

As Passed by the House

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

Am. Sub. H. B. No. 493

Representatives Sears, Henne

Cosponsors: Representatives Hackett, Huffman, Stebelton, Wachtmann

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A B I L L

To amend sections 1561.31, 2305.25, 2305.252, 1
4121.129, 4121.45, 4123.01, 4123.26, 4123.27, 2
4123.29, 4123.291, 4123.292, 4123.32, 4123.322, 3
4123.34, 4123.35, 4123.353, 4123.36, 4123.37, 4
4123.40, 4123.41, 4123.411, 4123.47, 4123.511, 5
4123.512, 4123.54, 4123.542, 4123.66, 4123.82, 6
4123.83, 4125.05, 4729.80, and 4729.86; to enact 7
sections 4121.443, 4121.447, and 4123.323; to 8
repeal section 4121.419 of the Revised Code; and 9
to amend Section 1 of Sub. H.B. 34 of the 130th 10
General Assembly, as subsequently amended, to make 11
changes to Ohio's Workers' Compensation Law. 12

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

Section 1. That sections 1561.31, 2305.25, 2305.252, 13
4121.129, 4121.45, 4123.01, 4123.26, 4123.27, 4123.29, 4123.291, 14
4123.292, 4123.32, 4123.322, 4123.34, 4123.35, 4123.353, 4123.36, 15
4123.37, 4123.40, 4123.41, 4123.411, 4123.47, 4123.511, 4123.512, 16
4123.54, 4123.542, 4123.66, 4123.82, 4123.83, 4125.05, 4729.80, 17
and 4729.86 be amended and sections 4121.443, 4121.447, and 18
4123.323 of the Revised Code be enacted to read as follows: 19

Sec. 1561.31. Each deputy mine inspector shall inspect each 20
mine in the inspector's district, the owner, lessee, agent, or 21
operator of which is an employer as defined in section 4123.01 of 22
the Revised Code, or any other mine at which three or more persons 23
work, at intervals not exceeding three months between inspections, 24
and all other mines in the inspector's district as often as 25
practical, noting particularly the location and condition of 26
buildings, the condition of the boiler, machinery, workings of the 27
mine, the traveling ways and haulageways, the circulation and 28
condition of the air and drainage, and the condition of electrical 29
circuits and appliances. The inspector shall make tests for 30
poisonous, explosive, and noxious gases, and shall specifically 31
order compliance with any section of this chapter and Chapters 32
1563., 1565., and 1567. and sections 1509.09, 1509.12, 1509.13, 33
1509.14, 1509.15, 1509.17, and 1509.18 of the Revised Code that 34
the inspector finds is being violated. 35

Upon completion of the inspection of a mine, the inspector 36
shall fill out a report of the conditions found during inspections 37
on a form provided by the chief of the division of mineral 38
resources management, which form shall provide for statements as 39
to whether the laws are being observed or violated, and if 40
violated, the nature and extent thereof, the date of the 41
inspection, the number of persons employed in and about the mine, 42
whether or not a ~~certificate of compliance~~ the proof of workers' 43
compensation coverage issued pursuant to section 4123.35 of the 44
Revised Code is posted and the date of expiration thereof, and 45
matters, things, and practices that specifically are covered by 46
law, order of the chief, or previous order of the inspector. The 47
inspector shall make this report in quadruplicate or 48
quintuplicate, and send the original to the chief, post a copy at 49
the mine, give a copy to the mine superintendent, and retain a 50
copy for the inspector's files. Where the miners of a mine have a 51

mine safety committee, the inspector shall post one additional 52
copy of the report of that mine at that mine for the use and 53
possession of the committee. The report required by this section 54
shall be known as the inspector's routine report. 55

If an inspector orders compliance with this chapter and 56
Chapters 1563., 1565., and 1567. and sections 1509.09, 1509.12, 57
1509.13, 1509.14, 1509.15, 1509.17, and 1509.18 of the Revised 58
Code, and is assured by the superintendent of the mine to which 59
the order applies that the order will be complied with, the 60
inspector shall revisit the mine within a reasonable period of 61
time and ascertain whether or not the order has been complied 62
with. The inspector shall report the inspector's findings to the 63
chief on a form to be provided by the chief, and take action to 64
enforce compliance. 65

Sec. 2305.25. As used in this section and sections 2305.251 66
to 2305.253 of the Revised Code: 67

(A)(1) "Health care entity" means an entity, whether acting 68
on its own behalf or on behalf of or in affiliation with other 69
health care entities, that conducts as part of its regular 70
business activities professional credentialing or quality review 71
activities involving the competence of, professional conduct of, 72
or quality of care provided by health care providers, including 73
both individuals who provide health care and entities that provide 74
health care. 75

(2) "Health care entity" includes any entity described in 76
division (A)(1) of this section, regardless of whether it is a 77
government entity; for-profit or nonprofit corporation; limited 78
liability company; partnership; professional corporation; state or 79
local society composed of physicians, dentists, optometrists, 80
psychologists, or pharmacists; or other health care organization. 81

(B) "Health insuring corporation" means an entity that holds 82

a certificate of authority under Chapter 1751. of the Revised 83
Code. "Health insuring corporation" includes wholly owned 84
subsidiaries of a health insuring corporation. 85

(C) "Hospital" means either of the following: 86

(1) An institution that has been registered or licensed by 87
the department of health as a hospital; 88

(2) An entity, other than an insurance company authorized to 89
do business in this state, that owns, controls, or is affiliated 90
with an institution that has been registered or licensed by the 91
department of health as a hospital. 92

(D) "Incident report or risk management report" means a 93
report of an incident involving injury or potential injury to a 94
patient as a result of patient care provided by health care 95
providers, including both individuals who provide health care and 96
entities that provide health care, that is prepared by or for the 97
use of a peer review committee of a health care entity and is 98
within the scope of the functions of that committee. 99

(E)(1) "Peer review committee" means a utilization review 100
committee, quality assessment committee, performance improvement 101
committee, tissue committee, credentialing committee, or other 102
committee that does either of the following: 103

(a) Conducts professional credentialing or quality review 104
activities involving the competence of, professional conduct of, 105
or quality of care provided by health care providers, including 106
both individuals who provide health care and entities that provide 107
health care; 108

(b) Conducts any other attendant hearing process initiated as 109
a result of a peer review committee's recommendations or actions. 110

(2) "Peer review committee" includes all of the following: 111

(a) A peer review committee of a hospital or long-term care 112

facility or a peer review committee of a nonprofit health care	113
corporation that is a member of the hospital or long-term care	114
facility or of which the hospital or facility is a member;	115
(b) A peer review committee of a community mental health	116
center;	117
(c) A board or committee of a hospital, a long-term care	118
facility, or other health care entity when reviewing professional	119
qualifications or activities of health care providers, including	120
both individuals who provide health care and entities that provide	121
health care;	122
(d) A peer review committee, professional standards review	123
committee, or arbitration committee of a state or local society	124
composed of members who are in active practice as physicians,	125
dentists, optometrists, psychologists, or pharmacists;	126
(e) A peer review committee of a health insuring corporation	127
that has at least a two-thirds majority of member physicians in	128
active practice and that conducts professional credentialing and	129
quality review activities involving the competence or professional	130
conduct of health care providers that adversely affects or could	131
adversely affect the health or welfare of any patient;	132
(f) A peer review committee of a health insuring corporation	133
that has at least a two-thirds majority of member physicians in	134
active practice and that conducts professional credentialing and	135
quality review activities involving the competence or professional	136
conduct of a health care facility that has contracted with the	137
health insuring corporation to provide health care services to	138
enrollees, which conduct adversely affects, or could adversely	139
affect, the health or welfare of any patient;	140
(g) A peer review committee of a sickness and accident	141
insurer that has at least a two-thirds majority of physicians in	142
active practice and that conducts professional credentialing and	143

quality review activities involving the competence or professional 144
conduct of health care providers that adversely affects or could 145
adversely affect the health or welfare of any patient; 146

(h) A peer review committee of a sickness and accident 147
insurer that has at least a two-thirds majority of physicians in 148
active practice and that conducts professional credentialing and 149
quality review activities involving the competence or professional 150
conduct of a health care facility that has contracted with the 151
insurer to provide health care services to insureds, which conduct 152
adversely affects, or could adversely affect, the health or 153
welfare of any patient; 154

(i) A peer review committee of any insurer authorized under 155
Title XXXIX of the Revised Code to do the business of medical 156
professional liability insurance in this state that conducts 157
professional quality review activities involving the competence or 158
professional conduct of health care providers that adversely 159
affects or could affect the health or welfare of any patient; 160

(j) A peer review committee of the bureau of workers' 161
compensation or the industrial commission that is responsible for 162
reviewing the professional qualifications and the performance of 163
providers certified by the bureau to participate in the health 164
partnership program or of providers conducting medical 165
examinations or file reviews for the bureau or the commission; 166

(k) Any other peer review committee of a health care entity. 167

(F) "Physician" means an individual authorized to practice 168
medicine and surgery, osteopathic medicine and surgery, or 169
podiatric medicine and surgery. 170

(G) "Sickness and accident insurer" means an entity 171
authorized under Title XXXIX of the Revised Code to do the 172
business of sickness and accident insurance in this state. 173

(H) "Tort action" means a civil action for damages for 174

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

Sec. 2305.252. (A) Proceedings and records within the scope
of a peer review committee of a health care entity shall be held
in confidence and shall not be subject to discovery or
introduction in evidence in any civil action against a health care
entity or health care provider, including both individuals who
provide health care and entities that provide health care, arising
out of matters that are the subject of evaluation and review by
the peer review committee. No individual who attends a meeting of
a peer review committee, serves as a member of a peer review
committee, works for or on behalf of a peer review committee, or
provides information to a peer review committee shall be permitted
or required to testify in any civil action as to any evidence or
other matters produced or presented during the proceedings of the
peer review committee or as to any finding, recommendation,
evaluation, opinion, or other action of the committee or a member
thereof. Information, documents, or records otherwise available
from original sources are not to be construed as being unavailable
for discovery or for use in any civil action merely because they
were produced or presented during proceedings of a peer review
committee, but the information, documents, or records are
available only from the original sources and cannot be obtained
from the peer review committee's proceedings or records. An
individual who testifies before a peer review committee, serves as
a representative of a peer review committee, serves as a member of
a peer review committee, works for or on behalf of a peer review
committee, or provides information to a peer review committee

shall not be prevented from testifying as to matters within the 207
individual's knowledge, but the individual cannot be asked about 208
the individual's testimony before the peer review committee, 209
information the individual provided to the peer review committee, 210
or any opinion the individual formed as a result of the peer 211
review committee's activities. An order by a court to produce for 212
discovery or for use at trial the proceedings or records described 213
in this section is a final order. 214

(B) Division (A) of this section applies to a peer review 215
committee of the bureau of workers' compensation that is 216
responsible for reviewing the professional qualifications and the 217
performance of providers certified by the bureau to participate in 218
the health partnership program created under sections 4121.44 and 219
4121.441 of the Revised Code, except that the proceedings and 220
records within the scope of the peer review committee are subject 221
to discovery or court subpoena and may be admitted into evidence 222
in any criminal action or administrative or civil action 223
initiated, prosecuted, or adjudicated by the bureau involving an 224
alleged violation of applicable statutes or administrative rules. 225
The bureau may share proceedings and records within the scope of 226
the peer review committee, including claimant records and claim 227
file information, with law enforcement agencies, licensing boards, 228
and other governmental agencies that are prosecuting, 229
adjudicating, or investigating alleged violations of applicable 230
statutes or administrative rules. Recipients of claimant records 231
and claim file information provided by the bureau pursuant to this 232
division shall take appropriate measures to maintain the 233
confidentiality of the information. 234

Sec. 4121.129. (A) There is hereby created the workers' 235
compensation audit committee consisting of at least three members. 236
One member shall be the member of the bureau of workers' 237
compensation board of directors who is a certified public 238

accountant. The board, by majority vote, shall appoint two 239
additional members of the board to serve on the audit committee 240
and may appoint additional members who are not board members, as 241
the board determines necessary. Members of the audit committee 242
serve at the pleasure of the board, and the board, by majority 243
vote, may remove any member except the member of the committee who 244
is the certified public accountant member of the board. The board, 245
by majority vote, shall determine how often the audit committee 246
shall meet and report to the board. If the audit committee meets 247
on the same day as the board holds a meeting, no member shall be 248
compensated for more than one meeting held on that day. The audit 249
committee shall do all of the following: 250

(1) Recommend to the board an ~~accounting~~ actuarial firm to 251
perform the annual ~~audits~~ analysis required under section 4123.47 252
of the Revised Code; 253

(2) Recommend an auditing firm for the board to use when 254
conducting audits under section 4121.125 of the Revised Code; 255

(3) Review the results of each annual audit and management 256
review and, if any problems exist, assess the appropriate course 257
of action to correct those problems and develop an action plan to 258
correct those problems; 259

(4) Monitor the implementation of any action plans created 260
pursuant to division (A)(3) of this section; 261

(5) Review all internal audit reports on a regular basis. 262

(B) There is hereby created the workers' compensation 263
actuarial committee consisting of at least three members. One 264
member shall be the member of the board who is an actuary. The 265
board, by majority vote, shall appoint two additional members of 266
the board to serve on the actuarial committee and may appoint 267
additional members who are not board members, as the board 268
determines necessary. Members of the actuarial committee serve at 269

the pleasure of the board and the board, by majority vote, may 270
remove any member except the member of the committee who is the 271
actuary member of the board. The board, by majority vote, shall 272
determine how often the actuarial committee shall meet and report 273
to the board. If the actuarial committee meets on the same day as 274
the board holds a meeting, no member shall be compensated for more 275
than one meeting held on that day. The actuarial committee shall 276
do both of the following: 277

(1) Recommend actuarial consultants for the board to use for 278
the funds specified in this chapter and Chapters 4123., 4127., and 279
4131. of the Revised Code; 280

(2) Review calculations on rate schedules and performance 281
prepared by the actuarial consultants with whom the board enters 282
into a contract. 283

(C)(1) There is hereby created the workers' compensation 284
investment committee consisting of at least four members. Two of 285
the members shall be the members of the board who serve as the 286
investment and securities experts on the board. The board, by 287
majority vote, shall appoint two additional members of the board 288
to serve on the investment committee and may appoint additional 289
members who are not board members. Each additional member the 290
board appoints shall have at least one of the following 291
qualifications: 292

(a) Experience managing another state's pension funds or 293
workers' compensation funds; 294

(b) Expertise that the board determines is needed to make 295
investment decisions. 296

Members of the investment committee serve at the pleasure of 297
the board and the board, by majority vote, may remove any member 298
except the members of the committee who are the investment and 299
securities expert members of the board. The board, by majority 300

vote, shall determine how often the investment committee shall 301
meet and report to the board. If the investment committee meets on 302
the same day as the board holds a meeting, no member shall be 303
compensated for more than one meeting held on that day. 304

(2) The investment committee shall do all of the following: 305

(a) Develop the investment policy for the administration of 306
the investment program for the funds specified in this chapter and 307
Chapters 4123., 4127., and 4131. of the Revised Code in accordance 308
with the requirements specified in section 4123.442 of the Revised 309
Code; 310

(b) Submit the investment policy developed pursuant to 311
division (C)(2)(a) of this section to the board for approval; 312

(c) Monitor implementation by the administrator of workers' 313
compensation and the bureau of workers' compensation chief 314
investment officer of the investment policy approved by the board; 315

(d) Recommend outside investment counsel with whom the board 316
may contract to assist the investment committee in fulfilling its 317
duties; 318

(e) Review the performance of the bureau of workers' 319
compensation chief investment officer and any investment 320
consultants retained by the administrator to assure that the 321
investments of the assets of the funds specified in this chapter 322
and Chapters 4123., 4127., and 4131. of the Revised Code are made 323
in accordance with the investment policy approved by the board and 324
~~that the best possible return on~~ to assure compliance with the 325
~~investment is achieved~~ policy and effective management of the 326
funds. 327

Sec. 4121.443. (A) The bureau of workers' compensation may 328
summarily suspend the certification of a provider to participate 329
in the health partnership program created under sections 4121.44 330

and 4121.441 of the Revised Code without a prior hearing if the 331
bureau determines any of the following apply to the provider: 332

(1) The professional license, certification, or registration 333
held by the provider has been revoked or suspended. 334

(2) The provider has been convicted of or has pleaded guilty 335
to a violation of section 2913.48 or sections 2923.31 to 2923.36 336
of the Revised Code or any other criminal offense related to the 337
delivery of or billing for health care benefits. 338

(3) The continued participation by the provider in the health 339
partnership program presents a danger to the health and safety of 340
claimants. 341

(B) The bureau shall issue a written order of summary 342
suspension by certified mail or in person in accordance with 343
section 119.07 of the Revised Code. The order shall not be subject 344
to suspension by the court during pendency of any appeal filed 345
under section 119.12 of the Revised Code. If the provider subject 346
to the summary suspension requests an adjudicatory hearing by the 347
bureau, the date set for the hearing shall be not later than 348
fifteen days, but not earlier than seven days, after the provider 349
requests the hearing, unless otherwise agreed to by both the 350
bureau and the provider. 351

(C) Any summary suspension imposed under this section shall 352
remain in effect, unless reversed on appeal, until a final 353
adjudication order issued by the bureau pursuant to this section 354
and Chapter 119. of the Revised Code takes effect. The bureau 355
shall issue its final adjudication order within seventy-five days 356
after completion of its hearing. A failure to issue the order 357
within the seventy-five-day time period shall result in 358
dissolution of the summary suspension order but shall not 359
invalidate any subsequent, final adjudication order. 360

Sec. 4121.447. Each contract the administrator of workers' 361
compensation enters into with a managed care organization under 362
division (B)(4) of section 4121.44 of the Revised Code shall 363
require the managed care organization to enter into a data 364
security agreement with the state board of pharmacy governing the 365
managed care organization's use of the board's drug database 366
established and maintained under section 4729.75 of the Revised 367
Code. 368

This section does not apply if the board does not establish 369
or maintain the drug database. 370

Sec. 4121.45. (A) There is hereby created a workers' 371
compensation ombudsperson system to assist claimants and employers 372
in matters dealing with the bureau of workers' compensation and 373
the industrial commission. The industrial commission nominating 374
council shall appoint a chief ombudsperson. The chief 375
ombudsperson, with the advice and consent of the ~~advisory~~ 376
~~commission nominating council~~, may appoint such assistant 377
ombudspersons as the nominating council deems necessary. The 378
~~positions~~ position of chief ombudsperson ~~and assistant~~ 379
~~ombudspersons~~ are is for ~~terms~~ a term of six years. A person 380
appointed to the position of chief ombudsperson ~~or assistant~~ 381
~~ombudspersons~~ shall serve at the pleasure of the nominating 382
council. The chief ombudsperson may not be transferred, demoted, 383
or suspended during the person's tenure and may be removed by the 384
nominating council only ~~on the grounds of malfeasance or neglect~~ 385
~~of duty upon notice and public hearing~~ a vote of not fewer than 386
nine members of the nominating council. The ~~ombudspersons~~ chief 387
ombudsperson shall devote ~~their~~ the chief ombudsperson's full time 388
and attention to the duties of ~~their~~ the ombudsperson's office. 389
The administrator of workers' compensation shall furnish the 390
~~ombudspersons~~ chief ombudsperson with the office space, supplies, 391

and clerical assistance that will enable the ~~ombudspersons~~ chief 392
ombudsperson and the ombudsperson system staff to perform their 393
duties effectively. The ombudsperson program shall be funded out 394
of the budget of the bureau and the chief ombudsperson and 395
~~assistant ombudspersons~~ the ombudsperson system staff shall be 396
carried on the bureau payroll ~~but~~. The chief ombudsperson and the 397
ombudsperson system shall be under the direction of the nominating 398
council. The administrator and all employees of the bureau and the 399
commission shall give the ~~ombudspersons~~ the ombudsperson system 400
staff full and prompt cooperation in all matters relating to the 401
duties of the ~~ombudspersons~~ chief ombudsperson. 402

(B) The ~~ombudspersons~~ ombudsperson system staff shall: 403

(1) Answer inquiries or investigate complaints made by 404
employers or claimants under this chapter and Chapter 4123. of the 405
Revised Code as they relate to the processing of a claim for 406
workers' compensation benefits; 407

(2) Provide claimants and employers with information 408
regarding problems which arise out of the functions of the bureau, 409
commission hearing officers, and the commission and the procedures 410
employed in the processing of claims; 411

(3) Answer inquiries or investigate complaints of an employer 412
as they relate to reserves established and premiums charged in 413
connection with the employer's account; 414

(4) Comply with Chapter 102. and sections 2921.42 and 2921.43 415
of the Revised Code and the nominating council's human resource 416
and ethics policies; 417

(5) Not express any opinions as to the merit of a claim or 418
the correctness of a decision by the various officers or agencies 419
as the decision relates to a claim for benefits or compensation. 420

For the purpose of carrying out the chief ombudsperson's 421
duties, the chief ombudsperson or the ~~chief ombudsperson's~~ 422

~~assistants~~ ombudsperson system staff, notwithstanding sections 423
4123.27 and 4123.88 of the Revised Code, has the right at all 424
reasonable times to examine the contents of a claim file and 425
discuss with parties in interest the contents of the file as long 426
as the ombudsperson does not divulge information that would tend 427
to prejudice the case of either party to a claim or that would 428
tend to compromise a privileged attorney-client or doctor-patient 429
relationship. 430

(C) The chief ombudsperson shall: 431

(1) Assist any service office in its duties whenever it 432
requires assistance or information that can best be obtained from 433
central office personnel or records; 434

(2) Annually assemble reports from each assistant 435
ombudsperson as to their activities for the preceding year 436
together with their recommendations as to changes or improvements 437
in the operations of the workers' compensation system. The chief 438
ombudsperson shall prepare a written report summarizing the 439
activities of the ombudsperson system together with a digest of 440
recommendations. The chief ombudsperson shall transmit the report 441
to the nominating council. 442

(3) Comply with Chapter 102. and sections 2921.42 and 2921.43 443
of the Revised Code and the nominating council's human resource 444
and ethics policies. 445

(D) No ombudsperson or assistant ombudsperson shall: 446

(1) Represent a claimant or employer in claims pending before 447
or to be filed with the administrator, a district or staff hearing 448
officer, the commission, or the courts of the state, nor shall an 449
ombudsperson or assistant ombudsperson undertake any such 450
representation for a period of one year after the ombudsperson's 451
or assistant ombudsperson's employment terminates or be eligible 452
for employment by the bureau or the commission or as a district or 453

staff hearing officer for one year; 454

(2) Express any opinions as to the merit of a claim or the 455
correctness of a decision by the various officers or agencies as 456
the decision relates to a claim for benefits or compensation. 457

(E) The chief ombudsperson and assistant ombudspersons shall 458
receive compensation at a level established by the nominating 459
council commensurate with the individual's background, education, 460
and experience in workers' compensation or related fields. The 461
chief ombudsperson and assistant ombudspersons are full-time 462
permanent employees in the ~~classified-civil~~ unclassified service 463
of the state and are entitled to all benefits that accrue to such 464
employees, including, without limitation, sick, vacation, and 465
personal leaves. Assistant ombudspersons serve at the pleasure of 466
the chief ombudsperson. 467

(F) In the event of a vacancy in the position of chief 468
ombudsperson, the nominating council may appoint a person to serve 469
as acting chief ombudsperson until a chief ombudsperson is 470
appointed. The acting chief ombudsperson shall be under the 471
direction and control of the nominating council and may be removed 472
by the nominating council with or without just cause. 473

Sec. 4123.01. As used in this chapter: 474

(A)(1) "Employee" means: 475

(a) Every person in the service of the state, or of any 476
county, municipal corporation, township, or school district 477
therein, including regular members of lawfully constituted police 478
and fire departments of municipal corporations and townships, 479
whether paid or volunteer, and wherever serving within the state 480
or on temporary assignment outside thereof, and executive officers 481
of boards of education, under any appointment or contract of hire, 482
express or implied, oral or written, including any elected 483

official of the state, or of any county, municipal corporation, or 484
township, or members of boards of education. 485

As used in division (A)(1)(a) of this section, the term 486
"employee" includes the following persons when responding to an 487
inherently dangerous situation that calls for an immediate 488
response on the part of the person, regardless of whether the 489
person is within the limits of the jurisdiction of the person's 490
regular employment or voluntary service when responding, on the 491
condition that the person responds to the situation as the person 492
otherwise would if the person were on duty in the person's 493
jurisdiction: 494

(i) Off-duty peace officers. As used in division (A)(1)(a)(i) 495
of this section, "peace officer" has the same meaning as in 496
section 2935.01 of the Revised Code. 497

(ii) Off-duty firefighters, whether paid or volunteer, of a 498
lawfully constituted fire department. 499

(iii) Off-duty first responders, emergency medical 500
technicians-basic, emergency medical technicians-intermediate, or 501
emergency medical technicians-paramedic, whether paid or 502
volunteer, of an ambulance service organization or emergency 503
medical service organization pursuant to Chapter 4765. of the 504
Revised Code. 505

(b) Every person in the service of any person, firm, or 506
private corporation, including any public service corporation, 507
that (i) employs one or more persons regularly in the same 508
business or in or about the same establishment under any contract 509
of hire, express or implied, oral or written, including aliens and 510
minors, household workers who earn one hundred sixty dollars or 511
more in cash in any calendar quarter from a single household and 512
casual workers who earn one hundred sixty dollars or more in cash 513
in any calendar quarter from a single employer, or (ii) is bound 514

by any such contract of hire or by any other written contract, to 515
pay into the state insurance fund the premiums provided by this 516
chapter. 517

(c) Every person who performs labor or provides services 518
pursuant to a construction contract, as defined in section 4123.79 519
of the Revised Code, if at least ten of the following criteria 520
apply: 521

(i) The person is required to comply with instructions from 522
the other contracting party regarding the manner or method of 523
performing services; 524

(ii) The person is required by the other contracting party to 525
have particular training; 526

(iii) The person's services are integrated into the regular 527
functioning of the other contracting party; 528

(iv) The person is required to perform the work personally; 529

(v) The person is hired, supervised, or paid by the other 530
contracting party; 531

