

# AN ACT

To amend sections 1561.31, 2305.25, 2305.252, 4121.129, 4121.45, 4123.01, 4123.26, 4123.27, 4123.29, 4123.291, 4123.292, 4123.32, 4123.322, 4123.34, 4123.35, 4123.353, 4123.36, 4123.37, 4123.40, 4123.41, 4123.411, 4123.47, 4123.511, 4123.512, 4123.54, 4123.542, 4123.66, 4123.82, 4123.83, 4125.05, 4729.80, and 4729.86; to enact sections 4121.443, 4121.447, and 4123.323; to repeal section 4121.419 of the Revised Code; and to amend Section 1 of Sub. H.B. 34 of the 130th General Assembly, as subsequently amended, to make changes to Ohio's Workers' Compensation Law.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 1561.31, 2305.25, 2305.252, 4121.129, 4121.45, 4123.01, 4123.26, 4123.27, 4123.29, 4123.291, 4123.292, 4123.32, 4123.322, 4123.34, 4123.35, 4123.353, 4123.36, 4123.37, 4123.40, 4123.41, 4123.411, 4123.47, 4123.511, 4123.512, 4123.54, 4123.542, 4123.66, 4123.82, 4123.83, 4125.05, 4729.80, and 4729.86 be amended and sections 4121.443, 4121.447, and 4123.323 of the Revised Code be enacted to read as follows:

Sec. 1561.31. Each deputy mine inspector shall inspect each mine in the inspector's district, the owner, lessee, agent, or operator of which is an employer as defined in section 4123.01 of the Revised Code, or any other mine at which three or more persons work, at intervals not exceeding three months between inspections, and all other mines in the inspector's district as often as practical, noting particularly the location and condition of buildings, the condition of the boiler, machinery, workings of the mine, the traveling ways and haulageways, the circulation and condition of the air and drainage, and the condition of electrical circuits and appliances. The inspector shall make tests for poisonous, explosive, and noxious gases, and shall specifically order compliance with any section of this chapter and Chapters

1563., 1565., and 1567. and sections 1509.09, 1509.12, 1509.13, 1509.14, 1509.15, 1509.17, and 1509.18 of the Revised Code that the inspector finds is being violated.

Upon completion of the inspection of a mine, the inspector shall fill out a report of the conditions found during inspections on a form provided by the chief of the division of mineral resources management, which form shall provide for statements as to whether the laws are being observed or violated, and if violated, the nature and extent thereof, the date of the inspection, the number of persons employed in and about the mine, whether or not a ~~certificate of compliance~~ the proof of workers' compensation coverage issued pursuant to section 4123.35 of the Revised Code is posted and the date of expiration thereof, and matters, things, and practices that specifically are covered by law, order of the chief, or previous order of the inspector. The inspector shall make this report in quadruplicate or quintuplicate, and send the original to the chief, post a copy at the mine, give a copy to the mine superintendent, and retain a copy for the inspector's files. Where the miners of a mine have a mine safety committee, the inspector shall post one additional copy of the report of that mine at that mine for the use and possession of the committee. The report required by this section shall be known as the inspector's routine report.

If an inspector orders compliance with this chapter and Chapters 1563., 1565., and 1567. and sections 1509.09, 1509.12, 1509.13, 1509.14, 1509.15, 1509.17, and 1509.18 of the Revised Code, and is assured by the superintendent of the mine to which the order applies that the order will be complied with, the inspector shall revisit the mine within a reasonable period of time and ascertain whether or not the order has been complied with. The inspector shall report the inspector's findings to the chief on a form to be provided by the chief, and take action to enforce compliance.

Sec. 2305.25. As used in this section and sections 2305.251 to 2305.253 of the Revised Code:

(A)(1) "Health care entity" means an entity, whether acting on its own behalf or on behalf of or in affiliation with other health care entities, that conducts as part of its regular business activities professional credentialing or quality review activities involving the competence of, professional conduct of, or quality of care provided by health care providers, including both individuals who provide health care and entities that provide health care.

(2) "Health care entity" includes any entity described in division (A)(1) of this section, regardless of whether it is a government entity; for-profit or nonprofit corporation; limited liability company; partnership; professional

corporation; state or local society composed of physicians, dentists, optometrists, psychologists, or pharmacists; accountable care organization; other health care organization; or combination of any of the foregoing entities.

(B) "Health insuring corporation" means an entity that holds a certificate of authority under Chapter 1751. of the Revised Code. "Health insuring corporation" includes wholly owned subsidiaries of a health insuring corporation.

(C) "Hospital" means any of the following:

(1) An institution that has been registered or licensed by the department of health as a hospital;

(2) An entity, other than an insurance company authorized to do business in this state, that owns, controls, or is affiliated with an institution that has been registered or licensed by the department of health as a hospital;

(3) A group of hospitals that are owned, sponsored, or managed by a single entity.

(D) "Incident report or risk management report" means a report of an incident involving injury or potential injury to a patient as a result of patient care provided by health care providers, including both individuals who provide health care and entities that provide health care, that is prepared by or for the use of a peer review committee of a health care entity and is within the scope of the functions of that committee.

(E)(1) "Peer review committee" means a utilization review committee, quality assessment committee, performance improvement committee, tissue committee, credentialing committee, or other committee that does either of the following:

(a) Conducts professional credentialing or quality review activities involving the competence of, professional conduct of, or quality of care provided by health care providers, including both individuals who provide health care and entities that provide health care;

(b) Conducts any other attendant hearing process initiated as a result of a peer review committee's recommendations or actions.

(2) "Peer review committee" includes all of the following:

(a) A peer review committee of a hospital or long-term care facility or a peer review committee of a nonprofit health care corporation that is a member of the hospital or long-term care facility or of which the hospital or facility is a member;

(b) A peer review committee of a community mental health center;

(c) A board or committee of a hospital, a long-term care facility, or other health care entity when reviewing professional qualifications or

activities of health care providers, including both individuals who provide health care and entities that provide health care;

(d) A peer review committee, professional standards review committee, or arbitration committee of a state or local society composed of members who are in active practice as physicians, dentists, optometrists, psychologists, or pharmacists;

(e) A peer review committee of a health insuring corporation that has at least a two-thirds majority of member physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of health care providers that adversely affects or could adversely affect the health or welfare of any patient;

(f) A peer review committee of a health insuring corporation that has at least a two-thirds majority of member physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of a health care facility that has contracted with the health insuring corporation to provide health care services to enrollees, which conduct adversely affects, or could adversely affect, the health or welfare of any patient;

(g) A peer review committee of a sickness and accident insurer that has at least a two-thirds majority of physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of health care providers that adversely affects or could adversely affect the health or welfare of any patient;

(h) A peer review committee of a sickness and accident insurer that has at least a two-thirds majority of physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of a health care facility that has contracted with the insurer to provide health care services to insureds, which conduct adversely affects, or could adversely affect, the health or welfare of any patient;

(i) A peer review committee of any insurer authorized under Title XXXIX of the Revised Code to do the business of medical professional liability insurance in this state that conducts professional quality review activities involving the competence or professional conduct of health care providers that adversely affects or could affect the health or welfare of any patient;

(j) A peer review committee of the bureau of workers' compensation or the industrial commission that is responsible for reviewing the professional

qualifications and the performance of providers certified by the bureau to participate in the health partnership program or of providers conducting medical examinations or file reviews for the bureau or the commission;

(k) Any other peer review committee of a health care entity.

(F) "Physician" means an individual authorized to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(G) "Sickness and accident insurer" means an entity authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state.

(H) "Tort action" means a civil action for damages for injury, death, or loss to a patient of a health care entity. "Tort action" includes a product liability claim, as defined in section 2307.71 of the Revised Code, and an asbestos claim, as defined in section 2307.91 of the Revised Code, but does not include a civil action for a breach of contract or another agreement between persons.

(I) "Accountable care organization" means such an organization as defined in 42 C.F.R. 425.20.

Sec. 2305.252. (A) Proceedings and records within the scope of a peer review committee of a health care entity shall be held in confidence and shall not be subject to discovery or introduction in evidence in any civil action against a health care entity or health care provider, including both individuals who provide health care and entities that provide health care, arising out of matters that are the subject of evaluation and review by the peer review committee. No individual who attends a meeting of a peer review committee, serves as a member of a peer review committee, works for or on behalf of a peer review committee, or provides information to a peer review committee shall be permitted or required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the peer review committee or as to any finding, recommendation, evaluation, opinion, or other action of the committee or a member thereof.

Information, documents, or records otherwise available from original sources are not to be construed as being unavailable for discovery or for use in any civil action merely because they were produced or presented during proceedings of a peer review committee, but the information, documents, or records are available only from the original sources and cannot be obtained from the peer review committee's proceedings or records.

The release of any information, documents, or records that were produced or presented during proceedings of a peer review committee or

created to document the proceedings does not affect the confidentiality of any other information, documents, or records produced or presented during those proceedings or created to document them. Only the information, documents, or records actually released cease to be privileged under this section.

Nothing in this section precludes health care entities from sharing information, documents, or records that were produced or presented during proceedings of a peer review committee or created to document them as long as the information, documents, or records are used only for peer review purposes.

An individual who testifies before a peer review committee, serves as a representative of a peer review committee, serves as a member of a peer review committee, works for or on behalf of a peer review committee, or provides information to a peer review committee shall not be prevented from testifying as to matters within the individual's knowledge, but the individual cannot be asked about the individual's testimony before the peer review committee, information the individual provided to the peer review committee, or any opinion the individual formed as a result of the peer review committee's activities.

An order by a court to produce for discovery or for use at trial the proceedings or records described in this section is a final order.

(B) Division (A) of this section applies to a peer review committee of the bureau of workers' compensation that is responsible for reviewing the professional qualifications and the performance of providers certified by the bureau to participate in the health partnership program created under sections 4121.44 and 4121.441 of the Revised Code, except that the proceedings and records within the scope of the peer review committee are subject to discovery or court subpoena and may be admitted into evidence in any criminal action or administrative or civil action initiated, prosecuted, or adjudicated by the bureau involving an alleged violation of applicable statutes or administrative rules. The bureau may share proceedings and records within the scope of the peer review committee, including claimant records and claim file information, with law enforcement agencies, licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of applicable statutes or administrative rules. If the bureau shares proceedings or records with a law enforcement agency, licensing board, or another governmental agency pursuant to this division, that sharing does not affect the confidentiality of the record. Recipients of claimant records and claim file information provided by the bureau pursuant to this division shall take appropriate measures to maintain

the confidentiality of the information.

Sec. 4121.129. (A) There is hereby created the workers' compensation audit committee consisting of at least three members. One member shall be the member of the bureau of workers' compensation board of directors who is a certified public accountant. The board, by majority vote, shall appoint two additional members of the board to serve on the audit committee and may appoint additional members who are not board members, as the board determines necessary. Members of the audit committee serve at the pleasure of the board, and the board, by majority vote, may remove any member except the member of the committee who is the certified public accountant member of the board. The board, by majority vote, shall determine how often the audit committee shall meet and report to the board. If the audit committee meets on the same day as the board holds a meeting, no member shall be compensated for more than one meeting held on that day. The audit committee shall do all of the following:

(1) Recommend to the board an ~~accounting~~ actuarial firm to perform the annual ~~audits~~ analysis required under section 4123.47 of the Revised Code;

(2) Recommend an auditing firm for the board to use when conducting audits under section 4121.125 of the Revised Code;

(3) Review the results of each annual audit and management review and, if any problems exist, assess the appropriate course of action to correct those problems and develop an action plan to correct those problems;

(4) Monitor the implementation of any action plans created pursuant to division (A)(3) of this section;

(5) Review all internal audit reports on a regular basis.

(B) There is hereby created the workers' compensation actuarial committee consisting of at least three members. One member shall be the member of the board who is an actuary. The board, by majority vote, shall appoint two additional members of the board to serve on the actuarial committee and may appoint additional members who are not board members, as the board determines necessary. Members of the actuarial committee serve at the pleasure of the board and the board, by majority vote, may remove any member except the member of the committee who is the actuary member of the board. The board, by majority vote, shall determine how often the actuarial committee shall meet and report to the board. If the actuarial committee meets on the same day as the board holds a meeting, no member shall be compensated for more than one meeting held on that day. The actuarial committee shall do both of the following:

(1) Recommend actuarial consultants for the board to use for the funds specified in this chapter and Chapters 4123., 4127., and 4131. of the Revised

Code;

(2) Review calculations on rate schedules and performance prepared by the actuarial consultants with whom the board enters into a contract.

(C)(1) There is hereby created the workers' compensation investment committee consisting of at least four members. Two of the members shall be the members of the board who serve as the investment and securities experts on the board. The board, by majority vote, shall appoint two additional members of the board to serve on the investment committee and may appoint additional members who are not board members. Each additional member the board appoints shall have at least one of the following qualifications:

(a) Experience managing another state's pension funds or workers' compensation funds;

(b) Expertise that the board determines is needed to make investment decisions.

Members of the investment committee serve at the pleasure of the board and the board, by majority vote, may remove any member except the members of the committee who are the investment and securities expert members of the board. The board, by majority vote, shall determine how often the investment committee shall meet and report to the board. If the investment committee meets on the same day as the board holds a meeting, no member shall be compensated for more than one meeting held on that day.

(2) The investment committee shall do all of the following:

(a) Develop the investment policy for the administration of the investment program for the funds specified in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code in accordance with the requirements specified in section 4123.442 of the Revised Code;

(b) Submit the investment policy developed pursuant to division (C)(2)(a) of this section to the board for approval;

(c) Monitor implementation by the administrator of workers' compensation and the bureau of workers' compensation chief investment officer of the investment policy approved by the board;

(d) Recommend outside investment counsel with whom the board may contract to assist the investment committee in fulfilling its duties;

(e) Review the performance of the bureau of workers' compensation chief investment officer and any investment consultants retained by the administrator to assure that the investments of the assets of the funds specified in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code are made in accordance with the investment policy approved by the



board and ~~that the best possible return on~~ to assure compliance with the investment is achieved policy and effective management of the funds.

Sec. 4121.443. (A) The bureau of workers' compensation may summarily suspend the certification of a provider to participate in the health partnership program created under sections 4121.44 and 4121.441 of the Revised Code without a prior hearing if the bureau determines any of the following apply to the provider:

(1) The professional license, certification, or registration held by the provider to practice the provider's profession has been revoked or suspended for an indefinite period of time or for a period of more than thirty days, subsequent to the provider's certification to participate in the health partnership program.

(2) The provider has been convicted of or has pleaded guilty to a violation of section 2913.48 or sections 2923.31 to 2923.36 of the Revised Code or has been convicted of or pleaded guilty to any other criminal offense related to the delivery of or billing for health care services.

(3) The bureau determines, by clear and convincing evidence, that the continued participation by the provider in the health partnership program presents a danger of immediate and serious harm to claimants.

(B) The bureau shall issue a written order of summary suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If the provider subject to the summary suspension requests an adjudicatory hearing by the bureau, the date set for the hearing shall be not later than fifteen days, but not earlier than seven days, after the provider requests the hearing, unless otherwise agreed to by both the bureau and the provider.

(C) If an order issued pursuant to this section is appealed, the court may stay execution of the order and fix the terms of the stay, if the court finds both of the following:

(1) That an unusual hardship to the appellant will result from execution of the order pending appeal;

(2) That the health, safety, and welfare of the public will not be threatened by staying execution of the order pending appeal.

(D) A court or agency order staying the suspension of a professional license, certification, or registration shall not affect the ability of the bureau to suspend the certification of a provider to participate in the health partnership program under this section.

(E) The summary suspension of a certification of a provider under this section shall not affect the ability of that provider to receive payment for services rendered prior to the effective date of the suspension.

(F) Any summary suspension imposed under this section shall remain in effect, unless reversed on appeal, until a final adjudication order issued by the bureau pursuant to this section and Chapter 119. of the Revised Code takes effect. The bureau shall issue its final adjudication order within seventy-five days after completion of its hearing. A failure to issue the order within the seventy-five-day time period shall result in dissolution of the summary suspension order but shall not invalidate any subsequent, final adjudication order.

(G) As used in this section, "provider" does not include a hospital.

Sec. 4121.447. Each contract the administrator of workers' compensation enters into with a managed care organization under division (B)(4) of section 4121.44 of the Revised Code shall require the managed care organization to enter into a data security agreement with the state board of pharmacy governing the managed care organization's use of the board's drug database established and maintained under section 4729.75 of the Revised Code.

This section does not apply if the board does not establish or maintain the drug database.

Sec. 4121.45. (A) There is hereby created a workers' compensation ombudsperson system to assist claimants and employers in matters dealing with the bureau of workers' compensation and the industrial commission. The industrial commission nominating council shall appoint a chief ombudsperson. The chief ombudsperson, with the advice and consent of the ~~advisory commission nominating council~~, may appoint such assistant ombudspersons as the nominating council deems necessary. ~~The positions~~ position of chief ombudsperson ~~and assistant ombudspersons are~~ is for ~~terms~~ a term of six years. A person appointed to the position of chief ombudsperson ~~or assistant ombudspersons~~ shall serve at the pleasure of the nominating council. ~~The chief ombudsperson may not be transferred, demoted, or suspended during the person's tenure and may be removed by the nominating council only on the grounds of malfeasance or neglect of duty upon notice and public hearing a vote of not fewer than nine members of the nominating council.~~ The ~~ombudspersons~~ chief ombudsperson shall devote ~~their~~ the chief ombudsperson's full time and attention to the duties of ~~their~~ the ombudsperson's office. The administrator of workers' compensation shall furnish the ~~ombudspersons~~ chief ombudsperson with the office space, supplies, and clerical assistance that will enable the ~~ombudspersons~~ chief ombudsperson and the ombudsperson system staff to perform their duties effectively. The ombudsperson program shall be funded out of the budget of the bureau and the chief ombudsperson and ~~assistant ombudspersons~~ the

ombudsperson system staff shall be carried on the bureau payroll ~~but~~. The chief ombudsperson and the ombudsperson system shall be under the direction of the nominating council. The administrator and all employees of the bureau and the commission shall give the ~~ombudspersons~~ the ombudsperson system staff full and prompt cooperation in all matters relating to the duties of the ~~ombudspersons~~ chief ombudsperson.

(B) The ~~ombudspersons~~ ombudsperson system staff shall:

(1) Answer inquiries or investigate complaints made by employers or claimants under this chapter and Chapter 4123. of the Revised Code as they relate to the processing of a claim for workers' compensation benefits;

(2) Provide claimants and employers with information regarding problems which arise out of the functions of the bureau, commission hearing officers, and the commission and the procedures employed in the processing of claims;

(3) Answer inquiries or investigate complaints of an employer as they relate to reserves established and premiums charged in connection with the employer's account;

(4) Comply with Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code and the nominating council's human resource and ethics policies;

(5) Not express any opinions as to the merit of a claim or the correctness of a decision by the various officers or agencies as the decision relates to a claim for benefits or compensation.

