

As Introduced

**130th General Assembly
Regular Session
2013-2014**

H. B. No. 493

Representatives Sears, Henne

—

A BILL

To amend sections 131.02, 1561.31, 2305.25, 2305.252, 1
4121.129, 4123.01, 4123.26, 4123.27, 4123.29, 2
4123.291, 4123.292, 4123.32, 4123.322, 4123.34, 3
4123.35, 4123.353, 4123.36, 4123.37, 4123.40, 4
4123.41, 4123.411, 4123.47, 4123.511, 4123.512, 5
4123.54, 4123.66, 4123.82, 4123.83, 4125.05, 6
4729.80, and 4729.86; to enact sections 4121.443 7
and 4121.447; to repeal section 4121.419 of the 8
Revised Code; and to amend Section 1 of Sub. H.B. 9
34 of the 130th General Assembly, as subsequently 10
amended, to make changes to Ohio's Workers' 11
Compensation Law and to make an appropriation. 12

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

Section 1. That sections 131.02, 1561.31, 2305.25, 2305.252, 13
4121.129, 4123.01, 4123.26, 4123.27, 4123.29, 4123.291, 4123.292, 14
4123.32, 4123.322, 4123.34, 4123.35, 4123.353, 4123.36, 4123.37, 15
4123.40, 4123.41, 4123.411, 4123.47, 4123.511, 4123.512, 4123.54, 16
4123.66, 4123.82, 4123.83, 4125.05, 4729.80, and 4729.86 be 17
amended and sections 4121.443 and 4121.447 of the Revised Code be 18
enacted to read as follows: 19

Sec. 131.02. (A) Except as otherwise provided in section 20

4123.37, section 5703.061, and division (K) of section 4123.511 of 21
the Revised Code, whenever any amount is payable to the state, the 22
officer, employee, or agent responsible for administering the law 23
under which the amount is payable shall immediately proceed to 24
collect the amount or cause the amount to be collected and shall 25
pay the amount into the state treasury or into the appropriate 26
custodial fund in the manner set forth pursuant to section 113.08 27
of the Revised Code. Except as otherwise provided in this 28
division, if the amount is not paid within forty-five days after 29
payment is due, the officer, employee, or agent shall certify the 30
amount due to the attorney general, in the form and manner 31
prescribed by the attorney general, and notify the director of 32
budget and management thereof. In the case of an amount payable by 33
a student enrolled in a state institution of higher education, the 34
amount shall be certified within the later of forty-five days 35
after the amount is due or the tenth day after the beginning of 36
the next academic semester, quarter, or other session following 37
the session for which the payment is payable. The attorney general 38
may assess the collection cost to the amount certified in such 39
manner and amount as prescribed by the attorney general. If an 40
amount payable to a political subdivision is past due, the 41
political subdivision may, with the approval of the attorney 42
general, certify the amount to the attorney general pursuant to 43
this section. 44

For the purposes of this section, the attorney general and 45
the officer, employee, or agent responsible for administering the 46
law under which the amount is payable shall agree on the time a 47
payment is due, and that agreed upon time shall be one of the 48
following times: 49

(1) If a law, including an administrative rule, of this state 50
prescribes the time a payment is required to be made or reported, 51
when the payment is required by that law to be paid or reported. 52

(2) If the payment is for services rendered, when the rendering of the services is completed.	53 54
(3) If the payment is reimbursement for a loss, when the loss is incurred.	55 56
(4) In the case of a fine or penalty for which a law or administrative rule does not prescribe a time for payment, when the fine or penalty is first assessed.	57 58 59
(5) If the payment arises from a legal finding, judgment, or adjudication order, when the finding, judgment, or order is rendered or issued.	60 61 62
(6) If the payment arises from an overpayment of money by the state to another person, when the overpayment is discovered.	63 64
(7) The date on which the amount for which an individual is personally liable under section 5735.35, section 5739.33, or division (G) of section 5747.07 of the Revised Code is determined.	65 66 67
(8) Upon proof of claim being filed in a bankruptcy case.	68
(9) <u>For premiums and assessments due under Chapter 4123. of the Revised Code, thirty days after the date upon which subscribers to the state insurance fund must report actual payrolls for the policy year pursuant to section 4123.26 of the Revised Code for employers described in division (B)(2) of section 4123.01 of the Revised Code or pursuant to section 4123.41 of the Revised Code for employers described in division (B)(1) of section 4123.01 of the Revised Code.</u>	69 70 71 72 73 74 75 76
<u>(10)</u> Any other appropriate time determined by the attorney general and the officer, employee, or agent responsible for administering the law under which the amount is payable on the basis of statutory requirements or ordinary business processes of the state agency to which the payment is owed.	77 78 79 80 81
(B)(1) The attorney general shall give immediate notice by	82

mail or otherwise to the party indebted of the nature and amount 83
of the indebtedness. 84

(2) If the amount payable to this state arises from a tax 85
levied under Chapter 5733., 5739., 5741., 5747., or 5751. of the 86
Revised Code, the notice also shall specify all of the following: 87

(a) The assessment or case number; 88

(b) The tax pursuant to which the assessment is made; 89

(c) The reason for the liability, including, if applicable, 90
that a penalty or interest is due; 91

(d) An explanation of how and when interest will be added to 92
the amount assessed; 93

(e) That the attorney general and tax commissioner, acting 94
together, have the authority, but are not required, to compromise 95
the claim and accept payment over a reasonable time, if such 96
actions are in the best interest of the state. 97

(C) The attorney general shall collect the claim or secure a 98
judgment and issue an execution for its collection. 99

(D) Each claim shall bear interest, from the day on which the 100
claim became due, at the rate per annum required by section 101
5703.47 of the Revised Code. 102

(E) The attorney general and the chief officer of the agency 103
reporting a claim, acting together, may do any of the following if 104
such action is in the best interests of the state: 105

(1) Compromise the claim; 106

(2) Extend for a reasonable period the time for payment of 107
the claim by agreeing to accept monthly or other periodic 108
payments. The agreement may require security for payment of the 109
claim. 110

(3) Add fees to recover the cost of processing checks or 111

other draft instruments returned for insufficient funds and the 112
cost of providing electronic payment options. 113

(F)(1) Except as provided in division (F)(2) of this section, 114
if the attorney general finds, after investigation, that any claim 115
due and owing to the state is uncollectible, the attorney general, 116
with the consent of the chief officer of the agency reporting the 117
claim, may do the following: 118

(a) Sell, convey, or otherwise transfer the claim to one or 119
more private entities for collection; 120

(b) Cancel the claim or cause it to be canceled. 121

(2) The attorney general shall cancel or cause to be canceled 122
an unsatisfied claim on the date that is forty years after the 123
date the claim is certified. 124

(3) No initial action shall be commenced to collect any tax 125
payable to the state that is administered by the tax commissioner, 126
whether or not such tax is subject to division (B) of this 127
section, or any penalty, interest, or additional charge on such 128
tax, after the expiration of the period ending on the later of the 129
dates specified in divisions (F)(3)(a) and (b) of this section, 130
provided that such period shall be extended by the period of any 131
stay to such collection or by any other period to which the 132
parties mutually agree. If the initial action in aid of execution 133
is commenced before the later of the dates specified in divisions 134
(F)(3)(a) and (b) of this section, any and all subsequent actions 135
may be pursued in aid of execution of judgment for as long as the 136
debt exists. 137

(a) Seven years after the assessment of the tax, penalty, 138
interest, or additional charge is issued. 139

(b) Four years after the assessment of the tax, penalty, 140
interest, or additional charge becomes final. For the purposes of 141
division (F)(3)(b) of this section, the assessment becomes final 142

at the latest of the following: upon expiration of the period to 143
petition for reassessment, or if applicable, to appeal a final 144
determination of the commissioner or decision of the board of tax 145
appeals or a court, or, if applicable, upon decision of the United 146
States supreme court. 147

For the purposes of division (F)(3) of this section, an 148
initial action to collect a tax debt is commenced at the time when 149
any action, including any action in aid of execution on a 150
judgment, commences after a certified copy of the tax 151
commissioner's entry making an assessment final has been filed in 152
the office of the clerk of court of common pleas in the county in 153
which the taxpayer resides or has its principal place of business 154
in this state, or in the office of the clerk of court of common 155
pleas of Franklin county, as provided in section 5739.13, 5741.14, 156
5747.13, or 5751.09 of the Revised Code or in any other applicable 157
law requiring such a filing. If an assessment has not been issued 158
and there is no time limitation on the issuance of an assessment 159
under applicable law, an action to collect a tax debt commences 160
when the action is filed in the courts of this state to collect 161
the liability. 162

(4) If information contained in a claim that is sold, 163
conveyed, or transferred to a private entity pursuant to this 164
section is confidential pursuant to federal law or a section of 165
the Revised Code that implements a federal law governing 166
confidentiality, such information remains subject to that law 167
during and following the sale, conveyance, or transfer. 168

Sec. 1561.31. Each deputy mine inspector shall inspect each 169
mine in the inspector's district, the owner, lessee, agent, or 170
operator of which is an employer as defined in section 4123.01 of 171
the Revised Code, or any other mine at which three or more persons 172
work, at intervals not exceeding three months between inspections, 173

and all other mines in the inspector's district as often as 174
practical, noting particularly the location and condition of 175
buildings, the condition of the boiler, machinery, workings of the 176
mine, the traveling ways and haulageways, the circulation and 177
condition of the air and drainage, and the condition of electrical 178
circuits and appliances. The inspector shall make tests for 179
poisonous, explosive, and noxious gases, and shall specifically 180
order compliance with any section of this chapter and Chapters 181
1563., 1565., and 1567. and sections 1509.09, 1509.12, 1509.13, 182
1509.14, 1509.15, 1509.17, and 1509.18 of the Revised Code that 183
the inspector finds is being violated. 184

Upon completion of the inspection of a mine, the inspector 185
shall fill out a report of the conditions found during inspections 186
on a form provided by the chief of the division of mineral 187
resources management, which form shall provide for statements as 188
to whether the laws are being observed or violated, and if 189
violated, the nature and extent thereof, the date of the 190
inspection, the number of persons employed in and about the mine, 191
whether or not ~~a certificate of compliance~~ the proof of workers' 192
compensation coverage issued pursuant to section 4123.35 of the 193
Revised Code is posted and the date of expiration thereof, and 194
matters, things, and practices that specifically are covered by 195
law, order of the chief, or previous order of the inspector. The 196
inspector shall make this report in quadruplicate or 197
quintuplicate, and send the original to the chief, post a copy at 198
the mine, give a copy to the mine superintendent, and retain a 199
copy for the inspector's files. Where the miners of a mine have a 200
mine safety committee, the inspector shall post one additional 201
copy of the report of that mine at that mine for the use and 202
possession of the committee. The report required by this section 203
shall be known as the inspector's routine report. 204

If an inspector orders compliance with this chapter and 205

Chapters 1563., 1565., and 1567. and sections 1509.09, 1509.12, 206
1509.13, 1509.14, 1509.15, 1509.17, and 1509.18 of the Revised 207
Code, and is assured by the superintendent of the mine to which 208
the order applies that the order will be complied with, the 209
inspector shall revisit the mine within a reasonable period of 210
time and ascertain whether or not the order has been complied 211
with. The inspector shall report the inspector's findings to the 212
chief on a form to be provided by the chief, and take action to 213
enforce compliance. 214

Sec. 2305.25. As used in this section and sections 2305.251 215
to 2305.253 of the Revised Code: 216

(A)(1) "Health care entity" means an entity, whether acting 217
on its own behalf or on behalf of or in affiliation with other 218
health care entities, that conducts as part of its regular 219
business activities professional credentialing or quality review 220
activities involving the competence of, professional conduct of, 221
or quality of care provided by health care providers, including 222
both individuals who provide health care and entities that provide 223
health care. 224

(2) "Health care entity" includes any entity described in 225
division (A)(1) of this section, regardless of whether it is a 226
government entity; for-profit or nonprofit corporation; limited 227
liability company; partnership; professional corporation; state or 228
local society composed of physicians, dentists, optometrists, 229
psychologists, or pharmacists; or other health care organization. 230

(B) "Health insuring corporation" means an entity that holds 231
a certificate of authority under Chapter 1751. of the Revised 232
Code. "Health insuring corporation" includes wholly owned 233
subsidiaries of a health insuring corporation. 234

(C) "Hospital" means either of the following: 235

(1) An institution that has been registered or licensed by the department of health as a hospital;	236 237
(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.	238 239 240 241
(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.	242 243 244 245 246 247 248
(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:	249 250 251 252
(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;	253 254 255 256 257
(b) Conducts any other attendant hearing process initiated as a result of a peer review committee's recommendations or actions.	258 259
(2) "Peer review committee" includes all of the following:	260
(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;	261 262 263 264
(b) A peer review committee of a community mental health	265

center;	266
(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;	267 268 269 270 271
(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;	272 273 274 275
(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;	276 277 278 279 280 281
(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;	282 283 284 285 286 287 288 289
(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;	290 291 292 293 294 295
(h) A peer review committee of a sickness and accident	296

insurer that has at least a two-thirds majority of physicians in 297
active practice and that conducts professional credentialing and 298
quality review activities involving the competence or professional 299
conduct of a health care facility that has contracted with the 300
insurer to provide health care services to insureds, which conduct 301
adversely affects, or could adversely affect, the health or 302
welfare of any patient; 303

(i) A peer review committee of any insurer authorized under 304
Title XXXIX of the Revised Code to do the business of medical 305
professional liability insurance in this state that conducts 306
professional quality review activities involving the competence or 307
professional conduct of health care providers that adversely 308
affects or could affect the health or welfare of any patient; 309

(j) A peer review committee of the bureau of workers' 310
compensation or the industrial commission that is responsible for 311
reviewing the professional qualifications and the performance of 312
providers certified by the bureau to participate in the health 313
partnership program or of providers conducting medical 314
examinations or file reviews for the bureau or the commission; 315

(k) Any other peer review committee of a health care entity. 316

(F) "Physician" means an individual authorized to practice 317
medicine and surgery, osteopathic medicine and surgery, or 318
podiatric medicine and surgery. 319

(G) "Sickness and accident insurer" means an entity 320
authorized under Title XXXIX of the Revised Code to do the 321
business of sickness and accident insurance in this state. 322

(H) "Tort action" means a civil action for damages for 323
injury, death, or loss to a patient of a health care entity. "Tort 324
action" includes a product liability claim, as defined in section 325
2307.71 of the Revised Code, and an asbestos claim, as defined in 326
section 2307.91 of the Revised Code, but does not include a civil 327

action for a breach of contract or another agreement between 328
persons. 329

Sec. 2305.252. (A) Proceedings and records within the scope 330
of a peer review committee of a health care entity shall be held 331
in confidence and shall not be subject to discovery or 332
introduction in evidence in any civil action against a health care 333
entity or health care provider, including both individuals who 334
provide health care and entities that provide health care, arising 335
out of matters that are the subject of evaluation and review by 336
the peer review committee. No individual who attends a meeting of 337
a peer review committee, serves as a member of a peer review 338
committee, works for or on behalf of a peer review committee, or 339
provides information to a peer review committee shall be permitted 340
or required to testify in any civil action as to any evidence or 341
other matters produced or presented during the proceedings of the 342
peer review committee or as to any finding, recommendation, 343
evaluation, opinion, or other action of the committee or a member 344
thereof. Information, documents, or records otherwise available 345
from original sources are not to be construed as being unavailable 346
for discovery or for use in any civil action merely because they 347
were produced or presented during proceedings of a peer review 348
committee, but the information, documents, or records are 349
available only from the original sources and cannot be obtained 350
from the peer review committee's proceedings or records. An 351
individual who testifies before a peer review committee, serves as 352
a representative of a peer review committee, serves as a member of 353
a peer review committee, works for or on behalf of a peer review 354
committee, or provides information to a peer review committee 355
shall not be prevented from testifying as to matters within the 356
individual's knowledge, but the individual cannot be asked about 357
the individual's testimony before the peer review committee, 358
information the individual provided to the peer review committee, 359

or any opinion the individual formed as a result of the peer 360
review committee's activities. An order by a court to produce for 361
discovery or for use at trial the proceedings or records described 362
in this section is a final order. 363

(B) Division (A) of this section applies to a peer review 364
committee of the bureau of workers' compensation that is 365
responsible for reviewing the professional qualifications and the 366
performance of providers certified by the bureau to participate in 367
the health partnership program created under sections 4121.44 and 368
4121.441 of the Revised Code, except that the proceedings and 369
records within the scope of the peer review committee are subject 370
to discovery or court subpoena and may be admitted into evidence 371
in any criminal action or administrative or civil action 372
initiated, prosecuted, or adjudicated by the bureau involving an 373
alleged violation of applicable statutes or administrative rules. 374
The bureau may share proceedings and records within the scope of 375
the peer review committee, including claimant records and claim 376
file information, with law enforcement agencies, licensing boards, 377
and other governmental agencies that are prosecuting, 378
adjudicating, or investigating alleged violations of applicable 379
statutes or administrative rules. Recipients of claimant records 380
and claim file information provided by the bureau pursuant to this 381
division shall take appropriate measures to maintain the 382
confidentiality of the information. 383

Sec. 4121.129. (A) There is hereby created the workers' 384
compensation audit committee consisting of at least three members. 385
One member shall be the member of the bureau of workers' 386
compensation board of directors who is a certified public 387
accountant. The board, by majority vote, shall appoint two 388
additional members of the board to serve on the audit committee 389
and may appoint additional members who are not board members, as 390
the board determines necessary. Members of the audit committee 391

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 423
the board holds a meeting, no member shall be compensated for more 424
than one meeting held on that day. The actuarial committee shall 425
do both of the following: 426

(1) Recommend actuarial consultants for the board to use for 427
the funds specified in this chapter and Chapters 4123., 4127., and 428
4131. of the Revised Code; 429

(2) Review calculations on rate schedules and performance 430
prepared by the actuarial consultants with whom the board enters 431
into a contract. 432

(C)(1) There is hereby created the workers' compensation 433
investment committee consisting of at least four members. Two of 434
the members shall be the members of the board who serve as the 435
investment and securities experts on the board. The board, by 436
majority vote, shall appoint two additional members of the board 437
to serve on the investment committee and may appoint additional 438
members who are not board members. Each additional member the 439
board appoints shall have at least one of the following 440
qualifications: 441

(a) Experience managing another state's pension funds or 442
workers' compensation funds; 443

(b) Expertise that the board determines is needed to make 444
investment decisions. 445

Members of the investment committee serve at the pleasure of 446
the board and the board, by majority vote, may remove any member 447
except the members of the committee who are the investment and 448
securities expert members of the board. The board, by majority 449
vote, shall determine how often the investment committee shall 450
meet and report to the board. If the investment committee meets on 451
the same day as the board holds a meeting, no member shall be 452
compensated for more than one meeting held on that day. 453

(2) The investment committee shall do all of the following: 454

(a) Develop the investment policy for the administration of 455
the investment program for the funds specified in this chapter and 456
Chapters 4123., 4127., and 4131. of the Revised Code in accordance 457
with the requirements specified in section 4123.442 of the Revised 458
Code; 459

(b) Submit the investment policy developed pursuant to 460
division (C)(2)(a) of this section to the board for approval; 461

(c) Monitor implementation by the administrator of workers' 462
compensation and the bureau of workers' compensation chief 463
investment officer of the investment policy approved by the board; 464

(d) Recommend outside investment counsel with whom the board 465
may contract to assist the investment committee in fulfilling its 466
duties; 467

(e) Review the performance of the bureau of workers' 468
compensation chief investment officer and any investment 469
consultants retained by the administrator to assure that the 470
investments of the assets of the funds specified in this chapter 471
and Chapters 4123., 4127., and 4131. of the Revised Code are made 472
in accordance with the investment policy approved by the board and 473
~~that the best possible return on~~ to assure compliance with the 474
~~investment is achieved~~ policy and effective management of the 475
funds. 476

Sec. 4121.443. (A) The bureau of workers' compensation may 477
summarily suspend the certification of a provider to participate 478
in the health partnership program created under sections 4121.44 479
and 4121.441 of the Revised Code without a prior hearing if the 480
bureau determines any of the following apply to the provider: 481

(1) The professional license, certification, or registration 482
held by the provider has been revoked or suspended. 483

(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 any other criminal offense related to the delivery of or billing for health care benefits. 484
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(3) The continued participation by the provider in the health partnership program presents a danger to the health and safety of claimants. 488
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(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. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 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. 491
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(C) 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. 501
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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 510
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managed care organization's use of the board's drug database 515
established and maintained under section 4729.75 of the Revised 516
Code. 517

This section does not apply if the board does not establish 518
or maintain the drug database. 519

Sec. 4123.01. As used in this chapter: 520

(A)(1) "Employee" means: 521

(a) Every person in the service of the state, or of any 522
county, municipal corporation, township, or school district 523
therein, including regular members of lawfully constituted police 524
and fire departments of municipal corporations and townships, 525
whether paid or volunteer, and wherever serving within the state 526
or on temporary assignment outside thereof, and executive officers 527
of boards of education, under any appointment or contract of hire, 528
express or implied, oral or written, including any elected 529
official of the state, or of any county, municipal corporation, or 530
township, or members of boards of education. 531

As used in division (A)(1)(a) of this section, the term 532
"employee" includes the following persons when responding to an 533
inherently dangerous situation that calls for an immediate 534
response on the part of the person, regardless of whether the 535
person is within the limits of the jurisdiction of the person's 536
regular employment or voluntary service when responding, on the 537
condition that the person responds to the situation as the person 538
otherwise would if the person were on duty in the person's 539
jurisdiction: 540

(i) Off-duty peace officers. As used in division (A)(1)(a)(i) 541
of this section, "peace officer" has the same meaning as in 542
section 2935.01 of the Revised Code. 543

(ii) Off-duty firefighters, whether paid or volunteer, of a 544

lawfully constituted fire department. 545

(iii) Off-duty first responders, emergency medical 546
technicians-basic, emergency medical technicians-intermediate, or 547
emergency medical technicians-paramedic, whether paid or 548
volunteer, of an ambulance service organization or emergency 549
medical service organization pursuant to Chapter 4765. of the 550
Revised Code. 551

(b) Every person in the service of any person, firm, or 552
private corporation, including any public service corporation, 553
that (i) employs one or more persons regularly in the same 554
business or in or about the same establishment under any contract 555
of hire, express or implied, oral or written, including aliens and 556
minors, household workers who earn one hundred sixty dollars or 557
more in cash in any calendar quarter from a single household and 558
casual workers who earn one hundred sixty dollars or more in cash 559
in any calendar quarter from a single employer, or (ii) is bound 560
by any such contract of hire or by any other written contract, to 561
pay into the state insurance fund the premiums provided by this 562
chapter. 563

(c) Every person who performs labor or provides services 564
pursuant to a construction contract, as defined in section 4123.79 565
of the Revised Code, if at least ten of the following criteria 566
apply: 567

(i) The person is required to comply with instructions from 568
the other contracting party regarding the manner or method of 569
performing services; 570

(ii) The person is required by the other contracting party to 571
have particular training; 572

(iii) The person's services are integrated into the regular 573
functioning of the other contracting party; 574

(iv) The person is required to perform the work personally; 575

(v) The person is hired, supervised, or paid by the other contracting party;	576 577
(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;	578 579 580
(vii) The person's hours of work are established by the other contracting party;	581 582
(viii) The person is required to devote full time to the business of the other contracting party;	583 584
(ix) The person is required to perform the work on the premises of the other contracting party;	585 586
(x) The person is required to follow the order of work set by the other contracting party;	587 588
(xi) The person is required to make oral or written reports of progress to the other contracting party;	589 590
(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;	591 592
(xiii) The person's expenses are paid for by the other contracting party;	593 594
(xiv) The person's tools and materials are furnished by the other contracting party;	595 596
(xv) The person is provided with the facilities used to perform services;	597 598
(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;	599 600
(xvii) The person is not performing services for a number of employers at the same time;	601 602
(xviii) The person does not make the same services available to the general public;	603 604

(xix) The other contracting party has a right to discharge the person; 605
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(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. 607
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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. 610
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~~(d) Every person to whom all of the following apply:~~ 622