(vi) A continuing relationship exists between the person and 532
the other contracting party that contemplates continuing or 533
recurring work even if the work is not full time; 534

(vii) The person's hours of work are established by the other 535
contracting party; 536

(viii) The person is required to devote full time to the 537
business of the other contracting party; 538

(ix) The person is required to perform the work on the 539
premises of the other contracting party; 540

(x) The person is required to follow the order of work set by 541
the other contracting party; 542

(xi) The person is required to make oral or written reports 543

of progress to the other contracting party;	544
(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;	545 546
(xiii) The person's expenses are paid for by the other contracting party;	547 548
(xiv) The person's tools and materials are furnished by the other contracting party;	549 550
(xv) The person is provided with the facilities used to perform services;	551 552
(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;	553 554
(xvii) The person is not performing services for a number of employers at the same time;	555 556
(xviii) The person does not make the same services available to the general public;	557 558
(xix) The other contracting party has a right to discharge the person;	559 560
(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.	561 562 563
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	564 565 566 567 568 569 570 571 572 573

legal representatives or beneficiaries elect, after injury or 574
death, to regard such independent contractor as the employer. 575

~~(d) Every person to whom all of the following apply: 576~~

~~(i) The person is a resident of a state other than this state 577
and is covered by that other state's workers' compensation law; 578~~

~~(ii) The person performs labor or provides services for that 579
person's employer while temporarily within this state; 580~~

~~(iii) The laws of that other state do not include the 581
provisions described in division (H)(4) of section 4123.54 of the 582
Revised Code. 583~~

(2) "Employee" does not mean: 584

(a) A duly ordained, commissioned, or licensed minister or 585
assistant or associate minister of a church in the exercise of 586
ministry; 587

(b) Any officer of a family farm corporation; 588

(c) An individual incorporated as a corporation; or 589

(d) An individual who otherwise is an employee of an employer 590
but who signs the waiver and affidavit specified in section 591
4123.15 of the Revised Code on the condition that the 592
administrator has granted a waiver and exception to the 593
individual's employer under section 4123.15 of the Revised Code. 594

Any employer may elect to include as an "employee" within 595
this chapter, any person excluded from the definition of 596
"employee" pursuant to division (A)(2) of this section. If an 597
employer is a partnership, sole proprietorship, individual 598
incorporated as a corporation, or family farm corporation, such 599
employer may elect to include as an "employee" within this 600
chapter, any member of such partnership, the owner of the sole 601
proprietorship, the individual incorporated as a corporation, or 602
the officers of the family farm corporation. In the event of an 603

election, the employer shall serve upon the bureau of workers' 604
compensation written notice naming the persons to be covered, 605
include such employee's remuneration for premium purposes in all 606
future payroll reports, and no person excluded from the definition 607
of "employee" pursuant to division (A)(2) of this section, 608
proprietor, individual incorporated as a corporation, or partner 609
shall be deemed an employee within this division until the 610
employer has served such notice. 611

For informational purposes only, the bureau shall prescribe 612
such language as it considers appropriate, on such of its forms as 613
it considers appropriate, to advise employers of their right to 614
elect to include as an "employee" within this chapter a sole 615
proprietor, any member of a partnership, an individual 616
incorporated as a corporation, the officers of a family farm 617
corporation, or a person excluded from the definition of 618
"employee" under division (A)(2) of this section, that they should 619
check any health and disability insurance policy, or other form of 620
health and disability plan or contract, presently covering them, 621
or the purchase of which they may be considering, to determine 622
whether such policy, plan, or contract excludes benefits for 623
illness or injury that they might have elected to have covered by 624
workers' compensation. 625

(B) "Employer" means: 626

(1) The state, including state hospitals, each county, 627
municipal corporation, township, school district, and hospital 628
owned by a political subdivision or subdivisions other than the 629
state; 630

(2) Every person, firm, professional employer organization ~~as~~ 631
~~defined in section 4125.01 of the Revised Code~~, and private 632
corporation, including any public service corporation, that (a) 633
has in service one or more employees or shared employees regularly 634
in the same business or in or about the same establishment under 635

any contract of hire, express or implied, oral or written, or (b) 636
is bound by any such contract of hire or by any other written 637
contract, to pay into the insurance fund the premiums provided by 638
this chapter. 639

All such employers are subject to this chapter. Any member of 640
a firm or association, who regularly performs manual labor in or 641
about a mine, factory, or other establishment, including a 642
household establishment, shall be considered an employee in 643
determining whether such person, firm, or private corporation, or 644
public service corporation, has in its service, one or more 645
employees and the employer shall report the income derived from 646
such labor to the bureau as part of the payroll of such employer, 647
and such member shall thereupon be entitled to all the benefits of 648
an employee. 649

(C) "Injury" includes any injury, whether caused by external 650
accidental means or accidental in character and result, received 651
in the course of, and arising out of, the injured employee's 652
employment. "Injury" does not include: 653

(1) Psychiatric conditions except where the claimant's 654
psychiatric conditions have arisen from an injury or occupational 655
disease sustained by that claimant or where the claimant's 656
psychiatric conditions have arisen from sexual conduct in which 657
the claimant was forced by threat of physical harm to engage or 658
participate; 659

(2) Injury or disability caused primarily by the natural 660
deterioration of tissue, an organ, or part of the body; 661

(3) Injury or disability incurred in voluntary participation 662
in an employer-sponsored recreation or fitness activity if the 663
employee signs a waiver of the employee's right to compensation or 664
benefits under this chapter prior to engaging in the recreation or 665
fitness activity; 666

(4) A condition that pre-existed an injury unless that 667
pre-existing condition is substantially aggravated by the injury. 668
Such a substantial aggravation must be documented by objective 669
diagnostic findings, objective clinical findings, or objective 670
test results. Subjective complaints may be evidence of such a 671
substantial aggravation. However, subjective complaints without 672
objective diagnostic findings, objective clinical findings, or 673
objective test results are insufficient to substantiate a 674
substantial aggravation. 675

(D) "Child" includes a posthumous child and a child legally 676
adopted prior to the injury. 677

(E) "Family farm corporation" means a corporation founded for 678
the purpose of farming agricultural land in which the majority of 679
the voting stock is held by and the majority of the stockholders 680
are persons or the spouse of persons related to each other within 681
the fourth degree of kinship, according to the rules of the civil 682
law, and at least one of the related persons is residing on or 683
actively operating the farm, and none of whose stockholders are a 684
corporation. A family farm corporation does not cease to qualify 685
under this division where, by reason of any devise, bequest, or 686
the operation of the laws of descent or distribution, the 687
ownership of shares of voting stock is transferred to another 688
person, as long as that person is within the degree of kinship 689
stipulated in this division. 690

(F) "Occupational disease" means a disease contracted in the 691
course of employment, which by its causes and the characteristics 692
of its manifestation or the condition of the employment results in 693
a hazard which distinguishes the employment in character from 694
employment generally, and the employment creates a risk of 695
contracting the disease in greater degree and in a different 696
manner from the public in general. 697

(G) "Self-insuring employer" means an employer who is granted 698

the privilege of paying compensation and benefits directly under 699
section 4123.35 of the Revised Code, including a board of county 700
commissioners for the sole purpose of constructing a sports 701
facility as defined in section 307.696 of the Revised Code, 702
provided that the electors of the county in which the sports 703
facility is to be built have approved construction of a sports 704
facility by ballot election no later than November 6, 1997. 705

(H) "Private employer" means an employer as defined in 706
division (B)(2) of this section. 707

(I) "Professional employer organization" has the same meaning 708
as in section 4125.01 of the Revised Code. 709

(J) "Public employer" means an employer as defined in 710
division (B)(1) of this section. 711

~~(I)~~(K) "Sexual conduct" means vaginal intercourse between a 712
male and female; anal intercourse, fellatio, and cunnilingus 713
between persons regardless of gender; and, without privilege to do 714
so, the insertion, however slight, of any part of the body or any 715
instrument, apparatus, or other object into the vaginal or anal 716
cavity of another. Penetration, however slight, is sufficient to 717
complete vaginal or anal intercourse. 718

~~(J)~~(L) "Other-states' insurer" means an insurance company 719
that is authorized to provide workers' compensation insurance 720
coverage in any of the states that permit employers to obtain 721
insurance for workers' compensation claims through insurance 722
companies. 723

~~(K)~~(M) "Other-states' coverage" means insurance both of the 724
following: 725

(1) Insurance coverage purchased secured by an eligible 726
employer for workers' compensation claims that arise of employees 727
who are in employment relationships localized in a state or states 728
other than this state and that are filed by the employees of the 729

~~employer or those employee's employees' dependents, as applicable,~~ 730
~~in that other state or those other states;~~ 731

(2) Insurance coverage secured by an eligible employer for 732
workers' compensation claims that arise in a state other than this 733
state where an employer elects to obtain coverage through either 734
the administrator or an other-states' insurer. 735

(N) "Limited other-states coverage" means insurance coverage 736
provided by the administrator to an eligible employer for workers' 737
compensation claims of employees who are in an employment 738
relationship localized in this state but are temporarily working 739
in a state other than this state, or those employees' dependents. 740

Sec. 4123.26. (A) Every employer shall keep records of, and 741
furnish to the bureau of workers' compensation upon request, all 742
information required by the administrator of workers' compensation 743
to carry out this chapter. In January of each year 744

(B) Except as otherwise provided in division (C) of this 745
section, every private employer of the state employing one or more 746
employees regularly in the same business, or in or about the same 747
establishment, shall prepare and mail submit a payroll report to 748
the bureau at its main office in Columbus a statement containing, 749
Until the policy year commencing July 1, 2015, a private employer 750
shall submit the payroll report in January of each year. For a 751
policy year commencing on or after July 1, 2015, the employer 752
shall submit the payroll report on or before August fifteenth of 753
each year unless otherwise specified by the administrator in rules 754
the administrator adopts. The employer shall include all of the 755
following information in the payroll report, as applicable: 756

~~(A) The~~ (1) For payroll reports submitted prior to July 1, 758
2015, the number of employees employed during the preceding year 759
from the first day of January through the thirty-first day of 760

December who are localized in this state; 761

~~(B)(2) For payroll reports submitted on or after July 1,~~ 762
~~2015, the number of employees localized in this state employed~~ 763
~~during the preceding policy year from the first day of July~~ 764
~~through the thirtieth day of June;~~ 765

(3) The number of such employees localized in this state 766
employed at each kind of employment and the aggregate amount of 767
wages paid to such employees; 768

~~(C)(4)(a) If an employer elects to obtain secure~~ 769
~~other-states' coverage or limited other-states' coverage pursuant~~ 770
~~to section 4123.292 of the Revised Code through either the~~ 771
~~administrator, if the administrator elects to offer such coverage,~~ 772
~~or an other-states' insurer for claims arising in a state or~~ 773
~~states other than this state, all of the following information:~~ 774

~~(1) The amount of wages the employer paid to the employer's~~ 775
~~employees for performing labor or providing services for the~~ 776
~~employer in this state;~~ 777

~~(2) The amount of wages the employer paid to the employer's~~ 778
~~employees for performing labor or providing services for the~~ 779
~~employer in a state or states other than this state.~~ 780

~~The allocation of wages identified by the employer pursuant~~ 781
~~to divisions (C)(1) and (2) of this section shall not be presumed~~ 782
~~to be an indication of the law under which an employee is eligible~~ 783
~~to receive compensation and benefits required under divisions~~ 784
~~(B)(1) to (3) of this section and any additional information~~ 785
~~required by the administrator in rules the administrator adopts,~~ 786
~~with the advice and consent of the bureau of workers' compensation~~ 787
~~board of directors, to allow the employer to secure other-states'~~ 788
~~coverage or limited other-states' coverage.~~ 789

~~(D)(5)(a) In accordance with the rules adopted by the~~ 790
administrator pursuant to division ~~(D)(C)~~ of section 4123.32 of 791

the Revised Code, if the employer employs employees who are 792
covered under the federal "Longshore and Harbor Workers'
Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., and under 793
this chapter and Chapter 4121. of the Revised Code, both of the 794
following amounts: 795
796

~~(1)~~(i) The amount of wages the employer pays to those 797
employees when the employees perform labor and provide services 798
for which the employees are eligible to receive compensation and 799
benefits under the federal "Longshore and Harbor Workers'
Compensation Act"; 800
801

~~(2)~~(ii) The amount of wages the employer pays to those 802
employees when the employees perform labor and provide services 803
for which the employees are eligible to receive compensation and 804
benefits under this chapter and Chapter 4121. of the Revised Code. 805

(b) The allocation of wages identified by the employer 806
pursuant to divisions ~~(D)~~~~(1)~~(B)(5)(a)(i) and ~~(2)~~(ii) of this 807
section shall not be presumed to be an indication of the law under 808
which an employee is eligible to receive compensation and 809
benefits. 810

~~The information shall be furnished on a blank to be prepared 811
by the bureau. The bureau shall furnish the blanks to employers 812
free of charge upon request therefor. Every employer receiving 813
from the bureau any blank, with directions to fill out the same, 814
shall cause the same to be properly filled out so as to answer 815
fully and correctly all questions therein propounded, and give all 816
the information therein sought, or if unable to do so, the 817
employer shall give to the bureau in writing good and sufficient 818
reasons for such failure. (C) Beginning August 1, 2015, each 819
employer that is recognized by the administrator as a professional 820
employer organization shall submit a monthly payroll report 821
containing the number of employees employed during the preceding 822
calendar month, the number of those employees employed at each 823~~

kind of employment, and the aggregate amount of wages paid to 824
those employees. 825

(D) An employer described in division (B) of this section 826
shall submit the payroll report required under this section to the 827
bureau on a form prescribed by the bureau. The bureau may require 828
that the information required to be furnished be verified under 829
oath ~~and returned to the bureau within the period fixed by it or~~ 830
~~by law.~~ The bureau or any person employed by the bureau for that 831
purpose, may examine, under oath, any employer, or the officer, 832
agent, or employee thereof, for the purpose of ascertaining any 833
information which the employer is required to furnish to the 834
bureau. 835

(E) No private employer shall fail to furnish to the bureau 836
the ~~annual statement~~ payroll report required by this section, nor 837
shall any employer fail to keep records of or furnish such other 838
information as may be required by the bureau under this section. 839

~~Whoever violates this section shall forfeit five hundred~~ 840
~~dollars, to be collected in a civil action brought against the~~ 841
~~employer in the name of the state, to be paid into the state~~ 842
~~insurance fund and become a part thereof~~ 843

(F) The administrator may adopt rules setting forth penalties 844
for failure to submit the payroll report required by this section, 845
including but not limited to exclusion from alternative rating 846
plans and discount programs. 847

Sec. 4123.27. Information contained in the ~~annual statement~~ 848
payroll report provided for in section 4123.26 of the Revised 849
Code, and such other information as may be furnished to the bureau 850
of workers' compensation by employers in pursuance of that 851
section, is for the exclusive use and information of the bureau in 852
the discharge of its official duties, and shall not be open to the 853
public nor be used in any court in any action or proceeding 854

pending therein unless the bureau is a party to the action or 855
proceeding; ~~but the.~~ The information contained in the ~~statement~~ 856
payroll report may be tabulated and published by the bureau in 857
statistical form for the use and information of other state 858
departments and the public. No person in the employ of the bureau, 859
except those who are authorized by the administrator of workers' 860
compensation, shall divulge any information secured by the person 861
while in the employ of the bureau in respect to the transactions, 862
property, claim files, records, or papers of the bureau or in 863
respect to the business or mechanical, chemical, or other 864
industrial process of any company, firm, corporation, person, 865
association, partnership, or public utility to any person other 866
than the administrator or to the superior of such employee of the 867
bureau. 868

Notwithstanding the restrictions imposed by this section, the 869
governor, select or standing committees of the general assembly, 870
the auditor of state, the attorney general, or their designees, 871
pursuant to the authority granted in this chapter and Chapter 872
4121. of the Revised Code, may examine any records, claim files, 873
or papers in possession of the industrial commission or the 874
bureau. They also are bound by the privilege that attaches to 875
these papers. 876

The administrator shall report to the director of job and 877
family services or to the county director of job and family 878
services the name, address, and social security number or other 879
identification number of any person receiving workers' 880
compensation whose name or social security number or other 881
identification number is the same as that of a person required by 882
a court or child support enforcement agency to provide support 883
payments to a recipient or participant of public assistance, as 884
that term is defined in section 5101.181 of the Revised Code, and 885
whose name is submitted to the administrator by the director under 886

section 5101.36 of the Revised Code. The administrator also shall 887
inform the director of the amount of workers' compensation paid to 888
the person during such period as the director specifies. 889

Within fourteen days after receiving from the director of job 890
and family services a list of the names and social security 891
numbers of recipients or participants of public assistance 892
pursuant to section 5101.181 of the Revised Code, the 893
administrator shall inform the auditor of state of the name, 894
current or most recent address, and social security number of each 895
person receiving workers' compensation pursuant to this chapter 896
whose name and social security number are the same as that of a 897
person whose name or social security number was submitted by the 898
director. The administrator also shall inform the auditor of state 899
of the amount of workers' compensation paid to the person during 900
such period as the director specifies. 901

The bureau and its employees, except for purposes of 902
furnishing the auditor of state with information required by this 903
section, shall preserve the confidentiality of recipients or 904
participants of public assistance in compliance with section 905
5101.181 of the Revised Code. 906

Sec. 4123.29. (A) The administrator of workers' compensation, 907
subject to the approval of the bureau of workers' compensation 908
board of directors, shall do all of the following: 909

(1) Classify occupations or industries with respect to their 910
degree of hazard and determine the risks of the different classes 911
according to the categories the national council on compensation 912
insurance establishes that are applicable to employers in this 913
state; 914

(2)(a) Fix the rates of premium of the risks of the classes 915
based upon the total payroll in each of the classes of occupation 916
or industry sufficiently large to provide a fund for the 917

compensation provided for in this chapter and to maintain a state 918
insurance fund from year to year. The administrator shall set the 919
rates at a level that assures the solvency of the fund. Where the 920
payroll cannot be obtained or, in the opinion of the 921
administrator, is not an adequate measure for determining the 922
premium to be paid for the degree of hazard, the administrator may 923
determine the rates of premium upon such other basis, consistent 924
with insurance principles, as is equitable in view of the degree 925
of hazard, and whenever in this chapter reference is made to 926
payroll or expenditure of wages with reference to fixing premiums, 927
the reference shall be construed to have been made also to such 928
other basis for fixing the rates of premium as the administrator 929
may determine under this section. 930

(b) If an employer elects to obtain other-states' coverage, 931
including limited other-states' coverage, pursuant to section 932
4123.292 of the Revised Code through ~~either~~ the administrator, if 933
the administrator elects to offer such coverage, ~~or an~~ 934
~~other states' insurer,~~ calculate the employer's premium for the 935
state insurance fund in the same manner as otherwise required 936
under division (A) of this section and section 4123.34 of the 937
Revised Code, except that ~~when the administrator determines the~~ 938
~~expenditure of wages, payroll, or both upon which to base may~~ 939
establish in rule an alternative calculation of the employer's 940
premium, ~~the administrator shall use only~~ to appropriately account 941
for the expenditure of wages, payroll, or both attributable to the 942
labor performed and services provided by that employer's employees 943
when those employees performed labor and provided services in this 944
state ~~only and to which the~~ in the other state or states for which 945
the employer elects to secure other-states' coverage ~~does not~~ 946
apply. 947

(c) If an employer elects to obtain other-states' coverage 948
pursuant to section 4123.292 of the Revised Code through an 949

other-states' insurer, calculate the employer's premium for the 950
state insurance fund in the same manner as otherwise required 951
under division (A) of this section and section 4123.34 of the 952
Revised Code, except that when the administrator determines the 953
expenditure of wages, payroll, or both upon which to base the 954
employer's premium, the administrator shall use only the 955
expenditure of wages, payroll, or both attributable to the labor 956
performed and services provided by that employer's employees when 957
those employees performed labor and provided services in this 958
state only and to which the other-states' coverage does not apply. 959
The administrator may adopt rules setting forth the information 960
that an employer electing to obtain other-states' coverage through 961
an other-states' insurer shall report for purposes of determining 962
the expenditure of wages, payroll, or both attributable to the 963
labor performed and services provided in this state. 964

(d) The administrator in setting or revising rates shall 965
furnish to employers an adequate explanation of the basis for the 966
rates set. 967

(3) Develop and make available to employers who are paying 968
premiums to the state insurance fund alternative premium plans. 969
Alternative premium plans shall include retrospective rating 970
plans. The administrator may make available plans under which an 971
advanced deposit may be applied against a specified deductible 972
amount per claim. 973

(4)(a) Offer to insure the obligations of employers under 974
this chapter under a plan that groups, for rating purposes, 975
employers, and pools the risk of the employers within the group 976
provided that the employers meet all of the following conditions: 977

(i) All of the employers within the group are members of an 978
organization that has been in existence for at least two years 979
prior to the date of application for group coverage; 980

(ii) The organization was formed for purposes other than that of obtaining group workers' compensation under this division; 981
982

(iii) The employers' business in the organization is substantially similar such that the risks which are grouped are substantially homogeneous; 983
984
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(iv) The group of employers consists of at least one hundred members or the aggregate workers' compensation premiums of the members, as determined by the administrator, are ~~expected~~ estimated to exceed one hundred fifty thousand dollars during the coverage period; 986
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(v) The formation and operation of the group program in the organization will substantially improve accident prevention and claims handling for the employers in the group; 991
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(vi) Each employer seeking to enroll in a group for workers' compensation coverage has an ~~industrial insurance~~ account in good standing with the bureau of workers' compensation ~~such that at the time the agreement is processed no outstanding premiums, penalties, or assessments are due from any of the employers.~~ The administrator shall adopt rules setting forth the criteria by which the administrator will determine whether an employer's account is in good standing. 994
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(b) If an organization sponsors more than one employer group to participate in group plans established under this section, that organization may submit a single application that supplies all of the information necessary for each group of employers that the organization wishes to sponsor. 1002
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(c) In providing employer group plans under division (A)(4) of this section, the administrator shall consider an employer group as a single employing entity for purposes of group rating. No employer may be a member of more than one group for the purpose of obtaining workers' compensation coverage under this division. 1007
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(d) At the time the administrator revises premium rates 1012
pursuant to this section and section 4123.34 of the Revised Code, 1013
if the premium rate of an employer who participates in a group 1014
plan established under this section changes from the rate 1015
established for the previous year, the administrator, in addition 1016
to sending the invoice with the rate revision to that employer, 1017
shall send a copy of that invoice to the third-party administrator 1018
that administers the group plan for that employer's group. 1019

(e) In providing employer group plans under division (A)(4) 1020
of this section, the administrator shall establish a program 1021
designed to mitigate the impact of a significant claim that would 1022
come into the experience of a private, state fund group-rated 1023
employer or a taxing district employer for the first time and be a 1024
contributing factor in that employer being excluded from a 1025
group-rated plan. The administrator shall establish eligibility 1026
criteria and requirements that such employers must satisfy in 1027
order to participate in this program. For purposes of this 1028
program, the administrator shall establish a discount on premium 1029
rates applicable to employers who qualify for the program. 1030

(f) In no event shall division (A)(4) of this section be 1031
construed as granting to an employer status as a self-insuring 1032
employer. 1033

(g) The administrator shall develop classifications of 1034
occupations or industries that are sufficiently distinct so as not 1035
to group employers in classifications that unfairly represent the 1036
risks of employment with the employer. 1037

(5) Generally promote employer participation in the state 1038
insurance fund through the regular dissemination of information to 1039
all classes of employers describing the advantages and benefits of 1040
opting to make premium payments to the fund. To that end, the 1041
administrator shall regularly make employers aware of the various 1042
workers' compensation premium packages developed and offered 1043

pursuant to this section. 1044

(6) Make available to every employer who is paying premiums 1045
to the state insurance fund a program whereby the employer or the 1046
employer's agent pays to the claimant or on behalf of the claimant 1047
the first fifteen thousand dollars of a compensable workers' 1048
compensation medical-only claim filed by that claimant that is 1049
related to the same injury or occupational disease. No formal 1050
application is required; however, an employer must elect to 1051
participate by telephoning the bureau after July 1, 1995. Once an 1052
employer has elected to participate in the program, the employer 1053
will be responsible for all bills in all medical-only claims with 1054
a date of injury the same or later than the election date, unless 1055
the employer notifies the bureau within fourteen days of receipt 1056
of the notification of a claim being filed that it does not wish 1057
to pay the bills in that claim, or the employer notifies the 1058
bureau that the fifteen thousand dollar maximum has been paid, or 1059
the employer notifies the bureau of the last day of service on 1060
which it will be responsible for the bills in a particular 1061
medical-only claim. If an employer elects to enter the program, 1062
the administrator shall not reimburse the employer for such 1063
amounts paid and shall not charge the first fifteen thousand 1064
dollars of any medical-only claim paid by an employer to the 1065
employer's experience or otherwise use it in merit rating or 1066
determining the risks of any employer for the purpose of payment 1067
of premiums under this chapter. A certified health care provider 1068
shall extend to an employer who participates in this program the 1069
same rates for services rendered to an employee of that employer 1070
as the provider bills the administrator for the same type of 1071
medical claim processed by the bureau and shall not charge, 1072
assess, or otherwise attempt to collect from an employee any 1073
amount for covered services or supplies that is in excess of that 1074
rate. If an employer elects to enter the program and the employer 1075
fails to pay a bill for a medical-only claim included in the 1076

program, the employer shall be liable for that bill and the 1077
employee for whom the employer failed to pay the bill shall not be 1078
liable for that bill. The administrator shall adopt rules to 1079
implement and administer division (A)(6) of this section. Upon 1080
written request from the bureau, the employer shall provide 1081
documentation to the bureau of all medical-only bills that they 1082
are paying directly. Such requests from the bureau may not be made 1083
more frequently than on a semiannual basis. Failure to provide 1084
such documentation to the bureau within thirty days of receipt of 1085
the request may result in the employer's forfeiture of 1086
participation in the program for such injury. The provisions of 1087
this section shall not apply to claims in which an employer with 1088
knowledge of a claimed compensable injury or occupational disease, 1089
has paid wages in lieu of compensation or total disability. 1090

