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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 division (B) of section 4125.03 of 102
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 based solely on the employees of the 272
professional employer organization who are not shared employees 273
with any client employer. The eligibility of a client employer for 274
the allowance or exemption shall be based solely upon the payroll 275
of the employees of the client employer, including any shared 276
employees coemployed by the client employer. 277

Sec. 4125.05. (A) Not later than thirty days after November 278
5, 2004, or not later than thirty days after the formation of a 279
professional employer organization, whichever date occurs later, a 280
professional employer organization operating in this state shall 281
register with the administrator of ~~the bureau of~~ workers' 282
compensation on forms provided by the administrator. Following 283
initial registration, each professional employer organization 284
shall register with the administrator annually on or before the 285
thirty-first day of December. Commonly owned or controlled 286
applicants may register as a professional employer organization 287
reporting entity or register individually. Registration as a part 288
of a professional employer organization reporting entity shall not 289
disqualify an individual professional employer organization from 290
participating in a group-rated plan under division (A)(4) of 291
section 4123.29 of the Revised Code. 292

(B) Initial registration and each annual registration renewal	293
shall include all of the following:	294
(1) A list of each of the professional employer	295
organization's client employers current as of the date of	296
registration for purposes of initial registration or current as of	297
the date of annual registration renewal, or within fourteen days	298
of adding or releasing a client, that includes the client	299
employer's name, address, federal tax identification number, and	300
bureau of workers' compensation risk number;	301
(2) A fee as determined by the administrator;	302
(3) The name or names under which the professional employer	303
organization conducts business;	304
(4) The address of the professional employer organization's	305
principal place of business and the address of each office it	306
maintains in this state;	307
(5) The professional employer organization's taxpayer or	308
employer identification number;	309
(6) A list of each state in which the professional employer	310
organization has operated in the preceding five years, and the	311
name, corresponding with each state, under which the professional	312
employer organization operated in each state, including any	313
alternative names, names of predecessors, and if known, successor	314
business entities;	315
<u>(7) The most recent financial statement prepared and audited</u>	316
<u>pursuant to division (B) of section 4125.051 of the Revised Code;</u>	317
<u>(8) If there is any deficit in the working capital required</u>	318
<u>under division (A) of section 4125.051 of the Revised Code, a</u>	319
<u>bond, irrevocable letter of credit, or securities with a minimum</u>	320
<u>market value in an amount sufficient to cover the deficit in</u>	321
<u>accordance with the requirements of that section;</u>	322

(9) An attestation of the accuracy of the data submissions 323
from the chief executive officer of the professional employer 324
organization. 325

(C) Upon terms and for periods that the administrator 326
considers appropriate, the administrator may issue a limited 327
registration to a professional employer organization or 328
professional employer organization reporting entity that provides 329
all of the following items: 330

(1) A properly executed request for limited registration on a 331
form provided by the administrator; 332

(2) All information and materials required for registration 333
in divisions (B)(1) to (6) of this section; 334

(3) Information and documentation necessary to show that the 335
professional employer organization or professional employer 336
organization reporting entity satisfies all of the following 337
criteria: 338

(a) It is domiciled outside of this state. 339

(b) It is licensed or registered as a professional employer 340
organization in another state. 341

(c) It does not maintain an office in this state. 342

(d) It does not participate in direct solicitations for 343
client employers located or domiciled in this state. 344

(e) It has fifty or fewer shared employees employed or 345
domiciled in this state on any given day. 346

(D)(1) The administrator, with the advice and consent of the 347
bureau of workers' compensation board of directors, shall adopt 348
rules in accordance with Chapter 119. of the Revised Code to 349
require, in addition to the requirement under division (B)(8) of 350
this section and except as otherwise specified in division 351
~~(C)~~(D)(2) of this section, a professional employer organization to 352

provide security in the form of a bond or letter of credit 353
assignable to the Ohio bureau of workers' compensation not to 354
exceed an amount equal to the premiums and assessments incurred 355
for the two most recent payroll periods, prior to any discounts or 356
dividends, to meet the financial obligations of the professional 357
employer organization pursuant to this chapter and Chapters 4121. 358
and 4123. of the Revised Code. 359

(2) As an alternative to providing security in the form of a 360
bond or letter of credit under division (D)(1) of this section, 361
the administrator shall permit a professional employer 362
organization to make periodic payments of prospective premiums and 363
assessments to the bureau ~~or to submit proof of being certified by~~ 364
~~either a nationally recognized organization that certifies~~ 365
~~professional employer organizations or by a government entity~~ 366
~~approved by the administrator.~~ 367

(3) A professional employer organization may appeal the 368
amount of the security required pursuant to rules adopted under 369
division ~~(C)~~(D)(1) of this section in accordance with section 370
4123.291 of the Revised Code. 371

~~(D)~~(E) Notwithstanding division ~~(C)~~(D) of this section, a 372
professional employer organization that qualifies for 373
self-insurance or retrospective rating under section 4123.29 or 374
4123.35 of the Revised Code shall abide by the financial 375
disclosure and security requirements pursuant to those sections 376
and the rules adopted under those sections in place of the 377
requirements specified in division ~~(C)~~(D) of this section or 378
specified in rules adopted pursuant to that division. 379

~~(E)~~(F) Except to the extent necessary for the administrator 380
to administer the statutory duties of the administrator and for 381
employees of the state to perform their official duties, all 382
records, reports, client lists, and other information obtained 383
from a professional employer organization and professional 384

employer organization reporting entity under divisions (A), (B), 385
and ~~(B)~~(C) of this section are confidential and shall be 386
considered trade secrets and shall not be published or open to 387
public inspection. 388

~~(F)~~(G) The list described in division (B)(1) of this section 389
shall be considered a trade secret. 390