For the purpose of carrying out the chief ombudsperson's duties, the chief ombudsperson or the ~~chief ombudsperson's assistants~~ ombudsperson system staff, notwithstanding sections 4123.27 and 4123.88 of the Revised Code, has the right at all reasonable times to examine the contents of a claim file and discuss with parties in interest the contents of the file as long as the ombudsperson does not divulge information that would tend to prejudice the case of either party to a claim or that would tend to compromise a privileged attorney-client or doctor-patient relationship.

(C) The chief ombudsperson shall:

(1) Assist any service office in its duties whenever it requires assistance or information that can best be obtained from central office personnel or records;

(2) Annually assemble reports from each assistant ombudsperson as to their activities for the preceding year together with their recommendations as to changes or improvements in the operations of the workers' compensation system. The chief ombudsperson shall prepare a written report summarizing the activities of the ombudsperson system together with

a digest of recommendations. The chief ombudsperson shall transmit the report to the nominating council.

(3) Comply with Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code and the nominating council's human resource and ethics policies.

(D) No ombudsperson or assistant ombudsperson shall:

(1) Represent a claimant or employer in claims pending before or to be filed with the administrator, a district or staff hearing officer, the commission, or the courts of the state, nor shall an ombudsperson or assistant ombudsperson undertake any such representation for a period of one year after the ombudsperson's or assistant ombudsperson's employment terminates or be eligible for employment by the bureau or the commission or as a district or staff hearing officer for one year;

(2) Express any opinions as to the merit of a claim or the correctness of a decision by the various officers or agencies as the decision relates to a claim for benefits or compensation.

(E) The chief ombudsperson and assistant ombudspersons shall receive compensation at a level established by the nominating council commensurate with the individual's background, education, and experience in workers' compensation or related fields. The chief ombudsperson and assistant ombudspersons are full-time permanent employees in the ~~classified~~ civil unclassified service of the state and are entitled to all benefits that accrue to such employees, including, without limitation, sick, vacation, and personal leaves. Assistant ombudspersons serve at the pleasure of the chief ombudsperson.

(F) In the event of a vacancy in the position of chief ombudsperson, the nominating council may appoint a person to serve as acting chief ombudsperson until a chief ombudsperson is appointed. The acting chief ombudsperson shall be under the direction and control of the nominating council and may be removed by the nominating council with or without just cause.

Sec. 4123.01. As used in this chapter:

(A)(1) "Employee" means:

(a) Every person in the service of the state, or of any county, municipal corporation, township, or school district therein, including regular members of lawfully constituted police and fire departments of municipal corporations and townships, whether paid or volunteer, and wherever serving within the state or on temporary assignment outside thereof, and executive officers of boards of education, under any appointment or contract of hire, express or implied, oral or written, including any elected official of

the state, or of any county, municipal corporation, or township, or members of boards of education.

As used in division (A)(1)(a) of this section, the term "employee" includes the following persons when responding to an inherently dangerous situation that calls for an immediate response on the part of the person, regardless of whether the person is within the limits of the jurisdiction of the person's regular employment or voluntary service when responding, on the condition that the person responds to the situation as the person otherwise would if the person were on duty in the person's jurisdiction:

(i) Off-duty peace officers. As used in division (A)(1)(a)(i) of this section, "peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(ii) Off-duty firefighters, whether paid or volunteer, of a lawfully constituted fire department.

(iii) Off-duty first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, or emergency medical technicians-paramedic, whether paid or volunteer, of an ambulance service organization or emergency medical service organization pursuant to Chapter 4765. of the Revised Code.

(b) Every person in the service of any person, firm, or private corporation, including any public service corporation, that (i) employs one or more persons regularly in the same business or in or about the same establishment under any contract of hire, express or implied, oral or written, including aliens and minors, household workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single household and casual workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single employer, or (ii) is bound by any such contract of hire or by any other written contract, to pay into the state insurance fund the premiums provided by this chapter.

(c) Every person who performs labor or provides services pursuant to a construction contract, as defined in section 4123.79 of the Revised Code, if at least ten of the following criteria apply:

(i) The person is required to comply with instructions from the other contracting party regarding the manner or method of performing services;

(ii) The person is required by the other contracting party to have particular training;

(iii) The person's services are integrated into the regular functioning of the other contracting party;

(iv) The person is required to perform the work personally;

(v) The person is hired, supervised, or paid by the other contracting

party;

(vi) A continuing relationship exists between the person and the other contracting party that contemplates continuing or recurring work even if the work is not full time;

(vii) The person's hours of work are established by the other contracting party;

(viii) The person is required to devote full time to the business of the other contracting party;

(ix) The person is required to perform the work on the premises of the other contracting party;

(x) The person is required to follow the order of work set by the other contracting party;

(xi) The person is required to make oral or written reports of progress to the other contracting party;

(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;

(xiii) The person's expenses are paid for by the other contracting party;

(xiv) The person's tools and materials are furnished by the other contracting party;

(xv) The person is provided with the facilities used to perform services;

(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;

(xvii) The person is not performing services for a number of employers at the same time;

(xviii) The person does not make the same services available to the general public;

(xix) The other contracting party has a right to discharge the person;

(xx) The person has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.

Every person in the service of any independent contractor or subcontractor who has failed to pay into the state insurance fund the amount of premium determined and fixed by the administrator of workers' compensation for the person's employment or occupation or if a self-insuring employer has failed to pay compensation and benefits directly to the employer's injured and to the dependents of the employer's killed employees as required by section 4123.35 of the Revised Code, shall be considered as the employee of the person who has entered into a contract, whether written or verbal, with such independent contractor unless such employees or their legal representatives or beneficiaries elect, after injury or

death, to regard such independent contractor as the employer.

~~(d) Every person to whom all of the following apply:~~

~~(i) The person is a resident of a state other than this state and is covered by that other state's workers' compensation law;~~

~~(ii) The person performs labor or provides services for that person's employer while temporarily within this state;~~

~~(iii) The laws of that other state do not include the provisions described in division (H)(4) of section 4123.54 of the Revised Code.~~

(2) "Employee" does not mean:

(a) A duly ordained, commissioned, or licensed minister or assistant or associate minister of a church in the exercise of ministry;

(b) Any officer of a family farm corporation;

(c) An individual incorporated as a corporation; or

(d) An individual who otherwise is an employee of an employer but who signs the waiver and affidavit specified in section 4123.15 of the Revised Code on the condition that the administrator has granted a waiver and exception to the individual's employer under section 4123.15 of the Revised Code.

Any employer may elect to include as an "employee" within this chapter, any person excluded from the definition of "employee" pursuant to division (A)(2) of this section. If an employer is a partnership, sole proprietorship, individual incorporated as a corporation, or family farm corporation, such employer may elect to include as an "employee" within this chapter, any member of such partnership, the owner of the sole proprietorship, the individual incorporated as a corporation, or the officers of the family farm corporation. In the event of an election, the employer shall serve upon the bureau of workers' compensation written notice naming the persons to be covered, include such employee's remuneration for premium purposes in all future payroll reports, and no person excluded from the definition of "employee" pursuant to division (A)(2) of this section, proprietor, individual incorporated as a corporation, or partner shall be deemed an employee within this division until the employer has served such notice.

For informational purposes only, the bureau shall prescribe such language as it considers appropriate, on such of its forms as it considers appropriate, to advise employers of their right to elect to include as an "employee" within this chapter a sole proprietor, any member of a partnership, an individual incorporated as a corporation, the officers of a family farm corporation, or a person excluded from the definition of "employee" under division (A)(2) of this section, that they should check any

health and disability insurance policy, or other form of health and disability plan or contract, presently covering them, or the purchase of which they may be considering, to determine whether such policy, plan, or contract excludes benefits for illness or injury that they might have elected to have covered by workers' compensation.

(B) "Employer" means:

(1) The state, including state hospitals, each county, municipal corporation, township, school district, and hospital owned by a political subdivision or subdivisions other than the state;

(2) Every person, firm, professional employer organization ~~as defined in section 4125.01 of the Revised Code~~, and private corporation, including any public service corporation, that (a) has in service one or more employees or shared employees regularly in the same business or in or about the same establishment under any contract of hire, express or implied, oral or written, or (b) is bound by any such contract of hire or by any other written contract, to pay into the insurance fund the premiums provided by this chapter.

All such employers are subject to this chapter. Any member of a firm or association, who regularly performs manual labor in or about a mine, factory, or other establishment, including a household establishment, shall be considered an employee in determining whether such person, firm, or private corporation, or public service corporation, has in its service, one or more employees and the employer shall report the income derived from such labor to the bureau as part of the payroll of such employer, and such member shall thereupon be entitled to all the benefits of an employee.

(C) "Injury" includes any injury, whether caused by external accidental means or accidental in character and result, received in the course of, and arising out of, the injured employee's employment. "Injury" does not include:

(1) Psychiatric conditions except where the claimant's psychiatric conditions have arisen from an injury or occupational disease sustained by that claimant or where the claimant's psychiatric conditions have arisen from sexual conduct in which the claimant was forced by threat of physical harm to engage or participate;

(2) Injury or disability caused primarily by the natural deterioration of tissue, an organ, or part of the body;

(3) Injury or disability incurred in voluntary participation in an employer-sponsored recreation or fitness activity if the employee signs a waiver of the employee's right to compensation or benefits under this chapter prior to engaging in the recreation or fitness activity;

(4) A condition that pre-existed an injury unless that pre-existing



condition is substantially aggravated by the injury. Such a substantial aggravation must be documented by objective diagnostic findings, objective clinical findings, or objective test results. Subjective complaints may be evidence of such a substantial aggravation. However, subjective complaints without objective diagnostic findings, objective clinical findings, or objective test results are insufficient to substantiate a substantial aggravation.

(D) "Child" includes a posthumous child and a child legally adopted prior to the injury.

(E) "Family farm corporation" means a corporation founded for the purpose of farming agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons or the spouse of persons related to each other within the fourth degree of kinship, according to the rules of the civil law, and at least one of the related persons is residing on or actively operating the farm, and none of whose stockholders are a corporation. A family farm corporation does not cease to qualify under this division where, by reason of any devise, bequest, or the operation of the laws of descent or distribution, the ownership of shares of voting stock is transferred to another person, as long as that person is within the degree of kinship stipulated in this division.

(F) "Occupational disease" means a disease contracted in the course of employment, which by its causes and the characteristics of its manifestation or the condition of the employment results in a hazard which distinguishes the employment in character from employment generally, and the employment creates a risk of contracting the disease in greater degree and in a different manner from the public in general.

(G) "Self-insuring employer" means an employer who is granted the privilege of paying compensation and benefits directly under section 4123.35 of the Revised Code, including a board of county commissioners for the sole purpose of constructing a sports facility as defined in section 307.696 of the Revised Code, provided that the electors of the county in which the sports facility is to be built have approved construction of a sports facility by ballot election no later than November 6, 1997.

(H) "Private employer" means an employer as defined in division (B)(2) of this section.

(I) "Professional employer organization" has the same meaning as in section 4125.01 of the Revised Code.

(J) "Public employer" means an employer as defined in division (B)(1) of this section.

~~(K)~~ "Sexual conduct" means vaginal intercourse between a male and

female; anal intercourse, fellatio, and cunnilingus between persons regardless of gender; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

~~(J)~~(L) "Other-states' insurer" means an insurance company that is authorized to provide workers' compensation insurance coverage in any of the states that permit employers to obtain insurance for workers' compensation claims through insurance companies.

~~(K)~~(M) "Other-states' coverage" means ~~insurance~~ both of the following:

(1) Insurance coverage purchased secured by an eligible employer for workers' compensation claims that arise of employees who are in employment relationships localized in a state or states other than this state and that are filed by the employees of the employer or those employee's employees' dependents, as applicable, in that other state or those other states;

(2) Insurance coverage secured by an eligible employer for workers' compensation claims that arise in a state other than this state where an employer elects to obtain coverage through either the administrator or an other-states' insurer.

(N) "Limited other-states coverage" means insurance coverage provided by the administrator to an eligible employer for workers' compensation claims of employees who are in an employment relationship localized in this state but are temporarily working in a state other than this state, or those employees' dependents.

Sec. 4123.26. (A) Every employer shall keep records of, and furnish to the bureau of workers' compensation upon request, all information required by the administrator of workers' compensation to carry out this chapter. In January of each year

(B) Except as otherwise provided in division (C) of this section, every private employer of the state employing one or more employees regularly in the same business, or in or about the same establishment, shall prepare and mail submit a payroll report to the bureau at its main office in Columbus a statement containing. Until the policy year commencing July 1, 2015, a private employer shall submit the payroll report in January of each year. For a policy year commencing on or after July 1, 2015, the employer shall submit the payroll report on or before August fifteenth of each year unless otherwise specified by the administrator in rules the administrator adopts. The employer shall include all of the following information in the payroll report, as applicable:

~~(A)~~ The (1) For payroll reports submitted prior to July 1, 2015, the number of employees employed during the preceding year from the first day of January through the thirty-first day of December who are localized in this state;

~~(B)~~ (2) For payroll reports submitted on or after July 1, 2015, the number of employees localized in this state employed during the preceding policy year from the first day of July through the thirtieth day of June;

(3) The number of such employees localized in this state employed at each kind of employment and the aggregate amount of wages paid to such employees;

~~(C)~~ (4)(a) If an employer elects to obtain secure other-states' coverage or limited other-states' coverage pursuant to section 4123.292 of the Revised Code through either the administrator, if the administrator elects to offer such coverage, or an other-states' insurer for claims arising in a state or states other than this state, all of the following information:

~~(1) The amount of wages the employer paid to the employer's employees for performing labor or providing services for the employer in this state;~~

~~(2) The amount of wages the employer paid to the employer's employees for performing labor or providing services for the employer in a state or states other than this state.~~

The allocation of wages identified by the employer pursuant to divisions (C)(1) and (2) of this section shall not be presumed to be an indication of the law under which an employee is eligible to receive compensation and benefits required under divisions (B)(1) to (3) of this section and any additional information required by the administrator in rules the administrator adopts, with the advice and consent of the bureau of workers' compensation board of directors, to allow the employer to secure other-states' coverage or limited other-states' coverage.

~~(D)~~ (5)(a) In accordance with the rules adopted by the administrator pursuant to division (D)(C) of section 4123.32 of the Revised Code, if the employer employs employees who are covered under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., and under this chapter and Chapter 4121. of the Revised Code, both of the following amounts:

~~(1)~~ (i) The amount of wages the employer pays to those employees when the employees perform labor and provide services for which the employees are eligible to receive compensation and benefits under the federal "Longshore and Harbor Workers' Compensation Act;"

~~(2)~~ (ii) The amount of wages the employer pays to those employees

when the employees perform labor and provide services for which the employees are eligible to receive compensation and benefits under this chapter and Chapter 4121. of the Revised Code.

(b) The allocation of wages identified by the employer pursuant to divisions ~~(D)(1)(B)(5)(a)(i)~~ and ~~(2)(ii)~~ of this section shall not be presumed to be an indication of the law under which an employee is eligible to receive compensation and benefits.

~~The information shall be furnished on a blank to be prepared by the bureau. The bureau shall furnish the blanks to employers free of charge upon request therefor. Every employer receiving from the bureau any blank, with directions to fill out the same, shall cause the same to be properly filled out so as to answer fully and correctly all questions therein propounded, and give all the information therein sought, or if unable to do so, the employer shall give to the bureau in writing good and sufficient reasons for such failure.~~ (C) Beginning August 1, 2015, each employer that is recognized by the administrator as a professional employer organization shall submit a monthly payroll report containing the number of employees employed during the preceding calendar month, the number of those employees employed at each kind of employment, and the aggregate amount of wages paid to those employees.

(D) An employer described in division (B) of this section shall submit the payroll report required under this section to the bureau on a form prescribed by the bureau. The bureau may require that the information required to be furnished be verified under oath and returned to the bureau within the period fixed by it or by law. The bureau or any person employed by the bureau for that purpose, may examine, under oath, any employer, or the officer, agent, or employee thereof, for the purpose of ascertaining any information which the employer is required to furnish to the bureau.

(E) No private employer shall fail to furnish to the bureau the ~~annual statement~~ payroll report required by this section, nor shall any employer fail to keep records of or furnish such other information as may be required by the bureau under this section.

~~Whoever violates this section shall forfeit five hundred dollars, to be collected in a civil action brought against the employer in the name of the state, to be paid into the state insurance fund and become a part thereof~~

(F) The administrator may adopt rules setting forth penalties for failure to submit the payroll report required by this section, including but not limited to exclusion from alternative rating plans and discount programs.

Sec. 4123.27. Information contained in the ~~annual statement~~ payroll report provided for in section 4123.26 of the Revised Code, and such other

information as may be furnished to the bureau of workers' compensation by employers in pursuance of that section, is for the exclusive use and information of the bureau in the discharge of its official duties, and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless the bureau is a party to the action or proceeding; ~~but the.~~ The information contained in the ~~statement~~ payroll report may be tabulated and published by the bureau in statistical form for the use and information of other state departments and the public. No person in the employ of the bureau, except those who are authorized by the administrator of workers' compensation, shall divulge any information secured by the person while in the employ of the bureau in respect to the transactions, property, claim files, records, or papers of the bureau or in respect to the business or mechanical, chemical, or other industrial process of any company, firm, corporation, person, association, partnership, or public utility to any person other than the administrator or to the superior of such employee of the bureau.

Notwithstanding the restrictions imposed by this section, the governor, select or standing committees of the general assembly, the auditor of state, the attorney general, or their designees, pursuant to the authority granted in this chapter and Chapter 4121. of the Revised Code, may examine any records, claim files, or papers in possession of the industrial commission or the bureau. They also are bound by the privilege that attaches to these papers.

The administrator shall report to the director of job and family services or to the county director of job and family services the name, address, and social security number or other identification number of any person receiving workers' compensation whose name or social security number or other identification number is the same as that of a person required by a court or child support enforcement agency to provide support payments to a recipient or participant of public assistance, as that term is defined in section 5101.181 of the Revised Code, and whose name is submitted to the administrator by the director under section 5101.36 of the Revised Code. The administrator also shall inform the director of the amount of workers' compensation paid to the person during such period as the director specifies.

Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients or participants of public assistance pursuant to section 5101.181 of the Revised Code, the administrator shall inform the auditor of state of the name, current or most recent address, and social security number of each person receiving workers' compensation pursuant to this chapter whose name and social

security number are the same as that of a person whose name or social security number was submitted by the director. The administrator also shall inform the auditor of state of the amount of workers' compensation paid to the person during such period as the director specifies.

The bureau and its employees, except for purposes of furnishing the auditor of state with information required by this section, shall preserve the confidentiality of recipients or participants of public assistance in compliance with section 5101.181 of the Revised Code.

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

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

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

(b) If an employer elects to obtain other-states' coverage, including limited other-states' coverage, pursuant to section 4123.292 of the Revised Code through ~~either~~ the administrator, if the administrator elects to offer such coverage, ~~or an other-states' insurer~~, calculate the employer's premium for the state insurance fund in the same manner as otherwise required under division (A) of this section and section 4123.34 of the Revised Code, except that ~~when the administrator determines the expenditure of wages, payroll, or both upon which to base~~ may establish in rule an alternative calculation of the employer's premium, the administrator shall use only to appropriately account for the expenditure of wages, payroll, or both attributable to the labor performed and services provided by that employer's employees when

those employees performed labor and provided services in this state ~~only~~ and ~~to which the~~ in the other state or states for which the employer elects to secure other-states' coverage does not apply.

(c) If an employer elects to obtain other-states' coverage pursuant to section 4123.292 of the Revised Code through an other-states' insurer, calculate the employer's premium for the state insurance fund in the same manner as otherwise required under division (A) of this section and section 4123.34 of the Revised Code, except that when the administrator determines the expenditure of wages, payroll, or both upon which to base the employer's premium, the administrator shall use only the expenditure of wages, payroll, or both attributable to the labor performed and services provided by that employer's employees when those employees performed labor and provided services in this state only and to which the other-states' coverage does not apply. The administrator may adopt rules setting forth the information that an employer electing to obtain other-states' coverage through an other-states' insurer shall report for purposes of determining the expenditure of wages, payroll, or both attributable to the labor performed and services provided in this state.

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

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

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

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

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

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

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

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

(vi) Each employer seeking to enroll in a group for workers' compensation coverage has an ~~industrial insurance~~ account in good standing with the bureau of workers' compensation ~~such that at the time the agreement is processed no outstanding premiums, penalties, or assessments are due from any of the employers.~~ The administrator shall adopt rules setting forth the criteria by which the administrator will determine whether an employer's account is in good standing.

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

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

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

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

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

(g) The administrator shall develop classifications of occupations or



industries that are sufficiently distinct so as not to group employers in classifications that unfairly represent the risks of employment with the employer.

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

(6) Make available to every employer who is paying premiums to the state insurance fund a program whereby the employer or the employer's agent pays to the claimant or on behalf of the claimant the first fifteen thousand dollars of a compensable workers' compensation medical-only claim filed by that claimant that is related to the same injury or occupational disease. No formal application is required; however, an employer must elect to participate by telephoning the bureau after July 1, 1995. Once an employer has elected to participate in the program, the employer will be responsible for all bills in all medical-only claims with a date of injury the same or later than the election date, unless the employer notifies the bureau within fourteen days of receipt of the notification of a claim being filed that it does not wish to pay the bills in that claim, or the employer notifies the bureau that the fifteen thousand dollar maximum has been paid, or the employer notifies the bureau of the last day of service on which it will be responsible for the bills in a particular medical-only claim. If an employer elects to enter the program, the administrator shall not reimburse the employer for such amounts paid and shall not charge the first fifteen thousand dollars of any medical-only claim paid by an employer to the employer's experience or otherwise use it in merit rating or determining the risks of any employer for the purpose of payment of premiums under this chapter. A certified health care provider shall extend to an employer who participates in this program the same rates for services rendered to an employee of that employer as the provider bills the administrator for the same type of medical claim processed by the bureau and shall not charge, assess, or otherwise attempt to collect from an employee any amount for covered services or supplies that is in excess of that rate. If an employer elects to enter the program and the employer fails to pay a bill for a medical-only claim included in the program, the employer shall be liable for that bill and the employee for whom the employer failed to pay the bill shall not be liable for that bill. The administrator shall adopt rules to implement and administer division (A)(6) of this section. Upon written request from the

bureau, the employer shall provide documentation to the bureau of all medical-only bills that they are paying directly. Such requests from the bureau may not be made more frequently than on a semiannual basis. Failure to provide such documentation to the bureau within thirty days of receipt of the request may result in the employer's forfeiture of participation in the program for such injury. The provisions of this section shall not apply to claims in which an employer with knowledge of a claimed compensable injury or occupational disease, has paid wages in lieu of compensation or total disability.

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

(1) Grant an employer who ~~makes~~ pays the employer's ~~semiannual~~ annual estimated premium payment at least one month in full prior to the ~~last day on which the payment may be made without penalty~~ start of the policy year for which the estimated premium is due, a discount as the administrator fixes from time to time;

(2) Levy a minimum annual administrative charge upon risks where ~~semiannual~~ premium reports develop a charge less than the administrator considers adequate to offset administrative costs of processing.

Sec. 4123.291. (A) An adjudicating committee appointed by the administrator of workers' compensation to hear any matter specified in divisions (B)(1) to (7) of this section shall hear the matter within sixty days of the date on which an employer files the request, protest, or petition. An employer desiring to file a request, protest, or petition regarding any matter specified in divisions (B)(1) to (7) of this section shall file the request, protest, or petition to the adjudicating committee on or before twenty-four months after the administrator sends notice of the determination about which the employer is filing the request, protest, or petition.

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

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

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

(3) An employer petition objecting to ~~the~~ an assessment of a premium ~~made~~ pursuant to section 4123.37 of the Revised Code and the rules adopted pursuant to that section;

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

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

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

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

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

Sec. 4123.292. (A) Notwithstanding sections 4123.35 and 4123.82 of the Revised Code, an employer may elect to obtain other-states' coverage through an other-states' insurer or, if the administrator of workers' compensation elects to offer such coverage, through the administrator pursuant to division (B) of this section. An employer who elects to obtain other-states' coverage shall submit a written notice to the administrator stating that election on a form prescribed by the administrator and, if the employer elects to obtain that coverage through an other-states' insurer, the name of the other-states' insurer through whom the employer has obtained that coverage. If an employer fails to pay the employer's premium for other-states' coverage, the administrator shall consider the employer to be noncompliant for the purposes of having other-states' coverage ~~but shall not consider the employer to be a noncomplying employer for purposes of this chapter or Chapter 4121., 4127., or 4131. of the Revised Code unless the employer otherwise fails to comply with~~ and the employer's premiums in this state for any and all noncompliant periods of time shall be calculated in the same manner as otherwise required under division (A) of section 4123.29 and section 4123.35 4123.34 of the Revised Code, using both the wages reported in this state and the wages that the employer claimed would be reported to the other-states' insurer for securing coverage.

(B) The administrator may ~~secure~~ offer other-states' coverage to allow an employer who wishes to obtain other-states' coverage pursuant to this

section and who elects to ~~obtain~~ secure that coverage through the administrator for workers' compensation claims ~~arising in a state or states other than this state~~. If the administrator elects to secure a vehicle through which the administrator will provide other-states' coverage, the administrator shall follow the competitive bidding requirements specified in Chapter 125. of the Revised Code to select one or more other-states' ~~insurer~~ insurers, and the administrator, with the advice and consent of the bureau of workers' compensation board of directors, shall award ~~the~~ a contract to provide other-states' coverage for employers located in this state to ~~the one~~ or more other-states' ~~insurer~~ insurers that ~~is~~ are the lowest and best ~~bidder~~ bidders.

~~(C) If the administrator elects to secure other states' coverage pursuant to division (B) of this section, the administrator shall calculate an employer's premium for other states' coverage provided through the administrator separately from calculating any other premiums or assessments charged under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code. The administrator shall calculate the employer's other states' coverage premium in the same manner the administrator calculates an employer's premium for the state insurance fund pursuant to division (A) of section 4123.29 and section 4123.34 of the Revised Code, except that, when calculating the employer's premium for other states' coverage under this division, the administrator shall do all of the following:~~

~~(1) Base the employer's other states' coverage premium on the terms specified in the contract the administrator enters into with an insurance company pursuant to division (B) of this section;~~

~~(2) When determining the expenditure of wages, payroll, or both upon which to base the employer's other states' coverage premium, use only the amount of wages, payroll, or both the employer paid to the employer's employees for performing labor or providing services for the employer in a state or states other than this state;~~

~~(3) Not take into account the amount of wages, payroll, or both the employer paid to the employer's employees for performing labor or providing services for the employer in this state or any compensation or benefits paid for claims covered by the state insurance fund~~ Notwithstanding sections 4123.35 and 4123.82 of the Revised Code, the administrator may offer limited other-states' coverage to allow an employer who wishes to obtain limited other-states' coverage pursuant to this section. An employer who elects to obtain limited other-states' coverage shall submit a written notice to the administrator stating that election on a form prescribed by the administrator.

If the administrator elects to secure a vehicle through which the administrator will provide limited other-states' coverage, the administrator shall follow the competitive bidding requirements specified in Chapter 125. of the Revised Code to select one or more other-states' insurers and, with the advice and consent of the board, award a contract to provide limited other-states' coverage to the lowest and best bidders.

(D) If the administrator elects to ~~secure~~ offer other states' coverage or limited other-states' coverage, the administrator, with the advice and consent of the board, shall adopt rules to implement divisions (B) and (C) of this section.

~~(E) An other-states' insurer that provides other-states' coverage to an employer pursuant to this section shall do all of the following when calculating the employer's premium for that coverage:~~

~~(1) When determining the amount of wages, payroll, or both upon which to base the employer's premium, use only the amount of wages, payroll, or both the employer paid to the employer's employees for performing labor or providing services for the employer in a state or states other than this state;~~

~~(2) Not take into account the amount of wages, payroll, or both the employer paid to the employer's employees for performing labor or providing services for the employer in this state or any compensation or benefits paid for claims otherwise covered by this chapter or Chapter 4121., 4127., or 4131. of the Revised Code;~~

~~(3) Take into account any other factors the other-states' insurer uses to calculate premiums for workers' compensation insurance.~~

~~(F)~~ The board and the individual members thereof, the administrator, and the bureau of workers' compensation shall not incur any obligation or liability if another state determines that the other-states' coverage or limited other-states' coverage provided under this section does not satisfy the requirements specified in that state's workers' compensation law for obtaining workers' compensation coverage in that state.

Sec. 4123.32. The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules with respect to the collection, maintenance, and disbursements of the state insurance fund including all of the following:

~~(A) A rule providing that the premium security deposit collected from any employer entitles the employer to the benefits of this chapter for the remainder of the six months and also for an additional adjustment period of two months, and, thereafter, if the employer pays the premium due at the close of any six-month period, coverage shall be extended for an additional eight-month period beginning from the end of the six-month period for~~

~~which the employer pays the premium due;~~

~~(B)~~ A rule providing for ascertaining the correctness of any employer's report of estimated or actual expenditure of wages and the determination and adjustment of proper premiums and the payment of those premiums by the employer ~~for or during any period less than eight months and notwithstanding any payment or determination of premium made when exceptional conditions or circumstances in the judgment of the administrator justify the action;~~

~~(C)~~~~(B)~~ Such special rules as the administrator considers necessary to safeguard the fund and that are just in the circumstances, covering the rates to be applied where one employer takes over the occupation or industry of another or where an employer first makes application for state insurance, and the administrator may require that if any employer transfers a business in whole or in part or otherwise reorganizes the business, the successor in interest shall assume, in proportion to the extent of the transfer, as determined by the administrator, the employer's account and shall continue the payment of all contributions due under this chapter;

~~(D)~~~~(C)~~ A rule providing that an employer who employs an employee covered under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., and this chapter and Chapter 4121. of the Revised Code shall be assessed a premium in accordance with the expenditure of wages, payroll, or both attributable to only labor performed and services provided by such an employee when the employee performs labor and provides services for which the employee is not eligible to receive compensation and benefits under that federal act.

~~(E)~~~~(D)~~ A rule providing for all of the following:

(1) ~~If, within two months immediately after the expiration of the six-month period, an employer fails to file a report of the employer's actual payroll expenditures for the period pursuant to section 4123.26 of the Revised Code for private employers or pursuant to section 4123.41 of the Revised Code for public employers, the premium found to be and assessments due from the employer for the period shall be calculated based on the estimated payroll of the employer used in calculating the estimated premium due, increased in an amount equal to one per cent of the premium, but the increase shall not be less than three nor more than fifteen dollars by ten per cent;~~

(2) ~~The premium determined by the administrator to be due from an employer shall be payable on or before the end of the coverage period established by the premium security deposit, or within the time specified by the administrator if the period for which the advance premium has been paid~~

~~is less than eight months.~~ (a) If an employer fails to pay the premium or assessments when due for a policy year commencing prior to July 1, 2015, the administrator may add a late fee penalty of not more than thirty dollars to the premium plus an additional penalty amount as follows:

~~(a)~~(i) For a premium from sixty-one to ninety days past due, the prime interest rate, multiplied by the premium due;

~~(b)~~(ii) For a premium from ninety-one to one hundred twenty days past due, the prime interest rate plus two per cent, multiplied by the premium due;

~~(c)~~(iii) For a premium from one hundred twenty-one to one hundred fifty days past due, the prime interest rate plus four per cent, multiplied by the premium due;

~~(d)~~(iv) For a premium from one hundred fifty-one to one hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the premium due;

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

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

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

(c) If an employer fails to pay the premium or assessments when due for a policy year commencing on or after July 1, 2015, the administrator may assess a penalty at the interest rate established by the state tax commissioner pursuant to section 5703.47 of the Revised Code.

(3) Notwithstanding the interest rates specified in division ~~(E)~~(D)(2)(a) or (c) of this section, at no time shall the additional penalty amount assessed under division ~~(E)~~(D)(2)(a) or (c) of this section exceed fifteen per cent of the premium due.

(4) If an employer recognized by the administrator as a professional employer organization fails to make a timely payment of premiums or assessments as required by section 4123.35 of the Revised Code, the administrator shall revoke the professional employer organization's registration pursuant to section 4125.06 of the Revised Code.

(5) An employer may appeal a late fee penalty or additional penalty to an adjudicating committee pursuant to section 4123.291 of the Revised Code.

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

~~(5)(6)~~ If the employer files an appropriate payroll report, within the time provided by law ~~or within the time specified by the administrator if the period for which the employer paid an estimated premium is less than eight months~~, the employer shall not be in default and division ~~(E)(D)(2)~~ of this section shall not apply if the employer pays the premiums within fifteen days after being first notified by the administrator of the amount due.

~~(6)(7)~~ Any deficiencies in the amounts of the premium security deposit paid by an employer ~~for any period prior to July 1, 2015~~, shall be subject to an interest charge of six per cent per annum from the date the premium obligation is incurred. In determining the interest due on deficiencies in premium security deposit payments, a charge in each case shall be made against the employer in an amount equal to interest at the rate of six per cent per annum on the premium security deposit due but remaining unpaid sixty days after notice by the administrator.

~~(7)(8)~~ Any interest charges or penalties provided for in divisions ~~(E)(D)(2)~~ and ~~(6)(7)~~ of this section shall be credited to the employer's account for rating purposes in the same manner as premiums.

~~(F)(E)~~ A rule providing that each employer, on the occasion of instituting coverage under this chapter for an effective date prior to July 1, 2015, shall submit a premium security deposit. The deposit shall be calculated equivalent to thirty per cent of the semiannual premium obligation of the employer based upon the employer's estimated expenditure for wages for the ensuing six-month period plus thirty per cent of an additional adjustment period of two months but only up to a maximum of one thousand dollars and not less than ten dollars. The administrator shall review the security deposit of every employer who has submitted a deposit which is less than the one-thousand-dollar maximum. The administrator may require any such employer to submit additional money up to the maximum of one thousand dollars that, in the administrator's opinion, reflects the employer's current payroll expenditure for an eight-month period.

~~(G)(F)~~ A rule providing that each employer, on the occasion of instituting coverage under this chapter, shall submit an application fee and



an application for coverage that completely provides all of the information required for the administrator to establish coverage for that employer, and that the employer's failure to pay the application fee or to provide all of the information completely requested on the application may be grounds for the administrator to deny coverage for that employer.

~~(H)~~(G) A rule providing that, in addition to any other remedies permitted in this chapter, the administrator may discontinue an employer's coverage if the employer fails to pay the premium due on or before the premium's due date.

~~(H)~~(H) A rule providing that if after a final adjudication it is determined that an employer has failed to pay an obligation, billing, account, or assessment that is greater than one thousand dollars on or before its due date, the administrator may discontinue the employer's coverage in addition to any other remedies permitted in this chapter, and that the administrator shall not discontinue an employer's coverage pursuant to this division prior to a final adjudication regarding the employer's failure to pay such obligation, billing, account, or assessment on or before its due date.

~~(J)~~(I) As used in divisions (G) and (H) and ~~(I)~~ of this section:

(1) "Employer" has the same meaning as in ~~division (B)~~ of section 4123.01 of the Revised Code except that "employer" does not include the state, a state hospital, or a state university or college.

(2) "State university or college" has the same meaning as in section 3345.12 of the Revised Code and also includes the Ohio agricultural research and development center and OSU extension.

(3) "State hospital" means the Ohio state university hospital and its ancillary facilities and the medical university of Ohio at Toledo hospital.