(B) The administrator, with the advice and consent of the 1091
board, by rule, may do both of the following: 1092

(1) Grant an employer who ~~makes~~ pays the employer's 1093
~~semiannual~~ annual estimated premium ~~payment at least one month in~~ 1094
full prior to the ~~last day on which the payment may be made~~ 1095
~~without penalty~~ start of the policy year for which the estimated 1096
premium is due, a discount as the administrator fixes from time to 1097
time; 1098

(2) Levy a minimum annual administrative charge upon risks 1099
where ~~semiannual~~ premium reports develop a charge less than the 1100
administrator considers adequate to offset administrative costs of 1101
processing. 1102

(C)(1) The administrator shall include all of the following 1103
information in the notice of premium rate that is applicable to an 1104
employer who is not a base-rated employer for the upcoming policy 1105
year: 1106

(a) The mathematical equation, expressed algebraically, used 1107

by the administrator to determine the employer's premium rate; 1108

(b) A definition of each variable used in the mathematical equation described in division (C)(1)(a) of this section; 1109
1110

(c) The mathematical equation described in division (C)(1)(a) of this section with the specific numbers applicable to the employer included in the equation. 1111
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(2) With respect to the mathematical equation described in division (C)(1)(c) of this section, the administrator shall highlight those numbers over which the employer has direct control. 1114
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(3) If an employer has elected to pay the employer's premiums electronically through the web site maintained by the bureau, the administrator shall include the information required under division (C)(1) of this section in the notice of premium rate sent to that employer electronically. The administrator is not required to send that information to such an employer through any other means. 1118
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Sec. 4123.291. (A) An adjudicating committee appointed by the administrator of workers' compensation to hear any matter specified in divisions (B)(1) to (7) of this section shall hear the matter within sixty days of the date on which an employer files the request, protest, or petition. An employer desiring to file a request, protest, or petition regarding any matter specified in divisions (B)(1) to (7) of this section shall file the request, protest, or petition to the adjudicating committee on or before twenty-four months after the administrator sends notice of the determination about which the employer is filing the request, protest, or petition. 1125
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(B) An employer who is adversely affected by a decision of an adjudicating committee appointed by the administrator may appeal 1136
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the decision of the committee to the administrator or the 1138
administrator's designee. The employer shall file the appeal in 1139
writing within thirty days after the employer receives the 1140
decision of the adjudicating committee. The administrator or the 1141
designee shall hear the appeal and hold a hearing, provided that 1142
the decision of the adjudicating committee relates to one of the 1143
following: 1144

(1) An employer request for a waiver of a default in the 1145
payment of premiums pursuant to section 4123.37 of the Revised 1146
Code; 1147

(2) An employer request for the settlement of liability as a 1148
noncomplying employer under section 4123.75 of the Revised Code; 1149

(3) An employer petition objecting to ~~the~~ an assessment ~~of a~~ 1150
~~premium~~ made pursuant to section 4123.37 of the Revised Code and 1151
the rules adopted pursuant to that section; 1152

(4) An employer request for the abatement of penalties 1153
assessed pursuant to section 4123.32 of the Revised Code and the 1154
rules adopted pursuant to that section; 1155

(5) An employer protest relating to an audit finding or a 1156
determination of a manual classification, experience rating, or 1157
transfer or combination of risk experience; 1158

(6) Any decision relating to any other risk premium matter 1159
under Chapters 4121., 4123., and 4131. of the Revised Code; 1160

(7) An employer petition objecting to the amount of security 1161
required under division (D) of section 4125.05 of the Revised Code 1162
and the rules adopted pursuant to that section. 1163

(C) The bureau of workers' compensation board of directors, 1164
based upon recommendations of the workers' compensation actuarial 1165
committee, shall establish the policy for all adjudicating 1166
committee procedures, including, but not limited to, specific 1167

criteria for manual premium rate adjustment. 1168

Sec. 4123.292. (A) Notwithstanding sections 4123.35 and 1169
4123.82 of the Revised Code, an employer may elect to obtain 1170
other-states' coverage through an other-states' insurer or, if the 1171
administrator of workers' compensation elects to offer such 1172
coverage, through the administrator pursuant to division (B) of 1173
this section. An employer who elects to obtain other-states' 1174
coverage shall submit a written notice to the administrator 1175
stating that election on a form prescribed by the administrator 1176
and, if the employer elects to obtain that coverage through an 1177
other-states' insurer, the name of the other-states' insurer 1178
through whom the employer has obtained that coverage. If an 1179
employer fails to pay the employer's premium for other-states' 1180
coverage, the administrator shall consider the employer to be 1181
noncompliant for the purposes of having other-states' coverage ~~but~~ 1182
~~shall not consider the employer to be a noncomplying employer for~~ 1183
~~purposes of this chapter or Chapter 4121., 4127., or 4131. of the~~ 1184
~~Revised Code unless the employer otherwise fails to comply with~~ 1185
and the employer's premiums in this state for any and all 1186
noncompliant periods of time shall be calculated in the same 1187
manner as otherwise required under division (A) of section 4123.29 1188
and section 4123.35 4123.34 of the Revised Code, using both the 1189
wages reported in this state and the wages that the employer 1190
claimed would be reported to the other-states' insurer for 1191
securing coverage. 1192

(B) The administrator may ~~secure~~ offer other-states' coverage 1193
to allow an employer who wishes to obtain other-states' coverage 1194
pursuant to this section and who elects to ~~obtain~~ secure that 1195
coverage through the administrator for workers' compensation 1196
claims ~~arising in a state or states other than this state.~~ If the 1197
administrator elects to secure a vehicle through which the 1198
administrator will provide other-states' coverage, the 1199

administrator shall follow the competitive bidding requirements 1200
specified in Chapter 125. of the Revised Code to select one or 1201
more other-states' ~~insurer~~ insurers, and the administrator, with 1202
the advice and consent of the bureau of workers' compensation 1203
board of directors, shall award ~~the~~ a contract to provide 1204
other-states' coverage for employers located in this state to ~~the~~ 1205
one or more other-states' ~~insurer~~ insurers that ~~is~~ are the lowest 1206
and best ~~bidder~~ bidders. 1207

(C) ~~If the administrator elects to secure other states'~~ 1208
~~coverage pursuant to division (B) of this section, the~~ 1209
~~administrator shall calculate an employer's premium for~~ 1210
~~other states' coverage provided through the administrator~~ 1211
~~separately from calculating any other premiums or assessments~~ 1212
~~charged under this chapter or Chapter 4121., 4127., or 4131. of~~ 1213
~~the Revised Code. The administrator shall calculate the employer's~~ 1214
~~other states' coverage premium in the same manner the~~ 1215
~~administrator calculates an employer's premium for the state~~ 1216
~~insurance fund pursuant to division (A) of section 4123.29 and~~ 1217
~~section 4123.34 of the Revised Code, except that, when calculating~~ 1218
~~the employer's premium for other states' coverage under this~~ 1219
~~division, the administrator shall do all of the following:~~ 1220

(1) ~~Base the employer's other states' coverage premium on the~~ 1221
~~terms specified in the contract the administrator enters into with~~ 1222
~~an insurance company pursuant to division (B) of this section:~~ 1223

(2) ~~When determining the expenditure of wages, payroll, or~~ 1224
~~both upon which to base the employer's other states' coverage~~ 1225
~~premium, use only the amount of wages, payroll, or both the~~ 1226
~~employer paid to the employer's employees for performing labor or~~ 1227
~~providing services for the employer in a state or states other~~ 1228
~~than this state:~~ 1229

(3) ~~Not take into account the amount of wages, payroll, or~~ 1230
~~both the employer paid to the employer's employees for performing~~ 1231

~~labor or providing services for the employer in this state or any~~ 1232
~~compensation or benefits paid for claims covered by the state~~ 1233
~~insurance fund~~ Notwithstanding sections 4123.35 and 4123.82 of the 1234
Revised Code, the administrator may offer limited other-states' 1235
coverage to allow an employer who wishes to obtain limited 1236
other-states' coverage pursuant to this section. An employer who 1237
elects to obtain limited other-states' coverage shall submit a 1238
written notice to the administrator stating that election on a 1239
form prescribed by the administrator. 1240

If the administrator elects to secure a vehicle through which 1241
the administrator will provide limited other-states' coverage, the 1242
administrator shall follow the competitive bidding requirements 1243
specified in Chapter 125. of the Revised Code to select one or 1244
more other-states' insurers and, with the advice and consent of 1245
the board, award a contract to provide limited other-states' 1246
coverage to the lowest and best bidders. 1247

(D) If the administrator elects to ~~secure~~ offer other states' 1248
coverage or limited other-states' coverage, the administrator, 1249
with the advice and consent of the board, shall adopt rules to 1250
implement divisions (B) and (C) of this section. 1251

(E) ~~An other states' insurer that provides other states'~~ 1252
~~coverage to an employer pursuant to this section shall do all of~~ 1253
~~the following when calculating the employer's premium for that~~ 1254
~~coverage:~~ 1255

~~(1) When determining the amount of wages, payroll, or both~~ 1256
~~upon which to base the employer's premium, use only the amount of~~ 1257
~~wages, payroll, or both the employer paid to the employer's~~ 1258
~~employees for performing labor or providing services for the~~ 1259
~~employer in a state or states other than this state;~~ 1260

~~(2) Not take into account the amount of wages, payroll, or~~ 1261
~~both the employer paid to the employer's employees for performing~~ 1262

~~labor or providing services for the employer in this state or any 1263
compensation or benefits paid for claims otherwise covered by this 1264
chapter or Chapter 4121., 4127., or 4131. of the Revised Code; 1265~~

~~(3) Take into account any other factors the other states' 1266
insurer uses to calculate premiums for workers' compensation 1267
insurance. 1268~~

~~(F) The board and the individual members thereof, the 1269
administrator, and the bureau of workers' compensation shall not 1270
incur any obligation or liability if another state determines that 1271
the other-states' coverage or limited other-states' coverage 1272
provided under this section does not satisfy the requirements 1273
specified in that state's workers' compensation law for obtaining 1274
workers' compensation coverage in that state. 1275~~

Sec. 4123.32. The administrator of workers' compensation, 1276
with the advice and consent of the bureau of workers' compensation 1277
board of directors, shall adopt rules with respect to the 1278
collection, maintenance, and disbursements of the state insurance 1279
fund including all of the following: 1280

~~(A) A rule providing that the premium security deposit 1281
collected from any employer entitles the employer to the benefits 1282
of this chapter for the remainder of the six months and also for 1283
an additional adjustment period of two months, and, thereafter, if 1284
the employer pays the premium due at the close of any six month 1285
period, coverage shall be extended for an additional eight month 1286
period beginning from the end of the six month period for which 1287
the employer pays the premium due; 1288~~

~~(B) A rule providing for ascertaining the correctness of any 1289
employer's report of estimated or actual expenditure of wages and 1290
the determination and adjustment of proper premiums and the 1291
payment of those premiums by the employer ~~for or during any period~~ 1292
~~less than eight months and notwithstanding any payment or~~ 1293~~

~~determination of premium made when exceptional conditions or~~ 1294
~~circumstances in the judgment of the administrator justify the~~ 1295
~~action;~~ 1296

~~(C)~~(B) Such special rules as the administrator considers 1297
necessary to safeguard the fund and that are just in the 1298
circumstances, covering the rates to be applied where one employer 1299
takes over the occupation or industry of another or where an 1300
employer first makes application for state insurance, and the 1301
administrator may require that if any employer transfers a 1302
business in whole or in part or otherwise reorganizes the 1303
business, the successor in interest shall assume, in proportion to 1304
the extent of the transfer, as determined by the administrator, 1305
the employer's account and shall continue the payment of all 1306
contributions due under this chapter; 1307

~~(D)~~(C) A rule providing that an employer who employs an 1308
employee covered under the federal "Longshore and Harbor Workers'
Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., and this 1309
chapter and Chapter 4121. of the Revised Code shall be assessed a 1310
premium in accordance with the expenditure of wages, payroll, or 1311
both attributable to only labor performed and services provided by 1312
such an employee when the employee performs labor and provides 1313
services for which the employee is not eligible to receive 1314
compensation and benefits under that federal act. 1315
1316

~~(E)~~(D) A rule providing for all of the following: 1317

(1) If, ~~within two months immediately after the expiration of~~ 1318
~~the six month period,~~ an employer fails to file a report of the 1319
employer's actual payroll expenditures for the period pursuant to 1320
section 4123.26 of the Revised Code for private employers or 1321
pursuant to section 4123.41 of the Revised Code for public 1322
employers, the premium ~~found to be~~ and assessments due from the 1323
employer for the period shall be calculated based on the estimated 1324
payroll of the employer used in calculating the estimated premium 1325

~~due, increased in an amount equal to one per cent of the premium,~~ 1326
~~but the increase shall not be less than three nor more than~~ 1327
~~fifteen dollars by ten per cent;~~ 1328

~~(2) The premium determined by the administrator to be due~~ 1329
~~from an employer shall be payable on or before the end of the~~ 1330
~~coverage period established by the premium security deposit, or~~ 1331
~~within the time specified by the administrator if the period for~~ 1332
~~which the advance premium has been paid is less than eight months.~~ 1333

~~(a) If an employer fails to pay the premium or assessments when~~ 1334
~~due for a policy year commencing prior to July 1, 2015, the~~ 1335
~~administrator may add a late fee penalty of not more than thirty~~ 1336
~~dollars to the premium plus an additional penalty amount as~~ 1337
~~follows:~~ 1338

~~(a)(i)~~ For a premium from sixty-one to ninety days past due, 1339
the prime interest rate, multiplied by the premium due; 1340

~~(b)(ii)~~ For a premium from ninety-one to one hundred twenty 1341
days past due, the prime interest rate plus two per cent, 1342
multiplied by the premium due; 1343

~~(c)(iii)~~ For a premium from one hundred twenty-one to one 1344
hundred fifty days past due, the prime interest rate plus four per 1345
cent, multiplied by the premium due; 1346

~~(d)(iv)~~ For a premium from one hundred fifty-one to one 1347
hundred eighty days past due, the prime interest rate plus six per 1348
cent, multiplied by the premium due; 1349

~~(e)(v)~~ For a premium from one hundred eighty-one to two 1350
hundred ten days past due, the prime interest rate plus eight per 1351
cent, multiplied by the premium due; 1352

~~(f)(vi)~~ For each additional thirty-day period or portion 1353
thereof that a premium remains past due after it has remained past 1354
due for more than two hundred ten days, the prime interest rate 1355
plus eight per cent, multiplied by the premium due. 1356

(b) For purposes of division (D)(2)(a) of this section, 1357
"prime interest rate" means the average bank prime rate, and the 1358
administrator shall determine the prime interest rate in the same 1359
manner as a county auditor determines the average bank prime rate 1360
under section 929.02 of the Revised Code. 1361

(c) If an employer fails to pay the premium or assessments 1362
when due for a policy year commencing on or after July 1, 2015, 1363
the administrator may assess a penalty at the interest rate 1364
established by the state tax commissioner pursuant to section 1365
5703.47 of the Revised Code. 1366

(3) Notwithstanding the interest rates specified in division 1367
~~(E)(D)(2)(a) or (c)~~ of this section, at no time shall the 1368
additional penalty amount assessed under division ~~(E)(D)(2)(a) or~~ 1369
~~(c)~~ of this section exceed fifteen per cent of the premium due. 1370

(4) If an employer recognized by the administrator as a 1371
professional employer organization fails to make a timely payment 1372
of premiums or assessments as required by section 4123.35 of the 1373
Revised Code, the administrator shall revoke the professional 1374
employer organization's registration pursuant to section 4125.06 1375
of the Revised Code. 1376

(5) An employer may appeal a late fee penalty or additional 1377
penalty to an adjudicating committee pursuant to section 4123.291 1378
of the Revised Code. 1379

~~For purposes of division (E) of this section, "prime interest~~ 1380
~~rate" means the average bank prime rate, and the administrator~~ 1381
~~shall determine the prime interest rate in the same manner as a~~ 1382
~~county auditor determines the average bank prime rate under~~ 1383
~~section 929.02 of the Revised Code.~~ 1384

~~(5)(6) If the employer files an appropriate payroll report,~~ 1385
~~within the time provided by law or within the time specified by~~ 1386
~~the administrator if the period for which the employer paid an~~ 1387

~~estimated premium is less than eight months~~, the employer shall 1388
not be in default and division ~~(E)~~(D)(2) of this section shall not 1389
apply if the employer pays the premiums within fifteen days after 1390
being first notified by the administrator of the amount due. 1391

~~(6)~~(7) Any deficiencies in the amounts of the premium 1392
security deposit paid by an employer ~~for any period~~ prior to July 1393
1, 2015, shall be subject to an interest charge of six per cent 1394
per annum from the date the premium obligation is incurred. In 1395
determining the interest due on deficiencies in premium security 1396
deposit payments, a charge in each case shall be made against the 1397
employer in an amount equal to interest at the rate of six per 1398
cent per annum on the premium security deposit due but remaining 1399
unpaid sixty days after notice by the administrator. 1400

~~(7)~~(8) Any interest charges or penalties provided for in 1401
divisions ~~(E)~~(D)(2) and ~~(6)~~(7) of this section shall be credited 1402
to the employer's account for rating purposes in the same manner 1403
as premiums. 1404

~~(F)~~(E) A rule providing that each employer, on the occasion 1405
of instituting coverage under this chapter for an effective date 1406
prior to July 1, 2015, shall submit a premium security deposit. 1407
The deposit shall be calculated equivalent to thirty per cent of 1408
the semiannual premium obligation of the employer based upon the 1409
employer's estimated expenditure for wages for the ensuing 1410
six-month period plus thirty per cent of an additional adjustment 1411
period of two months but only up to a maximum of one thousand 1412
dollars and not less than ten dollars. The administrator shall 1413
review the security deposit of every employer who has submitted a 1414
deposit which is less than the one-thousand-dollar maximum. The 1415
administrator may require any such employer to submit additional 1416
money up to the maximum of one thousand dollars that, in the 1417
administrator's opinion, reflects the employer's current payroll 1418
expenditure for an eight-month period. 1419

~~(G)~~(F) A rule providing that each employer, on the occasion 1420
of instituting coverage under this chapter, shall submit an 1421
application fee and an application for coverage that completely 1422
provides all of the information required for the administrator to 1423
establish coverage for that employer, and that the employer's 1424
failure to pay the application fee or to provide all of the 1425
information ~~completely~~ requested on the application may be grounds 1426
for the administrator to deny coverage for that employer. 1427

~~(H)~~(G) A rule providing that, in addition to any other 1428
remedies permitted in this chapter, the administrator may 1429
discontinue an employer's coverage if the employer fails to pay 1430
the premium due on or before the premium's due date. 1431

~~(I)~~(H) A rule providing that if after a final adjudication it 1432
is determined that an employer has failed to pay an obligation, 1433
billing, account, or assessment that is greater than one thousand 1434
dollars on or before its due date, the administrator may 1435
discontinue the employer's coverage in addition to any other 1436
remedies permitted in this chapter, and that the administrator 1437
shall not discontinue an employer's coverage pursuant to this 1438
division prior to a final adjudication regarding the employer's 1439
failure to pay such obligation, billing, account, or assessment on 1440
or before its due date. 1441

~~(J)~~(I) As used in divisions (G) and (H) ~~and (I)~~ of this 1442
section: 1443

(1) "Employer" has the same meaning as in ~~division (B) of~~ 1444
section 4123.01 of the Revised Code except that "employer" does 1445
not include the state, a state hospital, or a state university or 1446
college. 1447

(2) "State university or college" has the same meaning as in 1448
section 3345.12 of the Revised Code and also includes the Ohio 1449
agricultural research and development center and OSU extension. 1450

(3) "State hospital" means the Ohio state university hospital 1451
and its ancillary facilities and the medical university of Ohio at 1452
Toledo hospital. 1453

Sec. 4123.322. (A) ~~Notwithstanding any provision to the~~ 1454
~~contrary in section 4123.32 or 4123.41 of the Revised Code, the~~ 1455
The administrator of workers' compensation, with the advice and 1456
consent of the bureau of workers' compensation board of directors, 1457
~~may shall~~ adopt rules with respect to the collection, maintenance, 1458
~~and disbursements of the state insurance fund to provide for a~~ 1459
~~system of prospective payment of workers' compensation premiums.~~ 1460
~~If the administrator elects to adopt rules~~ establishing a 1461
prospective payment system, ~~those rules~~ which shall include all of 1462
the following: 1463

(1) ~~A requirement that, notwithstanding section 4123.26 of~~ 1464
~~the Revised Code, on or before the thirtieth day of June of each~~ 1465
~~year, or such other date as the administrator establishes, every~~ 1466
~~employer mentioned in division (B)(2) of section 4123.01 of the~~ 1467
~~Revised Code shall file with the bureau of workers' compensation~~ 1468
~~an estimate of the employer's payroll for the immediately~~ 1469
~~following twelve month period or other period as the administrator~~ 1470
~~establishes;~~ 1471

~~(2)~~ A requirement that upon an initial application for 1472
coverage, ~~an a private~~ employer mentioned in ~~division (B)(2) of~~ 1473
~~section 4123.01 of the Revised Code~~ shall file with the 1474
application an estimate of the employer's payroll for the 1475
~~unexpired period from the date of application to the period ending~~ 1476
~~on the following thirtieth day of June or other date as~~ 1477
~~established by the administrator~~ determines pursuant to ~~division~~ 1478
~~(A)(1) of this section~~ rules the administrator adopts, and shall 1479
pay the amount the administrator determines by rule in order to 1480
establish coverage for the employer as described in division 1481

(B)(12) of section 4121.121 of the Revised Code; 1482

~~(3) A requirement that, notwithstanding section 4123.26 or 4123.41 of the Revised Code, on or before the first day of January of each year, or such other date as the administrator establishes, every employer mentioned in division (B)(1) of section 4123.01 of the Revised Code, except for a state agency or a state university or college, shall file with the bureau an estimate of the employer's payroll for the immediately following twelve month period or other period as the administrator establishes;~~ 1483
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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;~~ 1491
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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;~~ 1503
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1505

~~(6)(3) A requirement that an employer complete periodic payroll reports of actual expenditures for previous coverage periods for reconciliation with estimated payroll reports;~~ 1506
1507
1508

~~(7)(4) The assessment of a penalty for late payroll reconciliation reports and for late payment of any reconciliation premium;~~ 1509
1510
1511

~~(8)(5) The establishment of a transition period during which~~ 1512

time the bureau shall determine the adequacy of existing premium 1513
security deposits of employers, the establishment of provisions 1514
for additional premium payments during that transition, the 1515
provision of a credit of those deposits toward the first premium 1516
due from an employer under the rules adopted under divisions 1517
(A)(1) to ~~(7)~~(4) of this section, and the establishment of 1518
penalties for late payment or failure to comply with the rules. 1519

(B) For purposes of division (A)~~(6)~~(3) of this section, an 1520
employer shall make timely payment of any premium owed when actual 1521
payroll expenditures exceeded estimated payroll, and the employer 1522
shall receive premium credit when the estimated payroll exceeded 1523
the actual payroll. 1524

(C) For purposes of division (A)~~(7)~~(4) of this section, if 1525
the employer's actual payroll substantially exceeds the estimated 1526
payroll, the administrator may assess additional penalties 1527
specified in rules the administrator adopts on the reconciliation 1528
premium. 1529

(D) As used in this section, "state university or college" 1530
has the same meaning as in section 4123.32 of the Revised Code. 1531

Sec. 4123.323. (A) Except as provided in division (B) of this 1532
section, a payment required under this chapter or Chapter 4121. of 1533
the Revised Code, including a payment due for purposes of 1534
continuing coverage, is due on the date specified in those 1535
chapters, unless otherwise provided in a rule adopted by the 1536
administrator of workers' compensation, with the advice and 1537
consent of the bureau of workers' compensation board of directors. 1538

(B) For purposes of collection referrals to the attorney 1539
general under section 131.02 of the Revised Code, a premium 1540
payment is due thirty days after the date upon which a private 1541
employer must submit the payroll report for the corresponding 1542
policy year pursuant to section 4123.26 of the Revised Code or the 1543

date upon which a public employer must submit the payroll report 1544
for the corresponding policy year pursuant to section 4123.41 of 1545
the Revised Code, as applicable. 1546

Sec. 4123.34. It shall be the duty of the bureau of workers' 1547
compensation board of directors and the administrator of workers' 1548
compensation to safeguard and maintain the solvency of the state 1549
insurance fund and all other funds specified in this chapter and 1550
Chapters 4121., 4127., and 4131. of the Revised Code. The 1551
administrator, in the exercise of the powers and discretion 1552
conferred upon the administrator in section 4123.29 of the Revised 1553
Code, shall fix and maintain, with the advice and consent of the 1554
board, for each class of occupation or industry, the lowest 1555
possible rates of premium consistent with the maintenance of a 1556
solvent state insurance fund and the creation and maintenance of a 1557
reasonable surplus, after the payment of legitimate claims for 1558
injury, occupational disease, and death that the administrator 1559
authorizes to be paid from the state insurance fund for the 1560
benefit of injured, diseased, and the dependents of killed 1561
employees. In establishing rates, the administrator shall take 1562
into account the necessity of ensuring sufficient money is set 1563
aside in the premium payment security fund to cover any defaults 1564
in premium obligations. The administrator shall observe all of the 1565
following requirements in fixing the rates of premium for the 1566
risks of occupations or industries: 1567

(A) The administrator shall keep an accurate account of the 1568
money paid in premiums by each of the several classes of 1569
occupations or industries, and the losses on account of injuries, 1570
occupational disease, and death of employees thereof, and also 1571
keep an account of the money received from each individual 1572
employer and the amount of losses incurred against the state 1573
insurance fund on account of injuries, occupational disease, and 1574
death of the employees of the employer. 1575