~~(G)~~(H) The administrator shall establish the fee described in 391
division (B)(2) of this section in an amount that does not exceed 392
the cost of the administration of the initial and renewal 393
registration process. 394

(I) A financial statement required under division (B)(7) of 395
this section for initial registration shall be the most recent 396
financial statement of the professional employer organization or 397
professional employer organization reporting entity of which the 398
professional employer organization is a member and shall not be 399
older than thirteen months. For each registration renewal, the 400
professional employer organization shall file the required 401
financial statement within one hundred eighty days after the end 402
of the professional employer organization's or professional 403
employer organization reporting entity's fiscal year. A 404
professional employer organization may apply to the administrator 405
for an extension beyond that time if the professional employer 406
organization provides the administrator with a letter from the 407
professional employer organization's auditor stating the reason 408
for delay and the anticipated completion date. 409

(J) Multiple, unrelated professional employer organizations 410
shall not combine together for purposes of obtaining workers' 411
compensation coverage or for forming any type of self-insurance 412
arrangement available under this chapter. Multiple, unrelated 413
professional employer organization reporting entities shall not 414
combine together for purposes of obtaining workers' compensation 415
coverage or for forming any type of self-insurance arrangement 416

available under this chapter. 417

(K) The administrator shall maintain a list of professional 418
employer organizations and professional employer organization 419
reporting entities registered under this section that is readily 420
available to the public by electronic or other means. 421

Sec. 4125.051. (A) A professional employer organization, or a 422
professional employer organization reporting entity of which the 423
professional employer organization is a member, shall maintain 424
positive working capital at initial or annual registration, as 425
reflected in the financial statements submitted to the bureau. If 426
a deficit in working capital is reflected in the financial 427
statements submitted to the bureau, the professional employer 428
organization or the professional employer organization reporting 429
entity shall do both of the following for that registration 430
period: 431

(1) Obtain a bond, irrevocable letter of credit, or 432
securities with a minimum market value in an amount sufficient to 433
cover the deficit in working capital; 434

(2) Submit to the administrator of workers' compensation a 435
quarterly financial statement for each calendar quarter during 436
which there is a deficit in working capital, accompanied by an 437
attestation of the chief executive officer of the professional 438
employer organization that all wages, taxes, workers' compensation 439
premiums, and employee benefits have been paid by the professional 440
employer organization or members of the professional employer 441
organization reporting entity. 442

The bond, letter of credit, or securities required under 443
division (A)(1) of this section shall be held by a depository 444
designated by the administrator and shall secure payment by the 445
professional employer organization or professional employer 446
organization reporting entity of all taxes, wages, benefits, or 447

other entitlements due or otherwise pertaining to shared 448
employees, if the professional employer organization or 449
professional employer organization reporting entity does not make 450
those payments when due. 451

(B) A professional employer organization, or a professional 452
employer organization reporting entity of which the professional 453
employer organization is a member, shall prepare financial 454
statements in accordance with generally accepted accounting 455
principles and submit them for registration and registration 456
renewal under section 4125.05 of the Revised Code. 457

The financial statements shall be audited by an independent 458
certified public accountant authorized to practice in the 459
jurisdiction in which that accountant is located. 460

(1) The resulting report of the auditor shall not include 461
either of the following: 462

(a) A qualification or disclaimer of opinion as to adherence 463
to generally accepted accounting principles; 464

(b) A statement expressing substantial doubt about the 465
ability of the professional employer organization or professional 466
employer organization reporting entity to continue as a going 467
concern. 468

(2) However, if a professional employer organization does not 469
have at least twelve months of operating history on which to base 470
financial statements, the financial statements shall be reviewed 471
by a certified public accountant. 472

(3) Notwithstanding division (B)(1)(a) of this section, if a 473
professional employer organization or professional employer 474
organization reporting entity is a subsidiary or is related to a 475
variable interest entity, the professional employer organization 476
or professional employer organization entity may submit financial 477
statements of the professional employer organization or 478

professional employer organization reporting entity. 479

(C) The bureau shall deny initial or annual registration to 480
an applicant or professional employer organization reporting 481
entity that does not meet the requirements of this section. 482

(D) Professional employer organizations in a professional 483
employer organization reporting entity may satisfy the 484
requirements of this section on a combined or consolidated basis 485
provided that each member of the professional employer 486
organization reporting entity guarantees each other members' 487
satisfaction of the requirements under division (A) of this 488
section. 489

For purposes of satisfying the registration and registration 490
renewal requirements described in division (B)(7) of section 491
4125.05 of the Revised Code, a professional employer organization 492
reporting entity may submit a combined or consolidated financial 493
statement that satisfies the requirements of this section. If the 494
combined or consolidated financial statement includes entities 495
that are not professional employer organizations or that are not 496
in the professional employer organization reporting entity, the 497
controlling entity of the professional employer organization 498
reporting entity that is submitting the consolidated or combined 499
financial statement shall guarantee that the professional employer 500
organizations of the professional employer organization reporting 501
entity have satisfied the requirements under division (A) of this 502
section and shall include supplemental combining schedules to 503
guarantee that the requirements under division (A) of this section 504
are satisfied by the professional employer organization or 505
professional employer organization reporting entity. 506

Sec. 4125.07. Not later than fourteen calendar days after the 507
date on which a professional employer organization agreement is 508
terminated, the professional employer organization is adjudged 509

bankrupt, the professional employer organization ceases operations 510
within the state of Ohio, or the registration of the professional 511
employer organization is revoked, the professional employer 512
organization shall submit to the administrator ~~of the bureau~~ of 513
workers' compensation and each client employer associated with 514
that professional employer organization a completed workers' 515
compensation lease termination notice form provided by the 516
administrator. The completed form shall include all client payroll 517
and claim information listed in a format specified by the 518
administrator and notice of all workers' compensation claims that 519
have been reported to the professional employer organization in 520
accordance with its internal reporting policies. 521