Sec. 4123.322. ~~(A) Notwithstanding any provision to the contrary in section 4123.32 or 4123.41 of the Revised Code, the~~ The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors, ~~may~~ shall adopt rules ~~with respect to the collection, maintenance, and disbursements of the state insurance fund to provide for a system of prospective payment of workers' compensation premiums. If the administrator elects to adopt rules~~ establishing a prospective payment system, ~~those rules~~ which shall include all of the following:

(1) ~~A requirement that, notwithstanding section 4123.26 of the Revised Code, on or before the thirtieth day of June of each year, or such other date as the administrator establishes, every employer mentioned in division (B)(2) of section 4123.01 of the Revised Code shall file with the bureau of workers' compensation an estimate of the employer's payroll for the~~

~~immediately following twelve month period or other period as the administrator establishes;~~

~~(2) A requirement that upon an initial application for coverage, an a private employer mentioned in division (B)(2) of section 4123.01 of the Revised Code shall file with the application an estimate of the employer's payroll for the unexpired period from the date of application to the period ending on the following thirtieth day of June or other date as established by the administrator determines pursuant to division (A)(1) of this section rules the administrator adopts, and shall pay the amount the administrator determines by rule in order to establish coverage for the employer as described in division (B)(12) of section 4121.121 of the Revised Code;~~

~~(3) A requirement that, notwithstanding section 4123.26 or 4123.41 of the Revised Code, on or before the first day of January of each year, or such other date as the administrator establishes, every employer mentioned in division (B)(1) of section 4123.01 of the Revised Code, except for a state agency or a state university or college, shall file with the bureau an estimate of the employer's payroll for the immediately following twelve month period or other period as the administrator establishes;~~

~~(4)(2) A requirement that upon an initial application for coverage, an a public employer mentioned in division (B)(1) of section 4123.01 of the Revised Code, except for a state agency or state university or college, shall file with the application an estimate of the employer's payroll for the unexpired period from the date of application to the period ending on the following thirty first day of December or other date as established by the administrator determines pursuant to division (A)(3) of this section rules the administrator adopts, and shall pay the amount the administrator determines by rule in order to establish coverage for the employer as described in division (B)(12) of section 4121.121 of the Revised Code;~~

~~(5) The assessment of a penalty if an employer fails to timely file the estimates of payroll required by the rules adopted pursuant to this section;~~

~~(6)(3) A requirement that an employer complete periodic payroll reports of actual expenditures for previous coverage periods for reconciliation with estimated payroll reports;~~

~~(7)(4) The assessment of a penalty for late payroll reconciliation reports and for late payment of any reconciliation premium;~~

~~(8)(5) The establishment of a transition period during which time the bureau shall determine the adequacy of existing premium security deposits of employers, the establishment of provisions for additional premium payments during that transition, the provision of a credit of those deposits toward the first premium due from an employer under the rules adopted~~

under divisions (A)(1) to ~~(7)(4)~~ of this section, and the establishment of penalties for late payment or failure to comply with the rules.

(B) For purposes of division (A)~~(6)(3)~~ of this section, an employer shall make timely payment of any premium owed when actual payroll expenditures exceeded estimated payroll, and the employer shall receive premium credit when the estimated payroll exceeded the actual payroll.

(C) For purposes of division (A)~~(7)(4)~~ of this section, if the employer's actual payroll substantially exceeds the estimated payroll, the administrator may assess additional penalties specified in rules the administrator adopts on the reconciliation premium.

(D) As used in this section, "state university or college" has the same meaning as in section 4123.32 of the Revised Code.

Sec. 4123.323. (A) Except as provided in division (B) of this section, a payment required under this chapter or Chapter 4121. of the Revised Code, including a payment due for purposes of continuing coverage, is due on the date specified in those chapters, unless otherwise provided in a rule adopted by the administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors.

(B) For purposes of collection referrals to the attorney general under section 131.02 of the Revised Code, a premium payment is due thirty days after the date upon which a private employer must submit the payroll report for the corresponding policy year pursuant to section 4123.26 of the Revised Code or the date upon which a public employer must submit the payroll report for the corresponding policy year pursuant to section 4123.41 of the Revised Code, as applicable.

Sec. 4123.34. It shall be the duty of the bureau of workers' compensation board of directors and the administrator of workers' compensation to safeguard and maintain the solvency of the state insurance fund and all other funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code. The administrator, in the exercise of the powers and discretion conferred upon the administrator in section 4123.29 of the Revised Code, shall fix and maintain, with the advice and consent of the board, for each class of occupation or industry, the lowest possible rates of premium consistent with the maintenance of a solvent state insurance fund and the creation and maintenance of a reasonable surplus, after the payment of legitimate claims for injury, occupational disease, and death that the administrator authorizes to be paid from the state insurance fund for the benefit of injured, diseased, and the dependents of killed employees. In establishing rates, the administrator shall take into account the necessity of ensuring sufficient money is set aside in the premium payment security fund

to cover any defaults in premium obligations. The administrator shall observe all of the following requirements in fixing the rates of premium for the risks of occupations or industries:

(A) The administrator shall keep an accurate account of the money paid in premiums by each of the several classes of occupations or industries, and the losses on account of injuries, occupational disease, and death of employees thereof, and also keep an account of the money received from each individual employer and the amount of losses incurred against the state insurance fund on account of injuries, occupational disease, and death of the employees of the employer.

(B) A portion of the money paid into the state insurance fund shall be set aside for the creation of a surplus fund account within the state insurance fund. Any references in this chapter or in Chapter 4121., 4125., 4127., or 4131. of the Revised Code to the surplus fund, the surplus created in this division, the statutory surplus fund, or the statutory surplus of the state insurance fund are hereby deemed to be references to the surplus fund account. The administrator may transfer the portion of the state insurance fund to the surplus fund account as the administrator determines is necessary to satisfy the needs of the surplus fund account and to guarantee the solvency of the state insurance fund and the surplus fund account. In addition to all statutory authority under this chapter and Chapter 4121. of the Revised Code, the administrator has discretionary and contingency authority to make charges to the surplus fund account. The administrator shall account for all charges, whether statutory, discretionary, or contingency, that the administrator may make to the surplus fund account. A revision of basic rates shall be made annually on the first day of July.

Notwithstanding any provision of the law to the contrary, one hundred eighty days after the effective date on which self-insuring employers first may elect under division (D) of section 4121.66 of the Revised Code to directly pay for rehabilitation expenses, the administrator shall calculate the deficit, if any, in the portion of the surplus fund account that is used for reimbursement to self-insuring employers for all expenses other than handicapped reimbursement under section 4123.343 of the Revised Code. The administrator, from time to time, may determine whether the surplus fund account has such a deficit and may assess all self-insuring employers who participated in the portion of the surplus fund account during the accrual of the deficit and who during that time period have not made the election under division (D) of section 4121.66 of the Revised Code the amount the administrator determines necessary to reduce the deficit.

Revisions For policy years commencing prior to July 1, 2016, revisions

of basic rates for private employers shall be in accordance with the oldest four of the last five calendar years of the combined accident and occupational disease experience of the administrator in the administration of this chapter, as shown by the accounts kept as provided in this section; ~~excluding. For a policy year commencing on or after July 1, 2016, revisions of basic rates for private employers shall be in accordance with the oldest four of the last five policy years combined accident and occupational disease experience of the administrator in the administration of this chapter, as shown by the accounts kept as provided in this section.~~

Revisions of basic rates for public employers shall be in accordance with the oldest four of the last five policy years of the combined accident and occupational disease experience of the administrator in the administration of this chapter, as shown by the accounts kept as provided in this section.

In revising basic rates, the administrator shall exclude the experience of employers that are no longer active if the administrator determines that the inclusion of those employers would have a significant negative impact on the remainder of the employers in a particular manual classification; ~~and the.~~ The administrator shall adopt rules, with the advice and consent of the board, governing rate revisions, the object of which shall be to make an equitable distribution of losses among the several classes of occupation or industry, which rules shall be general in their application.

(C) The administrator may apply that form of rating system that the administrator finds is best calculated to merit rate or individually rate the risk more equitably, predicated upon the basis of its individual industrial accident and occupational disease experience, and may encourage and stimulate accident prevention. The administrator shall develop fixed and equitable rules controlling the rating system, which rules shall conserve to each risk the basic principles of workers' compensation insurance.

(D) The administrator, from the money paid into the state insurance fund, shall set aside into an account of the state insurance fund titled a premium payment security fund sufficient money to pay for any premiums due from an employer and uncollected ~~that are in excess of the employer's premium security deposit.~~

~~The fund shall be in the custody of the treasurer of state. All investment earnings of the fund shall be deposited in the fund. Disbursements from the fund shall be made by the bureau of workers' compensation upon order of the administrator to the state insurance fund.~~ The use of the moneys held by the premium payment security fund account is restricted to reimbursement to the state insurance fund of premiums due and uncollected ~~in excess of an~~

~~employer's premium security deposit. The moneys constituting the premium payment security fund shall be maintained without regard to or reliance upon any other fund. This section does not prevent the deposit or investment of the premium payment security fund with any other fund created by this chapter, but the premium payment security fund is separate and distinct for every other purpose and a strict accounting thereof shall be maintained.~~

(E) The administrator may grant discounts on premium rates for employers who meet either of the following requirements:

(1) Have not incurred a compensable injury for one year or more and who maintain an employee safety committee or similar organization or make periodic safety inspections of the workplace.

(2) Successfully complete a loss prevention program prescribed by the superintendent of the division of safety and hygiene and conducted by the division or by any other person approved by the superintendent.

(F)(1) In determining the premium rates for the construction industry the administrator shall calculate the employers' premiums based upon the actual remuneration construction industry employees receive from construction industry employers, provided that the amount of remuneration the administrator uses in calculating the premiums shall not exceed an average weekly wage equal to one hundred fifty per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code.

(2) Division (F)(1) of this section shall not be construed as affecting the manner in which benefits to a claimant are awarded under this chapter.

(3) As used in division (F) of this section, "construction industry" includes any activity performed in connection with the erection, alteration, repair, replacement, renovation, installation, or demolition of any building, structure, highway, or bridge.

(G) ~~The administrator of workers' compensation~~ shall not place a limit on the length of time that an employer may participate in the bureau of workers' compensation drug free workplace and workplace safety programs.

Sec. 4123.35. (A) ~~Except as provided in this section, and until the policy year commencing July 1, 2015, every private employer mentioned in division (B)(2) of section 4123.01 of the Revised Code,~~ and every publicly owned utility shall pay semiannually in the months of January and July into the state insurance fund the amount of annual premium the administrator of workers' compensation fixes for the employment or occupation of the employer, the amount of which premium to be paid by each employer to be determined by the classifications, rules, and rates made and published by the administrator. The employer shall pay semiannually a further sum of money

into the state insurance fund as may be ascertained to be due from the employer by applying the rules of the administrator, ~~and a~~.

Except as otherwise provided in this section, for a policy year commencing on or after July 1, 2015, every private employer and every publicly owned utility shall pay annually in the month of June immediately preceding the policy year into the state insurance fund the amount of estimated annual premium the administrator fixes for the employment or occupation of the employer, the amount of which estimated premium to be paid by each employer to be determined by the classifications, rules, and rates made and published by the administrator. The employer shall pay a further sum of money into the state insurance fund as may be ascertained to be due from the employer by applying the rules of the administrator. Upon receipt of the payroll report required by division (B) of section 4123.26 of the Revised Code, the administrator shall adjust the premium and assessments charged to each employer for the difference between estimated gross payrolls and actual gross payrolls, and any balance due to the administrator shall be immediately paid by the employer. Any balance due the employer shall be credited to the employer's account.

For a policy year commencing on or after July 1, 2015, each employer that is recognized by the administrator as a professional employer organization shall pay monthly into the state insurance fund the amount of premium the administrator fixes for the employer for the prior month based on the actual payroll of the employer reported pursuant to division (C) of section 4123.26 of the Revised Code.

A receipt or certificate certifying that payment has been made, ~~along with a written notice as is required in section 4123.54 of the Revised Code,~~ shall be ~~mailed immediately~~ issued to the employer by the bureau of workers' compensation. The receipt or certificate is prima-facie evidence of the payment of the premium, ~~and the proper~~. The administrator shall provide each employer written proof of workers' compensation coverage as is required in section 4123.83 of the Revised Code. Proper posting of the notice constitutes the employer's compliance with the notice requirement mandated in section ~~4123.54~~ 4123.83 of the Revised Code.

If the administrator adopts rules to establish a prospective payment of premium under section 4123.322 of the Revised Code, every employer mentioned in division (B)(2) of section 4123.01 of the Revised Code and every publicly owned utility shall pay into the state insurance fund the amount of premium the administrator fixes for the employment or occupation of the employer, the amount of which premium to be paid by each employer to be determined by the classifications, rules, and rates made

~~and published by the administrator and based upon the estimates and reconciliations required by the rules the administrator adopts under section 4123.322 of the Revised Code.~~

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

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

Division (A) of this section providing for the payment of premiums semiannually does not apply to any employer who was a subscriber to the state insurance fund prior to January 1, 1914, or, until July 1, 2015, who may first become a subscriber to the fund in any month other than January or July. Instead, the semiannual premiums shall be paid by those employers from time to time upon the expiration of the respective periods for which payments into the fund have been made by them. After July 1, 2015, an employer who first becomes a subscriber to the fund on any day other than the first day of July shall pay premiums according to rules adopted by the administrator, with the advice and consent of the bureau of workers' compensation board of directors, for the remainder of the policy year for which the coverage is effective.

The administrator, with the advice and consent of the board, shall adopt rules to permit employers to make periodic payments of the ~~semiannual premium and assessment~~ due under this division. The rules shall include provisions for the assessment of interest charges, where appropriate, and for the assessment of penalties when an employer fails to make timely premium payments. The administrator, in the rules the administrator adopts, may set an administrative fee for these periodic payments. An employer who timely pays the amounts due under this division is entitled to all of the benefits and protections of this chapter. Upon receipt of payment, the bureau ~~immediately shall mail issue a receipt or certificate~~ shall issue a receipt to the employer certifying that payment has been made, which receipt is prima-facie evidence of payment. Workers' compensation coverage under this chapter continues uninterrupted upon timely receipt of payment under this division.

Every public employer, except public employers that are self-insuring employers under this section, shall comply with sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in regard to the contribution of



moneys to the public insurance fund.

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

All employers granted status as self-insuring employers shall demonstrate sufficient financial and administrative ability to assure that all obligations under this section are promptly met. The administrator shall deny the privilege where the employer is unable to demonstrate the employer's ability to promptly meet all the obligations imposed on the employer by this section.

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

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

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

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

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

(e) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the employer's full financial disclosure. The records, documents, and data include, but are not limited to,

balance sheets and profit and loss history for the current year and previous four years.

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

(g) The employer's proposed plan to inform employees of the change from a state fund insurer to a self-insuring employer, the procedures the employer will follow as a self-insuring employer, and the employees' rights to compensation and benefits; and

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

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

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

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

(a) For the two-year period preceding application under this section, the public employer has maintained an unvoted debt capacity equal to at least two times the amount of the current annual premium established by the administrator under this chapter for that public employer for the year immediately preceding the year in which the public employer makes application under this section.

(b) For each of the two fiscal years preceding application under this section, the unreserved and undesignated year-end fund balance in the public employer's general fund is equal to at least five per cent of the public

employer's general fund revenues for the fiscal year computed in accordance with generally accepted accounting principles.

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

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

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

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

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

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

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

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

The administrator may adopt rules establishing the criteria that a public employer shall satisfy in order for the administrator to waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section. The rules may require additional security from that employer pursuant to division (E) of section 4123.351 of the Revised Code. The administrator shall not waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section for

a public employer who does not satisfy the criteria established in the rules the administrator adopts.

(C) A board of county commissioners described in division (G) of section 4123.01 of the Revised Code, as an employer, that will abide by the rules of the administrator and that may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and that does not desire to insure the payment thereof or indemnify itself against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. The administrator may charge a board of county commissioners described in division (G) of section 4123.01 of the Revised Code that applies for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application. All employers granted such status shall demonstrate sufficient financial and administrative ability to assure that all obligations under this section are promptly met. The administrator shall deny the privilege where the employer is unable to demonstrate the employer's ability to promptly meet all the obligations imposed on the employer by this section. The administrator shall consider, but is not limited to, the following factors, where applicable, in determining the employer's ability to meet all of the obligations imposed on the board as an employer by this section:

- (1) The board as an employer employs a minimum of five hundred employees in this state;
- (2) The board has operated in this state for a minimum of two years;
- (3) Where the board previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;
- (4) The sufficiency of the board's assets located in this state to insure the board's solvency in paying compensation directly;
- (5) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the board's full financial disclosure. The records, documents, and data include, but are not limited to, balance

sheets and profit and loss history for the current year and previous four years.

(6) The board's organizational plan for the administration of the workers' compensation law;

(7) The board's proposed plan to inform employees of the proposed self-insurance, the procedures the board will follow as a self-insuring employer, and the employees' rights to compensation and benefits;

(8) The board has either an account in a financial institution in this state, or if the board maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the board clearly indicates that payment will be honored by a financial institution in this state;

(9) The board shall provide the administrator a surety bond in an amount equal to one hundred twenty-five per cent of the projected losses as determined by the administrator.

(D) The administrator shall require a surety bond from all self-insuring employers, issued pursuant to section 4123.351 of the Revised Code, that is sufficient to compel, or secure to injured employees, or to the dependents of employees killed, the payment of compensation and expenses, which shall in no event be less than that paid or furnished out of the state insurance fund in similar cases to injured employees or to dependents of killed employees whose employers contribute to the fund, except when an employee of the employer, who has suffered the loss of a hand, arm, foot, leg, or eye prior to the injury for which compensation is to be paid, and thereafter suffers the loss of any other of the members as the result of any injury sustained in the course of and arising out of the employee's employment, the compensation to be paid by the self-insuring employer is limited to the disability suffered in the subsequent injury, additional compensation, if any, to be paid by the bureau out of the surplus created by section 4123.34 of the Revised Code.

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

Employers shall secure directly from the bureau central offices application forms upon which the bureau shall stamp a designating number. Prior to submission of an application, an employer shall make available to the bureau, and the bureau shall review, the information described in division (B)(1) of this section, and public employers shall make available, and the bureau shall review, the information necessary to verify whether the public employer meets the requirements listed in division (B)(2) of this section. An employer shall file the completed application forms with an application fee, which shall cover the costs of processing the application, as established by the administrator, by rule, with the bureau at least ninety days prior to the effective date of the employer's new status as a self-insuring employer. The application form is not deemed complete until all the required information is attached thereto. The bureau shall only accept applications that contain the required information.

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

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

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

The bureau shall receive and transmit to the self-insuring employer all complaints concerning any self-insuring employer. In the case of a

complaint against a self-insuring employer, the administrator shall handle the complaint through the self-insurance division of the bureau. The bureau shall maintain a file by employer of all complaints received that relate to the employer. The bureau shall evaluate each complaint and take appropriate action.

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

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

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

(J) On the first day of July of each year, the administrator shall calculate separately each self-insuring employer's assessments for the safety and hygiene fund, administrative costs pursuant to section 4123.342 of the Revised Code, and for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is not used for handicapped reimbursement, on the basis of the paid compensation attributable to the individual self-insuring employer according to the following calculation:

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

(2) Multiply the quotient in division (J)(1) of this section by the total amount of paid compensation for the previous calendar year that is attributable to the individual self-insuring employer for whom the assessment is being determined. Each self-insuring employer shall pay the assessment that results from this calculation, unless the assessment resulting from this calculation falls below a minimum assessment, which minimum

assessment the administrator shall determine on the first day of July of each year with the advice and consent of the bureau of workers' compensation board of directors, in which event, the self-insuring employer shall pay the minimum assessment.