~~(i) The person is a resident of a state other than this state and is covered by that other state's workers' compensation law;~~ 623
624

~~(ii) The person performs labor or provides services for that person's employer while temporarily within this state;~~ 625
626

~~(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.~~ 627
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(2) "Employee" does not mean: 630

(a) A duly ordained, commissioned, or licensed minister or assistant or associate minister of a church in the exercise of ministry; 631
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(b) Any officer of a family farm corporation; 634

(c) An individual incorporated as a corporation; or 635

(d) An individual who otherwise is an employee of an employer 636
but who signs the waiver and affidavit specified in section 637
4123.15 of the Revised Code on the condition that the 638
administrator has granted a waiver and exception to the 639
individual's employer under section 4123.15 of the Revised Code. 640

Any employer may elect to include as an "employee" within 641
this chapter, any person excluded from the definition of 642
"employee" pursuant to division (A)(2) of this section. If an 643
employer is a partnership, sole proprietorship, individual 644
incorporated as a corporation, or family farm corporation, such 645
employer may elect to include as an "employee" within this 646
chapter, any member of such partnership, the owner of the sole 647
proprietorship, the individual incorporated as a corporation, or 648
the officers of the family farm corporation. In the event of an 649
election, the employer shall serve upon the bureau of workers' 650
compensation written notice naming the persons to be covered, 651
include such employee's remuneration for premium purposes in all 652
future payroll reports, and no person excluded from the definition 653
of "employee" pursuant to division (A)(2) of this section, 654
proprietor, individual incorporated as a corporation, or partner 655
shall be deemed an employee within this division until the 656
employer has served such notice. 657

For informational purposes only, the bureau shall prescribe 658
such language as it considers appropriate, on such of its forms as 659
it considers appropriate, to advise employers of their right to 660
elect to include as an "employee" within this chapter a sole 661
proprietor, any member of a partnership, an individual 662
incorporated as a corporation, the officers of a family farm 663
corporation, or a person excluded from the definition of 664
"employee" under division (A)(2) of this section, that they should 665
check any health and disability insurance policy, or other form of 666

health and disability plan or contract, presently covering them, 667
or the purchase of which they may be considering, to determine 668
whether such policy, plan, or contract excludes benefits for 669
illness or injury that they might have elected to have covered by 670
workers' compensation. 671

(B) "Employer" means: 672

(1) The state, including state hospitals, each county, 673
municipal corporation, township, school district, and hospital 674
owned by a political subdivision or subdivisions other than the 675
state; 676

(2) Every person, firm, professional employer organization ~~as~~ 677
~~defined in section 4125.01 of the Revised Code~~, and private 678
corporation, including any public service corporation, that (a) 679
has in service one or more employees or shared employees regularly 680
in the same business or in or about the same establishment under 681
any contract of hire, express or implied, oral or written, or (b) 682
is bound by any such contract of hire or by any other written 683
contract, to pay into the insurance fund the premiums provided by 684
this chapter. 685

All such employers are subject to this chapter. Any member of 686
a firm or association, who regularly performs manual labor in or 687
about a mine, factory, or other establishment, including a 688
household establishment, shall be considered an employee in 689
determining whether such person, firm, or private corporation, or 690
public service corporation, has in its service, one or more 691
employees and the employer shall report the income derived from 692
such labor to the bureau as part of the payroll of such employer, 693
and such member shall thereupon be entitled to all the benefits of 694
an employee. 695

(C) "Injury" includes any injury, whether caused by external 696
accidental means or accidental in character and result, received 697

in the course of, and arising out of, the injured employee's 698
employment. "Injury" does not include: 699

(1) Psychiatric conditions except where the claimant's 700
psychiatric conditions have arisen from an injury or occupational 701
disease sustained by that claimant or where the claimant's 702
psychiatric conditions have arisen from sexual conduct in which 703
the claimant was forced by threat of physical harm to engage or 704
participate; 705

(2) Injury or disability caused primarily by the natural 706
deterioration of tissue, an organ, or part of the body; 707

(3) Injury or disability incurred in voluntary participation 708
in an employer-sponsored recreation or fitness activity if the 709
employee signs a waiver of the employee's right to compensation or 710
benefits under this chapter prior to engaging in the recreation or 711
fitness activity; 712

(4) A condition that pre-existed an injury unless that 713
pre-existing condition is substantially aggravated by the injury. 714
Such a substantial aggravation must be documented by objective 715
diagnostic findings, objective clinical findings, or objective 716
test results. Subjective complaints may be evidence of such a 717
substantial aggravation. However, subjective complaints without 718
objective diagnostic findings, objective clinical findings, or 719
objective test results are insufficient to substantiate a 720
substantial aggravation. 721

(D) "Child" includes a posthumous child and a child legally 722
adopted prior to the injury. 723

(E) "Family farm corporation" means a corporation founded for 724
the purpose of farming agricultural land in which the majority of 725
the voting stock is held by and the majority of the stockholders 726
are persons or the spouse of persons related to each other within 727
the fourth degree of kinship, according to the rules of the civil 728

law, and at least one of the related persons is residing on or 729
actively operating the farm, and none of whose stockholders are a 730
corporation. A family farm corporation does not cease to qualify 731
under this division where, by reason of any devise, bequest, or 732
the operation of the laws of descent or distribution, the 733
ownership of shares of voting stock is transferred to another 734
person, as long as that person is within the degree of kinship 735
stipulated in this division. 736

(F) "Occupational disease" means a disease contracted in the 737
course of employment, which by its causes and the characteristics 738
of its manifestation or the condition of the employment results in 739
a hazard which distinguishes the employment in character from 740
employment generally, and the employment creates a risk of 741
contracting the disease in greater degree and in a different 742
manner from the public in general. 743

(G) "Self-insuring employer" means an employer who is granted 744
the privilege of paying compensation and benefits directly under 745
section 4123.35 of the Revised Code, including a board of county 746
commissioners for the sole purpose of constructing a sports 747
facility as defined in section 307.696 of the Revised Code, 748
provided that the electors of the county in which the sports 749
facility is to be built have approved construction of a sports 750
facility by ballot election no later than November 6, 1997. 751

(H) "Private employer" means an employer as defined in 752
division (B)(2) of this section. 753

(I) "Professional employer organization" has the same meaning 754
as in section 4125.01 of the Revised Code. 755

(J) "Public employer" means an employer as defined in 756
division (B)(1) of this section. 757

~~(I)~~(K) "Sexual conduct" means vaginal intercourse between a 758
male and female; anal intercourse, fellatio, and cunnilingus 759

between persons regardless of gender; and, without privilege to do 760
so, the insertion, however slight, of any part of the body or any 761
instrument, apparatus, or other object into the vaginal or anal 762
cavity of another. Penetration, however slight, is sufficient to 763
complete vaginal or anal intercourse. 764

~~(J)~~(L) "Other-states' insurer" means an insurance company 765
that is authorized to provide workers' compensation insurance 766
coverage in any of the states that permit employers to obtain 767
insurance for workers' compensation claims through insurance 768
companies. 769

~~(K)~~(M) "Other-states' coverage" means insurance both of the 770
following: 771

(1) Insurance coverage purchased secured by an eligible 772
employer for workers' compensation claims that arise of employees 773
who are in employment relationships localized in a state or states 774
other than this state and that are filed by the employees of the 775
employer or those employee's employees' dependents, as applicable, 776
in that other state or those other states; 777

(2) Insurance coverage secured by an eligible employer for 778
workers' compensation claims that arise in a state other than this 779
state where an employer elects to obtain coverage through either 780
the administrator or an other-states' insurer. 781

(N) "Limited other-states coverage" means insurance coverage 782
provided by the administrator to an eligible employer for workers' 783
compensation claims of employees who are in an employment 784
relationship in this state but are temporarily working a state 785
other than this state, or those employees' dependents. 786

Sec. 4123.26. (A) Every employer shall keep records of, and 787
furnish to the bureau of workers' compensation upon request, all 788
information required by the administrator of workers' compensation 789

to carry out this chapter. ~~In January of each year~~ 790

(B) Except as otherwise provided in division (C) of this 791
section, every private employer of the state employing one or more 792
employees regularly in the same business, or in or about the same 793
establishment, shall ~~prepare and mail~~ submit a payroll report to 794
the bureau at its main office in Columbus a statement containing. 795
Until the policy year commencing July 1, 2015, a private employer 796
shall submit the payroll report in January of each year. For a 797
policy year commencing on or after July 1, 2015, the employer 798
shall submit the payroll report on or before August fifteenth of 799
each year unless otherwise specified by the administrator in rules 800
the administrator adopts. The employer shall include all of the 801
following information in the payroll report, as applicable: 802

~~(A) The~~ (1) For payroll reports submitted prior to July 1, 804
2015, the number of employees employed during the preceding year 805
from the first day of January through the thirty-first day of 806
December who are localized in this state; 807

~~(B)(2)~~ For payroll reports submitted on or after July 1, 808
2015, the number of employees localized in this state employed 809
during the preceding policy year from the first day of July 810
through the thirtieth day of June; 811

(3) The number of such employees localized in this state 812
employed at each kind of employment and the aggregate amount of 813
wages paid to such employees; 814

~~(C)(4)(a)~~ If an employer elects to ~~obtain~~ secure 815
other-states' coverage or limited other-states' coverage pursuant 816
to section 4123.292 of the Revised Code through either the 817
administrator, if the administrator elects to offer such coverage, 818
or an other-states' insurer ~~for claims arising in a state or~~ 819
~~states other than this state, all of the following information:~~ 820

~~(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;~~ 821
822
823

~~(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.~~ 824
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~~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.~~ 827
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~~(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: 836
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~~(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"; 843
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~~(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. 848
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(b) The allocation of wages identified by the employer 852
pursuant to divisions ~~(D)(1)~~(B)(5)(a)(i) and ~~(2)(ii)~~ of this 853
section shall not be presumed to be an indication of the law under 854
which an employee is eligible to receive compensation and 855
benefits. 856

~~The information shall be furnished on a blank to be prepared 857
by the bureau. The bureau shall furnish the blanks to employers 858
free of charge upon request therefor. Every employer receiving 859
from the bureau any blank, with directions to fill out the same, 860
shall cause the same to be properly filled out so as to answer 861
fully and correctly all questions therein propounded, and give all 862
the information therein sought, or if unable to do so, the 863
employer shall give to the bureau in writing good and sufficient 864
reasons for such failure. (C) Beginning August 1, 2015, each 865
employer that is recognized by the administrator as a professional 866
employer organization shall submit a monthly payroll report 867
containing the number of employees employed during the preceding 868
calendar month, the number of those employees employed at each 869
kind of employment, and the aggregate amount of wages paid to 870
those employees. 871~~

(D) An employer described in division (B) of this section 872
shall submit the payroll report required under this section to the 873
bureau on a form prescribed by the bureau. The bureau may require 874
that the information required to be furnished be verified under 875
oath and returned to the bureau within the period fixed by it or 876
by law. The bureau or any person employed by the bureau for that 877
purpose, may examine, under oath, any employer, or the officer, 878
agent, or employee thereof, for the purpose of ascertaining any 879
information which the employer is required to furnish to the 880
bureau. 881

(E) No private employer shall fail to furnish to the bureau 882
the ~~annual statement~~ payroll report required by this section, nor 883

shall any employer fail to keep records of or furnish such other 884
information as may be required by the bureau under this section. 885

~~Whoever violates this section shall forfeit five hundred 886
dollars, to be collected in a civil action brought against the 887
employer in the name of the state, to be paid into the state 888
insurance fund and become a part thereof 889~~

(F) The administrator may adopt rules setting forth penalties 890
for failure to submit the payroll report required by this section, 891
including but not limited to exclusion from alternative rating 892
plans and discount programs. 893

Sec. 4123.27. Information contained in the ~~annual statement~~ 894
payroll report provided for in section 4123.26 of the Revised 895
Code, and such other information as may be furnished to the bureau 896
of workers' compensation by employers in pursuance of that 897
section, is for the exclusive use and information of the bureau in 898
the discharge of its official duties, and shall not be open to the 899
public nor be used in any court in any action or proceeding 900
pending therein unless the bureau is a party to the action or 901
proceeding; ~~but the.~~ The information contained in the ~~statement~~ 902
payroll report may be tabulated and published by the bureau in 903
statistical form for the use and information of other state 904
departments and the public. No person in the employ of the bureau, 905
except those who are authorized by the administrator of workers' 906
compensation, shall divulge any information secured by the person 907
while in the employ of the bureau in respect to the transactions, 908
property, claim files, records, or papers of the bureau or in 909
respect to the business or mechanical, chemical, or other 910
industrial process of any company, firm, corporation, person, 911
association, partnership, or public utility to any person other 912
than the administrator or to the superior of such employee of the 913
bureau. 914

Notwithstanding the restrictions imposed by this section, the 915
governor, select or standing committees of the general assembly, 916
the auditor of state, the attorney general, or their designees, 917
pursuant to the authority granted in this chapter and Chapter 918
4121. of the Revised Code, may examine any records, claim files, 919
or papers in possession of the industrial commission or the 920
bureau. They also are bound by the privilege that attaches to 921
these papers. 922

The administrator shall report to the director of job and 923
family services or to the county director of job and family 924
services the name, address, and social security number or other 925
identification number of any person receiving workers' 926
compensation whose name or social security number or other 927
identification number is the same as that of a person required by 928
a court or child support enforcement agency to provide support 929
payments to a recipient or participant of public assistance, as 930
that term is defined in section 5101.181 of the Revised Code, and 931
whose name is submitted to the administrator by the director under 932
section 5101.36 of the Revised Code. The administrator also shall 933
inform the director of the amount of workers' compensation paid to 934
the person during such period as the director specifies. 935

Within fourteen days after receiving from the director of job 936
and family services a list of the names and social security 937
numbers of recipients or participants of public assistance 938
pursuant to section 5101.181 of the Revised Code, the 939
administrator shall inform the auditor of state of the name, 940
current or most recent address, and social security number of each 941
person receiving workers' compensation pursuant to this chapter 942
whose name and social security number are the same as that of a 943
person whose name or social security number was submitted by the 944
director. The administrator also shall inform the auditor of state 945
of the amount of workers' compensation paid to the person during 946

such period as the director specifies. 947

The bureau and its employees, except for purposes of 948
furnishing the auditor of state with information required by this 949
section, shall preserve the confidentiality of recipients or 950
participants of public assistance in compliance with section 951
5101.181 of the Revised Code. 952

Sec. 4123.29. (A) The administrator of workers' compensation, 953
subject to the approval of the bureau of workers' compensation 954
board of directors, shall do all of the following: 955

(1) Classify occupations or industries with respect to their 956
degree of hazard and determine the risks of the different classes 957
according to the categories the national council on compensation 958
insurance establishes that are applicable to employers in this 959
state; 960

(2)(a) Fix the rates of premium of the risks of the classes 961
based upon the total payroll in each of the classes of occupation 962
or industry sufficiently large to provide a fund for the 963
compensation provided for in this chapter and to maintain a state 964
insurance fund from year to year. The administrator shall set the 965
rates at a level that assures the solvency of the fund. Where the 966
payroll cannot be obtained or, in the opinion of the 967
administrator, is not an adequate measure for determining the 968
premium to be paid for the degree of hazard, the administrator may 969
determine the rates of premium upon such other basis, consistent 970
with insurance principles, as is equitable in view of the degree 971
of hazard, and whenever in this chapter reference is made to 972
payroll or expenditure of wages with reference to fixing premiums, 973
the reference shall be construed to have been made also to such 974
other basis for fixing the rates of premium as the administrator 975
may determine under this section. 976

(b) If an employer elects to obtain other-states' coverage, 977

including limited other-states' coverage, pursuant to section 978
4123.292 of the Revised Code through either the administrator, if 979
the administrator elects to offer such coverage, or an 980
other-states' insurer, calculate the employer's premium for the 981
state insurance fund in the same manner as otherwise required 982
under division (A) of this section and section 4123.34 of the 983
Revised Code, except that when the administrator determines the 984
expenditure of wages, payroll, or both upon which to base may 985
establish in rule an alternative calculation of the employer's 986
premium, the administrator shall use only to appropriately account 987
for the expenditure of wages, payroll, or both attributable to the 988
labor performed and services provided by that employer's employees 989
when those employees performed labor and provided services in this 990
state only and to which the in the other state or states for which 991
the employer elects to secure other-states' coverage does not 992
apply. 993

(c) If an employer elects to obtain other-states' coverage 994
pursuant to section 4123.292 of the Revised Code through an 995
other-states' insurer, calculate the employer's premium for the 996
state insurance fund in the same manner as otherwise required 997
under division (A) of this section and section 4123.34 of the 998
Revised Code, except that when the administrator determines the 999
expenditure of wages, payroll, or both upon which to base the 1000
employer's premium, the administrator shall use only the 1001
expenditure of wages, payroll, or both attributable to the labor 1002
performed and services provided by that employer's employees when 1003
those employees performed labor and provided services in this 1004
state only and to which the other-states' coverage does not apply. 1005
The administrator may adopt rules setting forth the information 1006
that an employer electing to obtain other-states' coverage through 1007
an other-states' insurer shall report for purposes of determining 1008
the expenditure of wages, payroll, or both attributable to the 1009
labor performed and services provided in this state. 1010

(d) The administrator in setting or revising rates shall 1011
furnish to employers an adequate explanation of the basis for the 1012
rates set. 1013

(3) Develop and make available to employers who are paying 1014
premiums to the state insurance fund alternative premium plans. 1015
Alternative premium plans shall include retrospective rating 1016
plans. The administrator may make available plans under which an 1017
advanced deposit may be applied against a specified deductible 1018
amount per claim. 1019

(4)(a) Offer to insure the obligations of employers under 1020
this chapter under a plan that groups, for rating purposes, 1021
employers, and pools the risk of the employers within the group 1022
provided that the employers meet all of the following conditions: 1023

(i) All of the employers within the group are members of an 1024
organization that has been in existence for at least two years 1025
prior to the date of application for group coverage; 1026

(ii) The organization was formed for purposes other than that 1027
of obtaining group workers' compensation under this division; 1028

(iii) The employers' business in the organization is 1029
substantially similar such that the risks which are grouped are 1030
substantially homogeneous; 1031

(iv) The group of employers consists of at least one hundred 1032
members or the aggregate workers' compensation premiums of the 1033
members, as determined by the administrator, are ~~expected~~ 1034
estimated to exceed one hundred fifty thousand dollars during the 1035
coverage period; 1036

(v) The formation and operation of the group program in the 1037
organization will substantially improve accident prevention and 1038
claims handling for the employers in the group; 1039

(vi) Each employer seeking to enroll in a group for workers' 1040

compensation coverage has an ~~industrial insurance~~ account in good 1041
standing with the bureau of workers' compensation ~~such that at the~~ 1042
~~time the agreement is processed no outstanding premiums,~~ 1043
~~penalties, or assessments are due from any of the employers.~~ The 1044
administrator shall adopt rules setting forth the criteria by 1045
which the administrator will determine whether an employer's 1046
account is in good standing. 1047

(b) If an organization sponsors more than one employer group 1048
to participate in group plans established under this section, that 1049
organization may submit a single application that supplies all of 1050
the information necessary for each group of employers that the 1051
organization wishes to sponsor. 1052

(c) In providing employer group plans under division (A)(4) 1053
of this section, the administrator shall consider an employer 1054
group as a single employing entity for purposes of group rating. 1055
No employer may be a member of more than one group for the purpose 1056
of obtaining workers' compensation coverage under this division. 1057

(d) At the time the administrator revises premium rates 1058
pursuant to this section and section 4123.34 of the Revised Code, 1059
if the premium rate of an employer who participates in a group 1060
plan established under this section changes from the rate 1061
established for the previous year, the administrator, in addition 1062
to sending the invoice with the rate revision to that employer, 1063
shall send a copy of that invoice to the third-party administrator 1064
that administers the group plan for that employer's group. 1065

(e) In providing employer group plans under division (A)(4) 1066
of this section, the administrator shall establish a program 1067
designed to mitigate the impact of a significant claim that would 1068
come into the experience of a private, state fund group-rated 1069
employer or a taxing district employer for the first time and be a 1070
contributing factor in that employer being excluded from a 1071
group-rated plan. The administrator shall establish eligibility 1072

criteria and requirements that such employers must satisfy in 1073
order to participate in this program. For purposes of this 1074
program, the administrator shall establish a discount on premium 1075
rates applicable to employers who qualify for the program. 1076

(f) In no event shall division (A)(4) of this section be 1077
construed as granting to an employer status as a self-insuring 1078
employer. 1079

(g) The administrator shall develop classifications of 1080
occupations or industries that are sufficiently distinct so as not 1081
to group employers in classifications that unfairly represent the 1082
risks of employment with the employer. 1083

(5) Generally promote employer participation in the state 1084
insurance fund through the regular dissemination of information to 1085
all classes of employers describing the advantages and benefits of 1086
opting to make premium payments to the fund. To that end, the 1087
administrator shall regularly make employers aware of the various 1088
workers' compensation premium packages developed and offered 1089
pursuant to this section. 1090

(6) Make available to every employer who is paying premiums 1091
to the state insurance fund a program whereby the employer or the 1092
employer's agent pays to the claimant or on behalf of the claimant 1093
the first fifteen thousand dollars of a compensable workers' 1094
compensation medical-only claim filed by that claimant that is 1095
related to the same injury or occupational disease. No formal 1096
application is required; however, an employer must elect to 1097
participate by telephoning the bureau after July 1, 1995. Once an 1098
employer has elected to participate in the program, the employer 1099
will be responsible for all bills in all medical-only claims with 1100
a date of injury the same or later than the election date, unless 1101
the employer notifies the bureau within fourteen days of receipt 1102
of the notification of a claim being filed that it does not wish 1103
to pay the bills in that claim, or the employer notifies the 1104

bureau that the fifteen thousand dollar maximum has been paid, or 1105
the employer notifies the bureau of the last day of service on 1106
which it will be responsible for the bills in a particular 1107
medical-only claim. If an employer elects to enter the program, 1108
the administrator shall not reimburse the employer for such 1109
amounts paid and shall not charge the first fifteen thousand 1110
dollars of any medical-only claim paid by an employer to the 1111
employer's experience or otherwise use it in merit rating or 1112
determining the risks of any employer for the purpose of payment 1113
of premiums under this chapter. A certified health care provider 1114
shall extend to an employer who participates in this program the 1115
same rates for services rendered to an employee of that employer 1116
as the provider bills the administrator for the same type of 1117
medical claim processed by the bureau and shall not charge, 1118
assess, or otherwise attempt to collect from an employee any 1119
amount for covered services or supplies that is in excess of that 1120
rate. If an employer elects to enter the program and the employer 1121
fails to pay a bill for a medical-only claim included in the 1122
program, the employer shall be liable for that bill and the 1123
employee for whom the employer failed to pay the bill shall not be 1124
liable for that bill. The administrator shall adopt rules to 1125
implement and administer division (A)(6) of this section. Upon 1126
written request from the bureau, the employer shall provide 1127
documentation to the bureau of all medical-only bills that they 1128
are paying directly. Such requests from the bureau may not be made 1129
more frequently than on a semiannual basis. Failure to provide 1130
such documentation to the bureau within thirty days of receipt of 1131
the request may result in the employer's forfeiture of 1132
participation in the program for such injury. The provisions of 1133
this section shall not apply to claims in which an employer with 1134
knowledge of a claimed compensable injury or occupational disease, 1135
has paid wages in lieu of compensation or total disability. 1136

(B) The administrator, with the advice and consent of the 1137

board, by rule, may do both of the following: 1138

(1) Grant an employer who ~~makes~~ pays the employer's 1139
~~semiannual~~ annual estimated premium ~~payment at least one month in~~ 1140
full prior to the ~~last day on which the payment may be made~~ 1141
~~without penalty~~ start of the policy year for which the estimated 1142
premium is due, a discount as the administrator fixes from time to 1143
time; 1144

(2) Levy a minimum annual administrative charge upon risks 1145
where ~~semiannual~~ premium reports develop a charge less than the 1146
administrator considers adequate to offset administrative costs of 1147
processing. 1148