A professional employer organization shall report any 522
transfer of employees between related professional employer 523
organization entities or professional employer organization 524
reporting entities to the administrator within fourteen calendar 525
days after the date of the transfer on a form prescribed by the 526
administrator. The professional employer organization or 527
professional employer organization reporting entity shall include 528
in the form all client payroll and claim information regarding the 529
transferred employees listed in a format specified by the 530
administrator and a notice of all workers' compensation claims 531
that have been reported to the professional employer organization 532
or professional employer organization reporting entity in 533
accordance with the internal reporting policies of the 534
professional employer organization or professional employer 535
organization reporting entity. 536

Sec. 4125.08. Nothing in this chapter exempts a professional 537
employer organization, client employer, or shared employee from 538
any applicable federal, state, or local licensing, registration, 539
or certification statutes or regulations. An individual required 540

to obtain and maintain a license, registration, or certification 541
under law and who is a shared employee of a professional employer 542
organization and a client employer is an employee of the client 543
employer for purposes of obtaining and maintaining the appropriate 544
license, registration, or certification as required by law. A 545
professional employer organization does not engage in any 546
occupation, trade, or profession that requires a license, 547
certification, or registration solely by entering into a 548
professional employer agreement with a client employer or 549
coemploying a shared employee. 550

A client employer shall have the sole right of direction and 551
control of the professional or licensed activities of shared 552
employees and of the client employer's business. The shared 553
employees and client employers shall remain subject to regulation 554
by the board, commission, or agency responsible for licensing, 555
registration, or certification of the shared employees or client 556
employers. 557

Sec. 4125.10. Nothing contained in this chapter or in any 558
professional employer organization agreement shall do any of the 559
following: 560

(A) Diminish, abolish, or remove the rights and obligations 561
of client employers and shared employees existing prior to the 562
effective date of the professional employer organization 563
agreement; 564

(B) Affect, modify, or amend any contractual relationship or 565
restrictive covenant between a shared employee and any client 566
employer in effect at the time a professional employer 567
organization agreement becomes effective; 568

(C) Prohibit or amend any contractual relationship or 569
restrictive covenant between a client employer and a shared 570
employee that is entered into after the professional employer 571

organization agreement becomes effective; 572

(D) Create any new or additional enforcement right of a 573
shared employee against a professional employer organization that 574
is not specifically provided by the professional employer 575
organization agreement or this chapter. 576

A professional employer organization shall have no 577
responsibility or liability in connection with, or arising out of, 578
any contractual relationship or restrictive covenant between a 579
client employer and a shared employee unless the professional 580
employer organization has specifically agreed otherwise in 581
writing. 582

Sec. 4125.11. For purposes of a bid, contract, purchase 583
order, or agreement entered into with the state or any political 584
subdivision, a client employer's status or certification as a 585
small, minority-owned, disadvantaged, or woman-owned business 586
enterprise or as a historically underutilized business shall not 587
be affected as a result of the client employer entering into a 588
professional employer organization agreement or using the services 589
of a professional employer organization. 590

Sec. 4141.24. (A)(1) The director of job and family services 591
shall maintain a separate account for each employer and, except as 592
otherwise provided in division (B) of section 4141.25 of the 593
Revised Code respecting mutualized contributions, shall credit 594
such employer's account with all the contributions, or payments in 595
lieu of contributions, which the employer has paid on the 596
employer's own behalf. 597

(2) If, as of the computation date, a contributory employer's 598
account shows a negative balance computed as provided in division 599
(A)(3) of section 4141.25 of the Revised Code, less any 600
contributions due and unpaid on such date, which negative balance 601

is in excess of the limitations imposed by divisions (A)(2)(a), 602
(b), and (c) of this section and if the employer's account is 603
otherwise eligible for the transfer, then before the employer's 604
contribution rate is computed for the next succeeding contribution 605
period, an amount equal to the amount of the excess eligible for 606
transfer shall be permanently transferred from the account of such 607
employer and charged to the mutualized account provided in 608
division (B) of section 4141.25 of the Revised Code. 609

(a) If as of any computation date, a contributory employer's 610
account shows a negative balance in excess of ten per cent of the 611
employer's average annual payroll, then before the employer's 612
contribution rate is computed for the next succeeding contribution 613
period, an amount equal to the amount of the excess shall be 614
transferred from the account as provided in this division. No 615
contributory employer's account may have any excess transferred 616
pursuant to division (A)(2)(a) of this section, unless the 617
employer's account has shown a positive balance for at least two 618
consecutive computation dates prior to the computation date with 619
respect to which the transfer is proposed. Each time a transfer is 620
made pursuant to division (A)(2)(a) of this section, the 621
employer's account is ineligible for any additional transfers 622
under that division, until the account shows a positive balance 623
for at least two consecutive computation dates subsequent to the 624
computation date of which the most recent transfer occurs pursuant 625
to division (A)(2)(a), (b), or (c) of this section. 626

(b) If at the next computation date after the computation 627
date at which a transfer from the account occurs pursuant to 628
division (A)(2)(a) of this section, a contributory employer's 629
account shows a negative balance in excess of fifteen per cent of 630
the employer's average annual payroll, then before the employer's 631
contribution rate is computed for the next succeeding contribution 632
period an amount equal to the amount of the excess shall be 633

permanently transferred from the account as provided in this 634
division. 635

(c) If at the next computation date subsequent to the 636
computation date at which a transfer from a contributory 637
employer's account occurs pursuant to division (A)(2)(b) of this 638
section, the employer's account shows a negative balance in excess 639
of twenty per cent of the employer's average annual payroll, then 640
before the employer's contribution rate is computed for the next 641
succeeding contribution period, an amount equal to the amount of 642
the excess shall be permanently transferred from the account as 643
provided in this division. 644