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

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is used for handicapped reimbursement in the same manner as set forth in divisions (J)(1) and (2) of this section except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers that retain participation in the handicapped reimbursement program and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in the handicapped reimbursement program. The administrator, as the administrator determines appropriate, may determine the total assessment for the handicapped portion of the surplus fund in accordance with sound actuarial principles.

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

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



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

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

(K) There is hereby created in the state treasury the self-insurance assessment fund. All investment earnings of the fund shall be deposited in the fund. The administrator shall use the money in the self-insurance assessment fund only for administrative costs as specified in section 4123.341 of the Revised Code.

(L) Every self-insuring employer shall certify, in affidavit form subject to the penalty for perjury, to the bureau the amount of the self-insuring employer's paid compensation for the previous calendar year. In reporting paid compensation paid for the previous year, a self-insuring employer shall exclude from the total amount of paid compensation any reimbursement the self-insuring employer receives in the previous calendar year from the surplus fund pursuant to section 4123.512 of the Revised Code for any paid compensation. The self-insuring employer also shall exclude from the paid compensation reported any amount recovered under section 4123.931 of the Revised Code and any amount that is determined not to have been payable to or on behalf of a claimant in any final administrative or judicial proceeding. The self-insuring employer shall exclude such amounts from the paid compensation reported in the reporting period subsequent to the date the determination is made. The administrator shall adopt rules, in accordance with Chapter 119. of the Revised Code, that provide for all of the following:

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

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

(a) For an assessment from sixty-one to ninety days past due, the prime

interest rate, multiplied by the assessment due;

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

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

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

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

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

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

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

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

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

(N) Should any section of this chapter or Chapter 4121. of the Revised Code providing for self-insuring employers' assessments based upon compensation paid be declared unconstitutional by a final decision of any

court, then that section of the Revised Code declared unconstitutional shall revert back to the section in existence prior to November 3, 1989, providing for assessments based upon payroll.

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

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

(1) All contractors and subcontractors who perform labor or work or provide materials for the construction project;

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

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

The administrator shall maintain a record of the contractors and subcontractors whose employees are covered under the certificate issued to

the self-insured employer. A self-insuring employer immediately shall notify the administrator when any contractor or subcontractor is added or eliminated from inclusion under the certificate.

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

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

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

The contractors and subcontractors included under a certificate issued

under this division shall identify in their payroll records the employees who are considered the employees of the self-insuring employer listed in that certificate for purposes of this chapter and Chapter 4121. of the Revised Code, and the amount that those employees earned for employment on the construction project that is the subject of that certificate. Notwithstanding any provision to the contrary under this chapter and Chapter 4121. of the Revised Code, the administrator shall exclude the payroll that is reported for employees who are considered the employees of the self-insuring employer listed in that certificate, and that the employees earned for employment on the construction project that is the subject of that certificate, when determining those contractors' or subcontractors' premiums or assessments required under this chapter and Chapter 4121. of the Revised Code. A self-insuring employer issued a certificate under this division shall include in the amount of paid compensation it reports pursuant to division (L) of this section, the amount of paid compensation the self-insuring employer paid pursuant to this division for the previous calendar year.

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

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

(P) A self-insuring employer whose application is granted under division (O) of this section shall designate a safety professional to be responsible for the administration and enforcement of the safety program that is specifically designed for the construction project that is the subject of the application.

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

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

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

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

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

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

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

(2) Whether the safety program that is specifically designed for the construction project provides for the safety of employees employed on the construction project, is applicable to all contractors and subcontractors who perform labor or work or provide materials for the construction project, and has as a component, a safety training program that complies with standards adopted pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing management and employee involvement;

(3) Whether granting the privilege to self-insure the construction project will reduce the costs of the construction project;

(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;

(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible pursuant to the granting of the privilege to self-insure a construction project under division (O) of this section.

(R) As used in divisions (O), (P), and (Q), "self-insuring employer" includes the following employers, whether or not they have been granted the status of being a self-insuring employer under division (B) of this section:

(1) A state institution of higher education;

(2) A school district;

(3) A county school financing district;

(4) An educational service center;

(5) A community school established under Chapter 3314. of the Revised Code;

(6) A municipal power agency as defined in section 3734.058 of the

Revised Code.

(S) As used in this section:

(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;

(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.

Sec. 4123.353. (A) A public employer, except for a board of county commissioners described in division (G) of section 4123.01 of the Revised Code, a board of a county hospital, or a publicly owned utility, who is granted the status of self-insuring employer pursuant to section 4123.35 of the Revised Code shall do all of the following:

(1) Reserve funds as necessary, in accordance with sound and prudent actuarial judgment, to cover the costs the public employer may potentially incur to remain in compliance with this chapter and Chapter 4121. of the Revised Code;

(2) Include all activity under this chapter and Chapter 4121. of the Revised Code in a single fund on the public employer's accounting records;

(3) Within ninety days after the last day of each fiscal year, prepare and maintain a report of the reserved funds described in division (A)(1) of this section and disbursements made from those reserved funds;

~~(4) Within ninety days after the last day of each fiscal year, obtain a written report prepared by a member of the American academy of actuaries, certifying whether the reserved funds described in division (A)(1) of this section are sufficient to cover the costs the public employer may potentially incur to remain in compliance with this chapter and Chapter 4121. of the Revised Code, are computed in accordance with accepted loss reserving standards, and are fairly stated in accordance with sound loss reserving principles.~~

(B) A public employer who is subject to division (A) of this section shall make the reports required by that division available for inspection by the administrator of workers' compensation and any other person at all reasonable times during regular business hours.

Sec. 4123.36. Whenever an employer fails to pay a premium due, and the administrator of workers' compensation determines the employer's account to be uncollectible, the administrator shall cover the default in excess of the employer's premium security deposit by transfer of money

from the premium payment security fund account to the state insurance fund. ~~The transfer establishes coverage of the employer for the immediately completed six month period together with the ensuing two month adjustment period and the employer is not liable to respond in damages at common law or by statute for injuries or death of any employees wherever occurring during that eight month period. Payments from the premium payment security fund may not be used to cover a default of an employer with respect to any period longer than eight months. Thereafter, the employer shall be considered a noncomplying employer under this chapter and shall not be entitled to the benefits and protection of this chapter until the employer again establishes coverage pursuant to this chapter through reimbursement to the premium payment security fund for the money paid to the state insurance fund, on account of the default, payment of any semiannual premium obligations due but in default, and submission of a new premium security deposit pursuant to section 4123.32 of the Revised Code.~~

Sec. 4123.37. In this section "amenable employer" has the same meaning as "employer" as defined in division ~~(J)~~(I) of section 4123.32 of the Revised Code.

If the administrator of workers' compensation finds that any person, firm, or private corporation, including any public service corporation, is, or has been at any time after January 1, 1923, an amenable employer and has not complied with section 4123.35 of the Revised Code the administrator shall determine the period during which the person, firm, or corporation was an amenable employer and shall forthwith give notice of the determination to the employer. Within twenty days thereafter the employer shall furnish the bureau with the payroll covering the period included in the determination and, if the employer is an amenable employer at the time of the determination, ~~shall pay a premium security deposit for the eight months next succeeding the date of the determination and~~ shall pay into the state insurance fund the amount of premium and assessments applicable to such payroll. If the administrator determines that the employer is an amenable employer prior to the policy year commencing July 1, 2015, the administrator may require the employer to pay a premium security deposit.

If the employer does not furnish the payroll and pay the applicable premium, assessments, and, if applicable, the premium security deposit within the twenty days, the administrator shall forthwith make an assessment of the premium amounts due from the employer for the period the administrator determined the employer to be an amenable employer ~~including the premium security deposit according to section 4123.32 of the~~



~~Revised Code~~ if the employer is an amenable employer at the time of the determination, basing the assessment upon the information in the possession of the administrator.

The administrator shall give to the employer assessed written notice of the assessment. The notice shall be mailed to the employer at the employer's residence or usual place of business by certified mail. Unless the employer to whom the notice of assessment is directed files with the bureau within twenty days after receipt thereof, a petition in writing, verified under oath by the employer, or the employer's authorized agent having knowledge of the facts, setting forth with particularity the items of the assessment objected to, together with the reason for the objections, the assessment shall become conclusive and the amount thereof shall be due and payable from the employer so assessed to the state insurance fund. When a petition objecting to an assessment is filed the bureau shall assign a time and place for the hearing of the same and shall notify the petitioner thereof by certified mail. When an employer files a petition the assessment made by the administrator shall become due and payable ten days after notice of the finding made at the hearing has been sent by certified mail to the party assessed. An appeal may be taken from any finding to the court of common pleas of Franklin county upon the execution by the party assessed of a bond to the state in double the amount found due and ordered paid by the bureau conditioned that the party will pay any judgment and costs rendered against it for the premium.

When no petition objecting to an assessment is filed or when a finding is made affirming or modifying an assessment after hearing, a certified copy of the assessment as affirmed or modified may be filed by the administrator in the office of the clerk of the court of common pleas in any county in which the employer has property or in which the employer has a place of business. The clerk, immediately upon the filing of the assessment, shall enter a judgment for the state against the employer in the amount shown on the assessment. The judgment may be filed by the clerk in a loose leaf book entitled "special judgments for state insurance fund." The judgment shall bear the same rate of interest, have the same effect as other judgments, and be given the same preference allowed by law on other judgments rendered for claims for taxes. An assessment or judgment under this section shall not be a bar to the adjustment of the employer's account upon the employer furnishing the employer's payroll records to the bureau.

The administrator, for good cause shown, may waive a default in the payment of premium where the default is of less than sixty days' duration, and upon payment by the employer of the premium for the period, the

employer and the employer's employees are entitled to all of the benefits and immunities provided by this chapter.

Sec. 4123.40. On or before the first day of July of every year, the administrator of workers' compensation shall estimate the gross payroll of all state employers for the succeeding biennium or fiscal year.

The administrator shall determine and certify for the office of budget and management that rate or rates which, when applied to the gross payroll estimate, will produce an amount equal to the estimated cost of awards or claim payments to be made during the like fiscal period, as determined by the administrator.

The rate certified shall be applied and made a part of the gross payroll calculation for the period for which the foregoing estimates have been made, in conformity with section 125.21 of the Revised Code. The amounts collected shall be remitted to the bureau of workers' compensation as provided in section 125.21 of the Revised Code.

If the historical amounts remitted to the bureau ~~for a fiscal period~~ are greater or less than ~~actual~~ historical awards or claim payments ~~for the like period by reason of an error in the prior estimates of gross payroll or awards or payments~~, the overage or shortage difference shall be included returned to the state employer or recovered by the bureau in a manner determined by the administrator ~~in determining the rate for the next succeeding fiscal period~~.

In fixing the amount of contribution to be made by the state and each of its departments, agencies, and instrumentalities, the administrator shall classify departments, agencies, and instrumentalities into such groups as will equitably determine the contributions in accordance with their expected individual accident experience so that the state and its departments, agencies, and instrumentalities contribute an amount sufficient to meet individual obligations and ~~maintain a solvent public insurance fund~~ the obligations of the participants in total.

Moneys collected from state employers shall not be used to pay compensation or other benefits attributable to service of persons as employees of counties or taxing districts therein, nor shall moneys collected from counties and taxing districts therein be used to pay compensation or other benefits attributable to service of persons as employees of the state.

Sec. 4123.41. (A) ~~By~~ (1) For policy years that begin prior to January 1, 2016, by the first day of January of each year, the bureau of workers' compensation shall furnish to the county auditor of each county and the chief fiscal officer of each taxing district in a county and of each district activity and institution mentioned in section 4123.39 of the Revised Code forms containing the premium rates applicable to the county, district, district

activity, or institution as an employer, on which to report the amount of money expended by the county, district, district activity, or institution during the previous twelve calendar months for the services of employees under this chapter.

~~(B)~~ Each county auditor and each fiscal officer of a district, district activity, and institution shall calculate on the form it receives from the bureau under division (A) of this section the premium due as its proper contribution to the public insurance fund and issue a warrant in favor of the bureau for the amount due from the county, district, district activity, or institution to the public insurance fund.

(2) For a policy year commencing on or after January 1, 2016, by the first day of November of each year, the bureau shall furnish to the county auditor of each county and the chief fiscal officer of each taxing district in a county and of each district activity and institution mentioned in section 4123.39 of the Revised Code forms showing the estimated premium due from the county, district, district activity, or institution for the forthcoming policy year.

After the conclusion of each policy year, the county auditor of each county and the chief fiscal officer of each taxing district in a county and of each district activity and institution mentioned in section 4123.39 of the Revised Code shall, on or before the fifteenth day of February immediately following the conclusion of the policy year, report the amount of money expended by the county, district, district activity, or institution during the policy year for the services of employees under this chapter. The bureau shall adjust the premium and assessments charged to the employer for the difference between estimated gross payrolls and actual gross payrolls, and the employer immediately shall pay any balance due to the bureau. Any balance due the employer shall be credited to the employer's account.

The administrator may adopt rules setting forth penalties for failure to submit the report of money expended as required by this division, including, but not limited to, exclusion from alternative rating plans and discount programs.

(B)(1) Except as otherwise provided in division (B) of this section, payments due under this section shall be made according to the following schedule:

~~(1) On~~ (a) For payments of premium and assessments due for a policy year that commences on or before January 1, 2014:

(i) On or before the fifteenth day of May of each immediately following the conclusion of the policy year, no less than forty-five per cent of the annual amount due for the policy year;

~~(2)~~(ii) On or before the first day of September immediately following the conclusion of each the policy year, no less than the total amount due for the policy year.

(b) For the policy year commencing January 1, 2015:

(i) On or before the fifteenth day of May immediately following the conclusion of the policy year, no less than fifty per cent of the annual amount due for the policy year;

(ii) On or before the first day of September immediately following the conclusion of the policy year, no less than the total amount due for the policy year.

(c) For the policy year commencing January 1, 2016:

(i) On or before the fifteenth day of May in that policy year, no less than fifty per cent of the annual premium estimated by the bureau.

(ii) On or before the first day of September in that policy year, no less than the total amount of annual premium estimated by the bureau.

(d) For a policy year commencing on or after January 1, 2017, the total amount of annual premium estimated by the bureau on or before the thirty-first day of December immediately preceding the start of the policy year.

(2) The administrator, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules to permit employers to make periodic payments of the premium and assessments due under this section. The rules shall include provisions for the assessment of interest charges, if appropriate, and for the assessment of penalties when an employer fails to make timely premium payments. The administrator may adopt rules to establish an administrative fee for those periodic payments.

(C) The legislative body of any county, district, district activity, or institution may reimburse the fund from which the workers' compensation payments are made by transferring to the fund from any other fund of the county, district, district activity, or institution, the proportionate amount of the payments that should be chargeable to the fund, whether the fund is derived from taxation or otherwise. The proportionate amount of the payments chargeable to the fund may be based on payroll, relative exposure, relative loss experience, or any combination of these factors, as determined by the legislative body.

(1) The workers' compensation program payments of any county, district, district activity, or institution may include all payments required by any bureau of workers' compensation rating plan.

(2) The workers' compensation program payments of any county, district, district activity, or institution, except for a county board of

developmental disabilities, a board of alcohol, drug addiction, and mental health services, a board of mental health services, and a board of alcohol and drug addiction services, also may include any of the following:

(a) Direct administrative costs incurred in the management of the county, district, district activity, or institution's workers' compensation program;

(b) Indirect costs that are necessary and reasonable for the proper and efficient administration of the workers' compensation program as documented in a cost allocation plan. The indirect cost plan shall conform to the United States office of management and budget circular A-87 "cost principles for state and local governments," 2 C.F.R. 225, as most recently amended on May 10, 2004. The plan shall not authorize payment from the fund of any general government expense required to carry out the overall governmental responsibilities.

(3) Within sixty days before a legislative body changes the method used for calculating the proportionate amount of the payments chargeable to the fund, it shall notify, consult with, and give information supporting the change to any elected official affected by the change. A transfer made pursuant to division (B)(2) of this section is not subject to section 5705.16 of the Revised Code.

(D) Any county board of developmental disabilities, board of alcohol, drug addiction, and mental health services, board of mental health services, or board of alcohol and drug addiction services whose workers' compensation payments, on or before September 28, 2012, includes costs referred to in division (C)(2) of this section may continue to do so on and after September 28, 2012.

(E) The bureau may investigate the correctness of the information provided by the county auditor and chief fiscal officer under division ~~(B)~~(A) of this section, and if the bureau determines at any time that the county, district, district activity, or institution has not reported the correct information, the administrator of workers' compensation may make deductions or additions as the facts warrant and take those facts into consideration in determining the current or future contributions to be made by the county, district, district activity, or institution. If the county, district, district activity, or institution does not furnish the report in the time required by this section, the administrator may fix the amount of contribution the county, district, district activity, or institution must make and certify that amount for payment.

(F) The For payments of premium and assessments for a policy year prior to the policy year commencing January 1, 2015, the administrator shall

provide a discount to any county, district, district activity, or institution that pays its total amount due to the public insurance fund on or before the fifteenth day of May of each year as its proper contribution for premiums. The administrator shall base the discount provided under this division on the savings generated by the early payment to the public insurance fund. The administrator may provide the discount through a refund to the county, district, district activity, or institution or an offset against the future contributions due to the public insurance fund from the county, district, district activity, or institution.

(G) The administrator may impose an interest penalty for late payment of any amount due from a county, district, district activity, and institution at the interest rate established by the state tax commissioner pursuant to section 5703.47 of the Revised Code.

~~(H) If the administrator adopts rules for the prospective payment of premium as permitted under section 4123.322 of the Revised Code, every employer mentioned in division (B)(1) of section 4123.01 of the Revised Code, except for a state agency or a state university or college as defined in section 4123.32 of the Revised Code, shall pay into the state insurance fund the amount of premium the administrator fixes for the employment or occupation of the employer, the amount of which premium to be paid by each employer to be determined by the classifications, rules, and rates made and published by the administrator and based upon the estimates and reconciliations required by the rules the administrator adopts under section 4123.322 of the Revised Code.~~

Sec. 4123.411. (A) For the purpose of carrying out sections 4123.412 to 4123.418 of the Revised Code, the administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors, shall levy an assessment against all employers at a rate, ~~of at least five but~~ not to exceed ten cents per one hundred dollars of payroll, such rate to be determined annually for each employer group listed in divisions (A)(1) to (3) of this section, which will produce an amount no greater than the amount the administrator estimates to be necessary to carry out such sections for the period for which the assessment is levied. In the event the amount produced by the assessment is not sufficient to carry out such sections the additional amount necessary shall be provided from the income produced as a result of investments made pursuant to section 4123.44 of the Revised Code.