Sec. 4123.291. (A) An adjudicating committee appointed by the 1149
administrator of workers' compensation to hear any matter 1150
specified in divisions (B)(1) to (7) of this section shall hear 1151
the matter within sixty days of the date on which an employer 1152
files the request, protest, or petition. An employer desiring to 1153
file a request, protest, or petition regarding any matter 1154
specified in divisions (B)(1) to (7) of this section shall file 1155
the request, protest, or petition to the adjudicating committee on 1156
or before twenty-four months after the administrator sends notice 1157
of the determination about which the employer is filing the 1158
request, protest, or petition. 1159

(B) An employer who is adversely affected by a decision of an 1160
adjudicating committee appointed by the administrator may appeal 1161
the decision of the committee to the administrator or the 1162
administrator's designee. The employer shall file the appeal in 1163
writing within thirty days after the employer receives the 1164
decision of the adjudicating committee. The administrator or the 1165
designee shall hear the appeal and hold a hearing, provided that 1166
the decision of the adjudicating committee relates to one of the 1167
following: 1168

(1) An employer request for a waiver of a default in the payment of premiums pursuant to section 4123.37 of the Revised Code;	1169 1170 1171
(2) An employer request for the settlement of liability as a noncomplying employer under section 4123.75 of the Revised Code;	1172 1173
(3) An employer petition objecting to the <u>an</u> assessment of a premium made pursuant to section 4123.37 of the Revised Code and the rules adopted pursuant to that section;	1174 1175 1176
(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;	1177 1178 1179
(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;	1180 1181 1182
(6) Any decision relating to any other risk premium matter under Chapters 4121., 4123., and 4131. of the Revised Code;	1183 1184
(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.	1185 1186 1187
(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.	1188 1189 1190 1191 1192
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'	1193 1194 1195 1196 1197 1198

coverage shall submit a written notice to the administrator 1199
stating that election on a form prescribed by the administrator 1200
and, if the employer elects to obtain that coverage through an 1201
other-states' insurer, the name of the other-states' insurer 1202
through whom the employer has obtained that coverage. If an 1203
employer fails to pay the employer's premium for other-states' 1204
coverage, the administrator shall consider the employer to be 1205
noncompliant for the purposes of having other-states' coverage ~~but~~ 1206
~~shall not consider the employer to be a noncomplying employer for~~ 1207
~~purposes of this chapter or Chapter 4121., 4127., or 4131. of the~~ 1208
~~Revised Code unless the employer otherwise fails to comply with~~ 1209
and the employer's premiums in this state for any and all 1210
noncompliant periods of time shall be calculated in the same 1211
manner as otherwise required under division (A) of section 4123.29 1212
and section 4123.35 4123.34 of the Revised Code, using both the 1213
wages reported in this state and the wages that the employer 1214
claimed would be reported to the other-states' insurer for 1215
securing coverage. 1216

(B) The administrator may ~~secure~~ offer other-states' coverage 1217
to allow an employer who wishes to obtain other-states' coverage 1218
pursuant to this section and who elects to ~~obtain~~ secure that 1219
coverage through the administrator for workers' compensation 1220
claims ~~arising in a state or states other than this state~~. If the 1221
administrator elects to secure a vehicle through which the 1222
administrator will provide other-states' coverage, the 1223
administrator shall follow the competitive bidding requirements 1224
specified in Chapter 125. of the Revised Code to select one or 1225
more other-states' ~~insurer~~ insurers, and the administrator, with 1226
the advice and consent of the bureau of workers' compensation 1227
board of directors, shall award ~~the~~ a contract to provide 1228
other-states' coverage for employers located in this state to ~~the~~ 1229
one or more other-states' ~~insurer~~ insurers that ~~is~~ are the lowest 1230

and best bidder bidders. 1231

~~(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:~~ 1232
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~~(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;~~ 1245
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~~(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;~~ 1248
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~~(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~~ 1254
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written notice to the administrator stating that election on a 1263
form prescribed by the administrator. 1264

If the administrator elects to secure a vehicle through which 1265
the administrator will provide limited other-states' coverage, the 1266
administrator shall follow the competitive bidding requirements 1267
specified in Chapter 125. of the Revised Code to select one or 1268
more other-states' insurers and, with the advice and consent of 1269
the board, award a contract to provide limited other-states' 1270
coverage to the lowest and best bidders. 1271

(D) If the administrator elects to ~~secure~~ offer other states' 1272
coverage or limited other-states' coverage, the administrator, 1273
with the advice and consent of the board, shall adopt rules to 1274
implement divisions (B) and (C) of this section. 1275

(E) ~~An other states' insurer that provides other states'~~ 1276
~~coverage to an employer pursuant to this section shall do all of~~ 1277
~~the following when calculating the employer's premium for that~~ 1278
~~coverage:~~ 1279

~~(1) When determining the amount of wages, payroll, or both~~ 1280
~~upon which to base the employer's premium, use only the amount of~~ 1281
~~wages, payroll, or both the employer paid to the employer's~~ 1282
~~employees for performing labor or providing services for the~~ 1283
~~employer in a state or states other than this state;~~ 1284

~~(2) Not take into account the amount of wages, payroll, or~~ 1285
~~both the employer paid to the employer's employees for performing~~ 1286
~~labor or providing services for the employer in this state or any~~ 1287
~~compensation or benefits paid for claims otherwise covered by this~~ 1288
~~chapter or Chapter 4121., 4127., or 4131. of the Revised Code;~~ 1289

~~(3) Take into account any other factors the other states'~~ 1290
~~insurer uses to calculate premiums for workers' compensation~~ 1291
~~insurance.~~ 1292

~~(F)~~ The board and the individual members thereof, the 1293

administrator, and the bureau of workers' compensation shall not 1294
incur any obligation or liability if another state determines that 1295
the other-states' coverage or limited other-states' coverage 1296
provided under this section does not satisfy the requirements 1297
specified in that state's workers' compensation law for obtaining 1298
workers' compensation coverage in that state. 1299

Sec. 4123.32. The administrator of workers' compensation, 1300
with the advice and consent of the bureau of workers' compensation 1301
board of directors, shall adopt rules with respect to the 1302
collection, maintenance, and disbursements of the state insurance 1303
fund including all of the following: 1304

~~(A) A rule providing that the premium security deposit 1305
collected from any employer entitles the employer to the benefits 1306
of this chapter for the remainder of the six months and also for 1307
an additional adjustment period of two months, and, thereafter, if 1308
the employer pays the premium due at the close of any six month 1309
period, coverage shall be extended for an additional eight month 1310
period beginning from the end of the six month period for which 1311
the employer pays the premium due;~~ 1312

~~(B) A rule providing for ascertaining the correctness of any 1313
employer's report of estimated or actual expenditure of wages and 1314
the determination and adjustment of proper premiums and the 1315
payment of those premiums by the employer for or during any period 1316
less than eight months and notwithstanding any payment or 1317
determination of premium made when exceptional conditions or 1318
circumstances in the judgment of the administrator justify the 1319
action;~~ 1320

~~(C)~~(B) Such special rules as the administrator considers 1321
necessary to safeguard the fund and that are just in the 1322
circumstances, covering the rates to be applied where one employer 1323
takes over the occupation or industry of another or where an 1324

employer first makes application for state insurance, and the 1325
administrator may require that if any employer transfers a 1326
business in whole or in part or otherwise reorganizes the 1327
business, the successor in interest shall assume, in proportion to 1328
the extent of the transfer, as determined by the administrator, 1329
the employer's account and shall continue the payment of all 1330
contributions due under this chapter; 1331

~~(D)~~(C) A rule providing that an employer who employs an 1332
employee covered under the federal "Longshore and Harbor Workers'
Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., and this 1333
chapter and Chapter 4121. of the Revised Code shall be assessed a 1334
premium in accordance with the expenditure of wages, payroll, or 1335
both attributable to only labor performed and services provided by 1336
such an employee when the employee performs labor and provides 1337
services for which the employee is not eligible to receive 1338
compensation and benefits under that federal act. 1339
1340

~~(E)~~(D) A rule providing for all of the following: 1341

(1) ~~If, within two months immediately after the expiration of~~ 1342
~~the six month period,~~ an employer fails to file a report of the 1343
employer's actual payroll expenditures for the period pursuant to 1344
section 4123.26 of the Revised Code for private employers or 1345
pursuant to section 4123.41 of the Revised Code for public 1346
employers, the premium ~~found to be~~ and assessments due from the 1347
employer for the period shall be calculated based on the estimated 1348
payroll of the employer used in calculating the estimated premium 1349
due, ~~increased in an amount equal to one per cent of the premium,~~ 1350
~~but the increase shall not be less than three nor more than~~ 1351
fifteen dollars by ten per cent; 1352

(2) ~~The premium determined by the administrator to be due~~ 1353
~~from an employer shall be payable on or before the end of the~~ 1354
~~coverage period established by the premium security deposit, or~~ 1355
~~within the time specified by the administrator if the period for~~ 1356

~~which the advance premium has been paid is less than eight months.~~ 1357

(a) If an employer fails to pay the premium or assessments when 1358
due for a policy year commencing prior to July 1, 2015, the 1359
administrator may add a late fee penalty of not more than thirty 1360
dollars to the premium plus an additional penalty amount as 1361
follows: 1362

~~(a)~~(i) For a premium from sixty-one to ninety days past due, 1363
the prime interest rate, multiplied by the premium due; 1364

~~(b)~~(ii) For a premium from ninety-one to one hundred twenty 1365
days past due, the prime interest rate plus two per cent, 1366
multiplied by the premium due; 1367

~~(c)~~(iii) For a premium from one hundred twenty-one to one 1368
hundred fifty days past due, the prime interest rate plus four per 1369
cent, multiplied by the premium due; 1370

~~(d)~~(iv) For a premium from one hundred fifty-one to one 1371
hundred eighty days past due, the prime interest rate plus six per 1372
cent, multiplied by the premium due; 1373

~~(e)~~(v) For a premium from one hundred eighty-one to two 1374
hundred ten days past due, the prime interest rate plus eight per 1375
cent, multiplied by the premium due; 1376

~~(f)~~(vi) For each additional thirty-day period or portion 1377
thereof that a premium remains past due after it has remained past 1378
due for more than two hundred ten days, the prime interest rate 1379
plus eight per cent, multiplied by the premium due. 1380

(b) For purposes of division (D)(2)(a) of this section, 1381
"prime interest rate" means the average bank prime rate, and the 1382
administrator shall determine the prime interest rate in the same 1383
manner as a county auditor determines the average bank prime rate 1384
under section 929.02 of the Revised Code. 1385

(c) If an employer fails to pay the premium or assessments 1386

when due for a policy year commencing on or after July 1, 2015, 1387
the administrator may assess a penalty at the interest rate 1388
established by the state tax commissioner pursuant to section 1389
5703.47 of the Revised Code. 1390

(3) Notwithstanding the interest rates specified in division 1391
~~(E)(D)(2)(a) or (c)~~ of this section, at no time shall the 1392
additional penalty amount assessed under division ~~(E)(D)(2)(a) or~~ 1393
~~(c)~~ of this section exceed fifteen per cent of the premium due. 1394

(4) If an employer recognized by the administrator as a 1395
professional employer organization fails to make a timely payment 1396
of premiums or assessments as required by section 4123.35 of the 1397
Revised Code, the administrator shall revoke the professional 1398
employer organization's registration pursuant to section 4125.06 1399
of the Revised Code. 1400

(5) An employer may appeal a late fee penalty or additional 1401
penalty to an adjudicating committee pursuant to section 4123.291 1402
of the Revised Code. 1403

~~For purposes of division (E) of this section, "prime interest~~ 1404
~~rate" means the average bank prime rate, and the administrator~~ 1405
~~shall determine the prime interest rate in the same manner as a~~ 1406
~~county auditor determines the average bank prime rate under~~ 1407
~~section 929.02 of the Revised Code.~~ 1408

~~(5)(6)~~ If the employer files an appropriate payroll report, 1409
within the time provided by law ~~or within the time specified by~~ 1410
~~the administrator if the period for which the employer paid an~~ 1411
~~estimated premium is less than eight months,~~ the employer shall 1412
not be in default and division ~~(E)(D)(2)~~ of this section shall not 1413
apply if the employer pays the premiums within fifteen days after 1414
being first notified by the administrator of the amount due. 1415

~~(6)(7)~~ Any deficiencies in the amounts of the premium 1416
security deposit paid by an employer ~~for any period prior to July~~ 1417

1, 2015, shall be subject to an interest charge of six per cent 1418
per annum from the date the premium obligation is incurred. In 1419
determining the interest due on deficiencies in premium security 1420
deposit payments, a charge in each case shall be made against the 1421
employer in an amount equal to interest at the rate of six per 1422
cent per annum on the premium security deposit due but remaining 1423
unpaid sixty days after notice by the administrator. 1424

~~(7)~~(8) Any interest charges or penalties provided for in 1425
divisions ~~(E)~~(D)(2) and ~~(6)~~(7) of this section shall be credited 1426
to the employer's account for rating purposes in the same manner 1427
as premiums. 1428

~~(F)~~(E) A rule providing that each employer, on the occasion 1429
of instituting coverage under this chapter for an effective date 1430
prior to July 1, 2015, shall submit a premium security deposit. 1431
The deposit shall be calculated equivalent to thirty per cent of 1432
the semiannual premium obligation of the employer based upon the 1433
employer's estimated expenditure for wages for the ensuing 1434
six-month period plus thirty per cent of an additional adjustment 1435
period of two months but only up to a maximum of one thousand 1436
dollars and not less than ten dollars. The administrator shall 1437
review the security deposit of every employer who has submitted a 1438
deposit which is less than the one-thousand-dollar maximum. The 1439
administrator may require any such employer to submit additional 1440
money up to the maximum of one thousand dollars that, in the 1441
administrator's opinion, reflects the employer's current payroll 1442
expenditure for an eight-month period. 1443

~~(G)~~(F) A rule providing that each employer, on the occasion 1444
of instituting coverage under this chapter, shall submit an 1445
application fee and an application for coverage that completely 1446
provides all of the information required for the administrator to 1447
establish coverage for that employer, and that the employer's 1448
failure to pay the application fee or to provide all of the 1449

information ~~completely~~ requested on the application may be grounds 1450
for the administrator to deny coverage for that employer. 1451

~~(H)~~(G) A rule providing that, in addition to any other 1452
remedies permitted in this chapter, the administrator may 1453
discontinue an employer's coverage if the employer fails to pay 1454
the premium due on or before the premium's due date. 1455

~~(I)~~(H) A rule providing that if after a final adjudication it 1456
is determined that an employer has failed to pay an obligation, 1457
billing, account, or assessment that is greater than one thousand 1458
dollars on or before its due date, the administrator may 1459
discontinue the employer's coverage in addition to any other 1460
remedies permitted in this chapter, and that the administrator 1461
shall not discontinue an employer's coverage pursuant to this 1462
division prior to a final adjudication regarding the employer's 1463
failure to pay such obligation, billing, account, or assessment on 1464
or before its due date. 1465

~~(J)~~(I) As used in divisions (G) and (H) and ~~(I)~~ of this 1466
section: 1467

(1) "Employer" has the same meaning as in ~~division (B)~~ of 1468
section 4123.01 of the Revised Code except that "employer" does 1469
not include the state, a state hospital, or a state university or 1470
college. 1471

(2) "State university or college" has the same meaning as in 1472
section 3345.12 of the Revised Code and also includes the Ohio 1473
agricultural research and development center and OSU extension. 1474

(3) "State hospital" means the Ohio state university hospital 1475
and its ancillary facilities and the medical university of Ohio at 1476
Toledo hospital. 1477

Sec. 4123.322. (A) Notwithstanding any provision to the 1478
contrary in section 4123.32 or 4123.41 of the Revised Code, the 1479

administrator of workers' compensation, with the advice and 1480
consent of the bureau of workers' compensation board of directors, 1481
may adopt rules with respect to the collection, maintenance, and 1482
disbursements of the state insurance fund to provide for a system 1483
of prospective payment of workers' compensation premiums. If the 1484
administrator elects to adopt rules establishing a prospective 1485
payment system, those rules shall include all of the following: 1486

~~(1) A requirement that, notwithstanding section 4123.26 of 1487
the Revised Code, on or before the thirtieth day of June of each 1488
year, or such other date as the administrator establishes, every 1489
employer mentioned in division (B)(2) of section 4123.01 of the 1490
Revised Code shall file with the bureau of workers' compensation 1491
an estimate of the employer's payroll for the immediately 1492
following twelve month period or other period as the administrator 1493
establishes;~~ 1494

~~(2) A requirement that upon an initial application for 1495
coverage, an a private employer mentioned in division (B)(2) of 1496
section 4123.01 of the Revised Code shall file with the 1497
application an estimate of the employer's payroll for the 1498
unexpired period from the date of application to the period ending 1499
on the following thirtieth day of June or other date as 1500
established by the administrator determines pursuant to division 1501
(A)(1) of this section rules the administrator adopts, and shall 1502
pay the amount the administrator determines by rule in order to 1503
establish coverage for the employer as described in division 1504
(B)(12) of section 4121.121 of the Revised Code;~~ 1505

~~(3) A requirement that, notwithstanding section 4123.26 or 1506
4123.41 of the Revised Code, on or before the first day of January 1507
of each year, or such other date as the administrator establishes, 1508
every employer mentioned in division (B)(1) of section 4123.01 of 1509
the Revised Code, except for a state agency or a state university 1510
or college, shall file with the bureau an estimate of the 1511~~

~~employer's payroll for the immediately following twelve month period or other period as the administrator establishes;~~ 1512
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~~(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; 1514
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~~(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;~~ 1526
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~~(6)(3)~~ A requirement that an employer complete periodic payroll reports of actual expenditures for previous coverage periods for reconciliation with estimated payroll reports; 1529
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~~(7)(4)~~ The assessment of a penalty for late payroll reconciliation reports and for late payment of any reconciliation premium; 1532
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~~(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)~~ (4) of this section, the provision of a transition credit for employers, and the establishment of penalties for late 1535
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payment or failure to comply with the rules. 1543

(B) For purposes of division (A)~~(6)~~(3) of this section, an 1544
employer shall make timely payment of any premium owed when actual 1545
payroll expenditures exceeded estimated payroll, and the employer 1546
shall receive premium credit when the estimated payroll exceeded 1547
the actual payroll. 1548

(C) For purposes of division (A)~~(7)~~(4) of this section, if 1549
the employer's actual payroll substantially exceeds the estimated 1550
payroll, the administrator may assess additional penalties 1551
specified in rules the administrator adopts on the reconciliation 1552
premium. 1553

(D) As used in this section, "state university or college" 1554
has the same meaning as in section 4123.32 of the Revised Code. 1555

Sec. 4123.34. It shall be the duty of the bureau of workers' 1556
compensation board of directors and the administrator of workers' 1557
compensation to safeguard and maintain the solvency of the state 1558
insurance fund and all other funds specified in this chapter and 1559
Chapters 4121., 4127., and 4131. of the Revised Code. The 1560
administrator, in the exercise of the powers and discretion 1561
conferred upon the administrator in section 4123.29 of the Revised 1562
Code, shall fix and maintain, with the advice and consent of the 1563
board, for each class of occupation or industry, the lowest 1564
possible rates of premium consistent with the maintenance of a 1565
solvent state insurance fund and the creation and maintenance of a 1566
reasonable surplus, after the payment of legitimate claims for 1567
injury, occupational disease, and death that the administrator 1568
authorizes to be paid from the state insurance fund for the 1569
benefit of injured, diseased, and the dependents of killed 1570
employees. In establishing rates, the administrator shall take 1571
into account the necessity of ensuring sufficient money is set 1572
aside in the premium payment security fund to cover any defaults 1573

in premium obligations. The administrator shall observe all of the 1574
following requirements in fixing the rates of premium for the 1575
risks of occupations or industries: 1576

(A) The administrator shall keep an accurate account of the 1577
money paid in premiums by each of the several classes of 1578
occupations or industries, and the losses on account of injuries, 1579
occupational disease, and death of employees thereof, and also 1580
keep an account of the money received from each individual 1581
employer and the amount of losses incurred against the state 1582
insurance fund on account of injuries, occupational disease, and 1583
death of the employees of the employer. 1584

(B) A portion of the money paid into the state insurance fund 1585
shall be set aside for the creation of a surplus fund account 1586
within the state insurance fund. Any references in this chapter or 1587
in Chapter 4121., 4125., 4127., or 4131. of the Revised Code to 1588
the surplus fund, the surplus created in this division, the 1589
statutory surplus fund, or the statutory surplus of the state 1590
insurance fund are hereby deemed to be references to the surplus 1591
fund account. The administrator may transfer the portion of the 1592
state insurance fund to the surplus fund account as the 1593
administrator determines is necessary to satisfy the needs of the 1594
surplus fund account and to guarantee the solvency of the state 1595
insurance fund and the surplus fund account. In addition to all 1596
statutory authority under this chapter and Chapter 4121. of the 1597
Revised Code, the administrator has discretionary and contingency 1598
authority to make charges to the surplus fund account. The 1599
administrator shall account for all charges, whether statutory, 1600
discretionary, or contingency, that the administrator may make to 1601
the surplus fund account. A revision of basic rates shall be made 1602
annually on the first day of July. 1603

Notwithstanding any provision of the law to the contrary, one 1604
hundred eighty days after the effective date on which 1605

self-insuring employers first may elect under division (D) of 1606
section 4121.66 of the Revised Code to directly pay for 1607
rehabilitation expenses, the administrator shall calculate the 1608
deficit, if any, in the portion of the surplus fund account that 1609
is used for reimbursement to self-insuring employers for all 1610
expenses other than handicapped reimbursement under section 1611
4123.343 of the Revised Code. The administrator, from time to 1612
time, may determine whether the surplus fund account has such a 1613
deficit and may assess all self-insuring employers who 1614
participated in the portion of the surplus fund account during the 1615
accrual of the deficit and who during that time period have not 1616
made the election under division (D) of section 4121.66 of the 1617
Revised Code the amount the administrator determines necessary to 1618
reduce the deficit. 1619

~~Revisions~~ For policy years commencing prior to July 1, 2016, 1620
revisions of basic rates for private employers shall be in 1621
accordance with the oldest four of the last five calendar years of 1622
the combined accident and occupational disease experience of the 1623
administrator in the administration of this chapter, as shown by 1624
the accounts kept as provided in this section,~~excluding.~~ For a 1625
policy year commencing on or after July 1, 2016, revisions of 1626
basic rates for private employers shall be in accordance with the 1627
oldest four of the last five policy years combined accident and 1628
occupational disease experience of the administrator in the 1629
administration of this chapter, as shown by the accounts kept as 1630
provided in this section. 1631

Revisions of basic rates for public employers shall be in 1632
accordance with the oldest four of the last five policy years of 1633
the combined accident and occupational disease experience of the 1634
administrator in the administration of this chapter, as shown by 1635
the accounts kept as provided in this section. 1636

In revising basic rates, the administrator shall exclude the 1637

experience of employers that are no longer active if the 1638
administrator determines that the inclusion of those employers 1639
would have a significant negative impact on the remainder of the 1640
employers in a particular manual classification; ~~and the.~~ The 1641
administrator shall adopt rules, with the advice and consent of 1642
the board, governing rate revisions, the object of which shall be 1643
to make an equitable distribution of losses among the several 1644
classes of occupation or industry, which rules shall be general in 1645
their application. 1646

(C) The administrator may apply that form of rating system 1647
that the administrator finds is best calculated to merit rate or 1648
individually rate the risk more equitably, predicated upon the 1649
basis of its individual industrial accident and occupational 1650
disease experience, and may encourage and stimulate accident 1651
prevention. The administrator shall develop fixed and equitable 1652
rules controlling the rating system, which rules shall conserve to 1653
each risk the basic principles of workers' compensation insurance. 1654

(D) The administrator, from the money paid into the state 1655
insurance fund, shall set aside into an account of the state 1656
insurance fund titled a premium payment security fund sufficient 1657
money to pay for any premiums due from an employer and uncollected 1658
~~that are in excess of the employer's premium security deposit.~~ 1659