(d) If no transfer occurs pursuant to division (A)(2)(b) or 645
(c) of this section, the employer's account is ineligible for any 646
additional transfers under division (A)(2) of this section until 647
the account requalifies for a transfer pursuant to division 648
(A)(2)(a) of this section. 649

(B) Any employer may make voluntary payments in addition to 650
the contributions required under this chapter, in accordance with 651
rules established by the director. Such payments shall be included 652
in the employer's account as of the computation date, provided 653
they are received by the director by the thirty-first day of 654
December following such computation date. Such voluntary payment, 655
when accepted from an employer, will not be refunded in whole or 656
in part. In determining whether an employer's account has a 657
positive balance on two consecutive computation dates and is 658
eligible for transfers under division (A)(2) of this section, the 659
director shall exclude any voluntary payments made subsequent to 660
the last transfer made under division (A)(2) of this section. 661

(C) All contributions to the fund shall be pooled and 662
available to pay benefits to any individual entitled to benefits 663
irrespective of the source of such contributions. 664

(D)(1) For the purposes of this section and sections 4141.241 665
and 4141.242 of the Revised Code, an employer's account shall be 666
charged only for benefits based on remuneration paid by such 667
employer. Benefits paid to an eligible individual shall be charged 668
against the account of each employer within the claimant's base 669
period in the proportion to which wages attributable to each 670
employer of the claimant bears to the claimant's total base period 671
wages. Charges to the account of a base period employer with whom 672
the claimant is employed part-time at the time the claimant's 673
application for a determination of benefits rights is filed shall 674
be charged to the mutualized account when all of the following 675
conditions are met: 676

(a) The claimant also worked part-time for the employer 677
during the base period of the claim. 678

(b) The claimant is unemployed due to loss of other 679
employment. 680

(c) The employer is not a reimbursing employer under section 681
4141.241 or 4141.242 of the Revised Code. 682

(2) Notwithstanding division (D)(1) of this section, charges 683
to the account of any employer, including any reimbursing 684
employer, shall be charged to the mutualized account if it finally 685
is determined by a court on appeal that the employer's account is 686
not chargeable for the benefits. 687

(3) Any benefits paid to a claimant under section 4141.28 of 688
the Revised Code prior to a final determination of the claimant's 689
right to the benefits shall be charged to the employer's account 690
as provided in division (D)(1) of this section, provided that if 691
there is no final determination of the claim by the subsequent 692
thirtieth day of June, the employer's account shall be credited 693
with the total amount of benefits that has been paid prior to that 694
date, based on the determination that has not become final. The 695

total amount credited to the employer's account shall be charged 696
to a suspense account, which shall be maintained as a separate 697
bookkeeping account and administered as a part of this section, 698
and shall not be used in determining the account balance of the 699
employer for the purpose of computing the employer's contribution 700
rate under section 4141.25 of the Revised Code. 701

If it is finally determined that the claimant is entitled to 702
all or a part of the benefits in dispute, the suspense account 703
shall be credited and the appropriate employer's account charged 704
with the benefits. If it is finally determined that the claimant 705
is not entitled to all or any portion of the benefits in dispute, 706
the benefits shall be credited to the suspense account and a 707
corresponding charge made to the mutualized account established in 708
division (B) of section 4141.25 of the Revised Code, provided 709
that, except as otherwise provided in this section, if benefits 710
are chargeable to an employer or group of employers who is 711
required or elects to make payments to the fund in lieu of 712
contributions under section 4141.241 of the Revised Code, the 713
benefits shall be charged to the employer's account in the manner 714
provided in division (D)(1) of this section and division (B) of 715
section 4141.241 of the Revised Code, and no part of the benefits 716
may be charged to the suspense account provided in this division. 717

To the extent that benefits that have been paid to a claimant 718
and charged to the employer's account are found not to be due the 719
claimant and are recovered by the director as provided in section 720
4141.35 of the Revised Code, they shall be credited to the 721
employer's account. 722

(4) The director shall notify each employer at least once 723
each month of the benefits charged to the employer's account since 724
the last preceding notice; except that for the purposes of 725
sections 4141.241 and 4141.242 of the Revised Code which provides 726
the billing of employers on a payment in lieu of a contribution 727

basis, the director may prescribe a quarterly or less frequent 728
notice of benefits charged to the employer's account. Such notice 729
will show a summary of the amount of benefits paid which were 730
charged to the employer's account. This notice shall not be deemed 731
a determination of the claimant's eligibility for benefits. Any 732
employer so notified, however, may file within fifteen days after 733
the mailing date of the notice, an exception to charges appearing 734
on the notice on the grounds that such charges are not in 735
accordance with this section. The director shall promptly examine 736
the exception to such charges and shall notify the employer of the 737
director's decision thereon, which decision shall become final 738
unless appealed to the unemployment compensation review commission 739
in the manner provided in section 4141.26 of the Revised Code. For 740
the purposes of this division, an exception is considered timely 741
filed when it has been received as provided in division (D)(1) of 742
section 4141.281 of the Revised Code. 743