(B) A portion of the money paid into the state insurance fund 1576
shall be set aside for the creation of a surplus fund account 1577
within the state insurance fund. Any references in this chapter or 1578
in Chapter 4121., 4125., 4127., or 4131. of the Revised Code to 1579
the surplus fund, the surplus created in this division, the 1580
statutory surplus fund, or the statutory surplus of the state 1581
insurance fund are hereby deemed to be references to the surplus 1582
fund account. The administrator may transfer the portion of the 1583
state insurance fund to the surplus fund account as the 1584
administrator determines is necessary to satisfy the needs of the 1585
surplus fund account and to guarantee the solvency of the state 1586
insurance fund and the surplus fund account. In addition to all 1587
statutory authority under this chapter and Chapter 4121. of the 1588
Revised Code, the administrator has discretionary and contingency 1589
authority to make charges to the surplus fund account. The 1590
administrator shall account for all charges, whether statutory, 1591
discretionary, or contingency, that the administrator may make to 1592
the surplus fund account. A revision of basic rates shall be made 1593
annually on the first day of July. 1594

Notwithstanding any provision of the law to the contrary, one 1595
hundred eighty days after the effective date on which 1596
self-insuring employers first may elect under division (D) of 1597
section 4121.66 of the Revised Code to directly pay for 1598
rehabilitation expenses, the administrator shall calculate the 1599
deficit, if any, in the portion of the surplus fund account that 1600
is used for reimbursement to self-insuring employers for all 1601
expenses other than handicapped reimbursement under section 1602
4123.343 of the Revised Code. The administrator, from time to 1603
time, may determine whether the surplus fund account has such a 1604
deficit and may assess all self-insuring employers who 1605
participated in the portion of the surplus fund account during the 1606
accrual of the deficit and who during that time period have not 1607
made the election under division (D) of section 4121.66 of the 1608

Revised Code the amount the administrator determines necessary to 1609
reduce the deficit. 1610

~~Revisions For policy years commencing prior to July 1, 2016,~~ 1611
~~revisions of basic rates for private employers shall be in~~ 1612
accordance with the oldest four of the last five calendar years of 1613
the combined accident and occupational disease experience of the 1614
administrator in the administration of this chapter, as shown by 1615
the accounts kept as provided in this section,~~excluding. For a~~ 1616
~~policy year commencing on or after July 1, 2016, revisions of~~ 1617
~~basic rates for private employers shall be in accordance with the~~ 1618
~~oldest four of the last five policy years combined accident and~~ 1619
~~occupational disease experience of the administrator in the~~ 1620
~~administration of this chapter, as shown by the accounts kept as~~ 1621
~~provided in this section.~~ 1622

Revisions of basic rates for public employers shall be in 1623
accordance with the oldest four of the last five policy years of 1624
the combined accident and occupational disease experience of the 1625
administrator in the administration of this chapter, as shown by 1626
the accounts kept as provided in this section. 1627

In revising basic rates, the administrator shall exclude the 1628
experience of employers that are no longer active if the 1629
administrator determines that the inclusion of those employers 1630
would have a significant negative impact on the remainder of the 1631
employers in a particular manual classification;~~and the. The~~ 1632
administrator shall adopt rules, with the advice and consent of 1633
the board, governing rate revisions, the object of which shall be 1634
to make an equitable distribution of losses among the several 1635
classes of occupation or industry, which rules shall be general in 1636
their application. 1637

(C) The administrator may apply that form of rating system 1638
that the administrator finds is best calculated to merit rate or 1639
individually rate the risk more equitably, predicated upon the 1640

basis of its individual industrial accident and occupational 1641
disease experience, and may encourage and stimulate accident 1642
prevention. The administrator shall develop fixed and equitable 1643
rules controlling the rating system, which rules shall conserve to 1644
each risk the basic principles of workers' compensation insurance. 1645

(D) The administrator, from the money paid into the state 1646
insurance fund, shall set aside into an account of the state 1647
insurance fund titled a premium payment security fund sufficient 1648
money to pay for any premiums due from an employer and uncollected 1649
~~that are in excess of the employer's premium security deposit.~~ 1650

~~The fund shall be in the custody of the treasurer of state.~~ 1651
~~All investment earnings of the fund shall be deposited in the~~ 1652
~~fund. Disbursements from the fund shall be made by the bureau of~~ 1653
~~workers' compensation upon order of the administrator to the state~~ 1654
~~insurance fund.~~ The use of the moneys held by the premium payment 1655
security fund account is restricted to reimbursement to the state 1656
insurance fund of premiums due and uncollected ~~in excess of an~~ 1657
~~employer's premium security deposit. The moneys constituting the~~ 1658
~~premium payment security fund shall be maintained without regard~~ 1659
~~to or reliance upon any other fund. This section does not prevent~~ 1660
~~the deposit or investment of the premium payment security fund~~ 1661
~~with any other fund created by this chapter, but the premium~~ 1662
~~payment security fund is separate and distinct for every other~~ 1663
~~purpose and a strict accounting thereof shall be maintained.~~ 1664

(E) The administrator may grant discounts on premium rates 1665
for employers who meet either of the following requirements: 1666

(1) Have not incurred a compensable injury for one year or 1667
more and who maintain an employee safety committee or similar 1668
organization or make periodic safety inspections of the workplace. 1669

(2) Successfully complete a loss prevention program 1670
prescribed by the superintendent of the division of safety and 1671

hygiene and conducted by the division or by any other person 1672
approved by the superintendent. 1673

(F)(1) In determining the premium rates for the construction 1674
industry the administrator shall calculate the employers' premiums 1675
based upon the actual remuneration construction industry employees 1676
receive from construction industry employers, provided that the 1677
amount of remuneration the administrator uses in calculating the 1678
premiums shall not exceed an average weekly wage equal to one 1679
hundred fifty per cent of the statewide average weekly wage as 1680
defined in division (C) of section 4123.62 of the Revised Code. 1681

(2) Division (F)(1) of this section shall not be construed as 1682
affecting the manner in which benefits to a claimant are awarded 1683
under this chapter. 1684

(3) As used in division (F) of this section, "construction 1685
industry" includes any activity performed in connection with the 1686
erection, alteration, repair, replacement, renovation, 1687
installation, or demolition of any building, structure, highway, 1688
or bridge. 1689

(G) The administrator ~~of workers' compensation~~ shall not 1690
place a limit on the length of time that an employer may 1691
participate in the bureau of workers' compensation drug free 1692
workplace and workplace safety programs. 1693

Sec. 4123.35. (A) Except as provided in this section, and 1694
until the policy year commencing July 1, 2015, every private 1695
employer mentioned in division (B)(2) of section 4123.01 of the 1696
Revised Code, and every publicly owned utility shall pay 1697
semiannually in the months of January and July into the state 1698
insurance fund the amount of annual premium the administrator of 1699
workers' compensation fixes for the employment or occupation of 1700
the employer, the amount of which premium to be paid by each 1701
employer to be determined by the classifications, rules, and rates 1702

made and published by the administrator. The employer shall pay 1703
semiannually a further sum of money into the state insurance fund 1704
as may be ascertained to be due from the employer by applying the 1705
rules of the administrator, ~~and a.~~ 1706

Except as otherwise provided in this section, for a policy 1707
year commencing on or after July 1, 2015, every private employer 1708
and every publicly owned utility shall pay annually in the month 1709
of June immediately preceding the policy year into the state 1710
insurance fund the amount of estimated annual premium the 1711
administrator fixes for the employment or occupation of the 1712
employer, the amount of which estimated premium to be paid by each 1713
employer to be determined by the classifications, rules, and rates 1714
made and published by the administrator. The employer shall pay a 1715
further sum of money into the state insurance fund as may be 1716
ascertained to be due from the employer by applying the rules of 1717
the administrator. Upon receipt of the payroll report required by 1718
division (B) of section 4123.26 of the Revised Code, the 1719
administrator shall adjust the premium and assessments charged to 1720
each employer for the difference between estimated gross payrolls 1721
and actual gross payrolls, and any balance due to the 1722
administrator shall be immediately paid by the employer. Any 1723
balance due the employer shall be credited to the employer's 1724
account. 1725

For a policy year commencing on or after July 1, 2015, each 1726
employer that is recognized by the administrator as a professional 1727
employer organization shall pay monthly into the state insurance 1728
fund the amount of premium the administrator fixes for the 1729
employer for the prior month based on the actual payroll of the 1730
employer reported pursuant to division (C) of section 4123.26 of 1731
the Revised Code. 1732

A receipt ~~or certificate~~ certifying that payment has been 1733
made, ~~along with a written notice as is required in section 1734~~

~~4123.54 of the Revised Code, shall be mailed immediately issued to~~ 1735
the employer by the bureau of workers' compensation. The receipt 1736
~~or certificate~~ is prima-facie evidence of the payment of the 1737
premium, ~~and the proper.~~ The administrator shall provide each 1738
employer written proof of workers' compensation coverage as is 1739
required in section 4123.83 of the Revised Code. Proper posting of 1740
the notice constitutes the employer's compliance with the notice 1741
requirement mandated in section ~~4123.54~~ 4123.83 of the Revised 1742
Code. 1743

~~If the administrator adopts rules to establish a prospective~~ 1744
~~payment of premium under section 4123.322 of the Revised Code,~~ 1745
~~every employer mentioned in division (B)(2) of section 4123.01 of~~ 1746
~~the Revised Code and every publicly owned utility shall pay into~~ 1747
~~the state insurance fund the amount of premium the administrator~~ 1748
~~fixes for the employment or occupation of the employer, the amount~~ 1749
~~of which premium to be paid by each employer to be determined by~~ 1750
~~the classifications, rules, and rates made and published by the~~ 1751
~~administrator and based upon the estimates and reconciliations~~ 1752
~~required by the rules the administrator adopts under section~~ 1753
~~4123.322 of the Revised Code.~~ 1754

The bureau of ~~workers' compensation~~ shall verify with the 1755
secretary of state the existence of all corporations and 1756
organizations making application for workers' compensation 1757
coverage and shall require every such application to include the 1758
employer's federal identification number. 1759

An A private employer ~~as defined in division (B)(2) of~~ 1760
~~section 4123.01 of the Revised Code~~ who has contracted with a 1761
subcontractor is liable for the unpaid premium due from any 1762
subcontractor with respect to that part of the payroll of the 1763
subcontractor that is for work performed pursuant to the contract 1764
with the employer. 1765

Division (A) of this section providing for the payment of 1766

premiums semiannually does not apply to any employer who was a 1767
subscriber to the state insurance fund prior to January 1, 1914, 1768
or, until July 1, 2015, who may first become a subscriber to the 1769
fund in any month other than January or July. Instead, the 1770
semiannual premiums shall be paid by those employers from time to 1771
time upon the expiration of the respective periods for which 1772
payments into the fund have been made by them. After July 1, 2015, 1773
an employer who first becomes a subscriber to the fund on any day 1774
other than the first day of July shall pay premiums according to 1775
rules adopted by the administrator, with the advice and consent of 1776
the bureau of workers' compensation board of directors, for the 1777
remainder of the policy year for which the coverage is effective. 1778

The administrator, with the advice and consent of the board, 1779
shall adopt rules to permit employers to make periodic payments of 1780
the ~~semiannual~~ premium and assessment due under this division. The 1781
rules shall include provisions for the assessment of interest 1782
charges, where appropriate, and for the assessment of penalties 1783
when an employer fails to make timely premium payments. The 1784
administrator, in the rules the administrator adopts, may set an 1785
administrative fee for these periodic payments. An employer who 1786
timely pays the amounts due under this division is entitled to all 1787
of the benefits and protections of this chapter. Upon receipt of 1788
payment, the bureau ~~immediately~~ shall ~~mail~~ issue a receipt ~~or~~ 1789
~~eertificate~~ to the employer certifying that payment has been made, 1790
which receipt is prima-facie evidence of payment. Workers' 1791
compensation coverage under this chapter continues uninterrupted 1792
upon timely receipt of payment under this division. 1793

Every public employer, except public employers that are 1794
self-insuring employers under this section, shall comply with 1795
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 1796
regard to the contribution of moneys to the public insurance fund. 1797

(B) Employers who will abide by the rules of the 1798

administrator and who may be of sufficient financial ability to 1799
render certain the payment of compensation to injured employees or 1800
the dependents of killed employees, and the furnishing of medical, 1801
surgical, nursing, and hospital attention and services and 1802
medicines, and funeral expenses, equal to or greater than is 1803
provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 1804
to 4123.67 of the Revised Code, and who do not desire to insure 1805
the payment thereof or indemnify themselves against loss sustained 1806
by the direct payment thereof, upon a finding of such facts by the 1807
administrator, may be granted the privilege to pay individually 1808
compensation, and furnish medical, surgical, nursing, and hospital 1809
services and attention and funeral expenses directly to injured 1810
employees or the dependents of killed employees, thereby being 1811
granted status as a self-insuring employer. The administrator may 1812
charge employers who apply for the status as a self-insuring 1813
employer a reasonable application fee to cover the bureau's costs 1814
in connection with processing and making a determination with 1815
respect to an application. 1816

All employers granted status as self-insuring employers shall 1817
demonstrate sufficient financial and administrative ability to 1818
assure that all obligations under this section are promptly met. 1819
The administrator shall deny the privilege where the employer is 1820
unable to demonstrate the employer's ability to promptly meet all 1821
the obligations imposed on the employer by this section. 1822

(1) The administrator shall consider, but is not limited to, 1823
the following factors, where applicable, in determining the 1824
employer's ability to meet all of the obligations imposed on the 1825
employer by this section: 1826

(a) The employer employs a minimum of five hundred employees 1827
in this state; 1828

(b) The employer has operated in this state for a minimum of 1829
two years, provided that an employer who has purchased, acquired, 1830

or otherwise succeeded to the operation of a business, or any part thereof, situated in this state that has operated for at least two years in this state, also shall qualify;

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

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

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

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

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

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

The administrator may waive the requirements of divisions (B)(1)(a) and (b) of this section and the requirement of division (B)(1)(e) of this section that the financial records, documents, and data be certified by a certified public accountant. The administrator shall adopt rules establishing the criteria that an

employer shall meet in order for the administrator to waive the 1862
requirements of divisions (B)(1)(a), (b), and (e) of this section. 1863
Such rules may require additional security of that employer 1864
pursuant to division (E) of section 4123.351 of the Revised Code. 1865

The administrator shall not grant the status of self-insuring 1866
employer to the state, except that the administrator may grant the 1867
status of self-insuring employer to a state institution of higher 1868
education, including its hospitals, that meets the requirements of 1869
division (B)(2) of this section. 1870

(2) When considering the application of a public employer, 1871
except for a board of county commissioners described in division 1872
(G) of section 4123.01 of the Revised Code, a board of a county 1873
hospital, or a publicly owned utility, the administrator shall 1874
verify that the public employer satisfies all of the following 1875
requirements as the requirements apply to that public employer: 1876

(a) For the two-year period preceding application under this 1877
section, the public employer has maintained an unvoted debt 1878
capacity equal to at least two times the amount of the current 1879
annual premium established by the administrator under this chapter 1880
for that public employer for the year immediately preceding the 1881
year in which the public employer makes application under this 1882
section. 1883

(b) For each of the two fiscal years preceding application 1884
under this section, the unreserved and undesignated year-end fund 1885
balance in the public employer's general fund is equal to at least 1886
five per cent of the public employer's general fund revenues for 1887
the fiscal year computed in accordance with generally accepted 1888
accounting principles. 1889

(c) For the five-year period preceding application under this 1890
section, the public employer, to the extent applicable, has 1891
complied fully with the continuing disclosure requirements 1892

established in rules adopted by the United States securities and 1893
exchange commission under 17 C.F.R. 240.15c 2-12. 1894

(d) For the five-year period preceding application under this 1895
section, the public employer has not had its local government fund 1896
distribution withheld on account of the public employer being 1897
indebted or otherwise obligated to the state. 1898

(e) For the five-year period preceding application under this 1899
section, the public employer has not been under a fiscal watch or 1900
fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 1901
of the Revised Code. 1902

(f) For the public employer's fiscal year preceding 1903
application under this section, the public employer has obtained 1904
an annual financial audit as required under section 117.10 of the 1905
Revised Code, which has been released by the auditor of state 1906
within seven months after the end of the public employer's fiscal 1907
year. 1908

(g) On the date of application, the public employer holds a 1909
debt rating of Aa3 or higher according to Moody's investors 1910
service, inc., or a comparable rating by an independent rating 1911
agency similar to Moody's investors service, inc. 1912

(h) The public employer agrees to generate an annual 1913
accumulating book reserve in its financial statements reflecting 1914
an actuarially generated reserve adequate to pay projected claims 1915
under this chapter for the applicable period of time, as 1916
determined by the administrator. 1917

(i) For a public employer that is a hospital, the public 1918
employer shall submit audited financial statements showing the 1919
hospital's overall liquidity characteristics, and the 1920
administrator shall determine, on an individual basis, whether the 1921
public employer satisfies liquidity standards equivalent to the 1922
liquidity standards of other public employers. 1923

(j) Any additional criteria that the administrator adopts by 1924
rule pursuant to division (E) of this section. 1925

The administrator may adopt rules establishing the criteria 1926
that a public employer shall satisfy in order for the 1927
administrator to waive any of the requirements listed in divisions 1928
(B)(2)(a) to (j) of this section. The rules may require additional 1929
security from that employer pursuant to division (E) of section 1930
4123.351 of the Revised Code. The administrator shall not waive 1931
any of the requirements listed in divisions (B)(2)(a) to (j) of 1932
this section for a public employer who does not satisfy the 1933
criteria established in the rules the administrator adopts. 1934

(C) A board of county commissioners described in division (G) 1935
of section 4123.01 of the Revised Code, as an employer, that will 1936
abide by the rules of the administrator and that may be of 1937
sufficient financial ability to render certain the payment of 1938
compensation to injured employees or the dependents of killed 1939
employees, and the furnishing of medical, surgical, nursing, and 1940
hospital attention and services and medicines, and funeral 1941
expenses, equal to or greater than is provided for in sections 1942
4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised 1943
Code, and that does not desire to insure the payment thereof or 1944
indemnify itself against loss sustained by the direct payment 1945
thereof, upon a finding of such facts by the administrator, may be 1946
granted the privilege to pay individually compensation, and 1947
furnish medical, surgical, nursing, and hospital services and 1948
attention and funeral expenses directly to injured employees or 1949
the dependents of killed employees, thereby being granted status 1950
as a self-insuring employer. The administrator may charge a board 1951
of county commissioners described in division (G) of section 1952
4123.01 of the Revised Code that applies for the status as a 1953
self-insuring employer a reasonable application fee to cover the 1954
bureau's costs in connection with processing and making a 1955

determination with respect to an application. All employers 1956
granted such status shall demonstrate sufficient financial and 1957
administrative ability to assure that all obligations under this 1958
section are promptly met. The administrator shall deny the 1959
privilege where the employer is unable to demonstrate the 1960
employer's ability to promptly meet all the obligations imposed on 1961
the employer by this section. The administrator shall consider, 1962
but is not limited to, the following factors, where applicable, in 1963
determining the employer's ability to meet all of the obligations 1964
imposed on the board as an employer by this section: 1965

(1) The board as an employer employs a minimum of five 1966
hundred employees in this state; 1967

(2) The board has operated in this state for a minimum of two 1968
years; 1969

(3) Where the board previously contributed to the state 1970
insurance fund or is a successor employer as defined by bureau 1971
rules, the amount of the buyout, as defined by bureau rules; 1972

(4) The sufficiency of the board's assets located in this 1973
state to insure the board's solvency in paying compensation 1974
directly; 1975

(5) The financial records, documents, and data, certified by 1976
a certified public accountant, necessary to provide the board's 1977
full financial disclosure. The records, documents, and data 1978
include, but are not limited to, balance sheets and profit and 1979
loss history for the current year and previous four years. 1980

(6) The board's organizational plan for the administration of 1981
the workers' compensation law; 1982

(7) The board's proposed plan to inform employees of the 1983
proposed self-insurance, the procedures the board will follow as a 1984
self-insuring employer, and the employees' rights to compensation 1985
and benefits; 1986

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

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

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

(E) In addition to the requirements of this section, the administrator shall make and publish rules governing the manner of making application and the nature and extent of the proof required to justify a finding of fact by the administrator as to granting the status of a self-insuring employer, which rules shall be general in their application, one of which rules shall provide

that all self-insuring employers shall pay into the state 2019
insurance fund such amounts as are required to be credited to the 2020
surplus fund in division (B) of section 4123.34 of the Revised 2021
Code. The administrator may adopt rules establishing requirements 2022
in addition to the requirements described in division (B)(2) of 2023
this section that a public employer shall meet in order to qualify 2024
for self-insuring status. 2025

Employers shall secure directly from the bureau central 2026
offices application forms upon which the bureau shall stamp a 2027
designating number. Prior to submission of an application, an 2028
employer shall make available to the bureau, and the bureau shall 2029
review, the information described in division (B)(1) of this 2030
section, and public employers shall make available, and the bureau 2031
shall review, the information necessary to verify whether the 2032
public employer meets the requirements listed in division (B)(2) 2033
of this section. An employer shall file the completed application 2034
forms with an application fee, which shall cover the costs of 2035
processing the application, as established by the administrator, 2036
by rule, with the bureau at least ninety days prior to the 2037
effective date of the employer's new status as a self-insuring 2038
employer. The application form is not deemed complete until all 2039
the required information is attached thereto. The bureau shall 2040
only accept applications that contain the required information. 2041

(F) The bureau shall review completed applications within a 2042
reasonable time. If the bureau determines to grant an employer the 2043
status as a self-insuring employer, the bureau shall issue a 2044
statement, containing its findings of fact, that is prepared by 2045
the bureau and signed by the administrator. If the bureau 2046
determines not to grant the status as a self-insuring employer, 2047
the bureau shall notify the employer of the determination and 2048
require the employer to continue to pay its full premium into the 2049
state insurance fund. The administrator also shall adopt rules 2050

establishing a minimum level of performance as a criterion for 2051
granting and maintaining the status as a self-insuring employer 2052
and fixing time limits beyond which failure of the self-insuring 2053
employer to provide for the necessary medical examinations and 2054
evaluations may not delay a decision on a claim. 2055

(G) The administrator shall adopt rules setting forth 2056
procedures for auditing the program of self-insuring employers. 2057
The bureau shall conduct the audit upon a random basis or whenever 2058
the bureau has grounds for believing that a self-insuring employer 2059
is not in full compliance with bureau rules or this chapter. 2060

The administrator shall monitor the programs conducted by 2061
self-insuring employers, to ensure compliance with bureau 2062
requirements and for that purpose, shall develop and issue to 2063
self-insuring employers standardized forms for use by the 2064
self-insuring employer in all aspects of the self-insuring 2065
employers' direct compensation program and for reporting of 2066
information to the bureau. 2067

The bureau shall receive and transmit to the self-insuring 2068
employer all complaints concerning any self-insuring employer. In 2069
the case of a complaint against a self-insuring employer, the 2070
administrator shall handle the complaint through the 2071
self-insurance division of the bureau. The bureau shall maintain a 2072
file by employer of all complaints received that relate to the 2073
employer. The bureau shall evaluate each complaint and take 2074
appropriate action. 2075

The administrator shall adopt as a rule a prohibition against 2076
any self-insuring employer from harassing, dismissing, or 2077
otherwise disciplining any employee making a complaint, which rule 2078
shall provide for a financial penalty to be levied by the 2079
administrator payable by the offending self-insuring employer. 2080

(H) For the purpose of making determinations as to whether to 2081

grant status as a self-insuring employer, the administrator may 2082
subscribe to and pay for a credit reporting service that offers 2083
financial and other business information about individual 2084
employers. The costs in connection with the bureau's subscription 2085
or individual reports from the service about an applicant may be 2086
included in the application fee charged employers under this 2087
section. 2088

(I) The administrator, notwithstanding other provisions of 2089
this chapter, may permit a self-insuring employer to resume 2090
payment of premiums to the state insurance fund with appropriate 2091
credit modifications to the employer's basic premium rate as such 2092
rate is determined pursuant to section 4123.29 of the Revised 2093
Code. 2094

(J) On the first day of July of each year, the administrator 2095
shall calculate separately each self-insuring employer's 2096
assessments for the safety and hygiene fund, administrative costs 2097
pursuant to section 4123.342 of the Revised Code, and for the 2098
portion of the surplus fund under division (B) of section 4123.34 2099
of the Revised Code that is not used for handicapped 2100
reimbursement, on the basis of the paid compensation attributable 2101
to the individual self-insuring employer according to the 2102
following calculation: 2103

(1) The total assessment against all self-insuring employers 2104
as a class for each fund and for the administrative costs for the 2105
year that the assessment is being made, as determined by the 2106
administrator, divided by the total amount of paid compensation 2107
for the previous calendar year attributable to all amenable 2108
self-insuring employers; 2109

(2) Multiply the quotient in division (J)(1) of this section 2110
by the total amount of paid compensation for the previous calendar 2111
year that is attributable to the individual self-insuring employer 2112
for whom the assessment is being determined. Each self-insuring 2113

employer shall pay the assessment that results from this 2114
calculation, unless the assessment resulting from this calculation 2115
falls below a minimum assessment, which minimum assessment the 2116
administrator shall determine on the first day of July of each 2117
year with the advice and consent of the bureau of workers' 2118
compensation board of directors, in which event, the self-insuring 2119
employer shall pay the minimum assessment. 2120

In determining the total amount due for the total assessment 2121
against all self-insuring employers as a class for each fund and 2122
the administrative assessment, the administrator shall reduce 2123
proportionately the total for each fund and assessment by the 2124
amount of money in the self-insurance assessment fund as of the 2125
date of the computation of the assessment. 2126

The administrator shall calculate the assessment for the 2127
portion of the surplus fund under division (B) of section 4123.34 2128
of the Revised Code that is used for handicapped reimbursement in 2129
the same manner as set forth in divisions (J)(1) and (2) of this 2130
section except that the administrator shall calculate the total 2131
assessment for this portion of the surplus fund only on the basis 2132
of those self-insuring employers that retain participation in the 2133
handicapped reimbursement program and the individual self-insuring 2134
employer's proportion of paid compensation shall be calculated 2135
only for those self-insuring employers who retain participation in 2136
the handicapped reimbursement program. The administrator, as the 2137
administrator determines appropriate, may determine the total 2138
assessment for the handicapped portion of the surplus fund in 2139
accordance with sound actuarial principles. 2140