Assessments shall be levied according to the following schedule:

(1) ~~Private~~ For private fund employers, except self-insuring employers--;

(a) For policy years commencing prior to July 1, 2015, in January and July of each year upon gross payrolls of the preceding six months;

(b) For policy years commencing on or after July 1, 2015, in the month of June immediately preceding each policy year upon gross payrolls estimated for that policy year.

(2) ~~Counties~~ For counties and taxing district employers therein, except county hospitals that are self-insuring employers—:

(a) For policy years commencing prior to January 1, 2016, in January of each year upon gross payrolls of the preceding twelve months;

(b) For policy years commencing on or after January 1, 2016, in the month of December immediately preceding each policy year upon gross payrolls estimated for that policy year.

(3) ~~The~~ For the state as an employer--in January, April, July, and October of each year upon gross payrolls of the preceding three months or at other intervals as the administrator establishes.

After the completion of each policy year that commences on or after July 1, 2015, for private fund employers or that commences on or after January 1, 2016, for counties and taxing district employers therein, the assessments levied under this section shall be adjusted for the difference between estimated gross payrolls and actual gross payrolls reported by the employer on the payroll report submitted by a private employer pursuant to section 4123.26 of the Revised Code, or, for a public employer, submitted pursuant to section 4123.41 of the Revised Code.

Amounts assessed in accordance with this section shall be collected from each employer as prescribed in rules the administrator adopts.

The moneys derived from the assessment provided for in this section shall be credited to the disabled workers' relief fund created by section 4123.412 of the Revised Code. The administrator shall establish by rule classifications of employers within divisions (A)(1) to (3) of this section and shall determine rates for each class so as to fairly apportion the costs of carrying out sections 4123.412 to 4123.418 of the Revised Code.

(B) For all injuries and disabilities occurring on or after January 1, 1987, the administrator, for the purposes of carrying out sections 4123.412 to 4123.418 of the Revised Code, shall levy an assessment against all employers at a rate per one hundred dollars of payroll, such rate to be determined annually for each classification of employer in each employer group listed in divisions (A)(1) to (3) of this section, which will produce an amount no greater than the amount the administrator estimates to be necessary to carry out such sections for the period for which the assessment is levied. The administrator annually shall establish the contributions due

from employers for the disabled workers' relief fund at rates as low as possible but that will assure sufficient moneys to guarantee the payment of any claims against that fund.

Amounts assessed in accordance with this division shall be billed at the same time premiums are billed and credited to the disabled workers' relief fund created by section 4123.412 of the Revised Code. The administrator shall determine the rates for each class in the same manner as the administrator fixes the rates for premiums pursuant to section 4123.29 of the Revised Code.

(C) For a self-insuring employer, the bureau of workers' compensation shall pay to employees who are participants regardless of the date of injury, any amounts due to the participants under section 4123.414 of the Revised Code and shall bill the self-insuring employer, semiannually, for all amounts paid to a participant.

Sec. 4123.47. (A) The administrator of workers' compensation shall have an actuarial audits analysis of the state insurance fund and all other funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code made at least once each year. The audits analysis shall be made and certified by recognized insurance, credentialed property or casualty actuaries who shall be selected by the bureau of workers' compensation board of directors. ~~The audits shall cover the premium rates, classifications, and all other matters involving the administration of the state insurance fund and all other funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code.~~ The expense of the audits analysis shall be paid from the state insurance fund. The administrator shall make copies of the audits analysis available to the workers' compensation audit committee at no charge and to the public at cost.

(B) The auditor of state annually shall conduct an audit of the administration of this chapter by the industrial commission and the bureau of workers' compensation and the safety and hygiene fund. The cost of the audit shall be charged to the administrative costs of the bureau as defined in section 4123.341 of the Revised Code. The audit shall include audits of all fiscal activities, claims processing and handling, and employer premium collections. The auditor shall prepare a report of the audit together with recommendations and transmit copies of the report to the industrial commission, the board, the administrator, the governor, and to the general assembly. The auditor shall make copies of the report available to the public at cost.

(C) The administrator may retain the services of a recognized actuary on a consulting basis for the purpose of evaluating the actuarial soundness of



premium rates and classifications and all other matters involving the administration of the state insurance fund. The expense of services provided by the actuary shall be paid from the state insurance fund.

Sec. 4123.511. (A) Within seven days after receipt of any claim under this chapter, the bureau of workers' compensation shall notify the claimant and the employer of the claimant of the receipt of the claim and of the facts alleged therein. If the bureau receives from a person other than the claimant written or facsimile information or information communicated verbally over the telephone indicating that an injury or occupational disease has occurred or been contracted which may be compensable under this chapter, the bureau shall notify the employee and the employer of the information. If the information is provided verbally over the telephone, the person providing the information shall provide written verification of the information to the bureau according to division (E) of section 4123.84 of the Revised Code. The receipt of the information in writing or facsimile, or if initially by telephone, the subsequent written verification, and the notice by the bureau shall be considered an application for compensation under section 4123.84 or 4123.85 of the Revised Code, provided that the conditions of division (E) of section 4123.84 of the Revised Code apply to information provided verbally over the telephone. Upon receipt of a claim, the bureau shall advise the claimant of the claim number assigned and the claimant's right to representation in the processing of a claim or to elect no representation. If the bureau determines that a claim is determined to be a compensable lost-time claim, the bureau shall notify the claimant and the employer of the availability of rehabilitation services. No bureau or industrial commission employee shall directly or indirectly convey any information in derogation of this right. This section shall in no way abrogate the bureau's responsibility to aid and assist a claimant in the filing of a claim and to advise the claimant of the claimant's rights under the law.

The administrator of workers' compensation shall assign all claims and investigations to the bureau service office from which investigation and determination may be made most expeditiously.

The bureau shall investigate the facts concerning an injury or occupational disease and ascertain such facts in whatever manner is most appropriate and may obtain statements of the employee, employer, attending physician, and witnesses in whatever manner is most appropriate.

The administrator, with the advice and consent of the bureau of workers' compensation board of directors, may adopt rules that identify specified medical conditions that have a historical record of being allowed whenever included in a claim. The administrator may grant immediate allowance of

any medical condition identified in those rules upon the filing of a claim involving that medical condition and may make immediate payment of medical bills for any medical condition identified in those rules that is included in a claim. If an employer contests the allowance of a claim involving any medical condition identified in those rules, and the claim is disallowed, payment for the medical condition included in that claim shall be charged to and paid from the surplus fund created under section 4123.34 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, in claims other than those in which the employer is a self-insuring employer, if the administrator determines under division (A) of this section that a claimant is or is not entitled to an award of compensation or benefits, the administrator shall issue an order no later than twenty-eight days after the sending of the notice under division (A) of this section, granting or denying the payment of the compensation or benefits, or both as is appropriate to the claimant. Notwithstanding the time limitation specified in this division for the issuance of an order, if a medical examination of the claimant is required by statute, the administrator promptly shall schedule the claimant for that examination and shall issue an order no later than twenty-eight days after receipt of the report of the examination. The administrator shall notify the claimant and the employer of the claimant and their respective representatives in writing of the nature of the order and the amounts of compensation and benefit payments involved. The employer or claimant may appeal the order pursuant to division (C) of this section within fourteen days after the date of the receipt of the order. The employer and claimant may waive, in writing, their rights to an appeal under this division.

(2) Notwithstanding the time limitation specified in division (B)(1) of this section for the issuance of an order, if the employer certifies a claim for payment of compensation or benefits, or both, to a claimant, and the administrator has completed the investigation of the claim, the payment of benefits or compensation, or both, as is appropriate, shall commence upon the later of the date of the certification or completion of the investigation and issuance of the order by the administrator, provided that the administrator shall issue the order no later than the time limitation specified in division (B)(1) of this section.

(3) If an appeal is made under division (B)(1) or (2) of this section, the administrator shall forward the claim file to the appropriate district hearing officer within seven days of the appeal. In contested claims other than state fund claims, the administrator shall forward the claim within seven days of the administrator's receipt of the claim to the industrial commission, which

shall refer the claim to an appropriate district hearing officer for a hearing in accordance with division (C) of this section.

(C) If an employer or claimant timely appeals the order of the administrator issued under division (B) of this section or in the case of other contested claims other than state fund claims, the commission shall refer the claim to an appropriate district hearing officer according to rules the commission adopts under section 4121.36 of the Revised Code. The district hearing officer shall notify the parties and their respective representatives of the time and place of the hearing.

The district hearing officer shall hold a hearing on a disputed issue or claim within forty-five days after the filing of the appeal under this division and issue a decision within seven days after holding the hearing. The district hearing officer shall notify the parties and their respective representatives in writing of the order. Any party may appeal an order issued under this division pursuant to division (D) of this section within fourteen days after receipt of the order under this division.

(D) Upon the timely filing of an appeal of the order of the district hearing officer issued under division (C) of this section, the commission shall refer the claim file to an appropriate staff hearing officer according to its rules adopted under section 4121.36 of the Revised Code. The staff hearing officer shall hold a hearing within forty-five days after the filing of an appeal under this division and issue a decision within seven days after holding the hearing under this division. The staff hearing officer shall notify the parties and their respective representatives in writing of the staff hearing officer's order. Any party may appeal an order issued under this division pursuant to division (E) of this section within fourteen days after receipt of the order under this division.

(E) Upon the filing of a timely appeal of the order of the staff hearing officer issued under division (D) of this section, the commission or a designated staff hearing officer, on behalf of the commission, shall determine whether the commission will hear the appeal. If the commission or the designated staff hearing officer decides to hear the appeal, the commission or the designated staff hearing officer shall notify the parties and their respective representatives in writing of the time and place of the hearing. The commission shall hold the hearing within forty-five days after the filing of the notice of appeal and, within seven days after the conclusion of the hearing, the commission shall issue its order affirming, modifying, or reversing the order issued under division (D) of this section. The commission shall notify the parties and their respective representatives in writing of the order. If the commission or the designated staff hearing

officer determines not to hear the appeal, within fourteen days after the expiration of the period in which an appeal of the order of the staff hearing officer may be filed as provided in division (D) of this section, the commission or the designated staff hearing officer shall issue an order to that effect and notify the parties and their respective representatives in writing of that order.

Except as otherwise provided in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code, any party may appeal an order issued under this division to the court pursuant to section 4123.512 of the Revised Code within sixty days after receipt of the order, subject to the limitations contained in that section.

(F) Every notice of an appeal from an order issued under divisions (B), (C), (D), and (E) of this section shall state the names of the claimant and employer, the number of the claim, the date of the decision appealed from, and the fact that the appellant appeals therefrom.

(G) All of the following apply to the proceedings under divisions (C), (D), and (E) of this section:

(1) The parties shall proceed promptly and without continuances except for good cause;

(2) The parties, in good faith, shall engage in the free exchange of information relevant to the claim prior to the conduct of a hearing according to the rules the commission adopts under section 4121.36 of the Revised Code;

(3) The administrator is a party and may appear and participate at all administrative proceedings on behalf of the state insurance fund. However, in cases in which the employer is represented, the administrator shall neither present arguments nor introduce testimony that is cumulative to that presented or introduced by the employer or the employer's representative. The administrator may file an appeal under this section on behalf of the state insurance fund; however, except in cases arising under section 4123.343 of the Revised Code, the administrator only may appeal questions of law or issues of fraud when the employer appears in person or by representative.

(H) Except as provided in section 4121.63 of the Revised Code and division (K) of this section, payments of compensation to a claimant or on behalf of a claimant as a result of any order issued under this chapter shall commence upon the earlier of the following:

(1) Fourteen days after the date the administrator issues an order under division (B) of this section, unless that order is appealed;

(2) The date when the employer has waived the right to appeal a decision issued under division (B) of this section;

(3) If no appeal of an order has been filed under this section or to a court under section 4123.512 of the Revised Code, the expiration of the time limitations for the filing of an appeal of an order;

(4) The date of receipt by the employer of an order of a district hearing officer, a staff hearing officer, or the industrial commission issued under division (C), (D), or (E) of this section.

(I) Payments Except as otherwise provided in division (B) of section 4123.66 of the Revised Code, payments of medical benefits payable under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code shall commence upon the earlier of the following:

(1) The date of the issuance of the staff hearing officer's order under division (D) of this section;

(2) The date of the final administrative or judicial determination.

(J) The administrator shall charge the compensation payments made in accordance with division (H) of this section or medical benefits payments made in accordance with division (I) of this section to an employer's experience immediately after the employer has exhausted the employer's administrative appeals as provided in this section or has waived the employer's right to an administrative appeal under division (B) of this section, subject to the adjustment specified in division (H) of section 4123.512 of the Revised Code.

(K) Upon the final administrative or judicial determination under this section or section 4123.512 of the Revised Code of an appeal of an order to pay compensation, if a claimant is found to have received compensation pursuant to a prior order which is reversed upon subsequent appeal, the claimant's employer, if a self-insuring employer, or the bureau, shall withhold from any amount to which the claimant becomes entitled pursuant to any claim, past, present, or future, under Chapter 4121., 4123., 4127., or 4131. of the Revised Code, the amount of previously paid compensation to the claimant which, due to reversal upon appeal, the claimant is not entitled, pursuant to the following criteria:

(1) No withholding for the first twelve weeks of temporary total disability compensation pursuant to section 4123.56 of the Revised Code shall be made;

(2) Forty per cent of all awards of compensation paid pursuant to sections 4123.56 and 4123.57 of the Revised Code, until the amount overpaid is refunded;

(3) Twenty-five per cent of any compensation paid pursuant to section 4123.58 of the Revised Code until the amount overpaid is refunded;

(4) If, pursuant to an appeal under section 4123.512 of the Revised

Code, the court of appeals or the supreme court reverses the allowance of the claim, then no amount of any compensation will be withheld.

The administrator and self-insuring employers, as appropriate, are subject to the repayment schedule of this division only with respect to an order to pay compensation that was properly paid under a previous order, but which is subsequently reversed upon an administrative or judicial appeal. The administrator and self-insuring employers are not subject to, but may utilize, the repayment schedule of this division, or any other lawful means, to collect payment of compensation made to a person who was not entitled to the compensation due to fraud as determined by the administrator or the industrial commission.

(L) If a staff hearing officer or the commission fails to issue a decision or the commission fails to refuse to hear an appeal within the time periods required by this section, payments to a claimant shall cease until the staff hearing officer or commission issues a decision or hears the appeal, unless the failure was due to the fault or neglect of the employer or the employer agrees that the payments should continue for a longer period of time.

(M) Except as otherwise provided in this section or section 4123.522 of the Revised Code, no appeal is timely filed under this section unless the appeal is filed with the time limits set forth in this section.

(N) No person who is not an employee of the bureau or commission or who is not by law given access to the contents of a claims file shall have a file in the person's possession.

(O) Upon application of a party who resides in an area in which an emergency or disaster is declared, the industrial commission and hearing officers of the commission may waive the time frame within which claims and appeals of claims set forth in this section must be filed upon a finding that the applicant was unable to comply with a filing deadline due to an emergency or a disaster.

As used in this division:

(1) "Emergency" means any occasion or instance for which the governor of Ohio or the president of the United States publicly declares an emergency and orders state or federal assistance to save lives and protect property, the public health and safety, or to lessen or avert the threat of a catastrophe.

(2) "Disaster" means any natural catastrophe or fire, flood, or explosion, regardless of the cause, that causes damage of sufficient magnitude that the governor of Ohio or the president of the United States, through a public declaration, orders state or federal assistance to alleviate damage, loss, hardship, or suffering that results from the occurrence.

Sec. 4123.512. (A) The claimant or the employer may appeal an order

of the industrial commission made under division (E) of section 4123.511 of the Revised Code in any injury or occupational disease case, other than a decision as to the extent of disability to the court of common pleas of the county in which the injury was inflicted or in which the contract of employment was made if the injury occurred outside the state, or in which the contract of employment was made if the exposure occurred outside the state. If no common pleas court has jurisdiction for the purposes of an appeal by the use of the jurisdictional requirements described in this division, the appellant may use the venue provisions in the Rules of Civil Procedure to vest jurisdiction in a court. If the claim is for an occupational disease, the appeal shall be to the court of common pleas of the county in which the exposure which caused the disease occurred. Like appeal may be taken from an order of a staff hearing officer made under division (D) of section 4123.511 of the Revised Code from which the commission has refused to hear an appeal. The appellant shall file the notice of appeal with a court of common pleas within sixty days after the date of the receipt of the order appealed from or the date of receipt of the order of the commission refusing to hear an appeal of a staff hearing officer's decision under division (D) of section 4123.511 of the Revised Code. The filing of the notice of the appeal with the court is the only act required to perfect the appeal.

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

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

(B) The notice of appeal shall state the names of the administrator of workers' compensation, the claimant, and the employer; the number of the claim; the date of the order appealed from; and the fact that the appellant appeals therefrom.

The administrator of ~~workers' compensation~~, the claimant, and the employer shall be parties to the appeal and the court, upon the application of the commission, shall make the commission a party. The party filing the appeal shall serve a copy of the notice of appeal on the administrator at the

central office of the bureau of workers' compensation in Columbus. The administrator shall notify the employer that if the employer fails to become an active party to the appeal, then the administrator may act on behalf of the employer and the results of the appeal could have an adverse effect upon the employer's premium rates.

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

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

The claimant shall, within thirty days after the filing of the notice of appeal, file a petition containing a statement of facts in ordinary and concise language showing a cause of action to participate or to continue to participate in the fund and setting forth the basis for the jurisdiction of the court over the action. Further pleadings shall be had in accordance with the Rules of Civil Procedure, provided that service of summons on such petition shall not be required and provided that the claimant may not dismiss the complaint without the employer's consent if the employer is the party that filed the notice of appeal to court pursuant to this section. The clerk of the court shall, upon receipt thereof, transmit by certified mail a copy thereof to each party named in the notice of appeal other than the claimant. Any party may file with the clerk prior to the trial of the action a deposition of any physician taken in accordance with the provisions of the Revised Code, which deposition may be read in the trial of the action even though the physician is a resident of or subject to service in the county in which the trial is had. The bureau of workers' compensation shall pay the cost of the stenographic deposition filed in court and of copies of the stenographic deposition for each party from the surplus fund and charge the costs thereof against the unsuccessful party if the claimant's right to participate or continue to participate is finally sustained or established in the appeal. In the event the deposition is taken and filed, the physician whose deposition is taken is not required to respond to any subpoena issued in the trial of the action. The court, or the jury under the instructions of the court, if a jury is



demanded, shall determine the right of the claimant to participate or to continue to participate in the fund upon the evidence adduced at the hearing of the action.