~~The fund shall be in the custody of the treasurer of state. 1660
All investment earnings of the fund shall be deposited in the 1661
fund. Disbursements from the fund shall be made by the bureau of 1662
workers' compensation upon order of the administrator to the state 1663
insurance fund. The use of the moneys held by the premium payment 1664
security fund account is restricted to reimbursement to the state 1665
insurance fund of premiums due and uncollected ~~in excess of an 1666
employer's premium security deposit. The moneys constituting the 1667
premium payment security fund shall be maintained without regard 1668
to or reliance upon any other fund. This section does not prevent 1669~~~~

~~the deposit or investment of the premium payment security fund 1670
with any other fund created by this chapter, but the premium 1671
payment security fund is separate and distinct for every other 1672
purpose and a strict accounting thereof shall be maintained. 1673~~

(E) The administrator may grant discounts on premium rates 1674
for employers who meet either of the following requirements: 1675

(1) Have not incurred a compensable injury for one year or 1676
more and who maintain an employee safety committee or similar 1677
organization or make periodic safety inspections of the workplace. 1678

(2) Successfully complete a loss prevention program 1679
prescribed by the superintendent of the division of safety and 1680
hygiene and conducted by the division or by any other person 1681
approved by the superintendent. 1682

(F)(1) In determining the premium rates for the construction 1683
industry the administrator shall calculate the employers' premiums 1684
based upon the actual remuneration construction industry employees 1685
receive from construction industry employers, provided that the 1686
amount of remuneration the administrator uses in calculating the 1687
premiums shall not exceed an average weekly wage equal to one 1688
hundred fifty per cent of the statewide average weekly wage as 1689
defined in division (C) of section 4123.62 of the Revised Code. 1690

(2) Division (F)(1) of this section shall not be construed as 1691
affecting the manner in which benefits to a claimant are awarded 1692
under this chapter. 1693

(3) As used in division (F) of this section, "construction 1694
industry" includes any activity performed in connection with the 1695
erection, alteration, repair, replacement, renovation, 1696
installation, or demolition of any building, structure, highway, 1697
or bridge. 1698

(G) The administrator ~~of workers' compensation~~ shall not 1699
place a limit on the length of time that an employer may 1700

participate in the bureau of workers' compensation drug free 1701
workplace and workplace safety programs. 1702

Sec. 4123.35. (A) Except as provided in this section, and 1703
until the policy year commencing July 1, 2015, every private 1704
employer ~~mentioned in division (B)(2) of section 4123.01 of the~~ 1705
~~Revised Code,~~ and every publicly owned utility shall pay 1706
semiannually in the months of January and July into the state 1707
insurance fund the amount of annual premium the administrator of 1708
workers' compensation fixes for the employment or occupation of 1709
the employer, the amount of which premium to be paid by each 1710
employer to be determined by the classifications, rules, and rates 1711
made and published by the administrator. The employer shall pay 1712
semiannually a further sum of money into the state insurance fund 1713
as may be ascertained to be due from the employer by applying the 1714
rules of the administrator, ~~and a.~~ 1715

Except as otherwise provided in this section, for a policy 1716
year commencing on or after July 1, 2015, every private employer 1717
and every publicly owned utility shall pay annually in the month 1718
of June immediately preceding the policy year into the state 1719
insurance fund the amount of estimated annual premium the 1720
administrator fixes for the employment or occupation of the 1721
employer, the amount of which estimated premium to be paid by each 1722
employer to be determined by the classifications, rules, and rates 1723
made and published by the administrator. The employer shall pay a 1724
further sum of money into the state insurance fund as may be 1725
ascertained to be due from the employer by applying the rules of 1726
the administrator. Upon receipt of the payroll report required by 1727
division (B) of section 4123.26 of the Revised Code, the 1728
administrator shall adjust the premium and assessments charged to 1729
each employer for the difference between estimated gross payrolls 1730
and actual gross payrolls, and any balance due to the 1731
administrator shall be immediately paid by the employer. Any 1732

balance due the employer shall be credited to the employer's 1733
account. 1734

For a policy year commencing on or after July 1, 2015, each 1735
employer that is recognized by the administrator as a professional 1736
employer organization shall pay monthly into the state insurance 1737
fund the amount of premium the administrator fixes for the 1738
employer for the prior month based on the actual payroll of the 1739
employer reported pursuant to division (C) of section 4123.26 of 1740
the Revised Code. 1741

~~A receipt or certificate~~ certifying that payment has been 1742
made, ~~along with a written notice as is required in section~~ 1743
~~4123.54 of the Revised Code,~~ shall be mailed immediately issued to 1744
the employer by the bureau of workers' compensation. The receipt 1745
~~or certificate~~ is prima-facie evidence of the payment of the 1746
premium, ~~and the proper.~~ The administrator shall provide each 1747
employer written proof of workers' compensation coverage as is 1748
required in section 4123.83 of the Revised Code. Proper posting of 1749
the notice constitutes the employer's compliance with the notice 1750
requirement mandated in section ~~4123.54~~ 4123.83 of the Revised 1751
Code. 1752

~~If the administrator adopts rules to establish a prospective~~ 1753
~~payment of premium under section 4123.322 of the Revised Code,~~ 1754
~~every employer mentioned in division (B)(2) of section 4123.01 of~~ 1755
~~the Revised Code and every publicly owned utility shall pay into~~ 1756
~~the state insurance fund the amount of premium the administrator~~ 1757
~~fixes for the employment or occupation of the employer, the amount~~ 1758
~~of which premium to be paid by each employer to be determined by~~ 1759
~~the classifications, rules, and rates made and published by the~~ 1760
~~administrator and based upon the estimates and reconciliations~~ 1761
~~required by the rules the administrator adopts under section~~ 1762
~~4123.322 of the Revised Code.~~ 1763

The bureau ~~of workers' compensation~~ shall verify with the 1764

secretary of state the existence of all corporations and 1765
organizations making application for workers' compensation 1766
coverage and shall require every such application to include the 1767
employer's federal identification number. 1768

~~An A private employer as defined in division (B)(2) of 1769
section 4123.01 of the Revised Code who has contracted with a 1770
subcontractor is liable for the unpaid premium due from any 1771
subcontractor with respect to that part of the payroll of the 1772
subcontractor that is for work performed pursuant to the contract 1773
with the employer. 1774~~

Division (A) of this section providing for the payment of 1775
premiums semiannually does not apply to any employer who was a 1776
subscriber to the state insurance fund prior to January 1, 1914, 1777
or, until July 1, 2015, who may first become a subscriber to the 1778
fund in any month other than January or July. Instead, the 1779
semiannual premiums shall be paid by those employers from time to 1780
time upon the expiration of the respective periods for which 1781
payments into the fund have been made by them. After July 1, 2015, 1782
an employer who first becomes a subscriber to the fund on any day 1783
other than the first day of July shall pay premiums according to 1784
rules adopted by the administrator, with the advice and consent of 1785
the bureau of workers' compensation board of directors, for the 1786
remainder of the policy year for which the coverage is effective. 1787

The administrator, with the advice and consent of the board, 1788
shall adopt rules to permit employers to make periodic payments of 1789
the ~~semiannual~~ premium and assessment due under this division. The 1790
rules shall include provisions for the assessment of interest 1791
charges, where appropriate, and for the assessment of penalties 1792
when an employer fails to make timely premium payments. The 1793
administrator, in the rules the administrator adopts, may set an 1794
administrative fee for these periodic payments. An employer who 1795
timely pays the amounts due under this division is entitled to all 1796

of the benefits and protections of this chapter. Upon receipt of 1797
payment, the bureau ~~immediately~~ shall ~~mail~~ issue a receipt ~~or~~ 1798
~~certificate~~ to the employer certifying that payment has been made, 1799
which receipt is prima-facie evidence of payment. Workers' 1800
compensation coverage under this chapter continues uninterrupted 1801
upon timely receipt of payment under this division. 1802

Every public employer, except public employers that are 1803
self-insuring employers under this section, shall comply with 1804
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 1805
regard to the contribution of moneys to the public insurance fund. 1806

(B) Employers who will abide by the rules of the 1807
administrator and who may be of sufficient financial ability to 1808
render certain the payment of compensation to injured employees or 1809
the dependents of killed employees, and the furnishing of medical, 1810
surgical, nursing, and hospital attention and services and 1811
medicines, and funeral expenses, equal to or greater than is 1812
provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 1813
to 4123.67 of the Revised Code, and who do not desire to insure 1814
the payment thereof or indemnify themselves against loss sustained 1815
by the direct payment thereof, upon a finding of such facts by the 1816
administrator, may be granted the privilege to pay individually 1817
compensation, and furnish medical, surgical, nursing, and hospital 1818
services and attention and funeral expenses directly to injured 1819
employees or the dependents of killed employees, thereby being 1820
granted status as a self-insuring employer. The administrator may 1821
charge employers who apply for the status as a self-insuring 1822
employer a reasonable application fee to cover the bureau's costs 1823
in connection with processing and making a determination with 1824
respect to an application. 1825

All employers granted status as self-insuring employers shall 1826
demonstrate sufficient financial and administrative ability to 1827
assure that all obligations under this section are promptly met. 1828

The administrator shall deny the privilege where the employer is 1829
unable to demonstrate the employer's ability to promptly meet all 1830
the obligations imposed on the employer by this section. 1831

(1) The administrator shall consider, but is not limited to, 1832
the following factors, where applicable, in determining the 1833
employer's ability to meet all of the obligations imposed on the 1834
employer by this section: 1835

(a) The employer employs a minimum of five hundred employees 1836
in this state; 1837

(b) The employer has operated in this state for a minimum of 1838
two years, provided that an employer who has purchased, acquired, 1839
or otherwise succeeded to the operation of a business, or any part 1840
thereof, situated in this state that has operated for at least two 1841
years in this state, also shall qualify; 1842

(c) Where the employer previously contributed to the state 1843
insurance fund or is a successor employer as defined by bureau 1844
rules, the amount of the buyout, as defined by bureau rules; 1845

(d) The sufficiency of the employer's assets located in this 1846
state to insure the employer's solvency in paying compensation 1847
directly; 1848

(e) The financial records, documents, and data, certified by 1849
a certified public accountant, necessary to provide the employer's 1850
full financial disclosure. The records, documents, and data 1851
include, but are not limited to, balance sheets and profit and 1852
loss history for the current year and previous four years. 1853

(f) The employer's organizational plan for the administration 1854
of the workers' compensation law; 1855

(g) The employer's proposed plan to inform employees of the 1856
change from a state fund insurer to a self-insuring employer, the 1857
procedures the employer will follow as a self-insuring employer, 1858

and the employees' rights to compensation and benefits; and 1859

(h) The employer has either an account in a financial 1860
institution in this state, or if the employer maintains an account 1861
with a financial institution outside this state, ensures that 1862
workers' compensation checks are drawn from the same account as 1863
payroll checks or the employer clearly indicates that payment will 1864
be honored by a financial institution in this state. 1865

The administrator may waive the requirements of divisions 1866
(B)(1)(a) and (b) of this section and the requirement of division 1867
(B)(1)(e) of this section that the financial records, documents, 1868
and data be certified by a certified public accountant. The 1869
administrator shall adopt rules establishing the criteria that an 1870
employer shall meet in order for the administrator to waive the 1871
requirements of divisions (B)(1)(a), (b), and (e) of this section. 1872
Such rules may require additional security of that employer 1873
pursuant to division (E) of section 4123.351 of the Revised Code. 1874

The administrator shall not grant the status of self-insuring 1875
employer to the state, except that the administrator may grant the 1876
status of self-insuring employer to a state institution of higher 1877
education, including its hospitals, that meets the requirements of 1878
division (B)(2) of this section. 1879

(2) When considering the application of a public employer, 1880
except for a board of county commissioners described in division 1881
(G) of section 4123.01 of the Revised Code, a board of a county 1882
hospital, or a publicly owned utility, the administrator shall 1883
verify that the public employer satisfies all of the following 1884
requirements as the requirements apply to that public employer: 1885

(a) For the two-year period preceding application under this 1886
section, the public employer has maintained an unvoted debt 1887
capacity equal to at least two times the amount of the current 1888
annual premium established by the administrator under this chapter 1889

for that public employer for the year immediately preceding the 1890
year in which the public employer makes application under this 1891
section. 1892

(b) For each of the two fiscal years preceding application 1893
under this section, the unreserved and undesignated year-end fund 1894
balance in the public employer's general fund is equal to at least 1895
five per cent of the public employer's general fund revenues for 1896
the fiscal year computed in accordance with generally accepted 1897
accounting principles. 1898

(c) For the five-year period preceding application under this 1899
section, the public employer, to the extent applicable, has 1900
complied fully with the continuing disclosure requirements 1901
established in rules adopted by the United States securities and 1902
exchange commission under 17 C.F.R. 240.15c 2-12. 1903

(d) For the five-year period preceding application under this 1904
section, the public employer has not had its local government fund 1905
distribution withheld on account of the public employer being 1906
indebted or otherwise obligated to the state. 1907

(e) For the five-year period preceding application under this 1908
section, the public employer has not been under a fiscal watch or 1909
fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 1910
of the Revised Code. 1911

(f) For the public employer's fiscal year preceding 1912
application under this section, the public employer has obtained 1913
an annual financial audit as required under section 117.10 of the 1914
Revised Code, which has been released by the auditor of state 1915
within seven months after the end of the public employer's fiscal 1916
year. 1917

(g) On the date of application, the public employer holds a 1918
debt rating of Aa3 or higher according to Moody's investors 1919
service, inc., or a comparable rating by an independent rating 1920

agency similar to Moody's investors service, inc. 1921

(h) The public employer agrees to generate an annual 1922
accumulating book reserve in its financial statements reflecting 1923
an actuarially generated reserve adequate to pay projected claims 1924
under this chapter for the applicable period of time, as 1925
determined by the administrator. 1926

(i) For a public employer that is a hospital, the public 1927
employer shall submit audited financial statements showing the 1928
hospital's overall liquidity characteristics, and the 1929
administrator shall determine, on an individual basis, whether the 1930
public employer satisfies liquidity standards equivalent to the 1931
liquidity standards of other public employers. 1932

(j) Any additional criteria that the administrator adopts by 1933
rule pursuant to division (E) of this section. 1934

The administrator may adopt rules establishing the criteria 1935
that a public employer shall satisfy in order for the 1936
administrator to waive any of the requirements listed in divisions 1937
(B)(2)(a) to (j) of this section. The rules may require additional 1938
security from that employer pursuant to division (E) of section 1939
4123.351 of the Revised Code. The administrator shall not waive 1940
any of the requirements listed in divisions (B)(2)(a) to (j) of 1941
this section for a public employer who does not satisfy the 1942
criteria established in the rules the administrator adopts. 1943

(C) A board of county commissioners described in division (G) 1944
of section 4123.01 of the Revised Code, as an employer, that will 1945
abide by the rules of the administrator and that may be of 1946
sufficient financial ability to render certain the payment of 1947
compensation to injured employees or the dependents of killed 1948
employees, and the furnishing of medical, surgical, nursing, and 1949
hospital attention and services and medicines, and funeral 1950
expenses, equal to or greater than is provided for in sections 1951

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;	1984
(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.	1985 1986 1987 1988 1989
(6) The board's organizational plan for the administration of the workers' compensation law;	1990 1991
(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;	1992 1993 1994 1995
(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;	1996 1997 1998 1999 2000 2001
(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.	2002 2003 2004
(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	2005 2006 2007 2008 2009 2010 2011 2012 2013 2014

is to be paid, and thereafter suffers the loss of any other of the 2015
members as the result of any injury sustained in the course of and 2016
arising out of the employee's employment, the compensation to be 2017
paid by the self-insuring employer is limited to the disability 2018
suffered in the subsequent injury, additional compensation, if 2019
any, to be paid by the bureau out of the surplus created by 2020
section 4123.34 of the Revised Code. 2021

(E) In addition to the requirements of this section, the 2022
administrator shall make and publish rules governing the manner of 2023
making application and the nature and extent of the proof required 2024
to justify a finding of fact by the administrator as to granting 2025
the status of a self-insuring employer, which rules shall be 2026
general in their application, one of which rules shall provide 2027
that all self-insuring employers shall pay into the state 2028
insurance fund such amounts as are required to be credited to the 2029
surplus fund in division (B) of section 4123.34 of the Revised 2030
Code. The administrator may adopt rules establishing requirements 2031
in addition to the requirements described in division (B)(2) of 2032
this section that a public employer shall meet in order to qualify 2033
for self-insuring status. 2034

Employers shall secure directly from the bureau central 2035
offices application forms upon which the bureau shall stamp a 2036
designating number. Prior to submission of an application, an 2037
employer shall make available to the bureau, and the bureau shall 2038
review, the information described in division (B)(1) of this 2039
section, and public employers shall make available, and the bureau 2040
shall review, the information necessary to verify whether the 2041
public employer meets the requirements listed in division (B)(2) 2042
of this section. An employer shall file the completed application 2043
forms with an application fee, which shall cover the costs of 2044
processing the application, as established by the administrator, 2045
by rule, with the bureau at least ninety days prior to the 2046

effective date of the employer's new status as a self-insuring 2047
employer. The application form is not deemed complete until all 2048
the required information is attached thereto. The bureau shall 2049
only accept applications that contain the required information. 2050

(F) The bureau shall review completed applications within a 2051
reasonable time. If the bureau determines to grant an employer the 2052
status as a self-insuring employer, the bureau shall issue a 2053
statement, containing its findings of fact, that is prepared by 2054
the bureau and signed by the administrator. If the bureau 2055
determines not to grant the status as a self-insuring employer, 2056
the bureau shall notify the employer of the determination and 2057
require the employer to continue to pay its full premium into the 2058
state insurance fund. The administrator also shall adopt rules 2059
establishing a minimum level of performance as a criterion for 2060
granting and maintaining the status as a self-insuring employer 2061
and fixing time limits beyond which failure of the self-insuring 2062
employer to provide for the necessary medical examinations and 2063
evaluations may not delay a decision on a claim. 2064

(G) The administrator shall adopt rules setting forth 2065
procedures for auditing the program of self-insuring employers. 2066
The bureau shall conduct the audit upon a random basis or whenever 2067
the bureau has grounds for believing that a self-insuring employer 2068
is not in full compliance with bureau rules or this chapter. 2069

The administrator shall monitor the programs conducted by 2070
self-insuring employers, to ensure compliance with bureau 2071
requirements and for that purpose, shall develop and issue to 2072
self-insuring employers standardized forms for use by the 2073
self-insuring employer in all aspects of the self-insuring 2074
employers' direct compensation program and for reporting of 2075
information to the bureau. 2076

The bureau shall receive and transmit to the self-insuring 2077
employer all complaints concerning any self-insuring employer. In 2078

the case of a complaint against a self-insuring employer, the 2079
administrator shall handle the complaint through the 2080
self-insurance division of the bureau. The bureau shall maintain a 2081
file by employer of all complaints received that relate to the 2082
employer. The bureau shall evaluate each complaint and take 2083
appropriate action. 2084

The administrator shall adopt as a rule a prohibition against 2085
any self-insuring employer from harassing, dismissing, or 2086
otherwise disciplining any employee making a complaint, which rule 2087
shall provide for a financial penalty to be levied by the 2088
administrator payable by the offending self-insuring employer. 2089

(H) For the purpose of making determinations as to whether to 2090
grant status as a self-insuring employer, the administrator may 2091
subscribe to and pay for a credit reporting service that offers 2092
financial and other business information about individual 2093
employers. The costs in connection with the bureau's subscription 2094
or individual reports from the service about an applicant may be 2095
included in the application fee charged employers under this 2096
section. 2097

(I) The administrator, notwithstanding other provisions of 2098
this chapter, may permit a self-insuring employer to resume 2099
payment of premiums to the state insurance fund with appropriate 2100
credit modifications to the employer's basic premium rate as such 2101
rate is determined pursuant to section 4123.29 of the Revised 2102
Code. 2103

(J) On the first day of July of each year, the administrator 2104
shall calculate separately each self-insuring employer's 2105
assessments for the safety and hygiene fund, administrative costs 2106
pursuant to section 4123.342 of the Revised Code, and for the 2107
portion of the surplus fund under division (B) of section 4123.34 2108
of the Revised Code that is not used for handicapped 2109
reimbursement, on the basis of the paid compensation attributable 2110

to the individual self-insuring employer according to the 2111
following calculation: 2112

(1) The total assessment against all self-insuring employers 2113
as a class for each fund and for the administrative costs for the 2114
year that the assessment is being made, as determined by the 2115
administrator, divided by the total amount of paid compensation 2116
for the previous calendar year attributable to all amenable 2117
self-insuring employers; 2118

(2) Multiply the quotient in division (J)(1) of this section 2119
by the total amount of paid compensation for the previous calendar 2120
year that is attributable to the individual self-insuring employer 2121
for whom the assessment is being determined. Each self-insuring 2122
employer shall pay the assessment that results from this 2123
calculation, unless the assessment resulting from this calculation 2124
falls below a minimum assessment, which minimum assessment the 2125
administrator shall determine on the first day of July of each 2126
year with the advice and consent of the bureau of workers' 2127
compensation board of directors, in which event, the self-insuring 2128
employer shall pay the minimum assessment. 2129

In determining the total amount due for the total assessment 2130
against all self-insuring employers as a class for each fund and 2131
the administrative assessment, the administrator shall reduce 2132
proportionately the total for each fund and assessment by the 2133
amount of money in the self-insurance assessment fund as of the 2134
date of the computation of the assessment. 2135

The administrator shall calculate the assessment for the 2136
portion of the surplus fund under division (B) of section 4123.34 2137
of the Revised Code that is used for handicapped reimbursement in 2138
the same manner as set forth in divisions (J)(1) and (2) of this 2139
section except that the administrator shall calculate the total 2140
assessment for this portion of the surplus fund only on the basis 2141
of those self-insuring employers that retain participation in the 2142

handicapped reimbursement program and the individual self-insuring 2143
employer's proportion of paid compensation shall be calculated 2144
only for those self-insuring employers who retain participation in 2145
the handicapped reimbursement program. The administrator, as the 2146
administrator determines appropriate, may determine the total 2147
assessment for the handicapped portion of the surplus fund in 2148
accordance with sound actuarial principles. 2149

The administrator shall calculate the assessment for the 2150
portion of the surplus fund under division (B) of section 4123.34 2151
of the Revised Code that under division (D) of section 4121.66 of 2152
the Revised Code is used for rehabilitation costs in the same 2153
manner as set forth in divisions (J)(1) and (2) of this section, 2154
except that the administrator shall calculate the total assessment 2155
for this portion of the surplus fund only on the basis of those 2156
self-insuring employers who have not made the election to make 2157
payments directly under division (D) of section 4121.66 of the 2158
Revised Code and an individual self-insuring employer's proportion 2159
of paid compensation only for those self-insuring employers who 2160
have not made that election. 2161

The administrator shall calculate the assessment for the 2162
portion of the surplus fund under division (B) of section 4123.34 2163
of the Revised Code that is used for reimbursement to a 2164
self-insuring employer under division (H) of section 4123.512 of 2165
the Revised Code in the same manner as set forth in divisions 2166
(J)(1) and (2) of this section except that the administrator shall 2167
calculate the total assessment for this portion of the surplus 2168
fund only on the basis of those self-insuring employers that 2169
retain participation in reimbursement to the self-insuring 2170
employer under division (H) of section 4123.512 of the Revised 2171
Code and the individual self-insuring employer's proportion of 2172
paid compensation shall be calculated only for those self-insuring 2173
employers who retain participation in reimbursement to the 2174

self-insuring employer under division (H) of section 4123.512 of 2175
the Revised Code. 2176

An employer who no longer is a self-insuring employer in this 2177
state or who no longer is operating in this state, shall continue 2178
to pay assessments for administrative costs and for the portion of 2179
the surplus fund under division (B) of section 4123.34 of the 2180
Revised Code that is not used for handicapped reimbursement, based 2181
upon paid compensation attributable to claims that occurred while 2182
the employer was a self-insuring employer within this state. 2183