(E) The director shall terminate and close the account of any 744
contributory employer who has been subject to this chapter if the 745
enterprise for which the account was established is no longer in 746
operation and it has had no payroll and its account has not been 747
chargeable with benefits for a period of five consecutive years. 748
The amount of any positive balance, computed as provided in 749
division (A)(3) of section 4141.25 of the Revised Code, in an 750
account closed and terminated as provided in this section shall be 751
credited to the mutualized account as provided in division 752
(B)(2)(b) of section 4141.25 of the Revised Code. The amount of 753
any negative balance, computed as provided in division (A)(3) of 754
section 4141.25 of the Revised Code, in an account closed and 755
terminated as provided in this section shall be charged to the 756
mutualized account as provided in division (B)(1)(b) of section 757
4141.25 of the Revised Code. The amount of any positive balance or 758
negative balance, credited or charged to the mutualized account 759
after the termination and closing of an employer's account, shall 760

not thereafter be considered in determining the contribution rate 761
of such employer. The closing of an employer's account as provided 762
in this division shall not relieve such employer from liability 763
for any unpaid contributions or payment in lieu of contributions 764
which are due for periods prior to such closing. 765

If the director finds that a contributory employer's business 766
is closed solely because of the entrance of one or more of the 767
owners, officers, or partners, or the majority stockholder, into 768
the armed forces of the United States, or any of its allies, or of 769
the United Nations after July 1, 1950, such employer's account 770
shall not be terminated and if the business is resumed within two 771
years after the discharge or release of such persons from active 772
duty in the armed forces, the employer's experience shall be 773
deemed to have been continuous throughout such period. The reserve 774
ratio of any such employer shall be the total contributions paid 775
by such employer minus all benefits, including benefits paid to 776
any individual during the period such employer was in the armed 777
forces, based upon wages paid by the employer prior to the 778
employer's entrance into the armed forces divided by the average 779
of the employer's annual payrolls for the three most recent years 780
during the whole of which the employer has been in business. 781

(F) If an employer transfers all of its trade or business to 782
another employer or person, the acquiring employer or person shall 783
be the successor in interest to the transferring employer and 784
shall assume the resources and liabilities of such transferring 785
employer's account, and continue the payment of all contributions, 786
or payments in lieu of contributions, due under this chapter. 787

If an employer or person acquires substantially all, or a 788
clearly segregable and identifiable portion of an employer's trade 789
or business, then upon the director's approval of a properly 790
completed application for successorship, the employer or person 791
acquiring the trade or business, or portion thereof, shall be the 792

successor in interest. The director by rule may prescribe 793
procedures for effecting transfers of experience as provided for 794
in this section. 795

(G) Notwithstanding sections 4141.09, 4141.23, 4141.24, 796
4141.241, 4141.242, 4141.25, 4141.26, and 4141.27 of the Revised 797
Code, both of the following apply regarding assignment of rates 798
and transfers of experience: 799

(1) If an employer transfers its trade or business, or a 800
portion thereof, to another employer and, at the time of the 801
transfer, both employers are under substantially common ownership, 802
management, or control, then the unemployment experience 803
attributable to the transferred trade or business, or portion 804
thereof, shall be transferred to the employer to whom the business 805
is so transferred. The director shall recalculate the rates of 806
both employers and those rates shall be effective immediately upon 807
the date of the transfer of the trade or business. 808

(2) Whenever a person is not an employer under this chapter 809
at the time the person acquires the trade or business of an 810
employer, the unemployment experience of the acquired trade or 811
business shall not be transferred to the person if the director 812
finds that the person acquired the trade or business solely or 813
primarily for the purpose of obtaining a lower rate of 814
contributions. Instead, that person shall be assigned the 815
applicable new employer rate under division (A)(1) of section 816
4141.25 of the Revised Code. 817

(H) The director shall establish procedures to identify the 818
transfer or acquisition of a trade or business for purposes of 819
this section and shall adopt rules prescribing procedures for 820
effecting transfers of experience as described in this section. 821

(I) No rate of contribution less than two and seven-tenths 822
per cent shall be permitted a contributory employer succeeding to 823

the experience of another contributory employer pursuant to this 824
section for any period subsequent to such succession, except in 825
accordance with rules prescribed by the director, which rules 826
shall be consistent with federal requirements for additional 827
credit allowance in section 3303 of the "Internal Revenue Code of 828
1954" and consistent with this chapter, except that such rules may 829
establish a computation date for any such period different from 830
the computation date generally prescribed by this chapter, and may 831
define "calendar year" as meaning a twelve-consecutive-month 832
period ending on the same day of the year as that on which such 833
computation date occurs. 834

(J) The director may prescribe rules for the establishment, 835
maintenance, and dissolution of common contribution rates for two 836
or more contributory employers, and in accordance with such rules 837
and upon application by two or more employers shall establish such 838
common rate to be computed by merging the several contribution 839
rate factors of such employers for the purpose of establishing a 840
common contribution rate applicable to all such employers. 841

(K) The director shall adopt rules applicable to professional 842
employer organizations and professional employer organization 843
reporting entities to address the method in which a professional 844
employer organization or professional employer organization 845
reporting entity reports quarterly wages and contributions to the 846
director for shared employees. 847

(1) The rules shall recognize a professional employer 848
organization or professional employer organization reporting 849
entity as the employer of record of the shared employees of the 850
professional employer organization or professional employer 851
organization reporting entity for reporting purposes; however, the 852
rules shall require that each shared employee of a single client 853
employer be reported under a separate and unique subaccount of the 854
professional employer organization or professional employer 855

organization reporting entity to reflect the experience of the 856
shared employees of that client employer. 857

(2) The director shall use a subaccount solely to determine 858
experience rates for that individual subaccount on an annual basis 859
and shall recognize a professional employer organization or 860
professional employer organization reporting entity as the 861
employer of record associated with each subaccount. The director 862
shall combine the rate experience that existed on a client 863
employer's account prior to entering into a professional employer 864
organization agreement with the experience accumulated as a 865
subaccount of the professional employer organization or 866
professional employer organization reporting entity. The combined 867
experience shall remain with the client account upon termination 868
of the professional employer organization agreement. 869