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

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

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

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

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

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

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

(iii) The request for payment is submitted within the time limit set forth in section 4123.52 of the Revised Code.

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

(c) Division (H)(2) of this section shall apply only to a claim under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code arising on or after ~~the effective date of this amendment~~ July 29, 2011.

(3) A self-insuring employer may elect to pay compensation and benefits under this section directly to an employee or an employee's dependents by filing an application with the bureau of workers' compensation not more than one hundred eighty days and not less than ninety days before the first day of the employer's next six-month coverage period. If the self-insuring employer timely files the application, the application is effective on the first day of the employer's next six-month coverage period, provided that the administrator shall compute the employer's assessment for the surplus fund account due with respect to the period during which that application was filed without regard to the filing of the application. On and after the effective date of the employer's election, the self-insuring employer shall pay directly to an employee or to an employee's dependents compensation and benefits under this section regardless of the date of the injury or occupational disease, and the employer shall receive no money or credits from the surplus fund account on account of those payments and shall not be required to pay any amounts into the surplus fund account on account of this section. The election made under

this division is irrevocable.

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

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

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

Sec. 4123.54. (A) Except as otherwise provided in divisions (I) and (K) of this section, every employee, who is injured or who contracts an occupational disease, and the dependents of each employee who is killed, or dies as the result of an occupational disease contracted in the course of employment, wherever such injury has occurred or occupational disease has been contracted, provided the same were not:

(1) Purposely self-inflicted; or

(2) Caused by the employee being intoxicated or under the influence of a controlled substance not prescribed by a physician where the intoxication or being under the influence of the controlled substance not prescribed by a physician was the proximate cause of the injury, is entitled to receive, either directly from the employee's self-insuring employer as provided in section 4123.35 of the Revised Code, or from the state insurance fund, the compensation for loss sustained on account of the injury, occupational disease, or death, and the medical, nurse, and hospital services and medicines, and the amount of funeral expenses in case of death, as are provided by this chapter.

(B) For the purpose of this section, provided that an employer has posted written notice to employees that the results of, or the employee's refusal to submit to, any chemical test described under this division may affect the employee's eligibility for compensation and benefits pursuant to this chapter and Chapter 4121. of the Revised Code, there is a rebuttable presumption that an employee is intoxicated or under the influence of a controlled substance not prescribed by the employee's physician and that being intoxicated or under the influence of a controlled substance not prescribed by the employee's physician is the proximate cause of an injury under either of the following conditions:

(1) When any one or more of the following is true:

(a) The employee, through a qualifying chemical test administered within eight hours of an injury, is determined to have an alcohol concentration level equal to or in excess of the levels established in divisions (A)(1)(b) to (i) of section 4511.19 of the Revised Code;

(b) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have one of the following controlled substances not prescribed by the employee's physician in the employee's system that tests above the following levels in an enzyme multiplied immunoassay technique screening test and above the levels established in division (B)(1)(c) of this section in a gas chromatography mass spectrometry test:

(i) For amphetamines, one thousand nanograms per milliliter of urine;

(ii) For cannabinoids, fifty nanograms per milliliter of urine;

(iii) For cocaine, including crack cocaine, three hundred nanograms per milliliter of urine;

(iv) For opiates, two thousand nanograms per milliliter of urine;

(v) For phencyclidine, twenty-five nanograms per milliliter of urine.

(c) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have one of the following controlled substances not prescribed by the employee's physician in the employee's system that tests above the following levels by a gas chromatography mass spectrometry test:

(i) For amphetamines, five hundred nanograms per milliliter of urine;

(ii) For cannabinoids, fifteen nanograms per milliliter of urine;

(iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine;

(iv) For opiates, two thousand nanograms per milliliter of urine;

(v) For phencyclidine, twenty-five nanograms per milliliter of urine.

(d) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have barbiturates, benzodiazepines, methadone, or propoxyphene in the employee's system that tests above levels established by laboratories certified by the United States department of health and human services.

(2) When the employee refuses to submit to a requested chemical test, on the condition that that employee is or was given notice that the refusal to submit to any chemical test described in division (B)(1) of this section may affect the employee's eligibility for compensation and benefits under this chapter and Chapter 4121. of the Revised Code.

(C)(1) For purposes of division (B) of this section, a chemical test is a qualifying chemical test if it is administered to an employee after an injury

under at least one of the following conditions:

(a) When the employee's employer had reasonable cause to suspect that the employee may be intoxicated or under the influence of a controlled substance not prescribed by the employee's physician;

(b) At the request of a police officer pursuant to section 4511.191 of the Revised Code, and not at the request of the employee's employer;

(c) At the request of a licensed physician who is not employed by the employee's employer, and not at the request of the employee's employer.

(2) As used in division (C)(1)(a) of this section, "reasonable cause" means, but is not limited to, evidence that an employee is or was using alcohol or a controlled substance drawn from specific, objective facts and reasonable inferences drawn from these facts in light of experience and training. These facts and inferences may be based on, but are not limited to, any of the following:

(a) Observable phenomena, such as direct observation of use, possession, or distribution of alcohol or a controlled substance, or of the physical symptoms of being under the influence of alcohol or a controlled substance, such as but not limited to slurred speech, dilated pupils, odor of alcohol or a controlled substance, changes in affect, or dynamic mood swings;

(b) A pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance such as frequent absenteeism, excessive tardiness, or recurrent accidents, that appears to be related to the use of alcohol or a controlled substance, and does not appear to be attributable to other factors;

(c) The identification of an employee as the focus of a criminal investigation into unauthorized possession, use, or trafficking of a controlled substance;

(d) A report of use of alcohol or a controlled substance provided by a reliable and credible source;

(e) Repeated or flagrant violations of the safety or work rules of the employee's employer, that are determined by the employee's supervisor to pose a substantial risk of physical injury or property damage and that appear to be related to the use of alcohol or a controlled substance and that do not appear attributable to other factors.

(D) Nothing in this section shall be construed to affect the rights of an employer to test employees for alcohol or controlled substance abuse.

(E) For the purpose of this section, laboratories certified by the United States department of health and human services or laboratories that meet or exceed the standards of that department for laboratory certification shall be

used for processing the test results of a qualifying chemical test.

(F) The written notice required by division (B) of this section shall be the same size or larger than the ~~certificate proof of premium payment notice~~ workers' compensation coverage furnished by the bureau of workers' compensation and shall be posted by the employer in the same location as the ~~certificate proof of premium payment notice~~ workers' compensation coverage or the certificate of self-insurance.

(G) If a condition that pre-existed an injury is substantially aggravated by the injury, and that substantial aggravation is documented by objective diagnostic findings, objective clinical findings, or objective test results, no compensation or benefits are payable because of the pre-existing condition once that condition has returned to a level that would have existed without the injury.

(H)(1) Whenever, with respect to an employee of an employer who is subject to and has complied with this chapter, there is possibility of conflict with respect to the application of workers' compensation laws because the contract of employment is entered into and all or some portion of the work is or is to be performed in a state or states other than Ohio, the employer and the employee may agree to be bound by the laws of this state or by the laws of some other state in which all or some portion of the work of the employee is to be performed. The agreement shall be in writing and shall be filed with the bureau of workers' compensation within ten days after it is executed and shall remain in force until terminated or modified by agreement of the parties similarly filed. If the agreement is to be bound by the laws of this state and the employer has complied with this chapter, then the employee is entitled to compensation and benefits regardless of where the injury occurs or the disease is contracted and the rights of the employee and the employee's dependents under the laws of this state are the exclusive remedy against the employer on account of injury, disease, or death in the course of and arising out of the employee's employment. If the agreement is to be bound by the laws of another state and the employer has complied with the laws of that state, the rights of the employee and the employee's dependents under the laws of that state are the exclusive remedy against the employer on account of injury, disease, or death in the course of and arising out of the employee's employment without regard to the place where the injury was sustained or the disease contracted. If an employer and an employee enter into an agreement under this division, the fact that the employer and the employee entered into that agreement shall not be construed to change the status of an employee whose continued employment is subject to the will of the employer or the employee, unless the agreement contains a provision

that expressly changes that status.

~~(2) If any employee or the employee's dependents pursue workers' compensation benefits or recover damages from the employer under the laws of another state, the amount awarded or recovered, whether paid or to be paid in future installments, shall be credited on the amount of any award of compensation or benefits made to the employee or the employee's dependents by the bureau. If an employee or the employee's dependents pursue or receive an award of compensation or benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for the same injury, occupational disease, or death for which the employee or the employee's dependents previously pursued or otherwise elected to accept workers' compensation benefits and received a decision on the merits as defined in section 4123.542 of the Revised Code under the laws of another state or recovered damages under the laws of another state, the claim shall be disallowed and the administrator or any self-insuring employer, by any lawful means, may collect the from the employee or the employee's dependents any of the following:~~

~~(i) The amount of compensation or benefits paid to or on behalf of the employee or the employee's dependents by the administrator or a self-insuring employer pursuant to this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for that award;~~

~~(ii) Any interest, attorney's fees, and costs the administrator or the self-insuring employer incurs in collecting that payment.~~

~~(3) If an employee or the employee's dependents receive an award of compensation or benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code and subsequently pursue or otherwise elect to accept workers' compensation benefits or damages under the laws of another state for the same injury, occupational disease, or death the claim under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code shall be disallowed. The administrator or any a self-insuring employer also, by any lawful means, may collect from the employee or the employee's dependents any or other-states' insurer any of the following:~~

~~(i) The amount of compensation or benefits paid to or on behalf of the employee or the employee's dependents by the administrator or the self-insuring employer pursuant to this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for that award;~~

~~(ii) Any interest, costs, and attorney's fees the administrator or the self-insuring employer incurs in collecting that payment and any attorney's fees, penalties, interest, awards, and;~~

~~(iii) Any costs incurred by an employer in contesting or responding to~~

any claim filed by the employee or the employee's dependents for the same injury, occupational disease, or death that was filed after the original claim for which the employee or the employee's dependents received a decision on the merits as described in section 4123.542 of the Revised Code. ~~If~~

~~(4) If the employee's employer pays premiums into the state insurance fund, the administrator shall not charge the amount of compensation or benefits the administrator collects pursuant to this division (H)(2) or (3) of this section to the employer's experience. If the administrator collects any costs, penalties, interest, awards, or attorney's fees incurred by a state fund an employer in contesting or responding to any claim pursuant to division (H)(2) or (3) of this section, the administrator shall forward the amount of such costs, penalties, interest, awards, and attorney's fees the administrator collects collected to that employer. If the employee's employer is a self-insuring employer, the self-insuring employer shall deduct the amount of compensation or benefits the self-insuring employer collects pursuant to this division from the paid compensation the self-insuring employer reports to the administrator under division (L) of section 4123.35 of the Revised Code.~~

~~(3) Except as otherwise stipulated in division (H)(4) of this section, if~~  
~~(5) If an employee is a resident of a state other than this state and is insured under the workers' compensation law or similar laws of a state other than this state, the employee and the employee's dependents are not entitled to receive compensation or benefits under this chapter, on account of injury, disease, or death arising out of or in the course of employment while temporarily within this state, and the rights of the employee and the employee's dependents under the laws of the other state are the exclusive remedy against the employer on account of the injury, disease, or death.~~

~~(4) Division (H)(3) of this section does not apply to an employee described in that division, or the employee's dependents, unless both of the following apply:~~

~~(a) The laws of the other state limit the ability of an employee who is a resident of this state and is covered by this chapter and Chapter 4123. of the Revised Code, or the employee's dependents, to receive compensation or benefits under the other state's workers' compensation law on account of injury, disease, or death incurred by the employee that arises out of or in the course of the employee's employment while temporarily within that state in the same manner as specified in division (H)(3) of this section for an employee who is a resident of a state other than this state, or the employee's dependents;~~

~~(b) The laws of the other state limit the liability of the employer of the~~



~~employee who is a resident of this state and who is described in division (H)(4)(a) of this section for that injury, disease, or death, in the same manner specified in division (H)(3) of this section for the employer of an employee who is a resident of the other state.~~

~~(5)(6)~~ An employee, or the dependent of an employee, who elects to receive compensation and benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for a claim may not receive compensation and benefits under the workers' compensation laws of any state other than this state for that same claim. For each claim submitted by or on behalf of an employee, the administrator or, if the employee is employed by a self-insuring employer, the self-insuring employer, shall request the employee or the employee's dependent to sign an election that affirms the employee's or employee's dependent's acceptance of electing to receive compensation and benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for that claim that also affirmatively waives and releases the employee's or the employee's dependent's right to file for and receive compensation and benefits under the laws of any state other than this state for that claim. The employee or employee's dependent shall sign the election form within twenty-eight days after the administrator or self-insuring employer submits the request or the administrator or self-insuring employer shall ~~suspend~~ dismiss that claim ~~until the administrator or self-insuring employer receives the signed election form.~~

In the event a workers' compensation claim has been filed in another jurisdiction on behalf of an employee or the dependents of an employee, and the employee or dependents subsequently elect to receive compensation, benefits, or both under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code, the employee or dependent shall withdraw or refuse acceptance of the workers' compensation claim filed in the other jurisdiction in order to pursue compensation or benefits under the laws of this state. If the employee or dependents were awarded workers' compensation benefits or had recovered damages under the laws of the other state, any compensation and benefits awarded under this chapter or Chapters 4121., 4127., or 4131. of the Revised Code shall be paid only to the extent to which those payments exceed the amounts paid under the laws of the other state. If the employee or dependent fails to withdraw or to refuse acceptance of the workers' compensation claim in the other jurisdiction within twenty-eight days after a request made by the administrator or a self-insuring employer, the administrator or self-insuring employer shall dismiss the employee's or employee's dependents' claim made in this state.

(I) If an employee who is covered under the federal "Longshore and

Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., is injured or contracts an occupational disease or dies as a result of an injury or occupational disease, and if that employee's or that employee's dependents' claim for compensation or benefits for that injury, occupational disease, or death is subject to the jurisdiction of that act, the employee or the employee's dependents are not entitled to apply for and shall not receive compensation or benefits under this chapter and Chapter 4121. of the Revised Code. The rights of such an employee and the employee's dependents under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., are the exclusive remedy against the employer for that injury, occupational disease, or death.

(J) Compensation or benefits are not payable to a claimant during the period of confinement of the claimant in any state or federal correctional institution, or in any county jail in lieu of incarceration in a state or federal correctional institution, whether in this or any other state for conviction of violation of any state or federal criminal law.

(K) An employer, upon the approval of the administrator, may provide for workers' compensation coverage for the employer's employees who are professional athletes and coaches by submitting to the administrator proof of coverage under a league policy issued under the laws of another state under either of the following circumstances:

(1) The employer administers the payroll and workers' compensation insurance for a professional sports team subject to a collective bargaining agreement, and the collective bargaining agreement provides for the uniform administration of workers' compensation benefits and compensation for professional athletes.

(2) The employer is a professional sports league, or is a member team of a professional sports league, and all of the following apply:

(a) The professional sports league operates as a single entity, whereby all of the players and coaches of the sports league are employees of the sports league and not of the individual member teams.

(b) The professional sports league at all times maintains workers' compensation insurance that provides coverage for the players and coaches of the sports league.

(c) Each individual member team of the professional sports league, pursuant to the organizational or operating documents of the sports league, is obligated to the sports league to pay to the sports league any workers' compensation claims that are not covered by the workers' compensation insurance maintained by the sports league.

If the administrator approves the employer's proof of coverage

submitted under division (K) of this section, a professional athlete or coach who is an employee of the employer and the dependents of the professional athlete or coach are not entitled to apply for and shall not receive compensation or benefits under this chapter and Chapter 4121. of the Revised Code. The rights of such an athlete or coach and the dependents of such an athlete or coach under the laws of the state where the policy was issued are the exclusive remedy against the employer for the athlete or coach if the athlete or coach suffers an injury or contracts an occupational disease in the course of employment, or for the dependents of the athlete or the coach if the athlete or coach is killed as a result of an injury or dies as a result of an occupational disease, regardless of the location where the injury was suffered or the occupational disease was contracted.

Sec. 4123.542. An employee or the dependents of an employee who receive a decision on the merits of a claim for compensation or benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code shall not file a claim for the same injury, occupational disease, or death in another state under the workers' compensation laws of that state. Except as otherwise provided in division (H) of section 4123.54 of the Revised Code, an employee or the employee's dependents who receive a decision on the merits of a claim for compensation or benefits under the workers' compensation laws of another state shall not file a claim for compensation and benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for the same injury, occupational disease, or death.

As used in this section, "a decision on the merits" means a decision determined or adjudicated for compensability of a claim and not on jurisdictional grounds.

Sec. 4123.66. (A) In addition to the compensation provided for in this chapter, the administrator of workers' compensation shall disburse and pay from the state insurance fund the amounts for medical, nurse, and hospital services and medicine as the administrator deems proper and, in case death ensues from the injury or occupational disease, the administrator shall disburse and pay from the fund reasonable funeral expenses in an amount not to exceed fifty-five hundred dollars. The bureau of workers' compensation shall reimburse anyone, whether dependent, volunteer, or otherwise, who pays the funeral expenses of any employee whose death ensues from any injury or occupational disease as provided in this section. The administrator may adopt rules, with the advice and consent of the bureau of workers' compensation board of directors, with respect to furnishing medical, nurse, and hospital service and medicine to injured or disabled employees entitled thereto, and for the payment therefor. In case an

injury or industrial accident that injures an employee also causes damage to the employee's eyeglasses, artificial teeth or other denture, or hearing aid, or in the event an injury or occupational disease makes it necessary or advisable to replace, repair, or adjust the same, the bureau shall disburse and pay a reasonable amount to repair or replace the same.

(B) The administrator, in the rules the administrator adopts pursuant to division (A) of this section, may adopt rules specifying the circumstances under which the bureau may make immediate payment for the first fill of prescription drugs for medical conditions identified in an application for compensation or benefits under section 4123.84 or 4123.85 of the Revised Code that occurs prior to the date the administrator issues an initial determination order under division (B) of section 4123.511 of the Revised Code. If the claim is ultimately disallowed in a final administrative or judicial order, and if the employer is a state fund employer who pays assessments into the surplus fund account created under section 4123.34 of the Revised Code, the payments for medical services made pursuant to this division for the first fill of prescription drugs shall be charged to and paid from the surplus fund account and not charged through the state insurance fund to the employer against whom the claim was filed.