The administrator shall calculate the assessment for the 2141
portion of the surplus fund under division (B) of section 4123.34 2142
of the Revised Code that under division (D) of section 4121.66 of 2143
the Revised Code is used for rehabilitation costs in the same 2144
manner as set forth in divisions (J)(1) and (2) of this section, 2145

except that the administrator shall calculate the total assessment 2146
for this portion of the surplus fund only on the basis of those 2147
self-insuring employers who have not made the election to make 2148
payments directly under division (D) of section 4121.66 of the 2149
Revised Code and an individual self-insuring employer's proportion 2150
of paid compensation only for those self-insuring employers who 2151
have not made that election. 2152

The administrator shall calculate the assessment for the 2153
portion of the surplus fund under division (B) of section 4123.34 2154
of the Revised Code that is used for reimbursement to a 2155
self-insuring employer under division (H) of section 4123.512 of 2156
the Revised Code in the same manner as set forth in divisions 2157
(J)(1) and (2) of this section except that the administrator shall 2158
calculate the total assessment for this portion of the surplus 2159
fund only on the basis of those self-insuring employers that 2160
retain participation in reimbursement to the self-insuring 2161
employer under division (H) of section 4123.512 of the Revised 2162
Code and the individual self-insuring employer's proportion of 2163
paid compensation shall be calculated only for those self-insuring 2164
employers who retain participation in reimbursement to the 2165
self-insuring employer under division (H) of section 4123.512 of 2166
the Revised Code. 2167

An employer who no longer is a self-insuring employer in this 2168
state or who no longer is operating in this state, shall continue 2169
to pay assessments for administrative costs and for the portion of 2170
the surplus fund under division (B) of section 4123.34 of the 2171
Revised Code that is not used for handicapped reimbursement, based 2172
upon paid compensation attributable to claims that occurred while 2173
the employer was a self-insuring employer within this state. 2174

(K) There is hereby created in the state treasury the 2175
self-insurance assessment fund. All investment earnings of the 2176
fund shall be deposited in the fund. The administrator shall use 2177

the money in the self-insurance assessment fund only for 2178
administrative costs as specified in section 4123.341 of the 2179
Revised Code. 2180

(L) Every self-insuring employer shall certify, in affidavit 2181
form subject to the penalty for perjury, to the bureau the amount 2182
of the self-insuring employer's paid compensation for the previous 2183
calendar year. In reporting paid compensation paid for the 2184
previous year, a self-insuring employer shall exclude from the 2185
total amount of paid compensation any reimbursement the 2186
self-insuring employer receives in the previous calendar year from 2187
the surplus fund pursuant to section 4123.512 of the Revised Code 2188
for any paid compensation. The self-insuring employer also shall 2189
exclude from the paid compensation reported any amount recovered 2190
under section 4123.931 of the Revised Code and any amount that is 2191
determined not to have been payable to or on behalf of a claimant 2192
in any final administrative or judicial proceeding. The 2193
self-insuring employer shall exclude such amounts from the paid 2194
compensation reported in the reporting period subsequent to the 2195
date the determination is made. The administrator shall adopt 2196
rules, in accordance with Chapter 119. of the Revised Code, that 2197
provide for all of the following: 2198

(1) Establishing the date by which self-insuring employers 2199
must submit such information and the amount of the assessments 2200
provided for in division (J) of this section for employers who 2201
have been granted self-insuring status within the last calendar 2202
year; 2203

(2) If an employer fails to pay the assessment when due, the 2204
administrator may add a late fee penalty of not more than five 2205
hundred dollars to the assessment plus an additional penalty 2206
amount as follows: 2207

(a) For an assessment from sixty-one to ninety days past due, 2208
the prime interest rate, multiplied by the assessment due; 2209

(b) For an assessment from ninety-one to one hundred twenty days past due, the prime interest rate plus two per cent, multiplied by the assessment due;	2210 2211 2212
(c) For an assessment from one hundred twenty-one to one hundred fifty days past due, the prime interest rate plus four per cent, multiplied by the assessment due;	2213 2214 2215
(d) For an assessment from one hundred fifty-one to one hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the assessment due;	2216 2217 2218
(e) For an assessment from one hundred eighty-one to two hundred ten days past due, the prime interest rate plus eight per cent, multiplied by the assessment due;	2219 2220 2221
(f) For each additional thirty-day period or portion thereof that an assessment remains past due after it has remained past due for more than two hundred ten days, the prime interest rate plus eight per cent, multiplied by the assessment due.	2222 2223 2224 2225
(3) An employer may appeal a late fee penalty and penalty assessment to the administrator.	2226 2227
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.	2228 2229 2230 2231 2232
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.	2233 2234 2235 2236
(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	2237 2238 2239

4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 2240
4123.64 of the Revised Code, all amounts paid as wages in lieu of 2241
such compensation, all amounts paid in lieu of such compensation 2242
under a nonoccupational accident and sickness program fully funded 2243
by the self-insuring employer, and all amounts paid by a 2244
self-insuring employer for a violation of a specific safety 2245
standard pursuant to Section 35 of Article II, Ohio Constitution 2246
and section 4121.47 of the Revised Code. 2247

(N) Should any section of this chapter or Chapter 4121. of 2248
the Revised Code providing for self-insuring employers' 2249
assessments based upon compensation paid be declared 2250
unconstitutional by a final decision of any court, then that 2251
section of the Revised Code declared unconstitutional shall revert 2252
back to the section in existence prior to November 3, 1989, 2253
providing for assessments based upon payroll. 2254

(O) The administrator may grant a self-insuring employer the 2255
privilege to self-insure a construction project entered into by 2256
the self-insuring employer that is scheduled for completion within 2257
six years after the date the project begins, and the total cost of 2258
which is estimated to exceed one hundred million dollars or, for 2259
employers described in division (R) of this section, if the 2260
construction project is estimated to exceed twenty-five million 2261
dollars. The administrator may waive such cost and time criteria 2262
and grant a self-insuring employer the privilege to self-insure a 2263
construction project regardless of the time needed to complete the 2264
construction project and provided that the cost of the 2265
construction project is estimated to exceed fifty million dollars. 2266
A self-insuring employer who desires to self-insure a construction 2267
project shall submit to the administrator an application listing 2268
the dates the construction project is scheduled to begin and end, 2269
the estimated cost of the construction project, the contractors 2270
and subcontractors whose employees are to be self-insured by the 2271

self-insuring employer, the provisions of a safety program that is 2272
specifically designed for the construction project, and a 2273
statement as to whether a collective bargaining agreement 2274
governing the rights, duties, and obligations of each of the 2275
parties to the agreement with respect to the construction project 2276
exists between the self-insuring employer and a labor 2277
organization. 2278

A self-insuring employer may apply to self-insure the 2279
employees of either of the following: 2280

(1) All contractors and subcontractors who perform labor or 2281
work or provide materials for the construction project; 2282

(2) All contractors and, at the administrator's discretion, a 2283
substantial number of all the subcontractors who perform labor or 2284
work or provide materials for the construction project. 2285

Upon approval of the application, the administrator shall 2286
mail a certificate granting the privilege to self-insure the 2287
construction project to the self-insuring employer. The 2288
certificate shall contain the name of the self-insuring employer 2289
and the name, address, and telephone number of the self-insuring 2290
employer's representatives who are responsible for administering 2291
workers' compensation claims for the construction project. The 2292
self-insuring employer shall post the certificate in a conspicuous 2293
place at the site of the construction project. 2294

The administrator shall maintain a record of the contractors 2295
and subcontractors whose employees are covered under the 2296
certificate issued to the self-insured employer. A self-insuring 2297
employer immediately shall notify the administrator when any 2298
contractor or subcontractor is added or eliminated from inclusion 2299
under the certificate. 2300

Upon approval of the application, the self-insuring employer 2301
is responsible for the administration and payment of all claims 2302

under this chapter and Chapter 4121. of the Revised Code for the 2303
employees of the contractor and subcontractors covered under the 2304
certificate who receive injuries or are killed in the course of 2305
and arising out of employment on the construction project, or who 2306
contract an occupational disease in the course of employment on 2307
the construction project. For purposes of this chapter and Chapter 2308
4121. of the Revised Code, a claim that is administered and paid 2309
in accordance with this division is considered a claim against the 2310
self-insuring employer listed in the certificate. A contractor or 2311
subcontractor included under the certificate shall report to the 2312
self-insuring employer listed in the certificate, all claims that 2313
arise under this chapter and Chapter 4121. of the Revised Code in 2314
connection with the construction project for which the certificate 2315
is issued. 2316

A self-insuring employer who complies with this division is 2317
entitled to the protections provided under this chapter and 2318
Chapter 4121. of the Revised Code with respect to the employees of 2319
the contractors and subcontractors covered under a certificate 2320
issued under this division for death or injuries that arise out 2321
of, or death, injuries, or occupational diseases that arise in the 2322
course of, those employees' employment on that construction 2323
project, as if the employees were employees of the self-insuring 2324
employer, provided that the self-insuring employer also complies 2325
with this section. No employee of the contractors and 2326
subcontractors covered under a certificate issued under this 2327
division shall be considered the employee of the self-insuring 2328
employer listed in that certificate for any purposes other than 2329
this chapter and Chapter 4121. of the Revised Code. Nothing in 2330
this division gives a self-insuring employer authority to control 2331
the means, manner, or method of employment of the employees of the 2332
contractors and subcontractors covered under a certificate issued 2333
under this division. 2334

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

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

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

Nothing in this division shall be construed as altering the rights 2367
devolved under sections 2305.31 and 4123.82 of the Revised Code as 2368
those rights existed prior to September 17, 1996. 2369

As used in this division, "privilege to self-insure a 2370
construction project" means privilege to pay individually 2371
compensation, and to furnish medical, surgical, nursing, and 2372
hospital services and attention and funeral expenses directly to 2373
injured employees or the dependents of killed employees. 2374

(P) A self-insuring employer whose application is granted 2375
under division (O) of this section shall designate a safety 2376
professional to be responsible for the administration and 2377
enforcement of the safety program that is specifically designed 2378
for the construction project that is the subject of the 2379
application. 2380

A self-insuring employer whose application is granted under 2381
division (O) of this section shall employ an ombudsperson for the 2382
construction project that is the subject of the application. The 2383
ombudsperson shall have experience in workers' compensation or the 2384
construction industry, or both. The ombudsperson shall perform all 2385
of the following duties: 2386

(1) Communicate with and provide information to employees who 2387
are injured in the course of, or whose injury arises out of 2388
employment on the construction project, or who contract an 2389
occupational disease in the course of employment on the 2390
construction project; 2391

(2) Investigate the status of a claim upon the request of an 2392
employee to do so; 2393

(3) Provide information to claimants, third party 2394
administrators, employers, and other persons to assist those 2395
persons in protecting their rights under this chapter and Chapter 2396
4121. of the Revised Code. 2397

A self-insuring employer whose application is granted under 2398
division (O) of this section shall post the name of the safety 2399
professional and the ombudsperson and instructions for contacting 2400
the safety professional and the ombudsperson in a conspicuous 2401
place at the site of the construction project. 2402

(Q) The administrator may consider all of the following when 2403
deciding whether to grant a self-insuring employer the privilege 2404
to self-insure a construction project as provided under division 2405
(O) of this section: 2406

(1) Whether the self-insuring employer has an organizational 2407
plan for the administration of the workers' compensation law; 2408

(2) Whether the safety program that is specifically designed 2409
for the construction project provides for the safety of employees 2410
employed on the construction project, is applicable to all 2411
contractors and subcontractors who perform labor or work or 2412
provide materials for the construction project, and has as a 2413
component, a safety training program that complies with standards 2414
adopted pursuant to the "Occupational Safety and Health Act of 2415
1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing 2416
management and employee involvement; 2417

(3) Whether granting the privilege to self-insure the 2418
construction project will reduce the costs of the construction 2419
project; 2420

(4) Whether the self-insuring employer has employed an 2421
ombudsperson as required under division (P) of this section; 2422

(5) Whether the self-insuring employer has sufficient surety 2423
to secure the payment of claims for which the self-insuring 2424
employer would be responsible pursuant to the granting of the 2425
privilege to self-insure a construction project under division (O) 2426
of this section. 2427

(R) As used in divisions (O), (P), and (Q), "self-insuring 2428

employer" includes the following employers, whether or not they	2429
have been granted the status of being a self-insuring employer	2430
under division (B) of this section:	2431
(1) A state institution of higher education;	2432
(2) A school district;	2433
(3) A county school financing district;	2434
(4) An educational service center;	2435
(5) A community school established under Chapter 3314. of the	2436
Revised Code;	2437
(6) A municipal power agency as defined in section 3734.058	2438
of the Revised Code.	2439
(S) As used in this section:	2440
(1) "Unvoted debt capacity" means the amount of money that a	2441
public employer may borrow without voter approval of a tax levy;	2442
(2) "State institution of higher education" means the state	2443
universities listed in section 3345.011 of the Revised Code,	2444
community colleges created pursuant to Chapter 3354. of the	2445
Revised Code, university branches created pursuant to Chapter	2446
3355. of the Revised Code, technical colleges created pursuant to	2447
Chapter 3357. of the Revised Code, and state community colleges	2448
created pursuant to Chapter 3358. of the Revised Code.	2449
Sec. 4123.353. (A) A public employer, except for a board of	2450
county commissioners described in division (G) of section 4123.01	2451
of the Revised Code, a board of a county hospital, or a publicly	2452
owned utility, who is granted the status of self-insuring employer	2453
pursuant to section 4123.35 of the Revised Code shall do all of	2454
the following:	2455
(1) Reserve funds as necessary, in accordance with sound and	2456
prudent actuarial judgment, to cover the costs the public employer	2457

may potentially incur to remain in compliance with this chapter 2458
and Chapter 4121. of the Revised Code; 2459

(2) Include all activity under this chapter and Chapter 4121. 2460
of the Revised Code in a single fund on the public employer's 2461
accounting records; 2462

(3) Within ninety days after the last day of each fiscal 2463
year, prepare and maintain a report of the reserved funds 2464
described in division (A)(1) of this section and disbursements 2465
made from those reserved funds+ 2466

~~(4) Within ninety days after the last day of each fiscal 2467
year, obtain a written report prepared by a member of the American 2468
academy of actuaries, certifying whether the reserved funds 2469
described in division (A)(1) of this section are sufficient to 2470
cover the costs the public employer may potentially incur to 2471
remain in compliance with this chapter and Chapter 4121. of the 2472
Revised Code, are computed in accordance with accepted loss 2473
reserving standards, and are fairly stated in accordance with 2474
sound loss reserving principles. 2475~~

(B) A public employer who is subject to division (A) of this 2476
section shall make the reports required by that division available 2477
for inspection by the administrator of workers' compensation and 2478
any other person at all reasonable times during regular business 2479
hours. 2480

Sec. 4123.36. Whenever an employer fails to pay a premium 2481
due, and the administrator of workers' compensation determines the 2482
employer's account to be uncollectible, the administrator shall 2483
cover the default ~~in excess of the employer's premium security~~ 2484
~~deposit~~ by transfer of money from the premium payment security 2485
fund account to the state insurance fund. ~~The transfer establishes~~ 2486
~~coverage of the employer for the immediately completed six-month~~ 2487
~~period together with the ensuing two-month adjustment period and~~ 2488

~~the employer is not liable to respond in damages at common law or 2489
by statute for injuries or death of any employees wherever 2490
occurring during that eight month period. Payments from the 2491
premium payment security fund may not be used to cover a default 2492
of an employer with respect to any period longer than eight 2493
months. Thereafter, the employer shall be considered a 2494
noncomplying employer under this chapter and shall not be entitled 2495
to the benefits and protection of this chapter until the employer 2496
again establishes coverage pursuant to this chapter through 2497
reimbursement to the premium payment security fund for the money 2498
paid to the state insurance fund, on account of the default, 2499
payment of any semiannual premium obligations due but in default, 2500
and submission of a new premium security deposit pursuant to 2501
section 4123.32 of the Revised Code. 2502~~

Sec. 4123.37. In this section "amenable employer" has the 2503
same meaning as "employer" as defined in division ~~(J)~~(I) of 2504
section 4123.32 of the Revised Code. 2505

If the administrator of workers' compensation finds that any 2506
person, firm, or private corporation, including any public service 2507
corporation, is, or has been at any time after January 1, 1923, an 2508
amenable employer and has not complied with section 4123.35 of the 2509
Revised Code the administrator shall determine the period during 2510
which the person, firm, or corporation was an amenable employer 2511
and shall forthwith give notice of the determination to the 2512
employer. Within twenty days thereafter the employer shall furnish 2513
the bureau with the payroll covering the period included in the 2514
determination and, if the employer is an amenable employer at the 2515
time of the determination, ~~shall pay a premium security deposit 2516
for the eight months next succeeding the date of the determination 2517
and shall pay into the state insurance fund the amount of premium 2518
and assessments applicable to such payroll. If the administrator 2519
determines that the employer is an amenable employer prior to the 2520~~

policy year commencing July 1, 2015, the administrator may require 2521
the employer to pay a premium security deposit. 2522

If the employer does not furnish the payroll and pay the 2523
applicable premium, assessments, and, if applicable, the premium 2524
security deposit within the twenty days, the administrator shall 2525
forthwith make an assessment of the premium amounts due from the 2526
employer for the period the administrator determined the employer 2527
to be an amenable employer ~~including the premium security deposit~~ 2528
~~according to section 4123.32 of the Revised Code~~ if the employer 2529
is an amenable employer at the time of the determination, basing 2530
the assessment upon the information in the possession of the 2531
administrator. 2532

The administrator shall give to the employer assessed written 2533
notice of the assessment. The notice shall be mailed to the 2534
employer at the employer's residence or usual place of business by 2535
certified mail. Unless the employer to whom the notice of 2536
assessment is directed files with the bureau within twenty days 2537
after receipt thereof, a petition in writing, verified under oath 2538
by the employer, or the employer's authorized agent having 2539
knowledge of the facts, setting forth with particularity the items 2540
of the assessment objected to, together with the reason for the 2541
objections, the assessment shall become conclusive and the amount 2542
thereof shall be due and payable from the employer so assessed to 2543
the state insurance fund. When a petition objecting to an 2544
assessment is filed the bureau shall assign a time and place for 2545
the hearing of the same and shall notify the petitioner thereof by 2546
certified mail. When an employer files a petition the assessment 2547
made by the administrator shall become due and payable ten days 2548
after notice of the finding made at the hearing has been sent by 2549
certified mail to the party assessed. An appeal may be taken from 2550
any finding to the court of common pleas of Franklin county upon 2551
the execution by the party assessed of a bond to the state in 2552

double the amount found due and ordered paid by the bureau 2553
conditioned that the party will pay any judgment and costs 2554
rendered against it for the premium. 2555

When no petition objecting to an assessment is filed or when 2556
a finding is made affirming or modifying an assessment after 2557
hearing, a certified copy of the assessment as affirmed or 2558
modified may be filed by the administrator in the office of the 2559
clerk of the court of common pleas in any county in which the 2560
employer has property or in which the employer has a place of 2561
business. The clerk, immediately upon the filing of the 2562
assessment, shall enter a judgment for the state against the 2563
employer in the amount shown on the assessment. The judgment may 2564
be filed by the clerk in a loose leaf book entitled "special 2565
judgments for state insurance fund." The judgment shall bear the 2566
same rate of interest, have the same effect as other judgments, 2567
and be given the same preference allowed by law on other judgments 2568
rendered for claims for taxes. An assessment or judgment under 2569
this section shall not be a bar to the adjustment of the 2570
employer's account upon the employer furnishing the employer's 2571
payroll records to the bureau. 2572

The administrator, for good cause shown, may waive a default 2573
in the payment of premium where the default is of less than sixty 2574
days' duration, and upon payment by the employer of the premium 2575
for the period, the employer and the employer's employees are 2576
entitled to all of the benefits and immunities provided by this 2577
chapter. 2578

Sec. 4123.40. On or before the first day of July of every 2579
year, the administrator of workers' compensation shall estimate 2580
the gross payroll of all state employers for the succeeding 2581
biennium or fiscal year. 2582

The administrator shall determine and certify for the office 2583

of budget and management that rate or rates which, when applied to 2584
the gross payroll estimate, will produce an amount equal to the 2585
estimated cost of awards or claim payments to be made during the 2586
like fiscal period, as determined by the administrator. 2587

The rate certified shall be applied and made a part of the 2588
gross payroll calculation for the period for which the foregoing 2589
estimates have been made, in conformity with section 125.21 of the 2590
Revised Code. The amounts collected shall be remitted to the 2591
bureau of workers' compensation as provided in section 125.21 of 2592
the Revised Code. 2593

If the historical amounts remitted to the bureau ~~for a fiscal~~ 2594
~~period~~ are greater or less than ~~actual~~ historical awards or claim 2595
~~payments for the like period by reason of an error in the prior~~ 2596
~~estimates of gross payroll or awards or payments, the overage or~~ 2597
~~shortage~~ difference shall be ~~included~~ returned to the state 2598
employer or recovered by the bureau in a manner determined by the 2599
administrator ~~in determining the rate for the next succeeding~~ 2600
~~fiscal period.~~ 2601

In fixing the amount of contribution to be made by the state 2602
and each of its departments, agencies, and instrumentalities, the 2603
administrator shall classify departments, agencies, and 2604
instrumentalities into such groups as will equitably determine the 2605
contributions in accordance with their expected individual 2606
accident experience so that the state and its departments, 2607
agencies, and instrumentalities contribute an amount sufficient to 2608
meet individual obligations and ~~maintain a solvent public~~ 2609
~~insurance fund~~ the obligations of the participants in total. 2610

Moneys collected from state employers shall not be used to 2611
pay compensation or other benefits attributable to service of 2612
persons as employees of counties or taxing districts therein, nor 2613
shall moneys collected from counties and taxing districts therein 2614
be used to pay compensation or other benefits attributable to 2615

service of persons as employees of the state. 2616

Sec. 4123.41. (A) ~~By~~ (1) For policy years that begin prior to 2617
January 1, 2016, by the first day of January of each year, the 2618
bureau of workers' compensation shall furnish to the county 2619
auditor of each county and the chief fiscal officer of each taxing 2620
district in a county and of each district activity and institution 2621
mentioned in section 4123.39 of the Revised Code forms containing 2622
the premium rates applicable to the county, district, district 2623
activity, or institution as an employer, on which to report the 2624
amount of money expended by the county, district, district 2625
activity, or institution during the previous twelve calendar 2626
months for the services of employees under this chapter. 2627

~~(B)~~ Each county auditor and each fiscal officer of a 2628
district, district activity, and institution shall calculate on 2629
the form it receives from the bureau under division (A) of this 2630
section the premium due as its proper contribution to the public 2631
insurance fund and issue a warrant in favor of the bureau for the 2632
amount due from the county, district, district activity, or 2633
institution to the public insurance fund. 2634

(2) For a policy year commencing on or after January 1, 2016, 2635
by the first day of November of each year, the bureau shall 2636
furnish to the county auditor of each county and the chief fiscal 2637
officer of each taxing district in a county and of each district 2638
activity and institution mentioned in section 4123.39 of the 2639
Revised Code forms showing the estimated premium due from the 2640
county, district, district activity, or institution for the 2641
forthcoming policy year. 2642

After the conclusion of each policy year, the county auditor 2643
of each county and the chief fiscal officer of each taxing 2644
district in a county and of each district activity and institution 2645
mentioned in section 4123.39 of the Revised Code shall, on or 2646

before the fifteenth day of February immediately following the 2647
conclusion of the policy year, report the amount of money expended 2648
by the county, district, district activity, or institution during 2649
the policy year for the services of employees under this chapter. 2650
The bureau shall adjust the premium and assessments charged to the 2651
employer for the difference between estimated gross payrolls and 2652
actual gross payrolls, and the employer immediately shall pay any 2653
balance due to the bureau. Any balance due the employer shall be 2654
credited to the employer's account. 2655

The administrator may adopt rules setting forth penalties for 2656
failure to submit the report of money expended as required by this 2657
division, including, but not limited to, exclusion from 2658
alternative rating plans and discount programs. 2659

(B)(1) Except as otherwise provided in division (B) of this 2660
section, payments due under this section shall be made according 2661
to the following schedule: 2662

~~(1)~~ On (a) For payments of premium and assessments due for a 2663
policy year that commences prior to July 1, 2015: 2664

(i) On or before the fifteenth day of May ~~of each~~ immediately 2665
following the conclusion of the policy year, no less than 2666
forty-five per cent of the annual amount due for the policy year; 2667

~~(2)~~(ii) On or before the first day of September immediately 2668
following the conclusion of each the policy year, no less than the 2669
total amount due for the policy year. 2670

(b) For the policy year commencing January 1, 2015: 2671

(i) On or before the fifteenth day of May immediately 2672
following the conclusion of the policy year, no less than fifty 2673
per cent of the annual amount due for the policy year; 2674

(ii) On or before the first day of September immediately 2675
following the conclusion of the policy year, no less than the 2676

<u>total amount due for the policy year.</u>	2677
<u>(c) For the policy year commencing January 1, 2016:</u>	2678
<u>(i) On or before the fifteenth day of May in that policy</u>	2679
<u>year, no less than fifty per cent of the annual premium estimated</u>	2680
<u>by the bureau.</u>	2681
<u>(ii) On or before the first day of September in that policy</u>	2682
<u>year, no less than the total amount of annual premium estimated by</u>	2683
<u>the bureau.</u>	2684
<u>(d) For a policy year commencing on or after January 1, 2017,</u>	2685
<u>the total amount of annual premium estimated by the bureau on or</u>	2686
<u>before the thirty-first day of December immediately preceding the</u>	2687
<u>start of the policy year.</u>	2688
<u>(2) The administrator, with the advice and consent of the</u>	2689
<u>bureau of workers' compensation board of directors, shall adopt</u>	2690
<u>rules to permit employers to make periodic payments of the premium</u>	2691
<u>and assessments due under this section. The rules shall include</u>	2692
<u>provisions for the assessment of interest charges, if appropriate,</u>	2693
<u>and for the assessment of penalties when an employer fails to make</u>	2694
<u>timely premium payments. The administrator may adopt rules to</u>	2695
<u>establish an administrative fee for those periodic payments.</u>	2696
<u>(C) The legislative body of any county, district, district</u>	2697
<u>activity, or institution may reimburse the fund from which the</u>	2698
<u>workers' compensation payments are made by transferring to the</u>	2699
<u>fund from any other fund of the county, district, district</u>	2700
<u>activity, or institution, the proportionate amount of the payments</u>	2701
<u>that should be chargeable to the fund, whether the fund is derived</u>	2702
<u>from taxation or otherwise. The proportionate amount of the</u>	2703
<u>payments chargeable to the fund may be based on payroll, relative</u>	2704
<u>exposure, relative loss experience, or any combination of these</u>	2705
<u>factors, as determined by the legislative body.</u>	2706
<u>(1) The workers' compensation program payments of any county,</u>	2707

district, district activity, or institution may include all 2708
payments required by any bureau of workers' compensation rating 2709
plan. 2710