(3) A professional employer organization or professional 870
employer organization reporting entity shall provide a power of 871
attorney or other evidence, which evidence may be included as part 872
of a professional employer organization agreement, completed by 873
each client employer of the professional employer organization or 874
professional employer organization reporting entity, authorizing 875
the professional employer organization or professional employer 876
organization reporting entity to act on behalf of the client 877
employer in accordance with the requirements of this chapter. 878

(4) Any rule adopted pursuant to division (K) of this section 879
also shall include administrative requirements that permit a 880
professional employer organization or a professional employer 881
organization reporting entity to transmit any reporting and 882
payment data required under division (K)(1) of this section 883
collectively as a single filing with the director. 884

(5) As used in division (K) of this section, "client 885
employer," "professional employer organization," "professional 886
employer organization agreement," "professional employer 887

organization reporting entity," and "shared employee" have the 888
same meanings as in section 4125.01 of the Revised Code. 889

Sec. 5747.07. (A) As used in this section: 890

(1) "Partial weekly withholding period" means a period during 891
which an employer directly, indirectly, or constructively pays 892
compensation to, or credits compensation to the benefit of, an 893
employee, and that consists of a consecutive Saturday, Sunday, 894
Monday, and Tuesday or a consecutive Wednesday, Thursday, and 895
Friday. There are two partial weekly withholding periods each 896
week, except that a partial weekly withholding period cannot 897
extend from one calendar year into the next calendar year; if the 898
first day of January falls on a day other than Saturday or 899
Wednesday, the partial weekly withholding period ends on the 900
thirty-first day of December and there are three partial weekly 901
withholding periods during that week. 902

(2) "Undeposited taxes" means the taxes an employer is 903
required to deduct and withhold from an employee's compensation 904
pursuant to section 5747.06 of the Revised Code that have not been 905
remitted to the tax commissioner pursuant to this section or to 906
the treasurer of state pursuant to section 5747.072 of the Revised 907
Code. 908

(3) A "week" begins on Saturday and concludes at the end of 909
the following Friday. 910

(4) "Client employer," "professional employer organization," 911
"professional employer organization agreement," and "professional 912
employer organization reporting entity" have the same meanings as 913
in section 4125.01 of the Revised Code. 914

(B) Except as provided in divisions (C) and (D) of this 915
section and in division (A) of section 5747.072 of the Revised 916
Code, every employer required to deduct and withhold any amount 917

under section 5747.06 of the Revised Code shall file a return and 918
shall pay the amount required by law as follows: 919

(1) An employer who accumulates or is required to accumulate 920
undeposited taxes of one hundred thousand dollars or more during a 921
partial weekly withholding period shall make the payment of the 922
undeposited taxes by the close of the first banking day after the 923
day on which the accumulation reaches one hundred thousand 924
dollars. If required under division (I) of this section, the 925
payment shall be made by electronic funds transfer under section 926
5747.072 of the Revised Code. 927

(2)(a) Except as required by division (B)(1) of this section, 928
an employer described in division (B)(2)(b) of this section shall 929
make the payment of undeposited taxes within three banking days 930
after the close of a partial weekly withholding period during 931
which the employer was required to deduct and withhold any amount 932
under this chapter. If required under division (I) of this 933
section, the payment shall be made by electronic funds transfer 934
under section 5747.072 of the Revised Code. 935

(b) For amounts required to be deducted and withheld during 936
1994, an employer described in division (B)(2)(b) of this section 937
is one whose actual or required payments under this section 938
exceeded one hundred eighty thousand dollars during the 939
twelve-month period ending June 30, 1993. For amounts required to 940
be deducted and withheld during 1995 and each year thereafter, an 941
employer described in division (B)(2)(b) of this section is one 942
whose actual or required payments under this section were at least 943
eighty-four thousand dollars during the twelve-month period ending 944
on the thirtieth day of June of the preceding calendar year. 945

(3) Except as required by divisions (B)(1) and (2) of this 946
section, if an employer's actual or required payments were more 947
than two thousand dollars during the twelve-month period ending on 948
the thirtieth day of June of the preceding calendar year, the 949

employer shall make the payment of undeposited taxes for each 950
month during which they were required to be withheld no later than 951
fifteen days following the last day of that month. The employer 952
shall file the return prescribed by the tax commissioner with the 953
payment. 954

(4) Except as required by divisions (B)(1), (2), and (3) of 955
this section, an employer shall make the payment of undeposited 956
taxes for each calendar quarter during which they were required to 957
be withheld no later than the last day of the month following the 958
last day of March, June, September, and December each year. The 959
employer shall file the return prescribed by the tax commissioner 960
with the payment. 961

(C) The return and payment schedules prescribed by divisions 962
(B)(1) and (2) of this section do not apply to the return and 963
payment of undeposited school district income taxes arising from 964
taxes levied pursuant to Chapter 5748. of the Revised Code. 965
Undeposited school district income taxes shall be returned and 966
paid pursuant to divisions (B)(3) and (4) of this section, as 967
applicable. 968

(D)(1) The requirements of division (B) of this section are 969
met if the amount paid is not less than ninety-five per cent of 970
the actual tax withheld or required to be withheld for the prior 971
quarterly, monthly, or partial weekly withholding period, and the 972
underpayment is not due to willful neglect. Any underpayment of 973
withheld tax shall be paid within thirty days of the date on which 974
the withheld tax was due without regard to division (D)(1) of this 975
section. An employer described in division (B)(1) or (2) of this 976
section shall make the payment by electronic funds transfer under 977
section 5747.072 of the Revised Code. 978