(K) There is hereby created in the state treasury the 2184
self-insurance assessment fund. All investment earnings of the 2185
fund shall be deposited in the fund. The administrator shall use 2186
the money in the self-insurance assessment fund only for 2187
administrative costs as specified in section 4123.341 of the 2188
Revised Code. 2189

(L) Every self-insuring employer shall certify, in affidavit 2190
form subject to the penalty for perjury, to the bureau the amount 2191
of the self-insuring employer's paid compensation for the previous 2192
calendar year. In reporting paid compensation paid for the 2193
previous year, a self-insuring employer shall exclude from the 2194
total amount of paid compensation any reimbursement the 2195
self-insuring employer receives in the previous calendar year from 2196
the surplus fund pursuant to section 4123.512 of the Revised Code 2197
for any paid compensation. The self-insuring employer also shall 2198
exclude from the paid compensation reported any amount recovered 2199
under section 4123.931 of the Revised Code and any amount that is 2200
determined not to have been payable to or on behalf of a claimant 2201
in any final administrative or judicial proceeding. The 2202
self-insuring employer shall exclude such amounts from the paid 2203
compensation reported in the reporting period subsequent to the 2204
date the determination is made. The administrator shall adopt 2205
rules, in accordance with Chapter 119. of the Revised Code, that 2206

provide for all of the following: 2207

(1) Establishing the date by which self-insuring employers 2208
must submit such information and the amount of the assessments 2209
provided for in division (J) of this section for employers who 2210
have been granted self-insuring status within the last calendar 2211
year; 2212

(2) If an employer fails to pay the assessment when due, the 2213
administrator may add a late fee penalty of not more than five 2214
hundred dollars to the assessment plus an additional penalty 2215
amount as follows: 2216

(a) For an assessment from sixty-one to ninety days past due, 2217
the prime interest rate, multiplied by the assessment due; 2218

(b) For an assessment from ninety-one to one hundred twenty 2219
days past due, the prime interest rate plus two per cent, 2220
multiplied by the assessment due; 2221

(c) For an assessment from one hundred twenty-one to one 2222
hundred fifty days past due, the prime interest rate plus four per 2223
cent, multiplied by the assessment due; 2224

(d) For an assessment from one hundred fifty-one to one 2225
hundred eighty days past due, the prime interest rate plus six per 2226
cent, multiplied by the assessment due; 2227

(e) For an assessment from one hundred eighty-one to two 2228
hundred ten days past due, the prime interest rate plus eight per 2229
cent, multiplied by the assessment due; 2230

(f) For each additional thirty-day period or portion thereof 2231
that an assessment remains past due after it has remained past due 2232
for more than two hundred ten days, the prime interest rate plus 2233
eight per cent, multiplied by the assessment due. 2234

(3) An employer may appeal a late fee penalty and penalty 2235
assessment to the administrator. 2236

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 2269
construction project is estimated to exceed twenty-five million 2270
dollars. The administrator may waive such cost and time criteria 2271
and grant a self-insuring employer the privilege to self-insure a 2272
construction project regardless of the time needed to complete the 2273
construction project and provided that the cost of the 2274
construction project is estimated to exceed fifty million dollars. 2275
A self-insuring employer who desires to self-insure a construction 2276
project shall submit to the administrator an application listing 2277
the dates the construction project is scheduled to begin and end, 2278
the estimated cost of the construction project, the contractors 2279
and subcontractors whose employees are to be self-insured by the 2280
self-insuring employer, the provisions of a safety program that is 2281
specifically designed for the construction project, and a 2282
statement as to whether a collective bargaining agreement 2283
governing the rights, duties, and obligations of each of the 2284
parties to the agreement with respect to the construction project 2285
exists between the self-insuring employer and a labor 2286
organization. 2287

A self-insuring employer may apply to self-insure the 2288
employees of either of the following: 2289

(1) All contractors and subcontractors who perform labor or 2290
work or provide materials for the construction project; 2291

(2) All contractors and, at the administrator's discretion, a 2292
substantial number of all the subcontractors who perform labor or 2293
work or provide materials for the construction project. 2294

Upon approval of the application, the administrator shall 2295
mail a certificate granting the privilege to self-insure the 2296
construction project to the self-insuring employer. The 2297
certificate shall contain the name of the self-insuring employer 2298
and the name, address, and telephone number of the self-insuring 2299
employer's representatives who are responsible for administering 2300

workers' compensation claims for the construction project. The 2301
self-insuring employer shall post the certificate in a conspicuous 2302
place at the site of the construction project. 2303

The administrator shall maintain a record of the contractors 2304
and subcontractors whose employees are covered under the 2305
certificate issued to the self-insured employer. A self-insuring 2306
employer immediately shall notify the administrator when any 2307
contractor or subcontractor is added or eliminated from inclusion 2308
under the certificate. 2309

Upon approval of the application, the self-insuring employer 2310
is responsible for the administration and payment of all claims 2311
under this chapter and Chapter 4121. of the Revised Code for the 2312
employees of the contractor and subcontractors covered under the 2313
certificate who receive injuries or are killed in the course of 2314
and arising out of employment on the construction project, or who 2315
contract an occupational disease in the course of employment on 2316
the construction project. For purposes of this chapter and Chapter 2317
4121. of the Revised Code, a claim that is administered and paid 2318
in accordance with this division is considered a claim against the 2319
self-insuring employer listed in the certificate. A contractor or 2320
subcontractor included under the certificate shall report to the 2321
self-insuring employer listed in the certificate, all claims that 2322
arise under this chapter and Chapter 4121. of the Revised Code in 2323
connection with the construction project for which the certificate 2324
is issued. 2325

A self-insuring employer who complies with this division is 2326
entitled to the protections provided under this chapter and 2327
Chapter 4121. of the Revised Code with respect to the employees of 2328
the contractors and subcontractors covered under a certificate 2329
issued under this division for death or injuries that arise out 2330
of, or death, injuries, or occupational diseases that arise in the 2331
course of, those employees' employment on that construction 2332

project, as if the employees were employees of the self-insuring 2333
employer, provided that the self-insuring employer also complies 2334
with this section. No employee of the contractors and 2335
subcontractors covered under a certificate issued under this 2336
division shall be considered the employee of the self-insuring 2337
employer listed in that certificate for any purposes other than 2338
this chapter and Chapter 4121. of the Revised Code. Nothing in 2339
this division gives a self-insuring employer authority to control 2340
the means, manner, or method of employment of the employees of the 2341
contractors and subcontractors covered under a certificate issued 2342
under this division. 2343

The contractors and subcontractors included under a 2344
certificate issued under this division are entitled to the 2345
protections provided under this chapter and Chapter 4121. of the 2346
Revised Code with respect to the contractor's or subcontractor's 2347
employees who are employed on the construction project which is 2348
the subject of the certificate, for death or injuries that arise 2349
out of, or death, injuries, or occupational diseases that arise in 2350
the course of, those employees' employment on that construction 2351
project. 2352

The contractors and subcontractors included under a 2353
certificate issued under this division shall identify in their 2354
payroll records the employees who are considered the employees of 2355
the self-insuring employer listed in that certificate for purposes 2356
of this chapter and Chapter 4121. of the Revised Code, and the 2357
amount that those employees earned for employment on the 2358
construction project that is the subject of that certificate. 2359
Notwithstanding any provision to the contrary under this chapter 2360
and Chapter 4121. of the Revised Code, the administrator shall 2361
exclude the payroll that is reported for employees who are 2362
considered the employees of the self-insuring employer listed in 2363
that certificate, and that the employees earned for employment on 2364

the construction project that is the subject of that certificate, 2365
when determining those contractors' or subcontractors' premiums or 2366
assessments required under this chapter and Chapter 4121. of the 2367
Revised Code. A self-insuring employer issued a certificate under 2368
this division shall include in the amount of paid compensation it 2369
reports pursuant to division (L) of this section, the amount of 2370
paid compensation the self-insuring employer paid pursuant to this 2371
division for the previous calendar year. 2372

Nothing in this division shall be construed as altering the 2373
rights of employees under this chapter and Chapter 4121. of the 2374
Revised Code as those rights existed prior to September 17, 1996. 2375
Nothing in this division shall be construed as altering the rights 2376
devolved under sections 2305.31 and 4123.82 of the Revised Code as 2377
those rights existed prior to September 17, 1996. 2378

As used in this division, "privilege to self-insure a 2379
construction project" means privilege to pay individually 2380
compensation, and to furnish medical, surgical, nursing, and 2381
hospital services and attention and funeral expenses directly to 2382
injured employees or the dependents of killed employees. 2383

(P) A self-insuring employer whose application is granted 2384
under division (O) of this section shall designate a safety 2385
professional to be responsible for the administration and 2386
enforcement of the safety program that is specifically designed 2387
for the construction project that is the subject of the 2388
application. 2389

A self-insuring employer whose application is granted under 2390
division (O) of this section shall employ an ombudsperson for the 2391
construction project that is the subject of the application. The 2392
ombudsperson shall have experience in workers' compensation or the 2393
construction industry, or both. The ombudsperson shall perform all 2394
of the following duties: 2395

(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;	2427 2428 2429
(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;	2430 2431
(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.	2432 2433 2434 2435 2436
(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:	2437 2438 2439 2440
(1) A state institution of higher education;	2441
(2) A school district;	2442
(3) A county school financing district;	2443
(4) An educational service center;	2444
(5) A community school established under Chapter 3314. of the Revised Code;	2445 2446
(6) A municipal power agency as defined in section 3734.058 of the Revised Code.	2447 2448
(S) As used in this section:	2449
(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;	2450 2451
(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	2452 2453 2454 2455

3355. of the Revised Code, technical colleges created pursuant to 2456
Chapter 3357. of the Revised Code, and state community colleges 2457
created pursuant to Chapter 3358. of the Revised Code. 2458

Sec. 4123.353. (A) A public employer, except for a board of 2459
county commissioners described in division (G) of section 4123.01 2460
of the Revised Code, a board of a county hospital, or a publicly 2461
owned utility, who is granted the status of self-insuring employer 2462
pursuant to section 4123.35 of the Revised Code shall do all of 2463
the following: 2464

(1) Reserve funds as necessary, in accordance with sound and 2465
prudent actuarial judgment, to cover the costs the public employer 2466
may potentially incur to remain in compliance with this chapter 2467
and Chapter 4121. of the Revised Code; 2468

(2) Include all activity under this chapter and Chapter 4121. 2469
of the Revised Code in a single fund on the public employer's 2470
accounting records; 2471

(3) Within ninety days after the last day of each fiscal 2472
year, prepare and maintain a report of the reserved funds 2473
described in division (A)(1) of this section and disbursements 2474
made from those reserved funds+ 2475

~~(4) Within ninety days after the last day of each fiscal 2476
year, obtain a written report prepared by a member of the American 2477
academy of actuaries, certifying whether the reserved funds 2478
described in division (A)(1) of this section are sufficient to 2479
cover the costs the public employer may potentially incur to 2480
remain in compliance with this chapter and Chapter 4121. of the 2481
Revised Code, are computed in accordance with accepted loss 2482
reserving standards, and are fairly stated in accordance with 2483
sound loss reserving principles. 2484~~

(B) A public employer who is subject to division (A) of this 2485

section shall make the reports required by that division available 2486
for inspection by the administrator of workers' compensation and 2487
any other person at all reasonable times during regular business 2488
hours. 2489

Sec. 4123.36. Whenever an employer fails to pay a premium 2490
due, and the administrator of workers' compensation determines the 2491
employer's account to be uncollectible, the administrator shall 2492
cover the default ~~in excess of the employer's premium security~~ 2493
~~deposit~~ by transfer of money from the premium payment security 2494
fund account to the state insurance fund. ~~The transfer establishes~~ 2495
~~coverage of the employer for the immediately completed six month~~ 2496
~~period together with the ensuing two month adjustment period and~~ 2497
~~the employer is not liable to respond in damages at common law or~~ 2498
~~by statute for injuries or death of any employees wherever~~ 2499
~~occurring during that eight month period. Payments from the~~ 2500
~~premium payment security fund may not be used to cover a default~~ 2501
~~of an employer with respect to any period longer than eight~~ 2502
~~months.~~ Thereafter, the employer shall be considered a 2503
noncomplying employer under this chapter and shall not be entitled 2504
to the benefits and protection of this chapter ~~until the employer~~ 2505
~~again establishes coverage pursuant to this chapter through~~ 2506
~~reimbursement to the premium payment security fund for the money~~ 2507
~~paid to the state insurance fund, on account of the default,~~ 2508
~~payment of any semiannual premium obligations due but in default,~~ 2509
~~and submission of a new premium security deposit pursuant to~~ 2510
~~section 4123.32 of the Revised Code.~~ 2511

Sec. 4123.37. In this section "amenable employer" has the 2512
same meaning as "employer" as defined in division ~~(J)~~(I) of 2513
section 4123.32 of the Revised Code. 2514

If the administrator of workers' compensation finds that any 2515
person, firm, or private corporation, including any public service 2516

corporation, is, or has been at any time after January 1, 1923, an 2517
amenable employer and has not complied with section 4123.35 of the 2518
Revised Code the administrator shall determine the period during 2519
which the person, firm, or corporation was an amenable employer 2520
and shall forthwith give notice of the determination to the 2521
employer. Within twenty days thereafter the employer shall furnish 2522
the bureau with the payroll covering the period included in the 2523
determination and, if the employer is an amenable employer at the 2524
time of the determination, ~~shall pay a premium security deposit~~ 2525
~~for the eight months next succeeding the date of the determination~~ 2526
~~and~~ shall pay into the state insurance fund the amount of premium 2527
and assessments applicable to such payroll. If the administrator 2528
determines that the employer is an amenable employer prior to the 2529
policy year commencing July 1, 2015, the administrator may require 2530
the employer to pay a premium security deposit. 2531

If the employer does not furnish the payroll and pay the 2532
applicable premium, assessments, and, if applicable, the premium 2533
security deposit within the twenty days, the administrator shall 2534
forthwith make an assessment of the premium amounts due from the 2535
employer for the period the administrator determined the employer 2536
to be an amenable employer ~~including the premium security deposit~~ 2537
~~according to section 4123.32 of the Revised Code~~ if the employer 2538
is an amenable employer at the time of the determination, basing 2539
the assessment upon the information in the possession of the 2540
administrator. 2541

The administrator shall give to the employer assessed written 2542
notice of the assessment. The notice shall be mailed to the 2543
employer at the employer's residence or usual place of business by 2544
certified mail. Unless the employer to whom the notice of 2545
assessment is directed files with the bureau within twenty days 2546
after receipt thereof, a petition in writing, verified under oath 2547
by the employer, or the employer's authorized agent having 2548

knowledge of the facts, setting forth with particularity the items 2549
of the assessment objected to, together with the reason for the 2550
objections, the assessment shall become conclusive and the amount 2551
thereof shall be due and payable from the employer so assessed to 2552
the state insurance fund. When a petition objecting to an 2553
assessment is filed the bureau shall assign a time and place for 2554
the hearing of the same and shall notify the petitioner thereof by 2555
certified mail. When an employer files a petition the assessment 2556
made by the administrator shall become due and payable ten days 2557
after notice of the finding made at the hearing has been sent by 2558
certified mail to the party assessed. An appeal may be taken from 2559
any finding to the court of common pleas of Franklin county upon 2560
the execution by the party assessed of a bond to the state in 2561
double the amount found due and ordered paid by the bureau 2562
conditioned that the party will pay any judgment and costs 2563
rendered against it for the premium. 2564

When no petition objecting to an assessment is filed or when 2565
a finding is made affirming or modifying an assessment after 2566
hearing, a certified copy of the assessment as affirmed or 2567
modified may be filed by the administrator in the office of the 2568
clerk of the court of common pleas in any county in which the 2569
employer has property or in which the employer has a place of 2570
business. The clerk, immediately upon the filing of the 2571
assessment, shall enter a judgment for the state against the 2572
employer in the amount shown on the assessment. The judgment may 2573
be filed by the clerk in a loose leaf book entitled "special 2574
judgments for state insurance fund." The judgment shall bear the 2575
same rate of interest, have the same effect as other judgments, 2576
and be given the same preference allowed by law on other judgments 2577
rendered for claims for taxes. An assessment or judgment under 2578
this section shall not be a bar to the adjustment of the 2579
employer's account upon the employer furnishing the employer's 2580
payroll records to the bureau. 2581

The administrator, for good cause shown, may waive a default 2582
in the payment of premium where the default is of less than sixty 2583
days' duration, and upon payment by the employer of the premium 2584
for the period, the employer and the employer's employees are 2585
entitled to all of the benefits and immunities provided by this 2586
chapter. 2587

Sec. 4123.40. On or before the first day of July of every 2588
year, the administrator of workers' compensation shall estimate 2589
the gross payroll of all state employers for the succeeding 2590
biennium or fiscal year. 2591

The administrator shall determine and certify for the office 2592
of budget and management that rate or rates which, when applied to 2593
the gross payroll estimate, will produce an amount equal to the 2594
estimated cost of awards or claim payments to be made during the 2595
like fiscal period, as determined by the administrator. 2596

The rate certified shall be applied and made a part of the 2597
gross payroll calculation for the period for which the foregoing 2598
estimates have been made, in conformity with section 125.21 of the 2599
Revised Code. The amounts collected shall be remitted to the 2600
bureau of workers' compensation as provided in section 125.21 of 2601
the Revised Code. 2602

If the historical amounts remitted to the bureau ~~for a fiscal~~ 2603
~~period~~ are greater or less than actual historical awards or claim 2604
~~payments for the like period by reason of an error in the prior~~ 2605
~~estimates of gross payroll or awards or payments, the overage or~~ 2606
~~shortage~~ difference shall be included returned to the state 2607
employer or recovered by the bureau in a manner determined by the 2608
administrator ~~in determining the rate for the next succeeding~~ 2609
~~fiscal period.~~ 2610

In fixing the amount of contribution to be made by the state 2611
and each of its departments, agencies, and instrumentalities, the 2612

administrator shall classify departments, agencies, and 2613
instrumentalities into such groups as will equitably determine the 2614
contributions in accordance with their expected individual 2615
accident experience so that the state and its departments, 2616
agencies, and instrumentalities contribute an amount sufficient to 2617
meet individual obligations and ~~maintain a solvent public~~ 2618
~~insurance fund~~ the obligations of the participants in total. 2619

Moneys collected from state employers shall not be used to 2620
pay compensation or other benefits attributable to service of 2621
persons as employees of counties or taxing districts therein, nor 2622
shall moneys collected from counties and taxing districts therein 2623
be used to pay compensation or other benefits attributable to 2624
service of persons as employees of the state. 2625

Sec. 4123.41. (A) ~~By~~ (1) For policy years that begin prior to 2626
January 1, 2016, by the first day of January of each year, the 2627
bureau of workers' compensation shall furnish to the county 2628
auditor of each county and the chief fiscal officer of each taxing 2629
district in a county and of each district activity and institution 2630
mentioned in section 4123.39 of the Revised Code forms containing 2631
the premium rates applicable to the county, district, district 2632
activity, or institution as an employer, on which to report the 2633
amount of money expended by the county, district, district 2634
activity, or institution during the previous twelve calendar 2635
months for the services of employees under this chapter. 2636

~~(B)~~ Each county auditor and each fiscal officer of a 2637
district, district activity, and institution shall calculate on 2638
the form it receives from the bureau under division (A) of this 2639
section the premium due as its proper contribution to the public 2640
insurance fund and issue a warrant in favor of the bureau for the 2641
amount due from the county, district, district activity, or 2642
institution to the public insurance fund. 2643

(2) For a policy year commencing on or after January 1, 2016, 2644
by the first day of November of each year, the bureau shall 2645
furnish to the county auditor of each county and the chief fiscal 2646
officer of each taxing district in a county and of each district 2647
activity and institution mentioned in section 4123.39 of the 2648
Revised Code forms showing the estimated premium due from the 2649
county, district, district activity, or institution for the 2650
forthcoming policy year. 2651

After the conclusion of each policy year, the county auditor 2652
of each county and the chief fiscal officer of each taxing 2653
district in a county and of each district activity and institution 2654
mentioned in section 4123.39 of the Revised Code shall, on or 2655
before the fifteenth day of February immediately following the 2656
conclusion of the policy year, report the amount of money expended 2657
by the county, district, district activity, or institution during 2658
the policy year for the services of employees under this chapter. 2659
The bureau shall adjust the premium and assessments charged to the 2660
employer for the difference between estimated gross payrolls and 2661
actual gross payrolls, and the employer immediately shall pay any 2662
balance due to the bureau. Any balance due the employer shall be 2663
credited to the employer's account. 2664

The administrator may adopt rules setting forth penalties for 2665
failure to submit the report of money expended as required by this 2666
division, including, but not limited to, exclusion from 2667
alternative rating plans and discount programs. 2668

(B)(1) Except as otherwise provided in division (B) of this 2669
section, payments due under this section shall be made according 2670
to the following schedule: 2671

~~(1) On~~ (a) For payments of premium and assessments due for a 2672
policy year that commences prior to July 1, 2015: 2673

(i) On or before the fifteenth day of May ~~of each~~ immediately 2674

following the conclusion of the policy year, no less than 2675
forty-five per cent of the annual amount due for the policy year; 2676

(2)(ii) On or before the first day of September immediately 2677
following the conclusion of each the policy year, no less than the 2678
total amount due for the policy year. 2679

(b) For the policy year commencing January 1, 2015: 2680

(i) On or before the fifteenth day of May immediately 2681
following the conclusion of the policy year, no less than fifty 2682
per cent of the annual amount due for the policy year; 2683

(ii) On or before the first day of September immediately 2684
following the conclusion of the policy year, no less than the 2685
total amount due for the policy year. 2686

(c) For the policy year commencing January 1, 2016: 2687

(i) On or before the fifteenth day of May in that policy 2688
year, no less than fifty per cent of the annual premium estimated 2689
by the bureau. 2690

(ii) On or before the first day of September in that policy 2691
year, no less than the total amount of annual premium estimated by 2692
the bureau. 2693

(d) For a policy year commencing on or after January 1, 2017, 2694
the total amount of annual premium estimated by the bureau on or 2695
before the thirty-first day of December immediately preceding the 2696
start of the policy year. 2697

(2) The administrator, with the advice and consent of the 2698
bureau of workers' compensation board of directors, shall adopt 2699
rules to permit employers to make periodic payments of the premium 2700
and assessments due under this section. The rules shall include 2701
provisions for the assessment of interest charges, if appropriate, 2702
and for the assessment of penalties when an employer fails to make 2703
timely premium payments. The administrator may adopt rules to 2704

establish an administrative fee for those periodic payments. 2705

(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. 2706
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(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. 2716
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(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: 2720
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(a) Direct administrative costs incurred in the management of the county, district, district activity, or institution's workers' compensation program; 2726
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(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 2729
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general government expense required to carry out the overall 2736
governmental responsibilities. 2737

(3) Within sixty days before a legislative body changes the 2738
method used for calculating the proportionate amount of the 2739
payments chargeable to the fund, it shall notify, consult with, 2740
and give information supporting the change to any elected official 2741
affected by the change. A transfer made pursuant to division 2742
(B)(2) of this section is not subject to section 5705.16 of the 2743
Revised Code. 2744

(D) Any county board of developmental disabilities, board of 2745
alcohol, drug addiction, and mental health services, board of 2746
mental health services, or board of alcohol and drug addiction 2747
services whose workers' compensation payments, on or before 2748
September 28, 2012, includes costs referred to in division (C)(2) 2749
of this section may continue to do so on and after September 28, 2750
2012. 2751

(E) The bureau may investigate the correctness of the 2752
information provided by the county auditor and chief fiscal 2753
officer under division ~~(B)~~(A) of this section, and if the bureau 2754
determines at any time that the county, district, district 2755
activity, or institution has not reported the correct information, 2756
the administrator of workers' compensation may make deductions or 2757
additions as the facts warrant and take those facts into 2758
consideration in determining the current or future contributions 2759
to be made by the county, district, district activity, or 2760
institution. If the county, district, district activity, or 2761
institution does not furnish the report in the time required by 2762
this section, the administrator may fix the amount of contribution 2763
the county, district, district activity, or institution must make 2764
and certify that amount for payment. 2765