(2) The workers' compensation program payments of any county, 2711
district, district activity, or institution, except for a county 2712
board of developmental disabilities, a board of alcohol, drug 2713
addiction, and mental health services, a board of mental health 2714
services, and a board of alcohol and drug addiction services, also 2715
may include any of the following: 2716

(a) Direct administrative costs incurred in the management of 2717
the county, district, district activity, or institution's workers' 2718
compensation program; 2719

(b) Indirect costs that are necessary and reasonable for the 2720
proper and efficient administration of the workers' compensation 2721
program as documented in a cost allocation plan. The indirect cost 2722
plan shall conform to the United States office of management and 2723
budget circular A-87 "cost principles for state and local 2724
governments," 2 C.F.R. 225, as most recently amended on May 10, 2725
2004. The plan shall not authorize payment from the fund of any 2726
general government expense required to carry out the overall 2727
governmental responsibilities. 2728

(3) Within sixty days before a legislative body changes the 2729
method used for calculating the proportionate amount of the 2730
payments chargeable to the fund, it shall notify, consult with, 2731
and give information supporting the change to any elected official 2732
affected by the change. A transfer made pursuant to division 2733
(B)(2) of this section is not subject to section 5705.16 of the 2734
Revised Code. 2735

(D) Any county board of developmental disabilities, board of 2736
alcohol, drug addiction, and mental health services, board of 2737
mental health services, or board of alcohol and drug addiction 2738

services whose workers' compensation payments, on or before 2739
September 28, 2012, includes costs referred to in division (C)(2) 2740
of this section may continue to do so on and after September 28, 2741
2012. 2742

(E) The bureau may investigate the correctness of the 2743
information provided by the county auditor and chief fiscal 2744
officer under division ~~(B)~~(A) of this section, and if the bureau 2745
determines at any time that the county, district, district 2746
activity, or institution has not reported the correct information, 2747
the administrator of workers' compensation may make deductions or 2748
additions as the facts warrant and take those facts into 2749
consideration in determining the current or future contributions 2750
to be made by the county, district, district activity, or 2751
institution. If the county, district, district activity, or 2752
institution does not furnish the report in the time required by 2753
this section, the administrator may fix the amount of contribution 2754
the county, district, district activity, or institution must make 2755
and certify that amount for payment. 2756

(F) ~~The~~ For payments of premium and assessments for a policy 2757
year prior to the policy year commencing January 1, 2015, the 2758
administrator shall provide a discount to any county, district, 2759
district activity, or institution that pays its total amount due 2760
to the public insurance fund on or before the fifteenth day of May 2761
of each year as its proper contribution for premiums. The 2762
administrator shall base the discount provided under this division 2763
on the savings generated by the early payment to the public 2764
insurance fund. The administrator may provide the discount through 2765
a refund to the county, district, district activity, or 2766
institution or an offset against the future contributions due to 2767
the public insurance fund from the county, district, district 2768
activity, or institution. 2769

(G) The administrator may impose an interest penalty for late 2770

payment of any amount due from a county, district, district 2771
activity, and institution at the interest rate established by the 2772
state tax commissioner pursuant to section 5703.47 of the Revised 2773
Code. 2774

~~(H) If the administrator adopts rules for the prospective 2775
payment of premium as permitted under section 4123.322 of the 2776
Revised Code, every employer mentioned in division (B)(1) of 2777
section 4123.01 of the Revised Code, except for a state agency or 2778
a state university or college as defined in section 4123.32 of the 2779
Revised Code, shall pay into the state insurance fund the amount 2780
of premium the administrator fixes for the employment or 2781
occupation of the employer, the amount of which premium to be paid 2782
by each employer to be determined by the classifications, rules, 2783
and rates made and published by the administrator and based upon 2784
the estimates and reconciliations required by the rules the 2785
administrator adopts under section 4123.322 of the Revised Code. 2786~~

Sec. 4123.411. (A) For the purpose of carrying out sections 2787
4123.412 to 4123.418 of the Revised Code, the administrator of 2788
workers' compensation, with the advice and consent of the bureau 2789
of workers' compensation board of directors, shall levy an 2790
assessment against all employers at a rate, ~~of at least five but~~ 2791
not to exceed ten cents per one hundred dollars of payroll, such 2792
rate to be determined annually for each employer group listed in 2793
divisions (A)(1) to (3) of this section, which will produce an 2794
amount no greater than the amount the administrator estimates to 2795
be necessary to carry out such sections for the period for which 2796
the assessment is levied. In the event the amount produced by the 2797
assessment is not sufficient to carry out such sections the 2798
additional amount necessary shall be provided from the income 2799
produced as a result of investments made pursuant to section 2800
4123.44 of the Revised Code. 2801

Assessments shall be levied according to the following 2802
schedule: 2803

(1) ~~Private~~ For private fund employers, except self-insuring 2804
employers—: 2805

(a) For policy years commencing prior to July 1, 2015, in 2806
January and July of each year upon gross payrolls of the preceding 2807
six months; 2808

(b) For policy years commencing on or after July 1, 2015, in 2809
June of each year upon gross payrolls estimated for the next 2810
twelve months. 2811

(2) ~~Counties~~ For counties and taxing district employers 2812
therein, except county hospitals that are self-insuring 2813
employers—: 2814

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

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

(3) ~~The~~ For the state as an employer--in January, April, 2821
July, and October of each year upon gross payrolls of the 2822
preceding three months or at other intervals as the administrator 2823
establishes. 2824

After the completion of each policy year that commences on or 2825
after July 1, 2015, for private fund employers or that commences 2826
on or after January 1, 2015, for counties and taxing district 2827
employers therein, the assessments levied under this section shall 2828
be adjusted for the difference between estimated gross payrolls 2829
and actual gross payrolls reported by the employer on the payroll 2830
report submitted by a private employer pursuant to section 4123.26 2831

of the Revised Code, or, for a public employer, submitted pursuant 2832
to section 4123.41 of the Revised Code. 2833

Amounts assessed in accordance with this section shall be 2834
collected from each employer as prescribed in rules the 2835
administrator adopts. 2836

The moneys derived from the assessment provided for in this 2837
section shall be credited to the disabled workers' relief fund 2838
created by section 4123.412 of the Revised Code. The administrator 2839
shall establish by rule classifications of employers within 2840
divisions (A)(1) to (3) of this section and shall determine rates 2841
for each class so as to fairly apportion the costs of carrying out 2842
sections 4123.412 to 4123.418 of the Revised Code. 2843

(B) For all injuries and disabilities occurring on or after 2844
January 1, 1987, the administrator, for the purposes of carrying 2845
out sections 4123.412 to 4123.418 of the Revised Code, shall levy 2846
an assessment against all employers at a rate per one hundred 2847
dollars of payroll, such rate to be determined annually for each 2848
classification of employer in each employer group listed in 2849
divisions (A)(1) to (3) of this section, which will produce an 2850
amount no greater than the amount the administrator estimates to 2851
be necessary to carry out such sections for the period for which 2852
the assessment is levied. The administrator annually shall 2853
establish the contributions due from employers for the disabled 2854
workers' relief fund at rates as low as possible but that will 2855
assure sufficient moneys to guarantee the payment of any claims 2856
against that fund. 2857

Amounts assessed in accordance with this division shall be 2858
billed at the same time premiums are billed and credited to the 2859
disabled workers' relief fund created by section 4123.412 of the 2860
Revised Code. The administrator shall determine the rates for each 2861
class in the same manner as the administrator fixes the rates for 2862
premiums pursuant to section 4123.29 of the Revised Code. 2863

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

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

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

report available to the public at cost. 2896

(C) The administrator may retain the services of a recognized 2897
actuary on a consulting basis for the purpose of evaluating the 2898
actuarial soundness of premium rates and classifications and all 2899
other matters involving the administration of the state insurance 2900
fund. The expense of services provided by the actuary shall be 2901
paid from the state insurance fund. 2902

Sec. 4123.511. (A) Within seven days after receipt of any 2903
claim under this chapter, the bureau of workers' compensation 2904
shall notify the claimant and the employer of the claimant of the 2905
receipt of the claim and of the facts alleged therein. If the 2906
bureau receives from a person other than the claimant written or 2907
facsimile information or information communicated verbally over 2908
the telephone indicating that an injury or occupational disease 2909
has occurred or been contracted which may be compensable under 2910
this chapter, the bureau shall notify the employee and the 2911
employer of the information. If the information is provided 2912
verbally over the telephone, the person providing the information 2913
shall provide written verification of the information to the 2914
bureau according to division (E) of section 4123.84 of the Revised 2915
Code. The receipt of the information in writing or facsimile, or 2916
if initially by telephone, the subsequent written verification, 2917
and the notice by the bureau shall be considered an application 2918
for compensation under section 4123.84 or 4123.85 of the Revised 2919
Code, provided that the conditions of division (E) of section 2920
4123.84 of the Revised Code apply to information provided verbally 2921
over the telephone. Upon receipt of a claim, the bureau shall 2922
advise the claimant of the claim number assigned and the 2923
claimant's right to representation in the processing of a claim or 2924
to elect no representation. If the bureau determines that a claim 2925
is determined to be a compensable lost-time claim, the bureau 2926
shall notify the claimant and the employer of the availability of 2927

rehabilitation services. No bureau or industrial commission 2928
employee shall directly or indirectly convey any information in 2929
derogation of this right. This section shall in no way abrogate 2930
the bureau's responsibility to aid and assist a claimant in the 2931
filing of a claim and to advise the claimant of the claimant's 2932
rights under the law. 2933

The administrator of workers' compensation shall assign all 2934
claims and investigations to the bureau service office from which 2935
investigation and determination may be made most expeditiously. 2936

The bureau shall investigate the facts concerning an injury 2937
or occupational disease and ascertain such facts in whatever 2938
manner is most appropriate and may obtain statements of the 2939
employee, employer, attending physician, and witnesses in whatever 2940
manner is most appropriate. 2941

The administrator, with the advice and consent of the bureau 2942
of workers' compensation board of directors, may adopt rules that 2943
identify specified medical conditions that have a historical 2944
record of being allowed whenever included in a claim. The 2945
administrator may grant immediate allowance of any medical 2946
condition identified in those rules upon the filing of a claim 2947
involving that medical condition and may make immediate payment of 2948
medical bills for any medical condition identified in those rules 2949
that is included in a claim. If an employer contests the allowance 2950
of a claim involving any medical condition identified in those 2951
rules, and the claim is disallowed, payment for the medical 2952
condition included in that claim shall be charged to and paid from 2953
the surplus fund created under section 4123.34 of the Revised 2954
Code. 2955

(B)(1) Except as provided in division (B)(2) of this section, 2956
in claims other than those in which the employer is a 2957
self-insuring employer, if the administrator determines under 2958
division (A) of this section that a claimant is or is not entitled 2959

to an award of compensation or benefits, the administrator shall 2960
issue an order no later than twenty-eight days after the sending 2961
of the notice under division (A) of this section, granting or 2962
denying the payment of the compensation or benefits, or both as is 2963
appropriate to the claimant. Notwithstanding the time limitation 2964
specified in this division for the issuance of an order, if a 2965
medical examination of the claimant is required by statute, the 2966
administrator promptly shall schedule the claimant for that 2967
examination and shall issue an order no later than twenty-eight 2968
days after receipt of the report of the examination. The 2969
administrator shall notify the claimant and the employer of the 2970
claimant and their respective representatives in writing of the 2971
nature of the order and the amounts of compensation and benefit 2972
payments involved. The employer or claimant may appeal the order 2973
pursuant to division (C) of this section within fourteen days 2974
after the date of the receipt of the order. The employer and 2975
claimant may waive, in writing, their rights to an appeal under 2976
this division. 2977

(2) Notwithstanding the time limitation specified in division 2978
(B)(1) of this section for the issuance of an order, if the 2979
employer certifies a claim for payment of compensation or 2980
benefits, or both, to a claimant, and the administrator has 2981
completed the investigation of the claim, the payment of benefits 2982
or compensation, or both, as is appropriate, shall commence upon 2983
the later of the date of the certification or completion of the 2984
investigation and issuance of the order by the administrator, 2985
provided that the administrator shall issue the order no later 2986
than the time limitation specified in division (B)(1) of this 2987
section. 2988

(3) If an appeal is made under division (B)(1) or (2) of this 2989
section, the administrator shall forward the claim file to the 2990
appropriate district hearing officer within seven days of the 2991

appeal. In contested claims other than state fund claims, the 2992
administrator shall forward the claim within seven days of the 2993
administrator's receipt of the claim to the industrial commission, 2994
which shall refer the claim to an appropriate district hearing 2995
officer for a hearing in accordance with division (C) of this 2996
section. 2997

(C) If an employer or claimant timely appeals the order of 2998
the administrator issued under division (B) of this section or in 2999
the case of other contested claims other than state fund claims, 3000
the commission shall refer the claim to an appropriate district 3001
hearing officer according to rules the commission adopts under 3002
section 4121.36 of the Revised Code. The district hearing officer 3003
shall notify the parties and their respective representatives of 3004
the time and place of the hearing. 3005

The district hearing officer shall hold a hearing on a 3006
disputed issue or claim within forty-five days after the filing of 3007
the appeal under this division and issue a decision within seven 3008
days after holding the hearing. The district hearing officer shall 3009
notify the parties and their respective representatives in writing 3010
of the order. Any party may appeal an order issued under this 3011
division pursuant to division (D) of this section within fourteen 3012
days after receipt of the order under this division. 3013

(D) Upon the timely filing of an appeal of the order of the 3014
district hearing officer issued under division (C) of this 3015
section, the commission shall refer the claim file to an 3016
appropriate staff hearing officer according to its rules adopted 3017
under section 4121.36 of the Revised Code. The staff hearing 3018
officer shall hold a hearing within forty-five days after the 3019
filing of an appeal under this division and issue a decision 3020
within seven days after holding the hearing under this division. 3021
The staff hearing officer shall notify the parties and their 3022
respective representatives in writing of the staff hearing 3023

officer's order. Any party may appeal an order issued under this 3024
division pursuant to division (E) of this section within fourteen 3025
days after receipt of the order under this division. 3026

(E) Upon the filing of a timely appeal of the order of the 3027
staff hearing officer issued under division (D) of this section, 3028
the commission or a designated staff hearing officer, on behalf of 3029
the commission, shall determine whether the commission will hear 3030
the appeal. If the commission or the designated staff hearing 3031
officer decides to hear the appeal, the commission or the 3032
designated staff hearing officer shall notify the parties and 3033
their respective representatives in writing of the time and place 3034
of the hearing. The commission shall hold the hearing within 3035
forty-five days after the filing of the notice of appeal and, 3036
within seven days after the conclusion of the hearing, the 3037
commission shall issue its order affirming, modifying, or 3038
reversing the order issued under division (D) of this section. The 3039
commission shall notify the parties and their respective 3040
representatives in writing of the order. If the commission or the 3041
designated staff hearing officer determines not to hear the 3042
appeal, within fourteen days after the expiration of the period in 3043
which an appeal of the order of the staff hearing officer may be 3044
filed as provided in division (D) of this section, the commission 3045
or the designated staff hearing officer shall issue an order to 3046
that effect and notify the parties and their respective 3047
representatives in writing of that order. 3048

Except as otherwise provided in this chapter and Chapters 3049
4121., 4127., and 4131. of the Revised Code, any party may appeal 3050
an order issued under this division to the court pursuant to 3051
section 4123.512 of the Revised Code within sixty days after 3052
receipt of the order, subject to the limitations contained in that 3053
section. 3054

(F) Every notice of an appeal from an order issued under 3055

divisions (B), (C), (D), and (E) of this section shall state the names of the claimant and employer, the number of the claim, the date of the decision appealed from, and the fact that the appellant appeals therefrom.

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

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

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

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

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

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

(2) The date when the employer has waived the right to appeal a decision issued under division (B) of this section;	3087 3088
(3) If no appeal of an order has been filed under this section or to a court under section 4123.512 of the Revised Code, the expiration of the time limitations for the filing of an appeal of an order;	3089 3090 3091 3092
(4) The date of receipt by the employer of an order of a district hearing officer, a staff hearing officer, or the industrial commission issued under division (C), (D), or (E) of this section.	3093 3094 3095 3096
(I) <u>Payments Except as otherwise provided in division (B) of section 4123.66 of the Revised Code, payments</u> of medical benefits payable under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code shall commence upon the earlier of the following:	3097 3098 3099 3100
(1) The date of the issuance of the staff hearing officer's order under division (D) of this section;	3101 3102
(2) The date of the final administrative or judicial determination.	3103 3104
(J) The administrator shall charge the compensation payments made in accordance with division (H) of this section or medical benefits payments made in accordance with division (I) of this section to an employer's experience immediately after the employer has exhausted the employer's administrative appeals as provided in this section or has waived the employer's right to an administrative appeal under division (B) of this section, subject to the adjustment specified in division (H) of section 4123.512 of the Revised Code.	3105 3106 3107 3108 3109 3110 3111 3112 3113
(K) Upon the final administrative or judicial determination under this section or section 4123.512 of the Revised Code of an appeal of an order to pay compensation, if a claimant is found to have received compensation pursuant to a prior order which is	3114 3115 3116 3117

reversed upon subsequent appeal, the claimant's employer, if a 3118
self-insuring employer, or the bureau, shall withhold from any 3119
amount to which the claimant becomes entitled pursuant to any 3120
claim, past, present, or future, under Chapter 4121., 4123., 3121
4127., or 4131. of the Revised Code, the amount of previously paid 3122
compensation to the claimant which, due to reversal upon appeal, 3123
the claimant is not entitled, pursuant to the following criteria: 3124

(1) No withholding for the first twelve weeks of temporary 3125
total disability compensation pursuant to section 4123.56 of the 3126
Revised Code shall be made; 3127

(2) Forty per cent of all awards of compensation paid 3128
pursuant to sections 4123.56 and 4123.57 of the Revised Code, 3129
until the amount overpaid is refunded; 3130

(3) Twenty-five per cent of any compensation paid pursuant to 3131
section 4123.58 of the Revised Code until the amount overpaid is 3132
refunded; 3133

(4) If, pursuant to an appeal under section 4123.512 of the 3134
Revised Code, the court of appeals or the supreme court reverses 3135
the allowance of the claim, then no amount of any compensation 3136
will be withheld. 3137

The administrator and self-insuring employers, as 3138
appropriate, are subject to the repayment schedule of this 3139
division only with respect to an order to pay compensation that 3140
was properly paid under a previous order, but which is 3141
subsequently reversed upon an administrative or judicial appeal. 3142
The administrator and self-insuring employers are not subject to, 3143
but may utilize, the repayment schedule of this division, or any 3144
other lawful means, to collect payment of compensation made to a 3145
person who was not entitled to the compensation due to fraud as 3146
determined by the administrator or the industrial commission. 3147

(L) If a staff hearing officer or the commission fails to 3148

issue a decision or the commission fails to refuse to hear an 3149
appeal within the time periods required by this section, payments 3150
to a claimant shall cease until the staff hearing officer or 3151
commission issues a decision or hears the appeal, unless the 3152
failure was due to the fault or neglect of the employer or the 3153
employer agrees that the payments should continue for a longer 3154
period of time. 3155

(M) Except as otherwise provided in this section or section 3156
4123.522 of the Revised Code, no appeal is timely filed under this 3157
section unless the appeal is filed with the time limits set forth 3158
in this section. 3159

(N) No person who is not an employee of the bureau or 3160
commission or who is not by law given access to the contents of a 3161
claims file shall have a file in the person's possession. 3162

(O) Upon application of a party who resides in an area in 3163
which an emergency or disaster is declared, the industrial 3164
commission and hearing officers of the commission may waive the 3165
time frame within which claims and appeals of claims set forth in 3166
this section must be filed upon a finding that the applicant was 3167
unable to comply with a filing deadline due to an emergency or a 3168
disaster. 3169

As used in this division: 3170

(1) "Emergency" means any occasion or instance for which the 3171
governor of Ohio or the president of the United States publicly 3172
declares an emergency and orders state or federal assistance to 3173
save lives and protect property, the public health and safety, or 3174
to lessen or avert the threat of a catastrophe. 3175

(2) "Disaster" means any natural catastrophe or fire, flood, 3176
or explosion, regardless of the cause, that causes damage of 3177
sufficient magnitude that the governor of Ohio or the president of 3178
the United States, through a public declaration, orders state or 3179

federal assistance to alleviate damage, loss, hardship, or 3180
suffering that results from the occurrence. 3181

Sec. 4123.512. (A) The claimant or the employer may appeal an 3182
order of the industrial commission made under division (E) of 3183
section 4123.511 of the Revised Code in any injury or occupational 3184
disease case, other than a decision as to the extent of disability 3185
to the court of common pleas of the county in which the injury was 3186
inflicted or in which the contract of employment was made if the 3187
injury occurred outside the state, or in which the contract of 3188
employment was made if the exposure occurred outside the state. If 3189
no common pleas court has jurisdiction for the purposes of an 3190
appeal by the use of the jurisdictional requirements described in 3191
this division, the appellant may use the venue provisions in the 3192
Rules of Civil Procedure to vest jurisdiction in a court. If the 3193
claim is for an occupational disease, the appeal shall be to the 3194
court of common pleas of the county in which the exposure which 3195
caused the disease occurred. Like appeal may be taken from an 3196
order of a staff hearing officer made under division (D) of 3197
section 4123.511 of the Revised Code from which the commission has 3198
refused to hear an appeal. The appellant shall file the notice of 3199
appeal with a court of common pleas within sixty days after the 3200
date of the receipt of the order appealed from or the date of 3201
receipt of the order of the commission refusing to hear an appeal 3202
of a staff hearing officer's decision under division (D) of 3203
section 4123.511 of the Revised Code. The filing of the notice of 3204
the appeal with the court is the only act required to perfect the 3205
appeal. 3206

If an action has been commenced in a court of a county other 3207
than a court of a county having jurisdiction over the action, the 3208
court, upon notice by any party or upon its own motion, shall 3209
transfer the action to a court of a county having jurisdiction. 3210

Notwithstanding anything to the contrary in this section, if 3211
the commission determines under section 4123.522 of the Revised 3212
Code that an employee, employer, or their respective 3213
representatives have not received written notice of an order or 3214
decision which is appealable to a court under this section and 3215
which grants relief pursuant to section 4123.522 of the Revised 3216
Code, the party granted the relief has sixty days from receipt of 3217
the order under section 4123.522 of the Revised Code to file a 3218
notice of appeal under this section. 3219

(B) The notice of appeal shall state the names of the 3220
administrator of workers' compensation, the claimant, and the 3221
employer_{7i}; the number of the claim_{7i}; the date of the order 3222
appealed from_{7i}; and the fact that the appellant appeals therefrom. 3223

The administrator ~~of workers' compensation~~, the claimant, and 3224
the employer shall be parties to the appeal and the court, upon 3225
the application of the commission, shall make the commission a 3226
party. The party filing the appeal shall serve a copy of the 3227
notice of appeal on the administrator at the central office of the 3228
bureau of workers' compensation in Columbus. The administrator 3229
shall notify the employer that if the employer fails to become an 3230
active party to the appeal, then the administrator may act on 3231
behalf of the employer and the results of the appeal could have an 3232
adverse effect upon the employer's premium rates. 3233

(C) The attorney general or one or more of the attorney 3234
general's assistants or special counsel designated by the attorney 3235
general shall represent the administrator and the commission. In 3236
the event the attorney general or the attorney general's 3237
designated assistants or special counsel are absent, the 3238
administrator or the commission shall select one or more of the 3239
attorneys in the employ of the administrator or the commission as 3240
the administrator's attorney or the commission's attorney in the 3241
appeal. Any attorney so employed shall continue the representation 3242

during the entire period of the appeal and in all hearings thereof 3243
except where the continued representation becomes impractical. 3244

(D) Upon receipt of notice of appeal, the clerk of courts 3245
shall provide notice to all parties who are appellees and to the 3246
commission. 3247

The claimant shall, within thirty days after the filing of 3248
the notice of appeal, file a petition containing a statement of 3249
facts in ordinary and concise language showing a cause of action 3250
to participate or to continue to participate in the fund and 3251
setting forth the basis for the jurisdiction of the court over the 3252
action. Further pleadings shall be had in accordance with the 3253
Rules of Civil Procedure, provided that service of summons on such 3254
petition shall not be required and provided that the claimant may 3255
not dismiss the complaint without the employer's consent if the 3256
employer is the party that filed the notice of appeal to court 3257
pursuant to this section. The clerk of the court shall, upon 3258
receipt thereof, transmit by certified mail a copy thereof to each 3259
party named in the notice of appeal other than the claimant. Any 3260
party may file with the clerk prior to the trial of the action a 3261
deposition of any physician taken in accordance with the 3262
provisions of the Revised Code, which deposition may be read in 3263
the trial of the action even though the physician is a resident of 3264
or subject to service in the county in which the trial is had. The 3265
bureau of workers' compensation shall pay the cost of the 3266
stenographic deposition filed in court and of copies of the 3267
stenographic deposition for each party from the surplus fund and 3268
charge the costs thereof against the unsuccessful party if the 3269
claimant's right to participate or continue to participate is 3270
finally sustained or established in the appeal. In the event the 3271
deposition is taken and filed, the physician whose deposition is 3272
taken is not required to respond to any subpoena issued in the 3273
trial of the action. The court, or the jury under the instructions 3274

of the court, if a jury is demanded, shall determine the right of 3275
the claimant to participate or to continue to participate in the 3276
fund upon the evidence adduced at the hearing of the action. 3277