(C)(1) If an employer or a welfare plan has provided to or on behalf of an employee any benefits or compensation for an injury or occupational disease and that injury or occupational disease is determined compensable under this chapter, the employer or a welfare plan may request that the administrator reimburse the employer or welfare plan for the amount the employer or welfare plan paid to or on behalf of the employee in compensation or benefits. The administrator shall reimburse the employer or welfare plan for the compensation and benefits paid if, at the time the employer or welfare plan provides the benefits or compensation to or on behalf of employee, the injury or occupational disease had not been determined to be compensable under this chapter and if the employee was not receiving compensation or benefits under this chapter for that injury or occupational disease. The administrator shall reimburse the employer or welfare plan in the amount that the administrator would have paid to or on behalf of the employee under this chapter if the injury or occupational disease originally would have been determined compensable under this chapter. If the employer is a merit-rated employer, the administrator shall adjust the amount of premium next due from the employer according to the amount the administrator pays the employer. The administrator shall adopt rules, in accordance with Chapter 119. of the Revised Code, to implement this division.

(2) As used in this division, "welfare plan" has the same meaning as in division (1) of 29 U.S.C.A. 1002.

Sec. 4123.82. (A) All contracts and agreements are void which undertake to indemnify or insure an employer against loss or liability for the payment of compensation to workers or their dependents for death, injury, or occupational disease occasioned in the course of the workers' employment, or which provide that the insurer shall pay the compensation, or which indemnify the employer against damages when the injury, disease, or death arises from the failure to comply with any lawful requirement for the protection of the lives, health, and safety of employees, or when the same is occasioned by the willful act of the employer or any of the employer's officers or agents, or by which it is agreed that the insurer shall pay any such damages. No license or authority to enter into any such agreements or issue any such policies of insurance shall be granted or issued by any public authority in this state. Any corporation organized or admitted under the laws of this state to transact liability insurance as defined in section 3929.01 of the Revised Code may by amendment of its articles of incorporation or by original articles of incorporation, provide therein for the authority and purpose to make insurance in states, territories, districts, and counties, other than the state of Ohio, and in the state of Ohio in respect of contracts permitted by division (B) of this section, indemnifying employers against loss or liability for payment of compensation to workers and employees and their dependents for death, injury, or occupational disease occasioned in the course of the employment and to insure and indemnify employers against loss, expense, and liability by risk of bodily injury or death by accident, disability, sickness, or disease suffered by workers and employees for which the employer may be liable or has assumed liability.

(B) Notwithstanding division (A) of this section:

(1) No contract because of that division is void which undertakes to indemnify a self-insuring employer against all or part of such employer's loss in excess of at least fifty thousand dollars from any one disaster or event arising out of the employer's liability under this chapter, but no insurance corporation shall, directly or indirectly, represent an employer in the settlement, adjudication, determination, allowance, or payment of claims. The superintendent of insurance shall enforce this prohibition by such disciplinary orders directed against the offending insurance corporation as the superintendent of insurance deems appropriate in the circumstances and the administrator of workers' compensation shall enforce this prohibition by such disciplinary orders directed against the offending employer as the administrator deems appropriate in the circumstances,

which orders may include revocation of the insurance corporation's right to enter into indemnity contracts and revocation of the employer's status as a self-insuring employer.

(2) The administrator may enter into a contract of indemnity with any such employer upon such terms, payment of such premium, and for such amount and form of indemnity as the administrator determines and the bureau of workers' compensation board of directors may procure reinsurance of the liability of the public and private funds under this chapter, or any part of the liability in respect of either or both of the funds, upon such terms and premiums or other payments from the fund or funds as the administrator deems prudent in the maintenance of a solvent fund or funds from year to year. When making the finding of fact which the administrator is required by section 4123.35 of the Revised Code to make with respect to the financial ability of an employer, no contract of indemnity, or the ability of the employer to procure such a contract, shall be considered as increasing the financial ability of the employer.

(C) Nothing in this section shall be construed to prohibit the administrator or an other-states' insurer from providing to employers in this state other-states' coverage or limited other-states' coverage in accordance with section 4123.292 of the Revised Code.

(D) Notwithstanding any other section of the Revised Code, but subject to division (A) of this section, the superintendent of insurance shall have the sole authority to regulate any insurance products, except for the bureau of workers' compensation and those products offered by the bureau, that indemnify or insure employers against workers' compensation losses in this state or that are sold to employers in this state.

Sec. 4123.83. Each employer paying premiums into the state insurance fund or electing directly to pay compensation to the employer's injured employees or the dependents of the employer's killed employees as provided in section 4123.35 of the Revised Code, shall post conspicuously in the employer's place or places of employment notices, which shall be furnished ~~in adequate number at least annually~~ by the bureau of workers' compensation ~~at the time of the payment of the premium, stating the fact that the employer has made the payment, the date thereof, and period for which the payment is made.~~ The notice shall state that it is proof of workers' compensation coverage, or that the employer has complied with section 4123.35 of the Revised Code; and has been authorized by the administrator of workers' compensation directly to compensate employees or dependents, and the date of the authorization. The notice shall indicate that coverage is contingent on continued payment of premiums and assessments due. The

notice, when posted, constitutes sufficient notice to the employer's employees of the fact that the employer ~~has made payment~~ carries workers' compensation coverage or that the employer has complied with the elective provisions of section 4123.35 of the Revised Code.

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

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

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

(2) A fee as determined by the administrator;

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

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

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

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

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

(8) If there is any deficit in the working capital required under division

(A) of section 4125.051 of the Revised Code, a bond, irrevocable letter of credit, or securities with a minimum market value in an amount sufficient to cover the deficit in accordance with the requirements of that section;

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

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

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

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

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

(a) It is domiciled outside of this state.

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

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

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

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

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

~~(2) As an alternative to providing security in the form of a bond or letter of credit under division (D)(1) of this section, the administrator shall permit a professional employer organization to make periodic payments of prospective premiums and assessments to the bureau.~~

~~(3) A professional employer organization may appeal the amount of the~~



security required pursuant to rules adopted under division (D)(1) of this section in accordance with section 4123.291 of the Revised Code.

(3) A professional employer organization shall pay premiums and assessments for purposes of Chapters 4121. and 4123. of the Revised Code on a monthly basis pursuant to division (A) of section 4123.35 of the Revised Code.

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

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

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

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

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

(J) Multiple, unrelated professional employer organizations shall not combine together for purposes of obtaining workers' compensation coverage

or for forming any type of self-insurance arrangement available under this chapter. Multiple, unrelated professional employer organization reporting entities shall not combine together for purposes of obtaining workers' compensation coverage or for forming any type of self-insurance arrangement available under this chapter.

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

Sec. 4729.80. (A) If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, the board is authorized or required to provide information from the database in accordance with the following:

(1) On receipt of a request from a designated representative of a government entity responsible for the licensure, regulation, or discipline of health care professionals with authority to prescribe, administer, or dispense drugs, the board may provide to the representative information from the database relating to the professional who is the subject of an active investigation being conducted by the government entity.

(2) On receipt of a request from a federal officer, or a state or local officer of this or any other state, whose duties include enforcing laws relating to drugs, the board shall provide to the officer information from the database relating to the person who is the subject of an active investigation of a drug abuse offense, as defined in section 2925.01 of the Revised Code, being conducted by the officer's employing government entity.

(3) Pursuant to a subpoena issued by a grand jury, the board shall provide to the grand jury information from the database relating to the person who is the subject of an investigation being conducted by the grand jury.

(4) Pursuant to a subpoena, search warrant, or court order in connection with the investigation or prosecution of a possible or alleged criminal offense, the board shall provide information from the database as necessary to comply with the subpoena, search warrant, or court order.

(5) On receipt of a request from a prescriber or the prescriber's delegate approved by the board, the board ~~may~~ shall provide to the prescriber information from the database relating to a patient who is either of the following, if the prescriber certifies in a form specified by the board that it is for the purpose of providing medical treatment to the patient who is the subject of the request:

(a) A current patient of the prescriber;

(b) A potential patient of the prescriber based on a referral of the patient to the prescriber.

(6) On receipt of a request from a pharmacist or the pharmacist's delegate approved by the board, the board ~~may~~ shall provide to the pharmacist information from the database relating to a current patient of the pharmacist, if the pharmacist certifies in a form specified by the board that it is for the purpose of the pharmacist's practice of pharmacy involving the patient who is the subject of the request.

(7) On receipt of a request from an individual seeking the individual's own database information in accordance with the procedure established in rules adopted under section 4729.84 of the Revised Code, the board may provide to the individual the individual's own database information.

(8) On receipt of a request from the medical director of a managed care organization that has entered into a data security agreement with the board required by section 5167.14 of the Revised Code, the board shall provide to the medical director information from the database relating to a medicaid recipient enrolled in the managed care organization, including information in the database related to prescriptions for the recipient that were not covered or reimbursed under a program administered by the department of medicaid.

(9) On receipt of a request from the medicaid director, the board shall provide to the director information from the database relating to a recipient of a program administered by the department of medicaid, including information in the database related to prescriptions for the recipient that were not covered or paid by a program administered by the department.

(10) On receipt of a request from the medical director of a managed care organization, the board shall provide to the medical director information from the database relating to a claimant under Chapter 4121., 4123., 4127., or 4131. of the Revised Code assigned to the managed care organization, including information in the database related to prescriptions for the claimant that were not covered or reimbursed under those chapters, if both of the following apply:

(a) The managed care organization has entered into a contract with the administrator of workers' compensation under division (B)(4) of section 4121.44 of the Revised Code;

(b) The managed care organization has entered into a data security agreement with the board as required by section 4121.447 of the Revised Code.

(11) On receipt of a request from the administrator of workers' compensation, the board ~~may~~ shall provide to the administrator information

from the database relating to a claimant under Chapter 4121., 4123., 4127., or 4131. of the Revised Code, including information in the database related to prescriptions for the claimant that were not covered or reimbursed under Chapter 4121., 4123., 4127., or 4131. of the Revised Code.

~~(H)~~(12) On receipt of a request from a requestor described in division (A)(1), (2), (5), or (6) of this section who is from or participating with another state's prescription monitoring program, the board may provide to the requestor information from the database, but only if there is a written agreement under which the information is to be used and disseminated according to the laws of this state.

(B) The state board of pharmacy shall maintain a record of each individual or entity that requests information from the database pursuant to this section. In accordance with rules adopted under section 4729.84 of the Revised Code, the board may use the records to document and report statistics and law enforcement outcomes.

The board may provide records of an individual's requests for database information to the following:

(1) A designated representative of a government entity that is responsible for the licensure, regulation, or discipline of health care professionals with authority to prescribe, administer, or dispense drugs who is involved in an active investigation being conducted by the government entity of the individual who submitted the requests for database information;

(2) A federal officer, or a state or local officer of this or any other state, whose duties include enforcing laws relating to drugs and who is involved in an active investigation being conducted by the officer's employing government entity of the individual who submitted the requests for database information.

(C) Information contained in the database and any information obtained from it is not a public record. Information contained in the records of requests for information from the database is not a public record. Information that does not identify a person may be released in summary, statistical, or aggregate form.

(D) A pharmacist or prescriber shall not be held liable in damages to any person in any civil action for injury, death, or loss to person or property on the basis that the pharmacist or prescriber did or did not seek or obtain information from the database.

Sec. 4729.86. If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, all of the following apply:

(A)(1) No person identified in divisions (A)(1) to ~~(H)~~(11) or (B) of

section 4729.80 of the Revised Code shall disseminate any written or electronic information the person receives from the drug database or otherwise provide another person access to the information that the person receives from the database, except as follows:

(a) When necessary in the investigation or prosecution of a possible or alleged criminal offense;

(b) When a person provides the information to the prescriber or pharmacist for whom the person is approved by the board to serve as a delegate of the prescriber or pharmacist for purposes of requesting and receiving information from the drug database under division (A)(5) or (6) of section 4729.80 of the Revised Code;

(c) When a prescriber or pharmacist provides the information to a person who is approved by the board to serve as such a delegate of the prescriber or pharmacist.

(2) No person shall provide false information to the state board of pharmacy with the intent to obtain or alter information contained in the drug database.

(3) No person shall obtain drug database information by any means except as provided under section 4729.80 or 4729.81 of the Revised Code.

(B) A person shall not use information obtained pursuant to division (A) of section 4729.80 of the Revised Code as evidence in any civil or administrative proceeding.

(C)(1) The board may restrict a person from obtaining further information from the drug database if any of the following is the case:

(a) The person violates division (A)(1), (2), or (3) of this section;

(b) The person is a requestor identified in division (A)~~(11)~~(12) of section 4729.80 of the Revised Code and the board determines that the person's actions in another state would have constituted a violation of division (A)(1), (2), or (3) of this section;

(c) The person fails to comply with division (B) of this section, regardless of the jurisdiction in which the failure to comply occurred.

(2) The board shall determine the extent to which the person is restricted from obtaining further information from the database.

SECTION 2. That existing sections 1561.31, 2305.25, 2305.252, 4121.129, 4121.45, 4123.01, 4123.26, 4123.27, 4123.29, 4123.291, 4123.292, 4123.32, 4123.322, 4123.34, 4123.35, 4123.353, 4123.36, 4123.37, 4123.40, 4123.41, 4123.411, 4123.47, 4123.511, 4123.512, 4123.54, 4123.542, 4123.66, 4123.82, 4123.83, 4125.05, 4729.80, and 4729.86 and section 4121.419 of the Revised Code are hereby repealed.

SECTION 3. That Section 1 of Sub. H.B. 34 of the 130th General Assembly, as amended by Am. Sub. H.B. 59 of the 130th General Assembly, be amended to read as follows:

Sec. 1. All items in this section are hereby appropriated out of any moneys in the state treasury to the credit of the designated fund. For all appropriations made in this act, those in the first column are for fiscal year 2014, and those in the second column are for fiscal year 2015.

FND AI	AI TITLE	Appropriations	
<b>BWC BUREAU OF WORKERS' COMPENSATION</b>			
<b>Workers' Compensation Fund Group</b>			
7023	855401	William Green Lease Payments to OBA	\$ 16,026,100 \$ 0
7023	855407	Claims, Risk and Medical Management	\$ 118,338,586 \$ 118,338,586
7023	855408	Fraud Prevention	\$ 12,114,226 \$ 12,114,226
7023	855409	Administrative Services	\$ 105,857,276 \$ 105,357,276
7023	855410	Attorney General Payments	\$ 4,621,850 \$ 4,621,850
8220	855606	Coal Workers' Fund	\$ 147,666 \$ 147,666
8230	855608	Marine Industry	\$ 75,527 \$ 75,527
8250	855605	Disabled Workers Relief Fund	\$ 319,718 \$ 319,718
8260	855609	Safety and Hygiene Operating	\$ 21,661,132 \$ 21,661,132
8260	855610	Safety Grants	\$ 15,000,000 \$ 15,000,000
8290	855604	Long Term Care Loan Program	\$ 100,000 \$ 100,000
TOTAL WCF Workers' Compensation Fund Group			\$ 294,262,081 \$ 277,735,981
<b>Federal Special Revenue Fund Group</b>			
3490	855601	OSHA Enforcement	\$ 1,731,000 \$ 1,731,000
3FW0	855614	BLS SOII Grant	\$ 116,919 \$ 116,919
TOTAL FED Federal Special Revenue Fund Group			\$ 1,847,919 \$ 1,847,919
TOTAL ALL BUDGET FUND GROUPS			\$ 296,110,000 \$ 279,583,900

#### WILLIAM GREEN LEASE PAYMENTS

Of the foregoing appropriation item 855401, William Green Lease Payments, up to \$16,026,100 shall be used to make lease payments to the Treasurer of State at the times they are required to be made during the period from July 1, 2013 to June 30, 2015, pursuant to leases and agreements made under section 154.24 of the Revised Code. If it is determined that additional appropriations are necessary for such purpose, such amounts are hereby appropriated.

#### WORKERS' COMPENSATION FRAUD UNIT

Of the foregoing appropriation item 855410, Attorney General Payments, \$828,200 in each fiscal year shall be used to fund the expenses of

the Workers' Compensation Fraud Unit within the Attorney General's Office. These payments shall be processed at the beginning of each quarter of each fiscal year and deposited into the Workers' Compensation Section Fund (Fund 1950) used by the Attorney General.

#### SAFETY AND HYGIENE

Notwithstanding section 4121.37 of the Revised Code, the Treasurer of State shall transfer \$21,661,132 cash in fiscal year 2014 and \$21,661,132 cash in fiscal year 2015 from the State Insurance Fund to the Safety and Hygiene Fund (Fund 8260).

#### OSHA ON-SITE CONSULTATION PROGRAM

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

#### VOCATIONAL REHABILITATION

The Bureau of Workers' Compensation and the Opportunities for Ohioans with Disabilities Agency shall enter into an interagency agreement for the provision of vocational rehabilitation services and staff to mutually eligible clients. The bureau may provide not more than \$605,407 in fiscal year 2014 and not more than \$605,407 in fiscal year 2015 from the State Insurance Fund to fund vocational rehabilitation services and staff in accordance with the interagency agreement.

#### ~~FUND BALANCE~~

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

SECTION 4. That Section 1 of Sub. H.B. 34 of the 130th General Assembly, as amended by Am. Sub. H.B. 59 of the 130th General Assembly, is hereby repealed.

SECTION 5. The amendments to section 4125.05 of the Revised Code by Section 1 of this act take effect July 1, 2015.

SECTION 6. The amendments made by Section 1 of this act to sections 4123.01, 4123.26, 4123.29, 4123.292, 4123.54, and 4123.82 of the Revised

Code apply to claims that arise on or after the effective date of those amendments.

SECTION 7. This act applies to an appeal filed pursuant to section 4123.512 of the Revised Code, as amended by this act, on or after the effective date of this act.

SECTION 8. The Administrator of Workers' Compensation shall work with professional employer organizations that have been granted status as self-insuring employers under division (B) of section 4123.35 of the Revised Code and with other stakeholders to address the issue of the appropriate experience rating to assign to a client employer that leaves such a professional employer organization to obtain coverage through the state insurance fund. The Administrator shall prepare a report of the Administrator's findings on the issue and shall submit that report to the General Assembly by December 31, 2014.

SECTION 9. The items of law contained in this act, and their applications, are severable. If any item of law contained in this act, or if any application of any item of law contained in this act, is held invalid, the invalidity does not affect other items of law contained in this act and their applications that can be given effect without the invalid item of law or application.

SECTION 10. Section 4123.26 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 562 and Am. Sub. S.B. 334 of the 127th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.



---

*Speaker* \_\_\_\_\_ *of the House of Representatives.*

---

*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

---

*Governor.*

Sub. H. B. No. 493

130th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

---

*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

---

*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_