(F) The For payments of premium and assessments for a policy 2766
year prior to the policy year commencing January 1, 2015, the 2767

administrator shall provide a discount to any county, district, 2768
district activity, or institution that pays its total amount due 2769
to the public insurance fund on or before the fifteenth day of May 2770
of each year as its proper contribution for premiums. The 2771
administrator shall base the discount provided under this division 2772
on the savings generated by the early payment to the public 2773
insurance fund. The administrator may provide the discount through 2774
a refund to the county, district, district activity, or 2775
institution or an offset against the future contributions due to 2776
the public insurance fund from the county, district, district 2777
activity, or institution. 2778

(G) The administrator may impose an interest penalty for late 2779
payment of any amount due from a county, district, district 2780
activity, and institution at the interest rate established by the 2781
state tax commissioner pursuant to section 5703.47 of the Revised 2782
Code. 2783

~~(H) If the administrator adopts rules for the prospective 2784
payment of premium as permitted under section 4123.322 of the 2785
Revised Code, every employer mentioned in division (B)(1) of 2786
section 4123.01 of the Revised Code, except for a state agency or 2787
a state university or college as defined in section 4123.32 of the 2788
Revised Code, shall pay into the state insurance fund the amount 2789
of premium the administrator fixes for the employment or 2790
occupation of the employer, the amount of which premium to be paid 2791
by each employer to be determined by the classifications, rules, 2792
and rates made and published by the administrator and based upon 2793
the estimates and reconciliations required by the rules the 2794
administrator adopts under section 4123.322 of the Revised Code. 2795~~

Sec. 4123.411. (A) For the purpose of carrying out sections 2796
4123.412 to 4123.418 of the Revised Code, the administrator of 2797
workers' compensation, with the advice and consent of the bureau 2798

of workers' compensation board of directors, shall levy an 2799
assessment against all employers at a rate, ~~of at least five but~~ 2800
not to exceed ten cents per one hundred dollars of payroll, such 2801
rate to be determined annually for each employer group listed in 2802
divisions (A)(1) to (3) of this section, which will produce an 2803
amount no greater than the amount the administrator estimates to 2804
be necessary to carry out such sections for the period for which 2805
the assessment is levied. In the event the amount produced by the 2806
assessment is not sufficient to carry out such sections the 2807
additional amount necessary shall be provided from the income 2808
produced as a result of investments made pursuant to section 2809
4123.44 of the Revised Code. 2810

Assessments shall be levied according to the following 2811
schedule: 2812

(1) ~~Private~~ For private fund employers, except self-insuring 2813
employers—: 2814

(a) For policy years commencing prior to July 1, 2015, in 2815
January and July of each year upon gross payrolls of the preceding 2816
six months; 2817

(b) For policy years commencing on or after July 1, 2015, in 2818
June of each year upon gross payrolls estimated for the next 2819
twelve months. 2820

(2) ~~Counties~~ For counties and taxing district employers 2821
therein, except county hospitals that are self-insuring 2822
employers—: 2823

(a) For policy years commencing prior to January 1, 2015, in 2824
January of each year upon gross payrolls of the preceding twelve 2825
months; 2826

(b) For policy years commencing on or after January 1, 2015, 2827
in December of each year upon gross payrolls estimated for the 2828
next twelve months. 2829

(3) ~~The~~ For the state as an employer--in January, April, 2830
July, and October of each year upon gross payrolls of the 2831
preceding three months or at other intervals as the administrator 2832
establishes. 2833

After the completion of each policy year that commences on or 2834
after July 1, 2015, for private fund employers or that commences 2835
on or after January 1, 2015, for counties and taxing district 2836
employers therein, the assessments levied under this section shall 2837
be adjusted for the difference between estimated gross payrolls 2838
and actual gross payrolls reported by the employer on the payroll 2839
report submitted by a private employer pursuant to section 4123.26 2840
of the Revised Code, or, for a public employer, submitted pursuant 2841
to section 4123.41 of the Revised Code. 2842

Amounts assessed in accordance with this section shall be 2843
collected from each employer as prescribed in rules the 2844
administrator adopts. 2845

The moneys derived from the assessment provided for in this 2846
section shall be credited to the disabled workers' relief fund 2847
created by section 4123.412 of the Revised Code. The administrator 2848
shall establish by rule classifications of employers within 2849
divisions (A)(1) to (3) of this section and shall determine rates 2850
for each class so as to fairly apportion the costs of carrying out 2851
sections 4123.412 to 4123.418 of the Revised Code. 2852

(B) For all injuries and disabilities occurring on or after 2853
January 1, 1987, the administrator, for the purposes of carrying 2854
out sections 4123.412 to 4123.418 of the Revised Code, shall levy 2855
an assessment against all employers at a rate per one hundred 2856
dollars of payroll, such rate to be determined annually for each 2857
classification of employer in each employer group listed in 2858
divisions (A)(1) to (3) of this section, which will produce an 2859
amount no greater than the amount the administrator estimates to 2860
be necessary to carry out such sections for the period for which 2861

the assessment is levied. The administrator annually shall 2862
establish the contributions due from employers for the disabled 2863
workers' relief fund at rates as low as possible but that will 2864
assure sufficient moneys to guarantee the payment of any claims 2865
against that fund. 2866

Amounts assessed in accordance with this division shall be 2867
billed at the same time premiums are billed and credited to the 2868
disabled workers' relief fund created by section 4123.412 of the 2869
Revised Code. The administrator shall determine the rates for each 2870
class in the same manner as the administrator fixes the rates for 2871
premiums pursuant to section 4123.29 of the Revised Code. 2872

(C) For a self-insuring employer, the bureau of workers' 2873
compensation shall pay to employees who are participants 2874
regardless of the date of injury, any amounts due to the 2875
participants under section 4123.414 of the Revised Code and shall 2876
bill the self-insuring employer, semiannually, for all amounts 2877
paid to a participant. 2878

Sec. 4123.47. (A) The administrator of workers' compensation 2879
shall have an actuarial audits analysis of the state insurance 2880
fund and all other funds specified in this chapter and Chapters 2881
4121., 4127., and 4131. of the Revised Code made at least once 2882
each year. The audits analysis shall be made and certified by 2883
recognized insurance, credentialed property or casualty actuaries 2884
who shall be selected by the bureau of workers' compensation board 2885
of directors. ~~The audits shall cover the premium rates,~~ 2886
~~classifications, and all other matters involving the~~ 2887
~~administration of the state insurance fund and all other funds~~ 2888
~~specified in this chapter and Chapters 4121., 4127., and 4131. of~~ 2889
~~the Revised Code.~~ The expense of the audits analysis shall be paid 2890
from the state insurance fund. The administrator shall make copies 2891
of the audits analysis available to the workers' compensation 2892

audit committee at no charge and to the public at cost. 2893

(B) The auditor of state annually shall conduct an audit of 2894
the administration of this chapter by the industrial commission 2895
and the bureau of workers' compensation and the safety and hygiene 2896
fund. The cost of the audit shall be charged to the administrative 2897
costs of the bureau as defined in section 4123.341 of the Revised 2898
Code. The audit shall include audits of all fiscal activities, 2899
claims processing and handling, and employer premium collections. 2900
The auditor shall prepare a report of the audit together with 2901
recommendations and transmit copies of the report to the 2902
industrial commission, the board, the administrator, the governor, 2903
and to the general assembly. The auditor shall make copies of the 2904
report available to the public at cost. 2905

(C) The administrator may retain the services of a recognized 2906
actuary on a consulting basis for the purpose of evaluating the 2907
actuarial soundness of premium rates and classifications and all 2908
other matters involving the administration of the state insurance 2909
fund. The expense of services provided by the actuary shall be 2910
paid from the state insurance fund. 2911

Sec. 4123.511. (A) Within seven days after receipt of any 2912
claim under this chapter, the bureau of workers' compensation 2913
shall notify the claimant and the employer of the claimant of the 2914
receipt of the claim and of the facts alleged therein. If the 2915
bureau receives from a person other than the claimant written or 2916
facsimile information or information communicated verbally over 2917
the telephone indicating that an injury or occupational disease 2918
has occurred or been contracted which may be compensable under 2919
this chapter, the bureau shall notify the employee and the 2920
employer of the information. If the information is provided 2921
verbally over the telephone, the person providing the information 2922
shall provide written verification of the information to the 2923

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 2956
involving that medical condition and may make immediate payment of 2957
medical bills for any medical condition identified in those rules 2958
that is included in a claim. If an employer contests the allowance 2959
of a claim involving any medical condition identified in those 2960
rules, and the claim is disallowed, payment for the medical 2961
condition included in that claim shall be charged to and paid from 2962
the surplus fund created under section 4123.34 of the Revised 2963
Code. 2964

(B)(1) Except as provided in division (B)(2) of this section, 2965
in claims other than those in which the employer is a 2966
self-insuring employer, if the administrator determines under 2967
division (A) of this section that a claimant is or is not entitled 2968
to an award of compensation or benefits, the administrator shall 2969
issue an order no later than twenty-eight days after the sending 2970
of the notice under division (A) of this section, granting or 2971
denying the payment of the compensation or benefits, or both as is 2972
appropriate to the claimant. Notwithstanding the time limitation 2973
specified in this division for the issuance of an order, if a 2974
medical examination of the claimant is required by statute, the 2975
administrator promptly shall schedule the claimant for that 2976
examination and shall issue an order no later than twenty-eight 2977
days after receipt of the report of the examination. The 2978
administrator shall notify the claimant and the employer of the 2979
claimant and their respective representatives in writing of the 2980
nature of the order and the amounts of compensation and benefit 2981
payments involved. The employer or claimant may appeal the order 2982
pursuant to division (C) of this section within fourteen days 2983
after the date of the receipt of the order. The employer and 2984
claimant may waive, in writing, their rights to an appeal under 2985
this division. 2986

(2) Notwithstanding the time limitation specified in division 2987

(B)(1) of this section for the issuance of an order, if the 2988
employer certifies a claim for payment of compensation or 2989
benefits, or both, to a claimant, and the administrator has 2990
completed the investigation of the claim, the payment of benefits 2991
or compensation, or both, as is appropriate, shall commence upon 2992
the later of the date of the certification or completion of the 2993
investigation and issuance of the order by the administrator, 2994
provided that the administrator shall issue the order no later 2995
than the time limitation specified in division (B)(1) of this 2996
section. 2997

(3) If an appeal is made under division (B)(1) or (2) of this 2998
section, the administrator shall forward the claim file to the 2999
appropriate district hearing officer within seven days of the 3000
appeal. In contested claims other than state fund claims, the 3001
administrator shall forward the claim within seven days of the 3002
administrator's receipt of the claim to the industrial commission, 3003
which shall refer the claim to an appropriate district hearing 3004
officer for a hearing in accordance with division (C) of this 3005
section. 3006

(C) If an employer or claimant timely appeals the order of 3007
the administrator issued under division (B) of this section or in 3008
the case of other contested claims other than state fund claims, 3009
the commission shall refer the claim to an appropriate district 3010
hearing officer according to rules the commission adopts under 3011
section 4121.36 of the Revised Code. The district hearing officer 3012
shall notify the parties and their respective representatives of 3013
the time and place of the hearing. 3014

The district hearing officer shall hold a hearing on a 3015
disputed issue or claim within forty-five days after the filing of 3016
the appeal under this division and issue a decision within seven 3017
days after holding the hearing. The district hearing officer shall 3018
notify the parties and their respective representatives in writing 3019

of the order. Any party may appeal an order issued under this 3020
division pursuant to division (D) of this section within fourteen 3021
days after receipt of the order under this division. 3022

(D) Upon the timely filing of an appeal of the order of the 3023
district hearing officer issued under division (C) of this 3024
section, the commission shall refer the claim file to an 3025
appropriate staff hearing officer according to its rules adopted 3026
under section 4121.36 of the Revised Code. The staff hearing 3027
officer shall hold a hearing within forty-five days after the 3028
filing of an appeal under this division and issue a decision 3029
within seven days after holding the hearing under this division. 3030
The staff hearing officer shall notify the parties and their 3031
respective representatives in writing of the staff hearing 3032
officer's order. Any party may appeal an order issued under this 3033
division pursuant to division (E) of this section within fourteen 3034
days after receipt of the order under this division. 3035

(E) Upon the filing of a timely appeal of the order of the 3036
staff hearing officer issued under division (D) of this section, 3037
the commission or a designated staff hearing officer, on behalf of 3038
the commission, shall determine whether the commission will hear 3039
the appeal. If the commission or the designated staff hearing 3040
officer decides to hear the appeal, the commission or the 3041
designated staff hearing officer shall notify the parties and 3042
their respective representatives in writing of the time and place 3043
of the hearing. The commission shall hold the hearing within 3044
forty-five days after the filing of the notice of appeal and, 3045
within seven days after the conclusion of the hearing, the 3046
commission shall issue its order affirming, modifying, or 3047
reversing the order issued under division (D) of this section. The 3048
commission shall notify the parties and their respective 3049
representatives in writing of the order. If the commission or the 3050
designated staff hearing officer determines not to hear the 3051

appeal, within fourteen days after the expiration of the period in 3052
which an appeal of the order of the staff hearing officer may be 3053
filed as provided in division (D) of this section, the commission 3054
or the designated staff hearing officer shall issue an order to 3055
that effect and notify the parties and their respective 3056
representatives in writing of that order. 3057

Except as otherwise provided in this chapter and Chapters 3058
4121., 4127., and 4131. of the Revised Code, any party may appeal 3059
an order issued under this division to the court pursuant to 3060
section 4123.512 of the Revised Code within sixty days after 3061
receipt of the order, subject to the limitations contained in that 3062
section. 3063

(F) Every notice of an appeal from an order issued under 3064
divisions (B), (C), (D), and (E) of this section shall state the 3065
names of the claimant and employer, the number of the claim, the 3066
date of the decision appealed from, and the fact that the 3067
appellant appeals therefrom. 3068

(G) All of the following apply to the proceedings under 3069
divisions (C), (D), and (E) of this section: 3070

(1) The parties shall proceed promptly and without 3071
continuances except for good cause; 3072

(2) The parties, in good faith, shall engage in the free 3073
exchange of information relevant to the claim prior to the conduct 3074
of a hearing according to the rules the commission adopts under 3075
section 4121.36 of the Revised Code; 3076

(3) The administrator is a party and may appear and 3077
participate at all administrative proceedings on behalf of the 3078
state insurance fund. However, in cases in which the employer is 3079
represented, the administrator shall neither present arguments nor 3080
introduce testimony that is cumulative to that presented or 3081
introduced by the employer or the employer's representative. The 3082

administrator may file an appeal under this section on behalf of 3083
the state insurance fund; however, except in cases arising under 3084
section 4123.343 of the Revised Code, the administrator only may 3085
appeal questions of law or issues of fraud when the employer 3086
appears in person or by representative. 3087

(H) Except as provided in section 4121.63 of the Revised Code 3088
and division (K) of this section, payments of compensation to a 3089
claimant or on behalf of a claimant as a result of any order 3090
issued under this chapter shall commence upon the earlier of the 3091
following: 3092

(1) Fourteen days after the date the administrator issues an 3093
order under division (B) of this section, unless that order is 3094
appealed; 3095

(2) The date when the employer has waived the right to appeal 3096
a decision issued under division (B) of this section; 3097

(3) If no appeal of an order has been filed under this 3098
section or to a court under section 4123.512 of the Revised Code, 3099
the expiration of the time limitations for the filing of an appeal 3100
of an order; 3101

(4) The date of receipt by the employer of an order of a 3102
district hearing officer, a staff hearing officer, or the 3103
industrial commission issued under division (C), (D), or (E) of 3104
this section. 3105

(I) ~~Payments~~ Except as otherwise provided in division (B) of 3106
section 4123.66 of the Revised Code, payments of medical benefits 3107
payable under this chapter or Chapter 4121., 4127., or 4131. of 3108
the Revised Code shall commence upon the earlier of the following: 3109

(1) The date of the issuance of the staff hearing officer's 3110
order under division (D) of this section; 3111

(2) The date of the final administrative or judicial 3112

determination. 3113

(J) The administrator shall charge the compensation payments 3114
made in accordance with division (H) of this section or medical 3115
benefits payments made in accordance with division (I) of this 3116
section to an employer's experience immediately after the employer 3117
has exhausted the employer's administrative appeals as provided in 3118
this section or has waived the employer's right to an 3119
administrative appeal under division (B) of this section, subject 3120
to the adjustment specified in division (H) of section 4123.512 of 3121
the Revised Code. 3122

(K) Upon the final administrative or judicial determination 3123
under this section or section 4123.512 of the Revised Code of an 3124
appeal of an order to pay compensation, if a claimant is found to 3125
have received compensation pursuant to a prior order which is 3126
reversed upon subsequent appeal, the claimant's employer, if a 3127
self-insuring employer, or the bureau, shall withhold from any 3128
amount to which the claimant becomes entitled pursuant to any 3129
claim, past, present, or future, under Chapter 4121., 4123., 3130
4127., or 4131. of the Revised Code, the amount of previously paid 3131
compensation to the claimant which, due to reversal upon appeal, 3132
the claimant is not entitled, pursuant to the following criteria: 3133

(1) No withholding for the first twelve weeks of temporary 3134
total disability compensation pursuant to section 4123.56 of the 3135
Revised Code shall be made; 3136

(2) Forty per cent of all awards of compensation paid 3137
pursuant to sections 4123.56 and 4123.57 of the Revised Code, 3138
until the amount overpaid is refunded; 3139

(3) Twenty-five per cent of any compensation paid pursuant to 3140
section 4123.58 of the Revised Code until the amount overpaid is 3141
refunded; 3142

(4) If, pursuant to an appeal under section 4123.512 of the 3143

Revised Code, the court of appeals or the supreme court reverses 3144
the allowance of the claim, then no amount of any compensation 3145
will be withheld. 3146

The administrator and self-insuring employers, as 3147
appropriate, are subject to the repayment schedule of this 3148
division only with respect to an order to pay compensation that 3149
was properly paid under a previous order, but which is 3150
subsequently reversed upon an administrative or judicial appeal. 3151
The administrator and self-insuring employers are not subject to, 3152
but may utilize, the repayment schedule of this division, or any 3153
other lawful means, to collect payment of compensation made to a 3154
person who was not entitled to the compensation due to fraud as 3155
determined by the administrator or the industrial commission. 3156

(L) If a staff hearing officer or the commission fails to 3157
issue a decision or the commission fails to refuse to hear an 3158
appeal within the time periods required by this section, payments 3159
to a claimant shall cease until the staff hearing officer or 3160
commission issues a decision or hears the appeal, unless the 3161
failure was due to the fault or neglect of the employer or the 3162
employer agrees that the payments should continue for a longer 3163
period of time. 3164

(M) Except as otherwise provided in this section or section 3165
4123.522 of the Revised Code, no appeal is timely filed under this 3166
section unless the appeal is filed with the time limits set forth 3167
in this section. 3168

(N) No person who is not an employee of the bureau or 3169
commission or who is not by law given access to the contents of a 3170
claims file shall have a file in the person's possession. 3171

(O) Upon application of a party who resides in an area in 3172
which an emergency or disaster is declared, the industrial 3173
commission and hearing officers of the commission may waive the 3174

time frame within which claims and appeals of claims set forth in 3175
this section must be filed upon a finding that the applicant was 3176
unable to comply with a filing deadline due to an emergency or a 3177
disaster. 3178

As used in this division: 3179

(1) "Emergency" means any occasion or instance for which the 3180
governor of Ohio or the president of the United States publicly 3181
declares an emergency and orders state or federal assistance to 3182
save lives and protect property, the public health and safety, or 3183
to lessen or avert the threat of a catastrophe. 3184

(2) "Disaster" means any natural catastrophe or fire, flood, 3185
or explosion, regardless of the cause, that causes damage of 3186
sufficient magnitude that the governor of Ohio or the president of 3187
the United States, through a public declaration, orders state or 3188
federal assistance to alleviate damage, loss, hardship, or 3189
suffering that results from the occurrence. 3190

Sec. 4123.512. (A) The claimant or the employer may appeal an 3191
order of the industrial commission made under division (E) of 3192
section 4123.511 of the Revised Code in any injury or occupational 3193
disease case, other than a decision as to the extent of disability 3194
to the court of common pleas of the county in which the injury was 3195
inflicted or in which the contract of employment was made if the 3196
injury occurred outside the state, or in which the contract of 3197
employment was made if the exposure occurred outside the state. If 3198
no common pleas court has jurisdiction for the purposes of an 3199
appeal by the use of the jurisdictional requirements described in 3200
this division, the appellant may use the venue provisions in the 3201
Rules of Civil Procedure to vest jurisdiction in a court. If the 3202
claim is for an occupational disease, the appeal shall be to the 3203
court of common pleas of the county in which the exposure which 3204
caused the disease occurred. Like appeal may be taken from an 3205

order of a staff hearing officer made under division (D) of 3206
section 4123.511 of the Revised Code from which the commission has 3207
refused to hear an appeal. The appellant shall file the notice of 3208
appeal with a court of common pleas within sixty days after the 3209
date of the receipt of the order appealed from or the date of 3210
receipt of the order of the commission refusing to hear an appeal 3211
of a staff hearing officer's decision under division (D) of 3212
section 4123.511 of the Revised Code. The filing of the notice of 3213
the appeal with the court is the only act required to perfect the 3214
appeal. 3215

If an action has been commenced in a court of a county other 3216
than a court of a county having jurisdiction over the action, the 3217
court, upon notice by any party or upon its own motion, shall 3218
transfer the action to a court of a county having jurisdiction. 3219

Notwithstanding anything to the contrary in this section, if 3220
the commission determines under section 4123.522 of the Revised 3221
Code that an employee, employer, or their respective 3222
representatives have not received written notice of an order or 3223
decision which is appealable to a court under this section and 3224
which grants relief pursuant to section 4123.522 of the Revised 3225
Code, the party granted the relief has sixty days from receipt of 3226
the order under section 4123.522 of the Revised Code to file a 3227
notice of appeal under this section. 3228

(B) The notice of appeal shall state the names of the 3229
administrator of workers' compensation, the claimant, and the 3230
employer; i the number of the claim; i the date of the order 3231
appealed from; i and the fact that the appellant appeals therefrom. 3232

The administrator ~~of workers' compensation~~, the claimant, and 3233
the employer shall be parties to the appeal and the court, upon 3234
the application of the commission, shall make the commission a 3235
party. The party filing the appeal shall serve a copy of the 3236
notice of appeal on the administrator at the central office of the 3237

bureau of workers' compensation in Columbus. The administrator 3238
shall notify the employer that if the employer fails to become an 3239
active party to the appeal, then the administrator may act on 3240
behalf of the employer and the results of the appeal could have an 3241
adverse effect upon the employer's premium rates. 3242

(C) The attorney general or one or more of the attorney 3243
general's assistants or special counsel designated by the attorney 3244
general shall represent the administrator and the commission. In 3245
the event the attorney general or the attorney general's 3246
designated assistants or special counsel are absent, the 3247
administrator or the commission shall select one or more of the 3248
attorneys in the employ of the administrator or the commission as 3249
the administrator's attorney or the commission's attorney in the 3250
appeal. Any attorney so employed shall continue the representation 3251
during the entire period of the appeal and in all hearings thereof 3252
except where the continued representation becomes impractical. 3253

(D) Upon receipt of notice of appeal, the clerk of courts 3254
shall provide notice to all parties who are appellees and to the 3255
commission. 3256