(E) The court shall certify its decision to the commission 3278
and the certificate shall be entered in the records of the court. 3279
Appeals from the judgment are governed by the law applicable to 3280
the appeal of civil actions. 3281

(F) The cost of any legal proceedings authorized by this 3282
section, including an attorney's fee to the claimant's attorney to 3283
be fixed by the trial judge, based upon the effort expended, in 3284
the event the claimant's right to participate or to continue to 3285
participate in the fund is established upon the final 3286
determination of an appeal, shall be taxed against the employer or 3287
the commission if the commission or the administrator rather than 3288
the employer contested the right of the claimant to participate in 3289
the fund. The attorney's fee shall not exceed forty-two hundred 3290
dollars. 3291

(G) If the finding of the court or the verdict of the jury is 3292
in favor of the claimant's right to participate in the fund, the 3293
commission and the administrator shall thereafter proceed in the 3294
matter of the claim as if the judgment were the decision of the 3295
commission, subject to the power of modification provided by 3296
section 4123.52 of the Revised Code. 3297

(H)(1) An appeal from an order issued under division (E) of 3298
section 4123.511 of the Revised Code or any action filed in court 3299
in a case in which an award of compensation or medical benefits 3300
has been made shall not stay the payment of compensation or 3301
medical benefits under the award, or payment for subsequent 3302
periods of total disability or medical benefits during the 3303
pendency of the appeal. If, in a final administrative or judicial 3304
action, it is determined that payments of compensation or 3305
benefits, or both, made to or on behalf of a claimant should not 3306

have been made, the amount thereof shall be charged to the surplus 3307
fund account under division (B) of section 4123.34 of the Revised 3308
Code. In the event the employer is a state risk, the amount shall 3309
not be charged to the employer's experience, and the administrator 3310
shall adjust the employer's account accordingly. In the event the 3311
employer is a self-insuring employer, the self-insuring employer 3312
shall deduct the amount from the paid compensation the 3313
self-insuring employer reports to the administrator under division 3314
(L) of section 4123.35 of the Revised Code. If an employer is a 3315
state risk and has paid an assessment for a violation of a 3316
specific safety requirement, and, in a final administrative or 3317
judicial action, it is determined that the employer did not 3318
violate the specific safety requirement, the administrator shall 3319
reimburse the employer from the surplus fund account under 3320
division (B) of section 4123.34 of the Revised Code for the amount 3321
of the assessment the employer paid for the violation. 3322

(2)(a) Notwithstanding a final determination that payments of 3323
benefits made to or on behalf of a claimant should not have been 3324
made, the administrator or self-insuring employer shall award 3325
payment of medical or vocational rehabilitation services submitted 3326
for payment after the date of the final determination if all of 3327
the following apply: 3328

(i) The services were approved and were rendered by the 3329
provider in good faith prior to the date of the final 3330
determination. 3331

(ii) The services were payable under division (I) of section 3332
4123.511 of the Revised Code prior to the date of the final 3333
determination. 3334

(iii) The request for payment is submitted within the time 3335
limit set forth in section 4123.52 of the Revised Code. 3336

(b) Payments made under division (H)(1) of this section shall 3337

be charged to the surplus fund account under division (B) of 3338
section 4123.34 of the Revised Code. If the employer of the 3339
employee who is the subject of a claim described in division 3340
(H)(2)(a) of this section is a state fund employer, the payments 3341
made under that division shall not be charged to the employer's 3342
experience. If that employer is a self-insuring employer, the 3343
self-insuring employer shall deduct the amount from the paid 3344
compensation the self-insuring employer reports to the 3345
administrator under division (L) of section 4123.35 of the Revised 3346
Code. 3347

(c) Division (H)(2) of this section shall apply only to a 3348
claim under this chapter or Chapter 4121., 4127., or 4131. of the 3349
Revised Code arising on or after ~~the effective date of this~~ 3350
~~amendment~~ July 29, 2011. 3351

(3) A self-insuring employer may elect to pay compensation 3352
and benefits under this section directly to an employee or an 3353
employee's dependents by filing an application with the bureau of 3354
workers' compensation not more than one hundred eighty days and 3355
not less than ninety days before the first day of the employer's 3356
next six-month coverage period. If the self-insuring employer 3357
timely files the application, the application is effective on the 3358
first day of the employer's next six-month coverage period, 3359
provided that the administrator shall compute the employer's 3360
assessment for the surplus fund account due with respect to the 3361
period during which that application was filed without regard to 3362
the filing of the application. On and after the effective date of 3363
the employer's election, the self-insuring employer shall pay 3364
directly to an employee or to an employee's dependents 3365
compensation and benefits under this section regardless of the 3366
date of the injury or occupational disease, and the employer shall 3367
receive no money or credits from the surplus fund account on 3368
account of those payments and shall not be required to pay any 3369

amounts into the surplus fund account on account of this section. 3370
The election made under this division is irrevocable. 3371

(I) All actions and proceedings under this section which are 3372
the subject of an appeal to the court of common pleas or the court 3373
of appeals shall be preferred over all other civil actions except 3374
election causes, irrespective of position on the calendar. 3375

This section applies to all decisions of the commission or 3376
the administrator on November 2, 1959, and all claims filed 3377
thereafter are governed by sections 4123.511 and 4123.512 of the 3378
Revised Code. 3379

Any action pending in common pleas court or any other court 3380
on January 1, 1986, under this section is governed by former 3381
sections 4123.514, 4123.515, 4123.516, and 4123.519 and section 3382
4123.522 of the Revised Code. 3383

Sec. 4123.54. (A) Except as otherwise provided in divisions 3384
(I) and (K) of this section, every employee, who is injured or who 3385
contracts an occupational disease, and the dependents of each 3386
employee who is killed, or dies as the result of an occupational 3387
disease contracted in the course of employment, wherever such 3388
injury has occurred or occupational disease has been contracted, 3389
provided the same were not: 3390

(1) Purposely self-inflicted; or 3391

(2) Caused by the employee being intoxicated or under the 3392
influence of a controlled substance not prescribed by a physician 3393
where the intoxication or being under the influence of the 3394
controlled substance not prescribed by a physician was the 3395
proximate cause of the injury, is entitled to receive, either 3396
directly from the employee's self-insuring employer as provided in 3397
section 4123.35 of the Revised Code, or from the state insurance 3398
fund, the compensation for loss sustained on account of the 3399

injury, occupational disease, or death, and the medical, nurse, 3400
and hospital services and medicines, and the amount of funeral 3401
expenses in case of death, as are provided by this chapter. 3402

(B) For the purpose of this section, provided that an 3403
employer has posted written notice to employees that the results 3404
of, or the employee's refusal to submit to, any chemical test 3405
described under this division may affect the employee's 3406
eligibility for compensation and benefits pursuant to this chapter 3407
and Chapter 4121. of the Revised Code, there is a rebuttable 3408
presumption that an employee is intoxicated or under the influence 3409
of a controlled substance not prescribed by the employee's 3410
physician and that being intoxicated or under the influence of a 3411
controlled substance not prescribed by the employee's physician is 3412
the proximate cause of an injury under either of the following 3413
conditions: 3414

(1) When any one or more of the following is true: 3415

(a) The employee, through a qualifying chemical test 3416
administered within eight hours of an injury, is determined to 3417
have an alcohol concentration level equal to or in excess of the 3418
levels established in divisions (A)(1)(b) to (i) of section 3419
4511.19 of the Revised Code; 3420

(b) The employee, through a qualifying chemical test 3421
administered within thirty-two hours of an injury, is determined 3422
to have one of the following controlled substances not prescribed 3423
by the employee's physician in the employee's system that tests 3424
above the following levels in an enzyme multiplied immunoassay 3425
technique screening test and above the levels established in 3426
division (B)(1)(c) of this section in a gas chromatography mass 3427
spectrometry test: 3428

(i) For amphetamines, one thousand nanograms per milliliter 3429
of urine; 3430

(ii) For cannabinoids, fifty nanograms per milliliter of urine;	3431 3432
(iii) For cocaine, including crack cocaine, three hundred nanograms per milliliter of urine;	3433 3434
(iv) For opiates, two thousand nanograms per milliliter of urine;	3435 3436
(v) For phencyclidine, twenty-five nanograms per milliliter of urine.	3437 3438
(c) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have one of the following controlled substances not prescribed by the employee's physician in the employee's system that tests above the following levels by a gas chromatography mass spectrometry test:	3439 3440 3441 3442 3443 3444
(i) For amphetamines, five hundred nanograms per milliliter of urine;	3445 3446
(ii) For cannabinoids, fifteen nanograms per milliliter of urine;	3447 3448
(iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine;	3449 3450
(iv) For opiates, two thousand nanograms per milliliter of urine;	3451 3452
(v) For phencyclidine, twenty-five nanograms per milliliter of urine.	3453 3454
(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.	3455 3456 3457 3458 3459 3460

(2) When the employee refuses to submit to a requested 3461
chemical test, on the condition that that employee is or was given 3462
notice that the refusal to submit to any chemical test described 3463
in division (B)(1) of this section may affect the employee's 3464
eligibility for compensation and benefits under this chapter and 3465
Chapter 4121. of the Revised Code. 3466

(C)(1) For purposes of division (B) of this section, a 3467
chemical test is a qualifying chemical test if it is administered 3468
to an employee after an injury under at least one of the following 3469
conditions: 3470

(a) When the employee's employer had reasonable cause to 3471
suspect that the employee may be intoxicated or under the 3472
influence of a controlled substance not prescribed by the 3473
employee's physician; 3474

(b) At the request of a police officer pursuant to section 3475
4511.191 of the Revised Code, and not at the request of the 3476
employee's employer; 3477

(c) At the request of a licensed physician who is not 3478
employed by the employee's employer, and not at the request of the 3479
employee's employer. 3480

(2) As used in division (C)(1)(a) of this section, 3481
"reasonable cause" means, but is not limited to, evidence that an 3482
employee is or was using alcohol or a controlled substance drawn 3483
from specific, objective facts and reasonable inferences drawn 3484
from these facts in light of experience and training. These facts 3485
and inferences may be based on, but are not limited to, any of the 3486
following: 3487

(a) Observable phenomena, such as direct observation of use, 3488
possession, or distribution of alcohol or a controlled substance, 3489
or of the physical symptoms of being under the influence of 3490
alcohol or a controlled substance, such as but not limited to 3491

slurred speech, dilated pupils, odor of alcohol or a controlled substance, changes in affect, or dynamic mood swings;

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

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

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

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

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

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

(F) The written notice required by division (B) of this section shall be the same size or larger than the ~~certificate~~ proof of premium payment notice workers' compensation coverage furnished by the bureau of workers' compensation and shall be

posted by the employer in the same location as the ~~certificate~~ 3523
proof of ~~premium payment notice~~ workers' compensation coverage or 3524
the certificate of self-insurance. 3525

(G) If a condition that pre-existed an injury is 3526
substantially aggravated by the injury, and that substantial 3527
aggravation is documented by objective diagnostic findings, 3528
objective clinical findings, or objective test results, no 3529
compensation or benefits are payable because of the pre-existing 3530
condition once that condition has returned to a level that would 3531
have existed without the injury. 3532

(H)(1) Whenever, with respect to an employee of an employer 3533
who is subject to and has complied with this chapter, there is 3534
possibility of conflict with respect to the application of 3535
workers' compensation laws because the contract of employment is 3536
entered into and all or some portion of the work is or is to be 3537
performed in a state or states other than Ohio, the employer and 3538
the employee may agree to be bound by the laws of this state or by 3539
the laws of some other state in which all or some portion of the 3540
work of the employee is to be performed. The agreement shall be in 3541
writing and shall be filed with the bureau of workers' 3542
compensation within ten days after it is executed and shall remain 3543
in force until terminated or modified by agreement of the parties 3544
similarly filed. If the agreement is to be bound by the laws of 3545
this state and the employer has complied with this chapter, then 3546
the employee is entitled to compensation and benefits regardless 3547
of where the injury occurs or the disease is contracted and the 3548
rights of the employee and the employee's dependents under the 3549
laws of this state are the exclusive remedy against the employer 3550
on account of injury, disease, or death in the course of and 3551
arising out of the employee's employment. If the agreement is to 3552
be bound by the laws of another state and the employer has 3553
complied with the laws of that state, the rights of the employee 3554

and the employee's dependents under the laws of that state are the 3555
exclusive remedy against the employer on account of injury, 3556
disease, or death in the course of and arising out of the 3557
employee's employment without regard to the place where the injury 3558
was sustained or the disease contracted. If an employer and an 3559
employee enter into an agreement under this division, the fact 3560
that the employer and the employee entered into that agreement 3561
shall not be construed to change the status of an employee whose 3562
continued employment is subject to the will of the employer or the 3563
employee, unless the agreement contains a provision that expressly 3564
changes that status. 3565

(2) ~~If any employee or the employee's dependents pursue 3566
workers' compensation benefits or recover damages from the 3567
employer under the laws of another state, the amount awarded or 3568
recovered, whether paid or to be paid in future installments, 3569
shall be credited on the amount of any award of compensation or 3570
benefits made to the employee or the employee's dependents by the 3571
bureau. If an employee or the employee's dependents pursue or 3572
receive an award of compensation or benefits under this chapter or 3573
Chapter 4121., 4127., or 4131. of the Revised Code for the same 3574
injury, occupational disease, or death for which the employee or 3575
the employee's dependents previously pursued or otherwise elected 3576
to accept workers' compensation benefits and received a decision 3577
on the merits as defined in section 4123.542 of the Revised Code 3578
under the laws of another state or recovered damages under the 3579
laws of another state, the claim shall be disallowed and the 3580
administrator or any self-insuring employer, by any lawful means, 3581
may collect ~~the~~ from the employee or the employee's dependents any 3582
of the following: 3583~~

(i) The amount of compensation or benefits paid to or on 3584
behalf of the employee or the employee's dependents by the 3585
administrator or a self-insuring employer pursuant to this chapter 3586

or Chapter 4121., 4127., or 4131. of the Revised Code for that 3587
award; 3588

(ii) Any interest, attorney's fees, and costs the 3589
administrator or the self-insuring employer incurs in collecting 3590
that payment. 3591

(3) If an employee or the employee's dependents receive an 3592
award of compensation or benefits under this chapter or Chapter 3593
4121., 4127., or 4131. of the Revised Code and subsequently pursue 3594
or otherwise elected to accept workers' compensation benefits or 3595
damages under the laws of another state for the same injury, 3596
occupational disease, or death the claim under this chapter or 3597
Chapter 4121., 4127., or 4131. of the Revised Code shall be 3598
disallowed. The administrator or ~~any~~ a self-insuring employer 3599
~~also~~, by any lawful means, may collect from the employee or the 3600
employee's dependents ~~any~~ or other-states' insurer any of the 3601
following: 3602

(i) The amount of compensation or benefits paid to or on 3603
behalf of the employee or the employee's dependents by the 3604
administrator or the self-insuring employer pursuant to this 3605
chapter or Chapter 4121., 4127., or 4131. of the Revised Code for 3606
that award; 3607

(ii) Any interest, costs, and attorney's fees the 3608
administrator or the self-insuring employer incurs in collecting 3609
that payment ~~and any attorney's fees, penalties, interest, awards,~~ 3610
~~and;~~ 3611

(iii) Any costs incurred by an employer in contesting or 3612
responding to any claim filed by the employee or the employee's 3613
dependents for the same injury, occupational disease, or death 3614
that was filed after the original claim for which the employee or 3615
the employee's dependents received a decision on the merits as 3616
described in section 4123.542 of the Revised Code. ~~¶¶~~ 3617

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

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

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

~~(a) The laws of the other state limit the ability of an employee who is a resident of this state and is covered by this~~

~~chapter and Chapter 4123. of the Revised Code, or the employee's 3650
dependents, to receive compensation or benefits under the other 3651
state's workers' compensation law on account of injury, disease, 3652
or death incurred by the employee that arises out of or in the 3653
course of the employee's employment while temporarily within that 3654
state in the same manner as specified in division (H)(3) of this 3655
section for an employee who is a resident of a state other than 3656
this state, or the employee's dependents;~~ 3657

~~(b) The laws of the other state limit the liability of the 3658
employer of the employee who is a resident of this state and who 3659
is described in division (H)(4)(a) of this section for that 3660
injury, disease, or death, in the same manner specified in 3661
division (H)(3) of this section for the employer of an employee 3662
who is a resident of the other state. 3663~~

~~(5)(6) An employee, or the dependent of an employee, who 3664
elects to receive compensation and benefits under this chapter or 3665
Chapter 4121., 4127., or 4131. of the Revised Code for a claim may 3666
not receive compensation and benefits under the workers' 3667
compensation laws of any state other than this state for that same 3668
claim. For each claim submitted by or on behalf of an employee, 3669
the administrator or, if the employee is employed by a 3670
self-insuring employer, the self-insuring employer, shall request 3671
the employee or the employee's dependent to sign an election that 3672
affirms the employee's or employee's dependent's acceptance of 3673
electing to receive compensation and benefits under this chapter 3674
or Chapter 4121., 4127., or 4131. of the Revised Code for that 3675
claim that also affirmatively waives and releases the employee's 3676
or the employee's dependent's right to file for and receive 3677
compensation and benefits under the laws of any state other than 3678
this state for that claim. The employee or employee's dependent 3679
shall sign the election form within twenty-eight days after the 3680
administrator or self-insuring employer submits the request or the 3681~~

administrator or self-insuring employer shall ~~suspend~~ dismiss that 3682
claim ~~until the administrator or self-insuring employer receives~~ 3683
~~the signed election form.~~ 3684

In the event a workers' compensation claim has been filed in 3685
another jurisdiction on behalf of an employee or the dependents of 3686
an employee, and the employee or dependents subsequently elect to 3687
receive compensation, benefits, or both under this chapter or 3688
Chapter 4121., 4127., or 4131. of the Revised Code, the employee 3689
or dependent shall withdraw or refuse acceptance of the workers' 3690
compensation claim filed in the other jurisdiction in order to 3691
pursue compensation or benefits under the laws of this state. If 3692
the employee or dependents were awarded workers' compensation 3693
benefits or had recovered damages under the laws of the other 3694
state, any compensation and benefits awarded under this chapter or 3695
Chapters 4121., 4127., or 4131. of the Revised Code shall be paid 3696
only to the extent to which those payments exceed the amounts paid 3697
under the laws of the other state. If the employee or dependent 3698
fails to withdraw or to refuse acceptance of the workers' 3699
compensation claim in the other jurisdiction within twenty-eight 3700
days after a request made by the administrator or a self-insuring 3701
employer, the administrator or self-insuring employer shall 3702
dismiss the employee's or employee's dependents' claim made in 3703
this state. 3704

(I) If an employee who is covered under the federal 3705
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 3706
33 U.S.C. 901 et seq., is injured or contracts an occupational 3707
disease or dies as a result of an injury or occupational disease, 3708
and if that employee's or that employee's dependents' claim for 3709
compensation or benefits for that injury, occupational disease, or 3710
death is subject to the jurisdiction of that act, the employee or 3711
the employee's dependents are not entitled to apply for and shall 3712
not receive compensation or benefits under this chapter and 3713

Chapter 4121. of the Revised Code. The rights of such an employee 3714
and the employee's dependents under the federal "Longshore and 3715
Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et 3716
seq., are the exclusive remedy against the employer for that 3717
injury, occupational disease, or death. 3718

(J) Compensation or benefits are not payable to a claimant 3719
during the period of confinement of the claimant in any state or 3720
federal correctional institution, or in any county jail in lieu of 3721
incarceration in a state or federal correctional institution, 3722
whether in this or any other state for conviction of violation of 3723
any state or federal criminal law. 3724

(K) An employer, upon the approval of the administrator, may 3725
provide for workers' compensation coverage for the employer's 3726
employees who are professional athletes and coaches by submitting 3727
to the administrator proof of coverage under a league policy 3728
issued under the laws of another state under either of the 3729
following circumstances: 3730

(1) The employer administers the payroll and workers' 3731
compensation insurance for a professional sports team subject to a 3732
collective bargaining agreement, and the collective bargaining 3733
agreement provides for the uniform administration of workers' 3734
compensation benefits and compensation for professional athletes. 3735

(2) The employer is a professional sports league, or is a 3736
member team of a professional sports league, and all of the 3737
following apply: 3738

(a) The professional sports league operates as a single 3739
entity, whereby all of the players and coaches of the sports 3740
league are employees of the sports league and not of the 3741
individual member teams. 3742

(b) The professional sports league at all times maintains 3743
workers' compensation insurance that provides coverage for the 3744

players and coaches of the sports league. 3745

(c) Each individual member team of the professional sports 3746
league, pursuant to the organizational or operating documents of 3747
the sports league, is obligated to the sports league to pay to the 3748
sports league any workers' compensation claims that are not 3749
covered by the workers' compensation insurance maintained by the 3750
sports league. 3751

If the administrator approves the employer's proof of 3752
coverage submitted under division (K) of this section, a 3753
professional athlete or coach who is an employee of the employer 3754
and the dependents of the professional athlete or coach are not 3755
entitled to apply for and shall not receive compensation or 3756
benefits under this chapter and Chapter 4121. of the Revised Code. 3757
The rights of such an athlete or coach and the dependents of such 3758
an athlete or coach under the laws of the state where the policy 3759
was issued are the exclusive remedy against the employer for the 3760
athlete or coach if the athlete or coach suffers an injury or 3761
contracts an occupational disease in the course of employment, or 3762
for the dependents of the athlete or the coach if the athlete or 3763
coach is killed as a result of an injury or dies as a result of an 3764
occupational disease, regardless of the location where the injury 3765
was suffered or the occupational disease was contracted. 3766

Sec. 4123.542. An employee or the dependents of an employee 3767
who receive a decision on the merits of a claim for compensation 3768
or benefits under this chapter or Chapter 4121., 4127., or 4131. 3769
of the Revised Code shall not file a claim for the same injury, 3770
occupational disease, or death in another state under the workers' 3771
compensation laws of that state. Except as otherwise provided 3772
in division (H) of section 4123.54 of the Revised Code, an 3773
employee or the employee's dependents who receive a decision on 3774
the merits of a claim for compensation or benefits under the 3775

workers' compensation laws of another state shall not file a claim 3776
for compensation and benefits under this chapter or Chapter 4121., 3777
4127., or 4131. of the Revised Code for the same injury, 3778
occupational disease, or death. 3779

As used in this section, "a decision on the merits" means a 3780
decision determined or adjudicated for compensability of a claim 3781
and not on jurisdictional grounds. 3782

Sec. 4123.66. (A) In addition to the compensation provided 3783
for in this chapter, the administrator of workers' compensation 3784
shall disburse and pay from the state insurance fund the amounts 3785
for medical, nurse, and hospital services and medicine as the 3786
administrator deems proper and, in case death ensues from the 3787
injury or occupational disease, the administrator shall disburse 3788
and pay from the fund reasonable funeral expenses in an amount not 3789
to exceed fifty-five hundred dollars. The bureau of workers' 3790
compensation shall reimburse anyone, whether dependent, volunteer, 3791
or otherwise, who pays the funeral expenses of any employee whose 3792
death ensues from any injury or occupational disease as provided 3793
in this section. The administrator may adopt rules, with the 3794
advice and consent of the bureau of workers' compensation board of 3795
directors, with respect to furnishing medical, nurse, and hospital 3796
service and medicine to injured or disabled employees entitled 3797
thereto, and for the payment therefor. In case an injury or 3798
industrial accident that injures an employee also causes damage to 3799
the employee's eyeglasses, artificial teeth or other denture, or 3800
hearing aid, or in the event an injury or occupational disease 3801
makes it necessary or advisable to replace, repair, or adjust the 3802
same, the bureau shall disburse and pay a reasonable amount to 3803
repair or replace the same. 3804

(B) The administrator, in the rules the administrator adopts 3805
pursuant to division (A) of this section, may adopt rules 3806

specifying the circumstances under which the bureau may make 3807
immediate payment for the first fill of prescription drugs for 3808
medical conditions identified in an application for compensation 3809
or benefits under section 4123.84 or 4123.85 of the Revised Code 3810
that occurs prior to the date the administrator issues an initial 3811
determination order under division (B) of section 4123.511 of the 3812
Revised Code. If the claim is ultimately disallowed in a final 3813
administrative or judicial order, and if the employer is a state 3814
fund employer who pays assessments into the surplus fund account 3815
created under section 4123.34 of the Revised Code, the payments 3816
for medical services made pursuant to this division for the first 3817
fill of prescription drugs shall be charged to and paid from the 3818
surplus fund account and not charged through the state insurance 3819
fund to the employer against whom the claim was filed. 3820

(C)(1) If an employer or a welfare plan has provided to or on 3821
behalf of an employee any benefits or compensation for an injury 3822
or occupational disease and that injury or occupational disease is 3823
determined compensable under this chapter, the employer or a 3824
welfare plan may request that the administrator reimburse the 3825
employer or welfare plan for the amount the employer or welfare 3826
plan paid to or on behalf of the employee in compensation or 3827
benefits. The administrator shall reimburse the employer or 3828
welfare plan for the compensation and benefits paid if, at the 3829
time the employer or welfare plan provides the benefits or 3830
compensation to or on behalf of employee, the injury or 3831
occupational disease had not been determined to be compensable 3832
under this chapter and if the employee was not receiving 3833
compensation or benefits under this chapter for that injury or 3834
occupational disease. The administrator shall reimburse the 3835
employer or welfare plan in the amount that the administrator 3836
would have paid to or on behalf of the employee under this chapter 3837
if the injury or occupational disease originally would have been 3838
determined compensable under this chapter. If the employer is a 3839

merit-rated employer, the administrator shall adjust the amount of 3840
premium next due from the employer according to the amount the 3841
administrator pays the employer. The administrator shall adopt 3842
rules, in accordance with Chapter 119. of the Revised Code, to 3843
implement this division. 3844