(2) If the tax commissioner believes that quarterly or 979
monthly payments would result in a delay that might jeopardize the 980
remittance of withholding payments, the commissioner may order 981

that the payments be made weekly, or more frequently if necessary, 982
and the payments shall be made no later than three banking days 983
following the close of the period for which the jeopardy order is 984
made. An order requiring weekly or more frequent payments shall be 985
delivered to the employer personally or by certified mail and 986
remains in effect until the commissioner notifies the employer to 987
the contrary. 988

(3) If compelling circumstances exist concerning the 989
remittance of undeposited taxes, the commissioner may order the 990
employer to make payments under any of the payment schedules under 991
division (B) of this section. The order shall be delivered to the 992
employer personally or by certified mail and shall remain in 993
effect until the commissioner notifies the employer to the 994
contrary. For purposes of division (D)(3) of this section, 995
"compelling circumstances" exist if either or both of the 996
following are true: 997

(a) Based upon annualization of payments made or required to 998
be made during the preceding calendar year and during the current 999
calendar year, the employer would be required for the next 1000
calendar year to make payments under division (B)(2) of this 1001
section. 1002

(b) Based upon annualization of payments made or required to 1003
be made during the current calendar year, the employer would be 1004
required for the next calendar year to make payments under 1005
division (B)(2) of this section. 1006

(E)(1) An employer described in division (B)(1) or (2) of 1007
this section shall file, not later than the last day of the month 1008
following the end of each calendar quarter, a return covering, but 1009
not limited to, both the actual amount deducted and withheld and 1010
the amount required to be deducted and withheld for the tax 1011
imposed under section 5747.02 of the Revised Code during each 1012
partial weekly withholding period or portion of a partial weekly 1013

withholding period during that quarter. The employer shall file 1014
the quarterly return even if the aggregate amount required to be 1015
deducted and withheld for the quarter is zero dollars. At the time 1016
of filing the return, the employer shall pay any amounts of 1017
undeposited taxes for the quarter, whether actually deducted and 1018
withheld or required to be deducted and withheld, that have not 1019
been previously paid. If required under division (I) of this 1020
section, the payment shall be made by electronic funds transfer. 1021
The tax commissioner shall prescribe the form and other 1022
requirements of the quarterly return. 1023

(2) In addition to other returns required to be filed and 1024
payments required to be made under this section, every employer 1025
required to deduct and withhold taxes shall file, not later than 1026
the thirty-first day of January of each year, an annual return 1027
covering, but not limited to, both the aggregate amount deducted 1028
and withheld and the aggregate amount required to be deducted and 1029
withheld during the entire preceding year for the tax imposed 1030
under section 5747.02 of the Revised Code and for each tax imposed 1031
under Chapter 5748. of the Revised Code. At the time of filing 1032
that return, the employer shall pay over any amounts of 1033
undeposited taxes for the preceding year, whether actually 1034
deducted and withheld or required to be deducted and withheld, 1035
that have not been previously paid. The employer shall make the 1036
annual report, to each employee and to the tax commissioner, of 1037
the compensation paid and each tax withheld, as the commissioner 1038
by rule may prescribe. 1039

Each employer required to deduct and withhold any tax is 1040
liable for the payment of that amount required to be deducted and 1041
withheld, whether or not the tax has in fact been withheld, unless 1042
the failure to withhold was based upon the employer's good faith 1043
in reliance upon the statement of the employee as to liability, 1044
and the amount shall be deemed to be a special fund in trust for 1045

the general revenue fund. 1046

(F) Each employer shall file with the employer's annual 1047
return the following items of information on employees for whom 1048
withholding is required under section 5747.06 of the Revised Code: 1049

(1) The full name of each employee, the employee's address, 1050
the employee's school district of residence, and in the case of a 1051
nonresident employee, the employee's principal county of 1052
employment; 1053

(2) The social security number of each employee; 1054

(3) The total amount of compensation paid before any 1055
deductions to each employee for the period for which the annual 1056
return is made; 1057

(4) The amount of the tax imposed by section 5747.02 of the 1058
Revised Code and the amount of each tax imposed under Chapter 1059
5748. of the Revised Code withheld from the compensation of the 1060
employee for the period for which the annual return is made. The 1061
commissioner may extend upon good cause the period for filing any 1062
notice or return required to be filed under this section and may 1063
adopt rules relating to extensions of time. If the extension 1064
results in an extension of time for the payment of the amounts 1065
withheld with respect to which the return is filed, the employer 1066
shall pay, at the time the amount withheld is paid, an amount of 1067
interest computed at the rate per annum prescribed by section 1068
5703.47 of the Revised Code on that amount withheld, from the day 1069
that amount was originally required to be paid to the day of 1070
actual payment or to the day an assessment is issued under section 1071
5747.13 of the Revised Code, whichever occurs first. 1072

(5) In addition to all other interest charges and penalties 1073
imposed, all amounts of taxes withheld or required to be withheld 1074
and remaining unpaid after the day the amounts are required to be 1075
paid shall bear interest from the date prescribed for payment at 1076

the rate per annum prescribed by section 5703.47 of the Revised 1077
Code on the amount unpaid, in addition to the amount withheld, 1078
until paid or until the day an assessment is issued under section 1079
5747.13 of the Revised Code, whichever occurs first. 1080

(G) An employee of a corporation, limited liability company, 1081
or business trust having control or supervision of or charged with 1082
the responsibility of filing the report and making payment, or an 1083
officer, member, manager, or trustee of a corporation, limited 1084
liability company, or business trust who is responsible for the 1085
execution of the corporation's, limited liability company's, or 1086
business trust's fiscal responsibilities, shall be personally 1087
liable for failure to file the report or pay the tax due as 1088
required by this section. The dissolution, termination, or 1089
bankruptcy of a corporation, limited liability company, or 1090
business trust does not discharge a responsible officer's, 1091
member's, manager's, employee's, or trustee's liability for a 1092
failure of the corporation, limited liability company, or business 1093
trust to file returns or pay tax due. 1094