The claimant shall, within thirty days after the filing of 3257
the notice of appeal, file a petition containing a statement of 3258
facts in ordinary and concise language showing a cause of action 3259
to participate or to continue to participate in the fund and 3260
setting forth the basis for the jurisdiction of the court over the 3261
action. Further pleadings shall be had in accordance with the 3262
Rules of Civil Procedure, provided that service of summons on such 3263
petition shall not be required and provided that the claimant may 3264
not dismiss the complaint without the employer's consent if the 3265
employer is the party that filed the notice of appeal to court 3266
pursuant to this section. The clerk of the court shall, upon 3267
receipt thereof, transmit by certified mail a copy thereof to each 3268
party named in the notice of appeal other than the claimant. Any 3269

party may file with the clerk prior to the trial of the action a 3270
deposition of any physician taken in accordance with the 3271
provisions of the Revised Code, which deposition may be read in 3272
the trial of the action even though the physician is a resident of 3273
or subject to service in the county in which the trial is had. The 3274
bureau of workers' compensation shall pay the cost of the 3275
stenographic deposition filed in court and of copies of the 3276
stenographic deposition for each party from the surplus fund and 3277
charge the costs thereof against the unsuccessful party if the 3278
claimant's right to participate or continue to participate is 3279
finally sustained or established in the appeal. In the event the 3280
deposition is taken and filed, the physician whose deposition is 3281
taken is not required to respond to any subpoena issued in the 3282
trial of the action. The court, or the jury under the instructions 3283
of the court, if a jury is demanded, shall determine the right of 3284
the claimant to participate or to continue to participate in the 3285
fund upon the evidence adduced at the hearing of the action. 3286

(E) The court shall certify its decision to the commission 3287
and the certificate shall be entered in the records of the court. 3288
Appeals from the judgment are governed by the law applicable to 3289
the appeal of civil actions. 3290

(F) The cost of any legal proceedings authorized by this 3291
section, including an attorney's fee to the claimant's attorney to 3292
be fixed by the trial judge, based upon the effort expended, in 3293
the event the claimant's right to participate or to continue to 3294
participate in the fund is established upon the final 3295
determination of an appeal, shall be taxed against the employer or 3296
the commission if the commission or the administrator rather than 3297
the employer contested the right of the claimant to participate in 3298
the fund. The attorney's fee shall not exceed forty-two hundred 3299
dollars. 3300

(G) If the finding of the court or the verdict of the jury is 3301

in favor of the claimant's right to participate in the fund, the 3302
commission and the administrator shall thereafter proceed in the 3303
matter of the claim as if the judgment were the decision of the 3304
commission, subject to the power of modification provided by 3305
section 4123.52 of the Revised Code. 3306

(H)(1) An appeal from an order issued under division (E) of 3307
section 4123.511 of the Revised Code or any action filed in court 3308
in a case in which an award of compensation or medical benefits 3309
has been made shall not stay the payment of compensation or 3310
medical benefits under the award, or payment for subsequent 3311
periods of total disability or medical benefits during the 3312
pendency of the appeal. If, in a final administrative or judicial 3313
action, it is determined that payments of compensation or 3314
benefits, or both, made to or on behalf of a claimant should not 3315
have been made, the amount thereof shall be charged to the surplus 3316
fund account under division (B) of section 4123.34 of the Revised 3317
Code. In the event the employer is a state risk, the amount shall 3318
not be charged to the employer's experience, and the administrator 3319
shall adjust the employer's account accordingly. In the event the 3320
employer is a self-insuring employer, the self-insuring employer 3321
shall deduct the amount from the paid compensation the 3322
self-insuring employer reports to the administrator under division 3323
(L) of section 4123.35 of the Revised Code. If an employer is a 3324
state risk and has paid an assessment for a violation of a 3325
specific safety requirement, and, in a final administrative or 3326
judicial action, it is determined that the employer did not 3327
violate the specific safety requirement, the administrator shall 3328
reimburse the employer from the surplus fund account under 3329
division (B) of section 4123.34 of the Revised Code for the amount 3330
of the assessment the employer paid for the violation. 3331

(2)(a) Notwithstanding a final determination that payments of 3332
benefits made to or on behalf of a claimant should not have been 3333

made, the administrator or self-insuring employer shall award 3334
payment of medical or vocational rehabilitation services submitted 3335
for payment after the date of the final determination if all of 3336
the following apply: 3337

(i) The services were approved and were rendered by the 3338
provider in good faith prior to the date of the final 3339
determination. 3340

(ii) The services were payable under division (I) of section 3341
4123.511 of the Revised Code prior to the date of the final 3342
determination. 3343

(iii) The request for payment is submitted within the time 3344
limit set forth in section 4123.52 of the Revised Code. 3345

(b) Payments made under division (H)(1) of this section shall 3346
be charged to the surplus fund account under division (B) of 3347
section 4123.34 of the Revised Code. If the employer of the 3348
employee who is the subject of a claim described in division 3349
(H)(2)(a) of this section is a state fund employer, the payments 3350
made under that division shall not be charged to the employer's 3351
experience. If that employer is a self-insuring employer, the 3352
self-insuring employer shall deduct the amount from the paid 3353
compensation the self-insuring employer reports to the 3354
administrator under division (L) of section 4123.35 of the Revised 3355
Code. 3356

(c) Division (H)(2) of this section shall apply only to a 3357
claim under this chapter or Chapter 4121., 4127., or 4131. of the 3358
Revised Code arising on or after ~~the effective date of this~~ 3359
~~amendment~~ July 29, 2011. 3360

(3) A self-insuring employer may elect to pay compensation 3361
and benefits under this section directly to an employee or an 3362
employee's dependents by filing an application with the bureau of 3363
workers' compensation not more than one hundred eighty days and 3364

not less than ninety days before the first day of the employer's 3365
next six-month coverage period. If the self-insuring employer 3366
timely files the application, the application is effective on the 3367
first day of the employer's next six-month coverage period, 3368
provided that the administrator shall compute the employer's 3369
assessment for the surplus fund account due with respect to the 3370
period during which that application was filed without regard to 3371
the filing of the application. On and after the effective date of 3372
the employer's election, the self-insuring employer shall pay 3373
directly to an employee or to an employee's dependents 3374
compensation and benefits under this section regardless of the 3375
date of the injury or occupational disease, and the employer shall 3376
receive no money or credits from the surplus fund account on 3377
account of those payments and shall not be required to pay any 3378
amounts into the surplus fund account on account of this section. 3379
The election made under this division is irrevocable. 3380

(I) All actions and proceedings under this section which are 3381
the subject of an appeal to the court of common pleas or the court 3382
of appeals shall be preferred over all other civil actions except 3383
election causes, irrespective of position on the calendar. 3384

This section applies to all decisions of the commission or 3385
the administrator on November 2, 1959, and all claims filed 3386
thereafter are governed by sections 4123.511 and 4123.512 of the 3387
Revised Code. 3388

Any action pending in common pleas court or any other court 3389
on January 1, 1986, under this section is governed by former 3390
sections 4123.514, 4123.515, 4123.516, and 4123.519 and section 3391
4123.522 of the Revised Code. 3392

Sec. 4123.54. (A) Except as otherwise provided in divisions 3393
(I) and (K) of this section, every employee, who is injured or who 3394
contracts an occupational disease, and the dependents of each 3395

employee who is killed, or dies as the result of an occupational 3396
disease contracted in the course of employment, wherever such 3397
injury has occurred or occupational disease has been contracted, 3398
provided the same were not: 3399

(1) Purposely self-inflicted; or 3400

(2) Caused by the employee being intoxicated or under the 3401
influence of a controlled substance not prescribed by a physician 3402
where the intoxication or being under the influence of the 3403
controlled substance not prescribed by a physician was the 3404
proximate cause of the injury, is entitled to receive, either 3405
directly from the employee's self-insuring employer as provided in 3406
section 4123.35 of the Revised Code, or from the state insurance 3407
fund, the compensation for loss sustained on account of the 3408
injury, occupational disease, or death, and the medical, nurse, 3409
and hospital services and medicines, and the amount of funeral 3410
expenses in case of death, as are provided by this chapter. 3411

(B) For the purpose of this section, provided that an 3412
employer has posted written notice to employees that the results 3413
of, or the employee's refusal to submit to, any chemical test 3414
described under this division may affect the employee's 3415
eligibility for compensation and benefits pursuant to this chapter 3416
and Chapter 4121. of the Revised Code, there is a rebuttable 3417
presumption that an employee is intoxicated or under the influence 3418
of a controlled substance not prescribed by the employee's 3419
physician and that being intoxicated or under the influence of a 3420
controlled substance not prescribed by the employee's physician is 3421
the proximate cause of an injury under either of the following 3422
conditions: 3423

(1) When any one or more of the following is true: 3424

(a) The employee, through a qualifying chemical test 3425
administered within eight hours of an injury, is determined to 3426

have an alcohol concentration level equal to or in excess of the 3427
levels established in divisions (A)(1)(b) to (i) of section 3428
4511.19 of the Revised Code; 3429

(b) The employee, through a qualifying chemical test 3430
administered within thirty-two hours of an injury, is determined 3431
to have one of the following controlled substances not prescribed 3432
by the employee's physician in the employee's system that tests 3433
above the following levels in an enzyme multiplied immunoassay 3434
technique screening test and above the levels established in 3435
division (B)(1)(c) of this section in a gas chromatography mass 3436
spectrometry test: 3437

(i) For amphetamines, one thousand nanograms per milliliter 3438
of urine; 3439

(ii) For cannabinoids, fifty nanograms per milliliter of 3440
urine; 3441

(iii) For cocaine, including crack cocaine, three hundred 3442
nanograms per milliliter of urine; 3443

(iv) For opiates, two thousand nanograms per milliliter of 3444
urine; 3445

(v) For phencyclidine, twenty-five nanograms per milliliter 3446
of urine. 3447

(c) The employee, through a qualifying chemical test 3448
administered within thirty-two hours of an injury, is determined 3449
to have one of the following controlled substances not prescribed 3450
by the employee's physician in the employee's system that tests 3451
above the following levels by a gas chromatography mass 3452
spectrometry test: 3453

(i) For amphetamines, five hundred nanograms per milliliter 3454
of urine; 3455

(ii) For cannabinoids, fifteen nanograms per milliliter of 3456

urine; 3457

(iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine; 3458
3459

(iv) For opiates, two thousand nanograms per milliliter of urine; 3460
3461

(v) For phencyclidine, twenty-five nanograms per milliliter of urine. 3462
3463

(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. 3464
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(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. 3470
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(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: 3476
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(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; 3480
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(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; 3484
3485
3486

(c) At the request of a licensed physician who is not 3487
employed by the employee's employer, and not at the request of the 3488
employee's employer. 3489

(2) As used in division (C)(1)(a) of this section, 3490
"reasonable cause" means, but is not limited to, evidence that an 3491
employee is or was using alcohol or a controlled substance drawn 3492
from specific, objective facts and reasonable inferences drawn 3493
from these facts in light of experience and training. These facts 3494
and inferences may be based on, but are not limited to, any of the 3495
following: 3496

(a) Observable phenomena, such as direct observation of use, 3497
possession, or distribution of alcohol or a controlled substance, 3498
or of the physical symptoms of being under the influence of 3499
alcohol or a controlled substance, such as but not limited to 3500
slurred speech, dilated pupils, odor of alcohol or a controlled 3501
substance, changes in affect, or dynamic mood swings; 3502

(b) A pattern of abnormal conduct, erratic or aberrant 3503
behavior, or deteriorating work performance such as frequent 3504
absenteeism, excessive tardiness, or recurrent accidents, that 3505
appears to be related to the use of alcohol or a controlled 3506
substance, and does not appear to be attributable to other 3507
factors; 3508

(c) The identification of an employee as the focus of a 3509
criminal investigation into unauthorized possession, use, or 3510
trafficking of a controlled substance; 3511

(d) A report of use of alcohol or a controlled substance 3512
provided by a reliable and credible source; 3513

(e) Repeated or flagrant violations of the safety or work 3514
rules of the employee's employer, that are determined by the 3515
employee's supervisor to pose a substantial risk of physical 3516
injury or property damage and that appear to be related to the use 3517

of alcohol or a controlled substance and that do not appear 3518
attributable to other factors. 3519

(D) Nothing in this section shall be construed to affect the 3520
rights of an employer to test employees for alcohol or controlled 3521
substance abuse. 3522

(E) For the purpose of this section, laboratories certified 3523
by the United States department of health and human services or 3524
laboratories that meet or exceed the standards of that department 3525
for laboratory certification shall be used for processing the test 3526
results of a qualifying chemical test. 3527

(F) The written notice required by division (B) of this 3528
section shall be the same size or larger than the ~~certificate~~ 3529
proof of premium payment notice workers' compensation coverage 3530
furnished by the bureau of workers' compensation and shall be 3531
posted by the employer in the same location as the ~~certificate~~ 3532
proof of premium payment notice workers' compensation coverage or 3533
the certificate of self-insurance. 3534

(G) If a condition that pre-existed an injury is 3535
substantially aggravated by the injury, and that substantial 3536
aggravation is documented by objective diagnostic findings, 3537
objective clinical findings, or objective test results, no 3538
compensation or benefits are payable because of the pre-existing 3539
condition once that condition has returned to a level that would 3540
have existed without the injury. 3541

(H)(1) Whenever, with respect to an employee of an employer 3542
who is subject to and has complied with this chapter, there is 3543
possibility of conflict with respect to the application of 3544
workers' compensation laws because the contract of employment is 3545
entered into and all or some portion of the work is or is to be 3546
performed in a state or states other than Ohio, the employer and 3547
the employee may agree to be bound by the laws of this state or by 3548

the laws of some other state in which all or some portion of the 3549
work of the employee is to be performed. The agreement shall be in 3550
writing and shall be filed with the bureau of workers' 3551
compensation within ten days after it is executed and shall remain 3552
in force until terminated or modified by agreement of the parties 3553
similarly filed. If the agreement is to be bound by the laws of 3554
this state and the employer has complied with this chapter, then 3555
the employee is entitled to compensation and benefits regardless 3556
of where the injury occurs or the disease is contracted and the 3557
rights of the employee and the employee's dependents under the 3558
laws of this state are the exclusive remedy against the employer 3559
on account of injury, disease, or death in the course of and 3560
arising out of the employee's employment. If the agreement is to 3561
be bound by the laws of another state and the employer has 3562
complied with the laws of that state, the rights of the employee 3563
and the employee's dependents under the laws of that state are the 3564
exclusive remedy against the employer on account of injury, 3565
disease, or death in the course of and arising out of the 3566
employee's employment without regard to the place where the injury 3567
was sustained or the disease contracted. If an employer and an 3568
employee enter into an agreement under this division, the fact 3569
that the employer and the employee entered into that agreement 3570
shall not be construed to change the status of an employee whose 3571
continued employment is subject to the will of the employer or the 3572
employee, unless the agreement contains a provision that expressly 3573
changes that status. 3574

(2) ~~If any employee or the employee's dependents pursue 3575
workers' compensation benefits or recover damages from the 3576
employer under the laws of another state, the amount awarded or 3577
recovered, whether paid or to be paid in future installments, 3578
shall be credited on the amount of any award of compensation or 3579
benefits made to the employee or the employee's dependents by the 3580
bureau. If an employee or the employee's dependents pursue or 3581~~

receive an award of compensation or benefits under this chapter or 3582
Chapter 4121., 4127., or 4131. of the Revised Code for the same 3583
injury, occupational disease, or death for which the employee or 3584
the employee's dependents previously pursued workers' compensation 3585
benefits and received a decision on the merits as defined in 3586
section 4123.542 of the Revised Code under the laws of another 3587
state or recovered damages under the laws of another state, the 3588
claim shall be disallowed and the administrator or any 3589
self-insuring employer, by any lawful means, may collect the from 3590
the employee or the employee's dependents any of the following: 3591

(i) The amount of compensation or benefits paid to or on 3592
behalf of the employee or the employee's dependents by the 3593
administrator or a self-insuring employer pursuant to this chapter 3594
or Chapter 4121., 4127., or 4131. of the Revised Code for that 3595
award; 3596

(ii) Any interest, attorney's fees, and costs the 3597
administrator or the self-insuring employer incurs in collecting 3598
that payment. 3599

(3) If an employee or the employee's dependents receive an 3600
award of compensation or benefits under this chapter or Chapter 3601
4121., 4127., or 4131. of the Revised Code and subsequently 3602
receives workers' compensation benefits or damages under the laws 3603
of another state for the same injury, occupational disease, or 3604
death the claim under this chapter or Chapter 4121., 4127., or 3605
4131. of the Revised Code shall be disallowed. The administrator 3606
or any a self-insuring employer also, by any lawful means, may 3607
collect from the employee or the employee's dependents any or 3608
other-states' insurer any of the following: 3609

(i) The amount of compensation or benefits paid to or on 3610
behalf of the employee or the employee's dependents by the 3611
administrator or the self-insuring employer pursuant to this 3612
chapter or Chapter 4121., 4127., or 4131. of the Revised Code for 3613

that award; 3614

(ii) Any interest, costs, and attorney's fees the 3615
administrator or the self-insuring employer incurs in collecting 3616
that payment ~~and any attorney's fees, penalties, interest, awards,~~ 3617
~~and;~~ 3618

(iii) Any costs incurred by an employer in contesting or 3619
responding to any claim filed by the employee or the employee's 3620
dependents for the same injury, occupational disease, or death 3621
that was filed after the original claim for which the employee or 3622
the employee's dependents received a decision on the merits as 3623
described in section 4123.542 of the Revised Code. ~~If~~ 3624

(4) If the employee's employer pays premiums into the state 3625
insurance fund, the administrator shall not charge the amount of 3626
compensation or benefits the administrator collects pursuant to 3627
~~this~~ division (H)(2) or (3) of this section to the employer's 3628
experience. If the administrator collects any costs, ~~penalties,~~ 3629
~~interest, awards, or attorney's fees~~ incurred by a ~~state fund~~ an 3630
employer in contesting or responding to any claim pursuant to 3631
division (H)(2) or (3) of this section, the administrator shall 3632
forward the amount ~~of such costs, penalties, interest, awards, and~~ 3633
~~attorney's fees the administrator collects~~ collected to that 3634
employer. If the employee's employer is a self-insuring employer, 3635
the self-insuring employer shall deduct the amount of compensation 3636
or benefits the self-insuring employer collects pursuant to this 3637
division from the paid compensation the self-insuring employer 3638
reports to the administrator under division (L) of section 4123.35 3639
of the Revised Code. 3640

~~(3) Except as otherwise stipulated in division (H)(4) of this~~ 3641
~~section, if~~ (5) If an employee is a resident of a state other than 3642
this state and is insured under the workers' compensation law or 3643
similar laws of a state other than this state, the employee and 3644
the employee's dependents are not entitled to receive compensation 3645

or benefits under this chapter, on account of injury, disease, or 3646
death arising out of or in the course of employment while 3647
temporarily within this state, and the rights of the employee and 3648
the employee's dependents under the laws of the other state are 3649
the exclusive remedy against the employer on account of the 3650
injury, disease, or death. 3651

~~(4) Division (H)(3) of this section does not apply to an 3652
employee described in that division, or the employee's dependents, 3653
unless both of the following apply: 3654~~

~~(a) The laws of the other state limit the ability of an 3655
employee who is a resident of this state and is covered by this 3656
chapter and Chapter 4123. of the Revised Code, or the employee's 3657
dependents, to receive compensation or benefits under the other 3658
state's workers' compensation law on account of injury, disease, 3659
or death incurred by the employee that arises out of or in the 3660
course of the employee's employment while temporarily within that 3661
state in the same manner as specified in division (H)(3) of this 3662
section for an employee who is a resident of a state other than 3663
this state, or the employee's dependents; 3664~~

~~(b) The laws of the other state limit the liability of the 3665
employer of the employee who is a resident of this state and who 3666
is described in division (H)(4)(a) of this section for that 3667
injury, disease, or death, in the same manner specified in 3668
division (H)(3) of this section for the employer of an employee 3669
who is a resident of the other state. 3670~~

~~(5)(6) An employee, or the dependent of an employee, who 3671
elects to receive compensation and benefits under this chapter or 3672
Chapter 4121., 4127., or 4131. of the Revised Code for a claim may 3673
not receive compensation and benefits under the workers' 3674
compensation laws of any state other than this state for that same 3675
claim. For each claim submitted by or on behalf of an employee, 3676
the administrator or, if the employee is employed by a 3677~~

self-insuring employer, the self-insuring employer, shall request 3678
the employee or the employee's dependent to sign an election that 3679
affirms the employee's or employee's dependent's acceptance of 3680
electing to receive compensation and benefits under this chapter 3681
or Chapter 4121., 4127., or 4131. of the Revised Code for that 3682
claim that also affirmatively waives and releases the employee's 3683
or the employee's dependent's right to file for and receive 3684
compensation and benefits under the laws of any state other than 3685
this state for that claim. The employee or employee's dependent 3686
shall sign the election form within twenty-eight days after the 3687
administrator or self-insuring employer submits the request or the 3688
administrator or self-insuring employer shall ~~suspend~~ dismiss that 3689
claim ~~until the administrator or self-insuring employer receives~~ 3690
~~the signed election form.~~ 3691

(I) If an employee who is covered under the federal 3692
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 3693
33 U.S.C. 901 et seq., is injured or contracts an occupational 3694
disease or dies as a result of an injury or occupational disease, 3695
and if that employee's or that employee's dependents' claim for 3696
compensation or benefits for that injury, occupational disease, or 3697
death is subject to the jurisdiction of that act, the employee or 3698
the employee's dependents are not entitled to apply for and shall 3699
not receive compensation or benefits under this chapter and 3700
Chapter 4121. of the Revised Code. The rights of such an employee 3701
and the employee's dependents under the federal "Longshore and 3702
Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et 3703
seq., are the exclusive remedy against the employer for that 3704
injury, occupational disease, or death. 3705

(J) Compensation or benefits are not payable to a claimant 3706
during the period of confinement of the claimant in any state or 3707
federal correctional institution, or in any county jail in lieu of 3708
incarceration in a state or federal correctional institution, 3709

whether in this or any other state for conviction of violation of 3710
any state or federal criminal law. 3711

(K) An employer, upon the approval of the administrator, may 3712
provide for workers' compensation coverage for the employer's 3713
employees who are professional athletes and coaches by submitting 3714
to the administrator proof of coverage under a league policy 3715
issued under the laws of another state under either of the 3716
following circumstances: 3717

(1) The employer administers the payroll and workers' 3718
compensation insurance for a professional sports team subject to a 3719
collective bargaining agreement, and the collective bargaining 3720
agreement provides for the uniform administration of workers' 3721
compensation benefits and compensation for professional athletes. 3722

(2) The employer is a professional sports league, or is a 3723
member team of a professional sports league, and all of the 3724
following apply: 3725

(a) The professional sports league operates as a single 3726
entity, whereby all of the players and coaches of the sports 3727
league are employees of the sports league and not of the 3728
individual member teams. 3729

(b) The professional sports league at all times maintains 3730
workers' compensation insurance that provides coverage for the 3731
players and coaches of the sports league. 3732

(c) Each individual member team of the professional sports 3733
league, pursuant to the organizational or operating documents of 3734
the sports league, is obligated to the sports league to pay to the 3735
sports league any workers' compensation claims that are not 3736
covered by the workers' compensation insurance maintained by the 3737
sports league. 3738

If the administrator approves the employer's proof of 3739
coverage submitted under division (K) of this section, a 3740

professional athlete or coach who is an employee of the employer 3741
and the dependents of the professional athlete or coach are not 3742
entitled to apply for and shall not receive compensation or 3743
benefits under this chapter and Chapter 4121. of the Revised Code. 3744
The rights of such an athlete or coach and the dependents of such 3745
an athlete or coach under the laws of the state where the policy 3746
was issued are the exclusive remedy against the employer for the 3747
athlete or coach if the athlete or coach suffers an injury or 3748
contracts an occupational disease in the course of employment, or 3749
for the dependents of the athlete or the coach if the athlete or 3750
coach is killed as a result of an injury or dies as a result of an 3751
occupational disease, regardless of the location where the injury 3752
was suffered or the occupational disease was contracted. 3753