(2) As used in this division, "welfare plan" has the same 3845
meaning as in division (1) of 29 U.S.C.A. 1002. 3846

Sec. 4123.82. (A) All contracts and agreements are void which 3847
undertake to indemnify or insure an employer against loss or 3848
liability for the payment of compensation to workers or their 3849
dependents for death, injury, or occupational disease occasioned 3850
in the course of the workers' employment, or which provide that 3851
the insurer shall pay the compensation, or which indemnify the 3852
employer against damages when the injury, disease, or death arises 3853
from the failure to comply with any lawful requirement for the 3854
protection of the lives, health, and safety of employees, or when 3855
the same is occasioned by the willful act of the employer or any 3856
of the employer's officers or agents, or by which it is agreed 3857
that the insurer shall pay any such damages. No license or 3858
authority to enter into any such agreements or issue any such 3859
policies of insurance shall be granted or issued by any public 3860
authority in this state. Any corporation organized or admitted 3861
under the laws of this state to transact liability insurance as 3862
defined in section 3929.01 of the Revised Code may by amendment of 3863
its articles of incorporation or by original articles of 3864
incorporation, provide therein for the authority and purpose to 3865
make insurance in states, territories, districts, and counties, 3866
other than the state of Ohio, and in the state of Ohio in respect 3867
of contracts permitted by division (B) of this section, 3868
indemnifying employers against loss or liability for payment of 3869
compensation to workers and employees and their dependents for 3870
death, injury, or occupational disease occasioned in the course of 3871

the employment and to insure and indemnify employers against loss, 3872
expense, and liability by risk of bodily injury or death by 3873
accident, disability, sickness, or disease suffered by workers and 3874
employees for which the employer may be liable or has assumed 3875
liability. 3876

(B) Notwithstanding division (A) of this section: 3877

(1) No contract because of that division is void which 3878
undertakes to indemnify a self-insuring employer against all or 3879
part of such employer's loss in excess of at least fifty thousand 3880
dollars from any one disaster or event arising out of the 3881
employer's liability under this chapter, but no insurance 3882
corporation shall, directly or indirectly, represent an employer 3883
in the settlement, adjudication, determination, allowance, or 3884
payment of claims. The superintendent of insurance shall enforce 3885
this prohibition by such disciplinary orders directed against the 3886
offending insurance corporation as the superintendent of insurance 3887
deems appropriate in the circumstances and the administrator of 3888
workers' compensation shall enforce this prohibition by such 3889
disciplinary orders directed against the offending employer as the 3890
administrator deems appropriate in the circumstances, which orders 3891
may include revocation of the insurance corporation's right to 3892
enter into indemnity contracts and revocation of the employer's 3893
status as a self-insuring employer. 3894

(2) The administrator may enter into a contract of indemnity 3895
with any such employer upon such terms, payment of such premium, 3896
and for such amount and form of indemnity as the administrator 3897
determines and the bureau of workers' compensation board of 3898
directors may procure reinsurance of the liability of the public 3899
and private funds under this chapter, or any part of the liability 3900
in respect of either or both of the funds, upon such terms and 3901
premiums or other payments from the fund or funds as the 3902
administrator deems prudent in the maintenance of a solvent fund 3903

or funds from year to year. When making the finding of fact which 3904
the administrator is required by section 4123.35 of the Revised 3905
Code to make with respect to the financial ability of an employer, 3906
no contract of indemnity, or the ability of the employer to 3907
procure such a contract, shall be considered as increasing the 3908
financial ability of the employer. 3909

(C) Nothing in this section shall be construed to prohibit 3910
the administrator or an other-states' insurer from providing to 3911
employers in this state other-states' coverage or limited 3912
other-states' coverage in accordance with section 4123.292 of the 3913
Revised Code. 3914

(D) Notwithstanding any other section of the Revised Code, 3915
but subject to division (A) of this section, the superintendent of 3916
insurance shall have the sole authority to regulate any insurance 3917
products, except for the bureau of workers' compensation and those 3918
products offered by the bureau, that indemnify or insure employers 3919
against workers' compensation losses in this state or that are 3920
sold to employers in this state. 3921

Sec. 4123.83. Each employer paying premiums into the state 3922
insurance fund or electing directly to pay compensation to the 3923
employer's injured employees or the dependents of the employer's 3924
killed employees as provided in section 4123.35 of the Revised 3925
Code, shall post conspicuously in the employer's place or places 3926
of employment notices, which shall be furnished ~~in adequate number~~ 3927
at least annually by the bureau of workers' compensation ~~at the~~ 3928
~~time of the payment of the premium, stating the fact that the~~ 3929
~~employer has made the payment, the date thereof, and period for~~ 3930
which the payment is made. The notice shall state that it is proof 3931
of workers' compensation coverage, or that the employer has 3932
complied with section 4123.35 of the Revised Code, and has been 3933
authorized by the administrator of workers' compensation directly 3934

to compensate employees or dependents, and the date of the 3935
authorization. The notice shall indicate that coverage is 3936
contingent on continued payment of premiums and assessments due. 3937
The notice, when posted, constitutes sufficient notice to the 3938
employer's employees of the fact that the employer ~~has made~~ 3939
~~payment~~ carries workers' compensation coverage or that the 3940
employer has complied with the elective provisions of section 3941
4123.35 of the Revised Code. 3942

Sec. 4125.05. (A) ~~Not later than thirty days after November~~ 3943
~~5, 2004, or not~~ later than thirty days after the formation of a 3944
professional employer organization, ~~whichever date occurs later,~~ a 3945
professional employer organization operating in this state shall 3946
register with the administrator of workers' compensation on forms 3947
provided by the administrator. Following initial registration, 3948
each professional employer organization shall register with the 3949
administrator annually on or before the thirty-first day of 3950
December. Commonly owned or controlled applicants may register as 3951
a professional employer organization reporting entity or register 3952
individually. Registration as a part of a professional employer 3953
organization reporting entity shall not disqualify an individual 3954
professional employer organization from participating in a 3955
group-rated plan under division (A)(4) of section 4123.29 of the 3956
Revised Code. 3957

(B) Initial registration and each annual registration renewal 3958
shall include all of the following: 3959

(1) A list of each of the professional employer 3960
organization's client employers current as of the date of 3961
registration for purposes of initial registration or current as of 3962
the date of annual registration renewal, or within fourteen days 3963
of adding or releasing a client, that includes the client 3964
employer's name, address, federal tax identification number, and 3965

bureau of workers' compensation risk number;	3966
(2) A fee as determined by the administrator;	3967
(3) The name or names under which the professional employer organization conducts business;	3968
(4) The address of the professional employer organization's principal place of business and the address of each office it maintains in this state;	3970
(5) The professional employer organization's taxpayer or employer identification number;	3971
(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;	3972
(7) The most recent financial statement prepared and audited pursuant to division (B) of section 4125.051 of the Revised Code;	3973
(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;	3974
(9) An attestation of the accuracy of the data submissions from the chief executive officer of the professional employer organization.	3975
(C) Upon terms and for periods that the administrator considers appropriate, the administrator may issue a limited registration to a professional employer organization or professional employer organization reporting entity that provides all of the following items:	3976
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(1) A properly executed request for limited registration on a form provided by the administrator;	3996 3997
(2) All information and materials required for registration in divisions (B)(1) to (6) of this section;	3998 3999
(3) Information and documentation necessary to show that the professional employer organization or professional employer organization reporting entity satisfies all of the following criteria:	4000 4001 4002 4003
(a) It is domiciled outside of this state.	4004
(b) It is licensed or registered as a professional employer organization in another state.	4005 4006
(c) It does not maintain an office in this state.	4007
(d) It does not participate in direct solicitations for client employers located or domiciled in this state.	4008 4009
(e) It has fifty or fewer shared employees employed or domiciled in this state on any given day.	4010 4011
(D)(1) The administrator, with the advice and consent of the bureau of workers' compensation board of directors, shall <u>may</u> adopt rules in accordance with Chapter 119. of the Revised Code to require, in addition to the requirement under division (B)(8) of this section and except as otherwise specified in division (D)(2) of this section , a professional employer organization to provide security in the form of a bond or letter of credit assignable to the Ohio bureau of workers' compensation not to exceed an amount equal to the premiums and assessments incurred for the two most recent payroll periods <u>policy year</u> , prior to any discounts or dividends, to meet the financial obligations of the professional employer organization pursuant to this chapter and Chapters 4121. and 4123. of the Revised Code.	4012 4013 4014 4015 4016 4017 4018 4019 4020 4021 4022 4023 4024
(2) As an alternative to providing security in the form of a	4025

~~bond or letter of credit under division (D)(1) of this section, 4026
the administrator shall permit a professional employer 4027
organization to make periodic payments of prospective premiums and 4028
assessments to the bureau. 4029~~

~~(3) A professional employer organization may appeal the 4030
amount of the security required pursuant to rules adopted under 4031
division (D)(1) of this section in accordance with section 4032
4123.291 of the Revised Code. 4033~~

(3) A professional employer organization shall pay premiums 4034
and assessments for purposes of Chapters 4121. and 4123. of the 4035
Revised Code on a monthly basis pursuant to division (A) of 4036
section 4123.35 of the Revised Code. 4037

(E) Notwithstanding division (D) of this section, a 4038
professional employer organization that qualifies for 4039
self-insurance or retrospective rating under section 4123.29 or 4040
4123.35 of the Revised Code shall abide by the financial 4041
disclosure and security requirements pursuant to those sections 4042
and the rules adopted under those sections in place of the 4043
requirements specified in division (D) of this section or 4044
specified in rules adopted pursuant to that division. 4045

(F) Except to the extent necessary for the administrator to 4046
administer the statutory duties of the administrator and for 4047
employees of the state to perform their official duties, all 4048
records, reports, client lists, and other information obtained 4049
from a professional employer organization and professional 4050
employer organization reporting entity under divisions (A), (B), 4051
and (C) of this section are confidential and shall be considered 4052
trade secrets and shall not be published or open to public 4053
inspection. 4054

(G) The list described in division (B)(1) of this section 4055
shall be considered a trade secret. 4056

(H) The administrator shall establish the fee described in 4057
division (B)(2) of this section in an amount that does not exceed 4058
the cost of the administration of the initial and renewal 4059
registration process. 4060

(I) A financial statement required under division (B)(7) of 4061
this section for initial registration shall be the most recent 4062
financial statement of the professional employer organization or 4063
professional employer organization reporting entity of which the 4064
professional employer organization is a member and shall not be 4065
older than thirteen months. For each registration renewal, the 4066
professional employer organization shall file the required 4067
financial statement within one hundred eighty days after the end 4068
of the professional employer organization's or professional 4069
employer organization reporting entity's fiscal year. A 4070
professional employer organization may apply to the administrator 4071
for an extension beyond that time if the professional employer 4072
organization provides the administrator with a letter from the 4073
professional employer organization's auditor stating the reason 4074
for delay and the anticipated completion date. 4075

(J) Multiple, unrelated professional employer organizations 4076
shall not combine together for purposes of obtaining workers' 4077
compensation coverage or for forming any type of self-insurance 4078
arrangement available under this chapter. Multiple, unrelated 4079
professional employer organization reporting entities shall not 4080
combine together for purposes of obtaining workers' compensation 4081
coverage or for forming any type of self-insurance arrangement 4082
available under this chapter. 4083

(K) The administrator shall maintain a list of professional 4084
employer organizations and professional employer organization 4085
reporting entities registered under this section that is readily 4086
available to the public by electronic or other means. 4087

Sec. 4729.80. (A) If the state board of pharmacy establishes 4088
and maintains a drug database pursuant to section 4729.75 of the 4089
Revised Code, the board is authorized or required to provide 4090
information from the database in accordance with the following: 4091

(1) On receipt of a request from a designated representative 4092
of a government entity responsible for the licensure, regulation, 4093
or discipline of health care professionals with authority to 4094
prescribe, administer, or dispense drugs, the board may provide to 4095
the representative information from the database relating to the 4096
professional who is the subject of an active investigation being 4097
conducted by the government entity. 4098

(2) On receipt of a request from a federal officer, or a 4099
state or local officer of this or any other state, whose duties 4100
include enforcing laws relating to drugs, the board shall provide 4101
to the officer information from the database relating to the 4102
person who is the subject of an active investigation of a drug 4103
abuse offense, as defined in section 2925.01 of the Revised Code, 4104
being conducted by the officer's employing government entity. 4105

(3) Pursuant to a subpoena issued by a grand jury, the board 4106
shall provide to the grand jury information from the database 4107
relating to the person who is the subject of an investigation 4108
being conducted by the grand jury. 4109

(4) Pursuant to a subpoena, search warrant, or court order in 4110
connection with the investigation or prosecution of a possible or 4111
alleged criminal offense, the board shall provide information from 4112
the database as necessary to comply with the subpoena, search 4113
warrant, or court order. 4114

(5) On receipt of a request from a prescriber or the 4115
prescriber's delegate approved by the board, the board ~~may~~ shall 4116
provide to the prescriber information from the database relating 4117
to a patient who is either of the following, if the prescriber 4118

certifies in a form specified by the board that it is for the 4119
purpose of providing medical treatment to the patient who is the 4120
subject of the request: 4121

(a) A current patient of the prescriber; 4122

(b) A potential patient of the prescriber based on a referral 4123
of the patient to the prescriber. 4124

(6) On receipt of a request from a pharmacist or the 4125
pharmacist's delegate approved by the board, the board ~~may~~ shall 4126
provide to the pharmacist information from the database relating 4127
to a current patient of the pharmacist, if the pharmacist 4128
certifies in a form specified by the board that it is for the 4129
purpose of the pharmacist's practice of pharmacy involving the 4130
patient who is the subject of the request. 4131

(7) On receipt of a request from an individual seeking the 4132
individual's own database information in accordance with the 4133
procedure established in rules adopted under section 4729.84 of 4134
the Revised Code, the board may provide to the individual the 4135
individual's own database information. 4136

(8) On receipt of a request from the medical director of a 4137
managed care organization that has entered into a data security 4138
agreement with the board required by section 5167.14 of the 4139
Revised Code, the board shall provide to the medical director 4140
information from the database relating to a medicaid recipient 4141
enrolled in the managed care organization, including information 4142
in the database related to prescriptions for the recipient that 4143
were not covered or reimbursed under a program administered by the 4144
department of medicaid. 4145

(9) On receipt of a request from the medicaid director, the 4146
board shall provide to the director information from the database 4147
relating to a recipient of a program administered by the 4148
department of medicaid, including information in the database 4149

related to prescriptions for the recipient that were not covered 4150
or paid by a program administered by the department. 4151

(10) Except as otherwise provided in division (E) or (F) of 4152
this section, on receipt of a request from the medical director of 4153
a managed care organization, the board shall provide to the 4154
medical director information from the database relating to a 4155
claimant under Chapter 4121., 4123., 4127., or 4131. of the 4156
Revised Code assigned to the managed care organization, including 4157
information in the database related to prescriptions for the 4158
claimant that were not covered or reimbursed under those chapters, 4159
if both of the following apply: 4160

(a) The managed care organization has entered into a contract 4161
with the administrator of workers' compensation under division 4162
(B)(4) of section 4121.44 of the Revised Code; 4163

(b) The managed care organization has entered into a data 4164
security agreement with the board as required by section 4121.447 4165
of the Revised Code. 4166

(11) On receipt of a request from the administrator of 4167
workers' compensation, the board ~~may~~ shall provide to the 4168
administrator information from the database relating to a claimant 4169
under Chapter 4121., 4123., 4127., or 4131. of the Revised Code, 4170
including information in the database related to prescriptions for 4171
the claimant that were not covered or reimbursed under Chapter 4172
4121., 4123., 4127., or 4131. of the Revised Code. 4173

~~(11)~~(12) On receipt of a request from a requestor described 4174
in division (A)(1), (2), (5), or (6) of this section who is from 4175
or participating with another state's prescription monitoring 4176
program, the board may provide to the requestor information from 4177
the database, but only if there is a written agreement under which 4178
the information is to be used and disseminated according to the 4179
laws of this state. 4180

(B) The state board of pharmacy shall maintain a record of 4181
each individual or entity that requests information from the 4182
database pursuant to this section. In accordance with rules 4183
adopted under section 4729.84 of the Revised Code, the board may 4184
use the records to document and report statistics and law 4185
enforcement outcomes. 4186

The board may provide records of an individual's requests for 4187
database information to the following: 4188

(1) A designated representative of a government entity that 4189
is responsible for the licensure, regulation, or discipline of 4190
health care professionals with authority to prescribe, administer, 4191
or dispense drugs who is involved in an active investigation being 4192
conducted by the government entity of the individual who submitted 4193
the requests for database information; 4194

(2) A federal officer, or a state or local officer of this or 4195
any other state, whose duties include enforcing laws relating to 4196
drugs and who is involved in an active investigation being 4197
conducted by the officer's employing government entity of the 4198
individual who submitted the requests for database information. 4199

(C) Information contained in the database and any information 4200
obtained from it is not a public record. Information contained in 4201
the records of requests for information from the database is not a 4202
public record. Information that does not identify a person may be 4203
released in summary, statistical, or aggregate form. 4204

(D) A pharmacist or prescriber shall not be held liable in 4205
damages to any person in any civil action for injury, death, or 4206
loss to person or property on the basis that the pharmacist or 4207
prescriber did or did not seek or obtain information from the 4208
database. 4209

(E) The administrator, upon request of the board, shall 4210
review at least quarterly a list of the individuals about whom 4211

information was requested by a medical director of a managed care organization and confirm that the individuals are assigned to the managed care organization. The board may prohibit a medical director of a managed care organization from obtaining further information from the drug database if the administrator fails to review and confirm the list.

(F) The board, after notice and hearing in accordance with Chapter 119. of the Revised Code, may prohibit a medical director of a managed care organization from obtaining further information from the drug database or may impose a monetary penalty of not more than five thousand dollars, for requesting information on individuals pursuant to division (A)(10) of this section who were not assigned to the managed care organization.

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

(A)(1) No person identified in divisions (A)(1) to ~~(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 4242
to a person who is approved by the board to serve as such a 4243
delegate of the prescriber or pharmacist. 4244

(2) No person shall provide false information to the state 4245
board of pharmacy with the intent to obtain or alter information 4246
contained in the drug database. 4247

(3) No person shall obtain drug database information by any 4248
means except as provided under section 4729.80 or 4729.81 of the 4249
Revised Code. 4250

(B) A person shall not use information obtained pursuant to 4251
division (A) of section 4729.80 of the Revised Code as evidence in 4252
any civil or administrative proceeding. 4253

(C)(1) The board may restrict a person from obtaining further 4254
information from the drug database if any of the following is the 4255
case: 4256

(a) The person violates division (A)(1), (2), or (3) of this 4257
section; 4258

(b) The person is a requestor identified in division 4259
(A)~~(11)~~(12) of section 4729.80 of the Revised Code and the board 4260
determines that the person's actions in another state would have 4261
constituted a violation of division (A)(1), (2), or (3) of this 4262
section; 4263

(c) The person fails to comply with division (B) of this 4264
section, regardless of the jurisdiction in which the failure to 4265
comply occurred. 4266

(2) The board shall determine the extent to which the person 4267
is restricted from obtaining further information from the 4268
database. 4269

Section 2. That existing sections 1561.31, 2305.25, 2305.252, 4270
4121.129, 4121.45, 4123.01, 4123.26, 4123.27, 4123.29, 4123.291, 4271

4123.292, 4123.32, 4123.322, 4123.34, 4123.35, 4123.353, 4123.36, 4272
 4123.37, 4123.40, 4123.41, 4123.411, 4123.47, 4123.511, 4123.512, 4273
 4123.54, 4123.542, 4123.66, 4123.82, 4123.83, 4125.05, 4729.80, 4274
 and 4729.86 and section 4121.419 of the Revised Code are hereby 4275
 repealed. 4276

Section 3. That Section 1 of Sub. H.B. 34 of the 130th 4277
 General Assembly, as amended by Am. Sub. H.B. 59 of the 130th 4278
 General Assembly, be amended to read as follows: 4279

Sec. 1. All items in this section are hereby appropriated out 4280
 of any moneys in the state treasury to the credit of the 4281
 designated fund. For all appropriations made in this act, those in 4282
 the first column are for fiscal year 2014, and those in the second 4283
 column are for fiscal year 2015. 4284

FND AI	AI TITLE	Appropriations		
	BWC BUREAU OF WORKERS' COMPENSATION			4286
	Workers' Compensation Fund Group			4287
7023 855401	William Green Lease	\$ 16,026,100	\$ 0	4288
	Payments to OBA			
7023 855407	Claims, Risk and	\$ 118,338,586	\$ 118,338,586	4289
	Medical Management			
7023 855408	Fraud Prevention	\$ 12,114,226	\$ 12,114,226	4290
7023 855409	Administrative	\$ 105,857,276	\$ 105,357,276	4291
	Services			
7023 855410	Attorney General	\$ 4,621,850	\$ 4,621,850	4292
	Payments			
8220 855606	Coal Workers' Fund	\$ 147,666	\$ 147,666	4293
8230 855608	Marine Industry	\$ 75,527	\$ 75,527	4294
8250 855605	Disabled Workers	\$ 319,718	\$ 319,718	4295
	Relief Fund			
8260 855609	Safety and Hygiene	\$ 21,661,132	\$ 21,661,132	4296

		Operating				
8260	855610	Safety Grants	\$	15,000,000	\$	15,000,000 4297
8290	855604	Long Term Care Loan	\$	100,000	\$	100,000 4298
		Program				
		TOTAL WCF Workers' Compensation				4299
		Fund Group	\$	294,262,081	\$	277,735,981 4300
		Federal Special Revenue Fund Group				4301
3490	855601	OSHA Enforcement	\$	1,731,000	\$	1,731,000 4302
3FW0	855614	BLS SOII Grant	\$	116,919	\$	116,919 4303
		TOTAL FED Federal Special Revenue	\$	1,847,919	\$	1,847,919 4304
		Fund Group				
		TOTAL ALL BUDGET FUND GROUPS	\$	296,110,000	\$	279,583,900 4305
		WILLIAM GREEN LEASE PAYMENTS				4306
		Of the foregoing appropriation item 855401, William Green				4307
		Lease Payments, up to \$16,026,100 shall be used to make lease				4308
		payments to the Treasurer of State at the times they are required				4309
		to be made during the period from July 1, 2013 to June 30, 2015,				4310
		pursuant to leases and agreements made under section 154.24 of the				4311
		Revised Code. If it is determined that additional appropriations				4312
		are necessary for such purpose, such amounts are hereby				4313
		appropriated.				4314
		WORKERS' COMPENSATION FRAUD UNIT				4315
		Of the foregoing appropriation item 855410, Attorney General				4316
		Payments, \$828,200 in each fiscal year shall be used to fund the				4317
		expenses of the Workers' Compensation Fraud Unit within the				4318
		Attorney General's Office. These payments shall be processed at				4319
		the beginning of each quarter of each fiscal year and deposited				4320
		into the Workers' Compensation Section Fund (Fund 1950) used by				4321
		the Attorney General.				4322
		SAFETY AND HYGIENE				4323
		Notwithstanding section 4121.37 of the Revised Code, the				4324

Treasurer of State shall transfer \$21,661,132 cash in fiscal year 4325
2014 and \$21,661,132 cash in fiscal year 2015 from the State 4326
Insurance Fund to the Safety and Hygiene Fund (Fund 8260). 4327

OSHA ON-SITE CONSULTATION PROGRAM 4328

The Bureau of Workers' Compensation may designate a portion 4329
of appropriation item 855609, Safety and Hygiene Operating, to be 4330
used to match federal funding for the federal Occupational Safety 4331
and Health Administration's (OSHA) on-site consultation program. 4332

VOCATIONAL REHABILITATION 4333

The Bureau of Workers' Compensation and the Opportunities for 4334
Ohioans with Disabilities Agency shall enter into an interagency 4335
agreement for the provision of vocational rehabilitation services 4336
and staff to mutually eligible clients. The bureau may provide not 4337
more than \$605,407 in fiscal year 2014 and not more than \$605,407 4338
in fiscal year 2015 from the State Insurance Fund to fund 4339
vocational rehabilitation services and staff in accordance with 4340
the interagency agreement. 4341

~~FUND BALANCE~~ 4342

~~Any unencumbered cash balance in excess of \$45,000,000 in the 4343
Workers' Compensation Fund (Fund 7023) on the thirtieth day of 4344
June of each fiscal year shall be used to reduce the 4345
administrative cost rate charged to employers to cover 4346
appropriations for Bureau of Workers' Compensation operations. 4347~~

Section 4. That Section 1 of Sub. H.B. 34 of the 130th 4348
General Assembly, as amended by Am. Sub. H.B. 59 of the 130th 4349
General Assembly, is hereby repealed. 4350

Section 5. The amendments to section 4125.05 of the Revised 4351
Code by Section 1 of this act take effect July 1, 2015. 4352

Section 6. The amendments made by Section 1 of this act to 4353
sections 4123.01, 4123.26, 4123.29, 4123.292, 4123.54, and 4123.82 4354
of the Revised Code apply to claims that arise on or after the 4355
effective date of those amendments. 4356

Section 7. This act applies to an appeal filed pursuant to 4357
section 4123.512 of the Revised Code, as amended by this act, on 4358
or after the effective date of this act. 4359

Section 8. The items of law contained in this act, and their 4360
applications, are severable. If any item of law contained in this 4361
act, or if any application of any item of law contained in this 4362
act, is held invalid, the invalidity does not affect other items 4363
of law contained in this act and their applications that can be 4364
given effect without the invalid item of law or application. 4365

Section 9. Section 4123.26 of the Revised Code is presented 4366
in this act as a composite of the section as amended by both Am. 4367
Sub. H.B. 562 and Am. Sub. S.B. 334 of the 127th General Assembly. 4368
The General Assembly, applying the principle stated in division 4369
(B) of section 1.52 of the Revised Code that amendments are to be 4370
harmonized if reasonably capable of simultaneous operation, finds 4371
that the composite is the resulting version of the section in 4372
effect prior to the effective date of the section as presented in 4373
this act. 4374