1073
5747.13 of the Revised Code, whichever occurs first. 1074

(G) An employee of a corporation, limited liability company, 1075
or business trust having control or supervision of or charged with 1076
the responsibility of filing the report and making payment, or an 1077

officer, member, manager, or trustee of a corporation, limited 1078
liability company, or business trust who is responsible for the 1079
execution of the corporation's, limited liability company's, or 1080
business trust's fiscal responsibilities, shall be personally 1081
liable for failure to file the report or pay the tax due as 1082
required by this section. The dissolution, termination, or 1083
bankruptcy of a corporation, limited liability company, or 1084
business trust does not discharge a responsible officer's, 1085
member's, manager's, employee's, or trustee's liability for a 1086
failure of the corporation, limited liability company, or business 1087
trust to file returns or pay tax due. 1088

(H) If an employer required to deduct and withhold income tax 1089
from compensation and to pay that tax to the state under sections 1090
5747.06 and 5747.07 of the Revised Code sells the employer's 1091
business or stock of merchandise or quits the employer's business, 1092
the taxes required to be deducted and withheld and paid to the 1093
state pursuant to those sections prior to that time, together with 1094
any interest and penalties imposed on those taxes, become due and 1095
payable immediately, and that person shall make a final return 1096
within fifteen days after the date of selling or quitting 1097
business. The employer's successor shall withhold a sufficient 1098
amount of the purchase money to cover the amount of the taxes, 1099
interest, and penalties due and unpaid, until the former owner 1100
produces a receipt from the tax commissioner showing that the 1101
taxes, interest, and penalties have been paid or a certificate 1102
indicating that no such taxes are due. If the purchaser of the 1103
business or stock of merchandise fails to withhold purchase money, 1104
the purchaser shall be personally liable for the payment of the 1105
taxes, interest, and penalties accrued and unpaid during the 1106
operation of the business by the former owner. If the amount of 1107
taxes, interest, and penalties outstanding at the time of the 1108
purchase exceeds the total purchase money, the tax commissioner in 1109
the commissioner's discretion may adjust the liability of the 1110

seller or the responsibility of the purchaser to pay that 1111
liability to maximize the collection of withholding tax revenue. 1112

(I)(1) An employer described in division (I)(2) of this 1113
section shall make all payments required by this section for the 1114
year by electronic funds transfer under section 5747.072 of the 1115
Revised Code. 1116

(2)(a) For 1994, an employer described in division (I)(2) of 1117
this section is one whose actual or required payments under this 1118
section exceeded five hundred thousand dollars during the 1119
twelve-month period ending June 30, 1993. 1120

(b) For 1995, an employer described in division (I)(2) of 1121
this section is one whose actual or required payments under this 1122
section exceeded five hundred thousand dollars during the 1123
twelve-month period ending June 30, 1994. 1124

(c) For 1996, an employer described in division (I)(2) of 1125
this section is one whose actual or required payments under this 1126
section exceeded three hundred thousand dollars during the 1127
twelve-month period ending June 30, 1995. 1128

(d) For 1997 through 2000, an employer described in division 1129
(I)(2) of this section is one whose actual or required payments 1130
under this section exceeded one hundred eighty thousand dollars 1131
during the twelve-month period ending on the thirtieth day of June 1132
of the preceding calendar year. 1133

(e) For 2001 and thereafter, an employer described in 1134
division (I)(2) of this section is one whose actual or required 1135
payments under this section exceeded eighty-four thousand dollars 1136
during the twelve-month period ending on the thirtieth day of June 1137
of the preceding calendar year. 1138

(J)(1) Every professional employer organization and every 1139
professional employer organization reporting entity shall file a 1140
report with the tax commissioner within thirty days after 1141

commencing business in this state or within thirty days after the 1142
effective date of this amendment, whichever is later, that 1143
includes all of the following information: 1144

(a) The name, address, number the employer receives from the 1145
secretary of state to do business in this state, if applicable, 1146
and federal employer identification number of each client employer 1147
of the professional employer organization or professional employer 1148
organization reporting entity; 1149

(b) The date that each client employer became a client of the 1150
professional employer organization or professional employer 1151
organization reporting entity; 1152

(c) The names and mailing addresses of the chief executive 1153
officer and the chief financial officer of each client employer 1154
for taxation of the client employer. 1155

(2) Beginning with the calendar quarter ending after a 1156
professional employer organization or professional employer 1157
organization reporting entity files the report required under 1158
division (J)(1) of this section, and every calendar quarter 1159
thereafter, the professional employer organization or the 1160
professional employer organization reporting entity shall file an 1161
updated report with the tax commissioner. The professional 1162
employer organization or professional employer organization 1163
reporting entity shall file the updated report not later than the 1164
last day of the month following the end of the calendar quarter 1165
and shall include all of the following information in the report: 1166

(a) If an entity became a client employer of the professional 1167
employer organization or professional employer organization 1168
reporting entity at any time during the calendar quarter, all of 1169
the information required under division (J)(1) of this section for 1170
each new client employer; 1171

(b) If an entity terminated the professional employer 1172

organization agreement between the professional employer 1173
organization or professional employer organization reporting 1174
entity and the entity at any time during the calendar quarter, the 1175
information described in division (J)(1)(a) of this section for 1176
that entity, the date during the calendar quarter that the entity 1177
ceased being a client of the professional employer organization or 1178
professional employer organization reporting entity, if 1179
applicable, or the date the entity ceased business operations in 1180
this state, if applicable; 1181

(c) If the name or mailing address of the chief executive 1182
officer or the chief financial officer of a client employer has 1183
changed since the professional employer organization or 1184
professional employer organization reporting entity previously 1185
submitted a report under division (J)(1) or (2) of this section, 1186
the updated name or mailing address, or both, of the chief 1187
executive officer or the chief financial officer, as applicable; 1188

(d) If none of the events described in divisions (J)(2)(a) to 1189
(c) of this section occurred during the calendar quarter, a 1190
statement of that fact. 1191

Section 2. That existing sections 4123.291, 4125.01, 4125.02, 1192
4125.03, 4125.05, 4125.07, 4125.08, 4141.24, and 5747.07 of the 1193
Revised Code are hereby repealed. 1194

Section 3. Section 4125.05 of the Revised Code as amended by 1195
this act and section 4125.051 of the Revised Code as enacted by 1196
this act take effect January 1, 2012. 1197