Sec. 4123.66. (A) In addition to the compensation provided 3754
for in this chapter, the administrator of workers' compensation 3755
shall disburse and pay from the state insurance fund the amounts 3756
for medical, nurse, and hospital services and medicine as the 3757
administrator deems proper and, in case death ensues from the 3758
injury or occupational disease, the administrator shall disburse 3759
and pay from the fund reasonable funeral expenses in an amount not 3760
to exceed fifty-five hundred dollars. The bureau of workers' 3761
compensation shall reimburse anyone, whether dependent, volunteer, 3762
or otherwise, who pays the funeral expenses of any employee whose 3763
death ensues from any injury or occupational disease as provided 3764
in this section. The administrator may adopt rules, with the 3765
advice and consent of the bureau of workers' compensation board of 3766
directors, with respect to furnishing medical, nurse, and hospital 3767
service and medicine to injured or disabled employees entitled 3768
thereto, and for the payment therefor. In case an injury or 3769
industrial accident that injures an employee also causes damage to 3770
the employee's eyeglasses, artificial teeth or other denture, or 3771
hearing aid, or in the event an injury or occupational disease 3772

makes it necessary or advisable to replace, repair, or adjust the 3773
same, the bureau shall disburse and pay a reasonable amount to 3774
repair or replace the same. 3775

(B) The administrator, in the rules the administrator adopts 3776
pursuant to division (A) of this section, may adopt rules 3777
specifying the circumstances under which the bureau may make 3778
immediate payment for the first fill of prescription drugs for 3779
medical conditions identified in an application for compensation 3780
or benefits under section 4123.84 or 4123.85 of the Revised Code 3781
that occurs prior to the date the administrator issues an initial 3782
determination order under division (B) of section 4123.511 of the 3783
Revised Code. If the claim is ultimately disallowed in a final 3784
administrative or judicial order, and if the employer is a state 3785
fund employer who pays assessments into the surplus fund account 3786
created under section 4123.34 of the Revised Code, the payments 3787
for medical services made pursuant to this division for the first 3788
fill of prescription drugs shall be charged to and paid from the 3789
surplus fund account and not charged through the state insurance 3790
fund to the employer against whom the claim was filed. 3791

(C)(1) If an employer or a welfare plan has provided to or on 3792
behalf of an employee any benefits or compensation for an injury 3793
or occupational disease and that injury or occupational disease is 3794
determined compensable under this chapter, the employer or a 3795
welfare plan may request that the administrator reimburse the 3796
employer or welfare plan for the amount the employer or welfare 3797
plan paid to or on behalf of the employee in compensation or 3798
benefits. The administrator shall reimburse the employer or 3799
welfare plan for the compensation and benefits paid if, at the 3800
time the employer or welfare plan provides the benefits or 3801
compensation to or on behalf of employee, the injury or 3802
occupational disease had not been determined to be compensable 3803
under this chapter and if the employee was not receiving 3804

compensation or benefits under this chapter for that injury or 3805
occupational disease. The administrator shall reimburse the 3806
employer or welfare plan in the amount that the administrator 3807
would have paid to or on behalf of the employee under this chapter 3808
if the injury or occupational disease originally would have been 3809
determined compensable under this chapter. If the employer is a 3810
merit-rated employer, the administrator shall adjust the amount of 3811
premium next due from the employer according to the amount the 3812
administrator pays the employer. The administrator shall adopt 3813
rules, in accordance with Chapter 119. of the Revised Code, to 3814
implement this division. 3815

(2) As used in this division, "welfare plan" has the same 3816
meaning as in division (1) of 29 U.S.C.A. 1002. 3817

Sec. 4123.82. (A) All contracts and agreements are void which 3818
undertake to indemnify or insure an employer against loss or 3819
liability for the payment of compensation to workers or their 3820
dependents for death, injury, or occupational disease occasioned 3821
in the course of the workers' employment, or which provide that 3822
the insurer shall pay the compensation, or which indemnify the 3823
employer against damages when the injury, disease, or death arises 3824
from the failure to comply with any lawful requirement for the 3825
protection of the lives, health, and safety of employees, or when 3826
the same is occasioned by the willful act of the employer or any 3827
of the employer's officers or agents, or by which it is agreed 3828
that the insurer shall pay any such damages. No license or 3829
authority to enter into any such agreements or issue any such 3830
policies of insurance shall be granted or issued by any public 3831
authority in this state. Any corporation organized or admitted 3832
under the laws of this state to transact liability insurance as 3833
defined in section 3929.01 of the Revised Code may by amendment of 3834
its articles of incorporation or by original articles of 3835
incorporation, provide therein for the authority and purpose to 3836

make insurance in states, territories, districts, and counties, 3837
other than the state of Ohio, and in the state of Ohio in respect 3838
of contracts permitted by division (B) of this section, 3839
indemnifying employers against loss or liability for payment of 3840
compensation to workers and employees and their dependents for 3841
death, injury, or occupational disease occasioned in the course of 3842
the employment and to insure and indemnify employers against loss, 3843
expense, and liability by risk of bodily injury or death by 3844
accident, disability, sickness, or disease suffered by workers and 3845
employees for which the employer may be liable or has assumed 3846
liability. 3847

(B) Notwithstanding division (A) of this section: 3848

(1) No contract because of that division is void which 3849
undertakes to indemnify a self-insuring employer against all or 3850
part of such employer's loss in excess of at least fifty thousand 3851
dollars from any one disaster or event arising out of the 3852
employer's liability under this chapter, but no insurance 3853
corporation shall, directly or indirectly, represent an employer 3854
in the settlement, adjudication, determination, allowance, or 3855
payment of claims. The superintendent of insurance shall enforce 3856
this prohibition by such disciplinary orders directed against the 3857
offending insurance corporation as the superintendent of insurance 3858
deems appropriate in the circumstances and the administrator of 3859
workers' compensation shall enforce this prohibition by such 3860
disciplinary orders directed against the offending employer as the 3861
administrator deems appropriate in the circumstances, which orders 3862
may include revocation of the insurance corporation's right to 3863
enter into indemnity contracts and revocation of the employer's 3864
status as a self-insuring employer. 3865

(2) The administrator may enter into a contract of indemnity 3866
with any such employer upon such terms, payment of such premium, 3867
and for such amount and form of indemnity as the administrator 3868

determines and the bureau of workers' compensation board of 3869
directors may procure reinsurance of the liability of the public 3870
and private funds under this chapter, or any part of the liability 3871
in respect of either or both of the funds, upon such terms and 3872
premiums or other payments from the fund or funds as the 3873
administrator deems prudent in the maintenance of a solvent fund 3874
or funds from year to year. When making the finding of fact which 3875
the administrator is required by section 4123.35 of the Revised 3876
Code to make with respect to the financial ability of an employer, 3877
no contract of indemnity, or the ability of the employer to 3878
procure such a contract, shall be considered as increasing the 3879
financial ability of the employer. 3880

(C) Nothing in this section shall be construed to prohibit 3881
the administrator or an other-states' insurer from providing to 3882
employers in this state other-states' coverage or limited 3883
other-states' coverage in accordance with section 4123.292 of the 3884
Revised Code. 3885

(D) Notwithstanding any other section of the Revised Code, 3886
but subject to division (A) of this section, the superintendent of 3887
insurance shall have the sole authority to regulate any insurance 3888
products, except for the bureau of workers' compensation and those 3889
products offered by the bureau, that indemnify or insure employers 3890
against workers' compensation losses in this state or that are 3891
sold to employers in this state. 3892

Sec. 4123.83. Each employer paying premiums into the state 3893
insurance fund or electing directly to pay compensation to the 3894
employer's injured employees or the dependents of the employer's 3895
killed employees as provided in section 4123.35 of the Revised 3896
Code, shall post conspicuously in the employer's place or places 3897
of employment notices, which shall be furnished ~~in adequate number~~ 3898
at least annually by the bureau of workers' compensation ~~at the~~ 3899

~~time of the payment of the premium, stating the fact that the~~ 3900
~~employer has made the payment, the date thereof, and period for~~ 3901
~~which the payment is made. The notice shall state that it is proof~~ 3902
~~of workers' compensation coverage, or that the employer has~~ 3903
complied with section 4123.35 of the Revised Code, and has been 3904
authorized by the administrator of workers' compensation directly 3905
to compensate employees or dependents, and the date of the 3906
authorization. The notice shall indicate that coverage is 3907
contingent on continued payment of premiums and assessments due. 3908
The notice, when posted, constitutes sufficient notice to the 3909
employer's employees of the fact that the employer ~~has made~~ 3910
~~payment~~ carries workers' compensation coverage or that the 3911
employer has complied with the elective provisions of section 3912
4123.35 of the Revised Code. 3913

Sec. 4125.05. (A) ~~Not later than thirty days after November~~ 3914
~~5, 2004, or not~~ later than thirty days after the formation of a 3915
professional employer organization, ~~whichever date occurs later, a~~ 3916
professional employer organization operating in this state shall 3917
register with the administrator of workers' compensation on forms 3918
provided by the administrator. Following initial registration, 3919
each professional employer organization shall register with the 3920
administrator annually on or before the thirty-first day of 3921
December. Commonly owned or controlled applicants may register as 3922
a professional employer organization reporting entity or register 3923
individually. Registration as a part of a professional employer 3924
organization reporting entity shall not disqualify an individual 3925
professional employer organization from participating in a 3926
group-rated plan under division (A)(4) of section 4123.29 of the 3927
Revised Code. 3928

(B) Initial registration and each annual registration renewal 3929
shall include all of the following: 3930

- (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; 3931
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- (2) A fee as determined by the administrator; 3938
- (3) The name or names under which the professional employer organization conducts business; 3939
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- (4) The address of the professional employer organization's principal place of business and the address of each office it maintains in this state; 3941
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- (5) The professional employer organization's taxpayer or employer identification number; 3944
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- (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; 3946
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- (7) The most recent financial statement prepared and audited pursuant to division (B) of section 4125.051 of the Revised Code; 3952
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- (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; 3954
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- (9) An attestation of the accuracy of the data submissions from the chief executive officer of the professional employer 3959
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organization. 3961

(C) Upon terms and for periods that the administrator 3962
considers appropriate, the administrator may issue a limited 3963
registration to a professional employer organization or 3964
professional employer organization reporting entity that provides 3965
all of the following items: 3966

(1) A properly executed request for limited registration on a 3967
form provided by the administrator; 3968

(2) All information and materials required for registration 3969
in divisions (B)(1) to (6) of this section; 3970

(3) Information and documentation necessary to show that the 3971
professional employer organization or professional employer 3972
organization reporting entity satisfies all of the following 3973
criteria: 3974

(a) It is domiciled outside of this state. 3975

(b) It is licensed or registered as a professional employer 3976
organization in another state. 3977

(c) It does not maintain an office in this state. 3978

(d) It does not participate in direct solicitations for 3979
client employers located or domiciled in this state. 3980

(e) It has fifty or fewer shared employees employed or 3981
domiciled in this state on any given day. 3982

(D)(1) The administrator, with the advice and consent of the 3983
bureau of workers' compensation board of directors, ~~shall~~ may 3984
adopt rules in accordance with Chapter 119. of the Revised Code to 3985
require, in addition to the requirement under division (B)(8) of 3986
this section ~~and except as otherwise specified in division (D)(2)~~ 3987
~~of this section~~, a professional employer organization to provide 3988
security in the form of a bond or letter of credit assignable to 3989
the Ohio bureau of workers' compensation not to exceed an amount 3990

equal to the premiums and assessments incurred for the ~~two~~ most 3991
recent ~~payroll periods~~ policy year, prior to any discounts or 3992
dividends, to meet the financial obligations of the professional 3993
employer organization pursuant to this chapter and Chapters 4121. 3994
and 4123. of the Revised Code. 3995

~~(2) As an alternative to providing security in the form of a 3996
bond or letter of credit under division (D)(1) of this section, 3997
the administrator shall permit a professional employer 3998
organization to make periodic payments of prospective premiums and 3999
assessments to the bureau. 4000~~

~~(3) A professional employer organization may appeal the 4001
amount of the security required pursuant to rules adopted under 4002
division (D)(1) of this section in accordance with section 4003
4123.291 of the Revised Code. 4004~~

(3) A professional employer organization shall pay premiums 4005
and assessments for purposes of Chapters 4121. and 4123. of the 4006
Revised Code on a monthly basis pursuant to division (A) of 4007
section 4123.35 of the Revised Code. 4008

(E) Notwithstanding division (D) of this section, a 4009
professional employer organization that qualifies for 4010
self-insurance or retrospective rating under section 4123.29 or 4011
4123.35 of the Revised Code shall abide by the financial 4012
disclosure and security requirements pursuant to those sections 4013
and the rules adopted under those sections in place of the 4014
requirements specified in division (D) of this section or 4015
specified in rules adopted pursuant to that division. 4016

(F) Except to the extent necessary for the administrator to 4017
administer the statutory duties of the administrator and for 4018
employees of the state to perform their official duties, all 4019
records, reports, client lists, and other information obtained 4020
from a professional employer organization and professional 4021

employer organization reporting entity under divisions (A), (B), 4022
and (C) of this section are confidential and shall be considered 4023
trade secrets and shall not be published or open to public 4024
inspection. 4025

(G) The list described in division (B)(1) of this section 4026
shall be considered a trade secret. 4027

(H) The administrator shall establish the fee described in 4028
division (B)(2) of this section in an amount that does not exceed 4029
the cost of the administration of the initial and renewal 4030
registration process. 4031

(I) A financial statement required under division (B)(7) of 4032
this section for initial registration shall be the most recent 4033
financial statement of the professional employer organization or 4034
professional employer organization reporting entity of which the 4035
professional employer organization is a member and shall not be 4036
older than thirteen months. For each registration renewal, the 4037
professional employer organization shall file the required 4038
financial statement within one hundred eighty days after the end 4039
of the professional employer organization's or professional 4040
employer organization reporting entity's fiscal year. A 4041
professional employer organization may apply to the administrator 4042
for an extension beyond that time if the professional employer 4043
organization provides the administrator with a letter from the 4044
professional employer organization's auditor stating the reason 4045
for delay and the anticipated completion date. 4046

(J) Multiple, unrelated professional employer organizations 4047
shall not combine together for purposes of obtaining workers' 4048
compensation coverage or for forming any type of self-insurance 4049
arrangement available under this chapter. Multiple, unrelated 4050
professional employer organization reporting entities shall not 4051
combine together for purposes of obtaining workers' compensation 4052
coverage or for forming any type of self-insurance arrangement 4053

available under this chapter. 4054

(K) The administrator shall maintain a list of professional 4055
employer organizations and professional employer organization 4056
reporting entities registered under this section that is readily 4057
available to the public by electronic or other means. 4058

Sec. 4729.80. (A) If the state board of pharmacy establishes 4059
and maintains a drug database pursuant to section 4729.75 of the 4060
Revised Code, the board is authorized or required to provide 4061
information from the database in accordance with the following: 4062

(1) On receipt of a request from a designated representative 4063
of a government entity responsible for the licensure, regulation, 4064
or discipline of health care professionals with authority to 4065
prescribe, administer, or dispense drugs, the board may provide to 4066
the representative information from the database relating to the 4067
professional who is the subject of an active investigation being 4068
conducted by the government entity. 4069

(2) On receipt of a request from a federal officer, or a 4070
state or local officer of this or any other state, whose duties 4071
include enforcing laws relating to drugs, the board shall provide 4072
to the officer information from the database relating to the 4073
person who is the subject of an active investigation of a drug 4074
abuse offense, as defined in section 2925.01 of the Revised Code, 4075
being conducted by the officer's employing government entity. 4076

(3) Pursuant to a subpoena issued by a grand jury, the board 4077
shall provide to the grand jury information from the database 4078
relating to the person who is the subject of an investigation 4079
being conducted by the grand jury. 4080

(4) Pursuant to a subpoena, search warrant, or court order in 4081
connection with the investigation or prosecution of a possible or 4082
alleged criminal offense, the board shall provide information from 4083

the database as necessary to comply with the subpoena, search warrant, or court order. 4084
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(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: 4086
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(a) A current patient of the prescriber; 4093

(b) A potential patient of the prescriber based on a referral of the patient to the prescriber. 4094
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(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. 4096
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(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. 4103
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(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 4108
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were not covered or reimbursed under a program administered by the 4115
department of medicaid. 4116

(9) On receipt of a request from the medicaid director, the 4117
board shall provide to the director information from the database 4118
relating to a recipient of a program administered by the 4119
department of medicaid, including information in the database 4120
related to prescriptions for the recipient that were not covered 4121
or paid by a program administered by the department. 4122

(10) On receipt of a request from the medical director of a 4123
managed care organization that has entered into a data security 4124
agreement with the board required by section 4121.447 of the 4125
Revised Code, the board shall provide to the medical director 4126
information from the database relating to a claimant under Chapter 4127
4121., 4123., 4127., or 4131. of the Revised Code assigned to the 4128
managed care organization, including information in the database 4129
related to prescriptions for the claimant that were not covered or 4130
reimbursed under Chapter 4121., 4123., 4127., or 4131. of the 4131
Revised Code. 4132

(11) On receipt of a request from the administrator of 4133
workers' compensation, the board ~~may~~ shall provide to the 4134
administrator information from the database relating to a claimant 4135
under Chapter 4121., 4123., 4127., or 4131. of the Revised Code, 4136
including information in the database related to prescriptions for 4137
the claimant that were not covered or reimbursed under Chapter 4138
4121., 4123., 4127., or 4131. of the Revised Code. 4139

~~(11)~~(12) On receipt of a request from a requestor described 4140
in division (A)(1), (2), (5), or (6) of this section who is from 4141
or participating with another state's prescription monitoring 4142
program, the board may provide to the requestor information from 4143
the database, but only if there is a written agreement under which 4144
the information is to be used and disseminated according to the 4145
laws of this state. 4146

(B) The state board of pharmacy shall maintain a record of 4147
each individual or entity that requests information from the 4148
database pursuant to this section. In accordance with rules 4149
adopted under section 4729.84 of the Revised Code, the board may 4150
use the records to document and report statistics and law 4151
enforcement outcomes. 4152

The board may provide records of an individual's requests for 4153
database information to the following: 4154

(1) A designated representative of a government entity that 4155
is responsible for the licensure, regulation, or discipline of 4156
health care professionals with authority to prescribe, administer, 4157
or dispense drugs who is involved in an active investigation being 4158
conducted by the government entity of the individual who submitted 4159
the requests for database information; 4160

(2) A federal officer, or a state or local officer of this or 4161
any other state, whose duties include enforcing laws relating to 4162
drugs and who is involved in an active investigation being 4163
conducted by the officer's employing government entity of the 4164
individual who submitted the requests for database information. 4165

(C) Information contained in the database and any information 4166
obtained from it is not a public record. Information contained in 4167
the records of requests for information from the database is not a 4168
public record. Information that does not identify a person may be 4169
released in summary, statistical, or aggregate form. 4170

(D) A pharmacist or prescriber shall not be held liable in 4171
damages to any person in any civil action for injury, death, or 4172
loss to person or property on the basis that the pharmacist or 4173
prescriber did or did not seek or obtain information from the 4174
database. 4175

Sec. 4729.86. If the state board of pharmacy establishes and 4176

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 ~~(10)~~(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

		BWC BUREAU OF WORKERS' COMPENSATION			4236
		Workers' Compensation Fund Group			4237
7023	855401	William Green Lease	\$ 16,026,100	\$ 0	4238
		Payments to OBA			
7023	855407	Claims, Risk and Medical Management	\$ 118,338,586	\$ 118,338,586	4239
7023	855408	Fraud Prevention	\$ 12,114,226	\$ 12,114,226	4240
7023	855409	Administrative Services	\$ 105,857,276	\$ 105,357,276	4241
7023	855410	Attorney General Payments	\$ 4,621,850	\$ 4,621,850	4242
8220	855606	Coal Workers' Fund	\$ 147,666	\$ 147,666	4243
8230	855608	Marine Industry	\$ 75,527	\$ 75,527	4244
8250	855605	Disabled Workers Relief Fund	\$ 319,718	\$ 319,718	4245
8260	855609	Safety and Hygiene Operating	\$ 21,661,132	\$ 21,661,132	4246
8260	855610	Safety Grants	\$ 15,000,000	\$ 15,000,000	4247
8290	855604	Long Term Care Loan Program	\$ 100,000	\$ 100,000	4248
		TOTAL WCF Workers' Compensation Fund Group	\$ 294,262,081	\$ 277,735,981	4249
		Federal Special Revenue Fund Group			4251
3490	855601	OSHA Enforcement	\$ 1,731,000	\$ 1,731,000	4252
3FW0	855614	BLS SOII Grant	\$ 116,919	\$ 116,919	4253
		TOTAL FED Federal Special Revenue Fund Group	\$ 1,847,919	\$ 1,847,919	4254
		TOTAL ALL BUDGET FUND GROUPS	\$ 296,110,000	\$ 279,583,900	4255
		WILLIAM GREEN LEASE PAYMENTS			4256
		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			4257
					4258
					4259

to be made during the period from July 1, 2013 to June 30, 2015, 4260
pursuant to leases and agreements made under section 154.24 of the 4261
Revised Code. If it is determined that additional appropriations 4262
are necessary for such purpose, such amounts are hereby 4263
appropriated. 4264

WORKERS' COMPENSATION FRAUD UNIT 4265

Of the foregoing appropriation item 855410, Attorney General 4266
Payments, \$828,200 in each fiscal year shall be used to fund the 4267
expenses of the Workers' Compensation Fraud Unit within the 4268
Attorney General's Office. These payments shall be processed at 4269
the beginning of each quarter of each fiscal year and deposited 4270
into the Workers' Compensation Section Fund (Fund 1950) used by 4271
the Attorney General. 4272

SAFETY AND HYGIENE 4273

Notwithstanding section 4121.37 of the Revised Code, the 4274
Treasurer of State shall transfer \$21,661,132 cash in fiscal year 4275
2014 and \$21,661,132 cash in fiscal year 2015 from the State 4276
Insurance Fund to the Safety and Hygiene Fund (Fund 8260). 4277

OSHA ON-SITE CONSULTATION PROGRAM 4278

The Bureau of Workers' Compensation may designate a portion 4279
of appropriation item 855609, Safety and Hygiene Operating, to be 4280
used to match federal funding for the federal Occupational Safety 4281
and Health Administration's (OSHA) on-site consultation program. 4282

VOCATIONAL REHABILITATION 4283

The Bureau of Workers' Compensation and the Opportunities for 4284
Ohioans with Disabilities Agency shall enter into an interagency 4285
agreement for the provision of vocational rehabilitation services 4286
and staff to mutually eligible clients. The bureau may provide not 4287
more than \$605,407 in fiscal year 2014 and not more than \$605,407 4288
in fiscal year 2015 from the State Insurance Fund to fund 4289

vocational rehabilitation services and staff in accordance with 4290
the interagency agreement. 4291

~~FUND BALANCE~~ 4292

~~Any unencumbered cash balance in excess of \$45,000,000 in the 4293
Workers' Compensation Fund (Fund 7023) on the thirtieth day of 4294
June of each fiscal year shall be used to reduce the 4295
administrative cost rate charged to employers to cover 4296
appropriations for Bureau of Workers' Compensation operations. 4297~~

Section 4. That Section 1 of Sub. H.B. 34 of the 130th 4298
General Assembly, as amended by Am. Sub. H.B. 59 of the 130th 4299
General Assembly, is hereby repealed. 4300

Section 5. The amendments to section 4125.05 of the Revised 4301
Code by Section 1 of this act take effect July 1, 2015. 4302

Section 6. The amendments made by Section 1 of this act to 4303
sections 4123.01, 4123.26, 4123.29, 4123.292, 4123.54, and 4123.82 4304
of the Revised Code apply to claims that arise on or after the 4305
effective date of those amendments. 4306

Section 7. This act applies to an appeal filed pursuant to 4307
section 4123.512 of the Revised Code, as amended by this act, on 4308
or after the effective date of this act. 4309

Section 8. Section 4123.26 of the Revised Code is presented 4310
in this act as a composite of the section as amended by both Am. 4311
Sub. H.B. 562 and Am. Sub. S.B. 334 of the 127th General Assembly. 4312
The General Assembly, applying the principle stated in division 4313
(B) of section 1.52 of the Revised Code that amendments are to be 4314
harmonized if reasonably capable of simultaneous operation, finds 4315
that the composite is the resulting version of the section in 4316
effect prior to the effective date of the section as presented in 4317

this act.

4318