(H) If an employer required to deduct and withhold income tax 1095
from compensation and to pay that tax to the state under sections 1096
5747.06 and 5747.07 of the Revised Code sells the employer's 1097
business or stock of merchandise or quits the employer's business, 1098
the taxes required to be deducted and withheld and paid to the 1099
state pursuant to those sections prior to that time, together with 1100
any interest and penalties imposed on those taxes, become due and 1101
payable immediately, and that person shall make a final return 1102
within fifteen days after the date of selling or quitting 1103
business. The employer's successor shall withhold a sufficient 1104
amount of the purchase money to cover the amount of the taxes, 1105
interest, and penalties due and unpaid, until the former owner 1106
produces a receipt from the tax commissioner showing that the 1107
taxes, interest, and penalties have been paid or a certificate 1108

indicating that no such taxes are due. If the purchaser of the 1109
business or stock of merchandise fails to withhold purchase money, 1110
the purchaser shall be personally liable for the payment of the 1111
taxes, interest, and penalties accrued and unpaid during the 1112
operation of the business by the former owner. If the amount of 1113
taxes, interest, and penalties outstanding at the time of the 1114
purchase exceeds the total purchase money, the tax commissioner in 1115
the commissioner's discretion may adjust the liability of the 1116
seller or the responsibility of the purchaser to pay that 1117
liability to maximize the collection of withholding tax revenue. 1118

(I)(1) An employer described in division (I)(2) of this 1119
section shall make all payments required by this section for the 1120
year by electronic funds transfer under section 5747.072 of the 1121
Revised Code. 1122

(2)(a) For 1994, an employer described in division (I)(2) of 1123
this section is one whose actual or required payments under this 1124
section exceeded five hundred thousand dollars during the 1125
twelve-month period ending June 30, 1993. 1126

(b) For 1995, an employer described in division (I)(2) of 1127
this section is one whose actual or required payments under this 1128
section exceeded five hundred thousand dollars during the 1129
twelve-month period ending June 30, 1994. 1130

(c) For 1996, an employer described in division (I)(2) of 1131
this section is one whose actual or required payments under this 1132
section exceeded three hundred thousand dollars during the 1133
twelve-month period ending June 30, 1995. 1134

(d) For 1997 through 2000, an employer described in division 1135
(I)(2) of this section is one whose actual or required payments 1136
under this section exceeded one hundred eighty thousand dollars 1137
during the twelve-month period ending on the thirtieth day of June 1138
of the preceding calendar year. 1139

(e) For 2001 and thereafter, an employer described in 1140
division (I)(2) of this section is one whose actual or required 1141
payments under this section exceeded eighty-four thousand dollars 1142
during the twelve-month period ending on the thirtieth day of June 1143
of the preceding calendar year. 1144

(J)(1) Every professional employer organization and every 1145
professional employer organization reporting entity shall file a 1146
report with the tax commissioner within thirty days after 1147
commencing business in this state or within thirty days after the 1148
effective date of this amendment, whichever is later, that 1149
includes all of the following information: 1150

(a) The name, address, number the employer receives from the 1151
secretary of state to do business in this state, if applicable, 1152
and federal employer identification number of each client employer 1153
of the professional employer organization or professional employer 1154
organization reporting entity; 1155

(b) The date that each client employer became a client of the 1156
professional employer organization or professional employer 1157
organization reporting entity; 1158

(c) The names and mailing addresses of the chief executive 1159
officer and the chief financial officer of each client employer 1160
for taxation of the client employer. 1161

(2) Beginning with the calendar quarter ending after a 1162
professional employer organization or professional employer 1163
organization reporting entity files the report required under 1164
division (J)(1) of this section, and every calendar quarter 1165
thereafter, the professional employer organization or the 1166
professional employer organization reporting entity shall file an 1167
updated report with the tax commissioner. The professional 1168
employer organization or professional employer organization 1169
reporting entity shall file the updated report not later than the 1170

last day of the month following the end of the calendar quarter 1171
and shall include all of the following information in the report: 1172

(a) If an entity became a client employer of the professional 1173
employer organization or professional employer organization 1174
reporting entity at any time during the calendar quarter, all of 1175
the information required under division (J)(1) of this section for 1176
each new client employer; 1177

(b) If an entity terminated the professional employer 1178
organization agreement between the professional employer 1179
organization or professional employer organization reporting 1180
entity and the entity at any time during the calendar quarter, the 1181
information described in division (J)(1)(a) of this section for 1182
that entity, the date during the calendar quarter that the entity 1183
ceased being a client of the professional employer organization or 1184
professional employer organization reporting entity, if 1185
applicable, or the date the entity ceased business operations in 1186
this state, if applicable; 1187

(c) If the name or mailing address of the chief executive 1188
officer or the chief financial officer of a client employer has 1189
changed since the professional employer organization or 1190
professional employer organization reporting entity previously 1191
submitted a report under division (J)(1) or (2) of this section, 1192
the updated name or mailing address, or both, of the chief 1193
executive officer or the chief financial officer, as applicable; 1194

(d) If none of the events described in divisions (J)(2)(a) to 1195
(c) of this section occurred during the calendar quarter, a 1196
statement of that fact. 1197

Section 2. That existing sections 4123.291, 4125.01, 4125.02, 1198
4125.03, 4125.05, 4125.07, 4125.08, 4141.24, and 5747.07 of the 1199
Revised Code are hereby repealed. 1200

Section 3. Section 4125.05 of the Revised Code as amended by	1201
this act and section 4125.051 of the Revised Code as enacted by	1202
this act take effect April 1, 2013.	1203