

As Reported by the House Insurance Committee

130th General Assembly

Regular Session

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Sub. H. B. No. 493

Representatives Sears, Henne

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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 the department of health as a hospital;	87 88
(2) An entity, other than an insurance company authorized to do business in this state, that owns, controls, or is affiliated with an institution that has been registered or licensed by the department of health as a hospital.	89 90 91 92
(D) "Incident report or risk management report" means a report of an incident involving injury or potential injury to a patient as a result of patient care provided by health care providers, including both individuals who provide health care and entities that provide health care, that is prepared by or for the use of a peer review committee of a health care entity and is within the scope of the functions of that committee.	93 94 95 96 97 98 99
(E)(1) "Peer review committee" means a utilization review committee, quality assessment committee, performance improvement committee, tissue committee, credentialing committee, or other committee that does either of the following:	100 101 102 103
(a) Conducts professional credentialing or quality review activities involving the competence of, professional conduct of, or quality of care provided by health care providers, including both individuals who provide health care and entities that provide health care;	104 105 106 107 108
(b) Conducts any other attendant hearing process initiated as a result of a peer review committee's recommendations or actions.	109 110
(2) "Peer review committee" includes all of the following:	111
(a) A peer review committee of a hospital or long-term care facility or a peer review committee of a nonprofit health care corporation that is a member of the hospital or long-term care facility or of which the hospital or facility is a member;	112 113 114 115

(b) A peer review committee of a community mental health center;	116 117
(c) A board or committee of a hospital, a long-term care facility, or other health care entity when reviewing professional qualifications or activities of health care providers, including both individuals who provide health care and entities that provide health care;	118 119 120 121 122
(d) A peer review committee, professional standards review committee, or arbitration committee of a state or local society composed of members who are in active practice as physicians, dentists, optometrists, psychologists, or pharmacists;	123 124 125 126
(e) A peer review committee of a health insuring corporation that has at least a two-thirds majority of member physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of health care providers that adversely affects or could adversely affect the health or welfare of any patient;	127 128 129 130 131 132
(f) A peer review committee of a health insuring corporation that has at least a two-thirds majority of member physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of a health care facility that has contracted with the health insuring corporation to provide health care services to enrollees, which conduct adversely affects, or could adversely affect, the health or welfare of any patient;	133 134 135 136 137 138 139 140
(g) A peer review committee of a sickness and accident insurer that has at least a two-thirds majority of physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of health care providers that adversely affects or could adversely affect the health or welfare of any patient;	141 142 143 144 145 146

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

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

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

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

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

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

(H) "Tort action" means a civil action for damages for injury, death, or loss to a patient of a health care entity. "Tort action" includes a product liability claim, as defined in section 2307.71 of the Revised Code, and an asbestos claim, as defined in

section 2307.91 of the Revised Code, but does not include a civil 178
action for a breach of contract or another agreement between 179
persons. 180

Sec. 2305.252. (A) Proceedings and records within the scope 181
of a peer review committee of a health care entity shall be held 182
in confidence and shall not be subject to discovery or 183
introduction in evidence in any civil action against a health care 184
entity or health care provider, including both individuals who 185
provide health care and entities that provide health care, arising 186
out of matters that are the subject of evaluation and review by 187
the peer review committee. No individual who attends a meeting of 188
a peer review committee, serves as a member of a peer review 189
committee, works for or on behalf of a peer review committee, or 190
provides information to a peer review committee shall be permitted 191
or required to testify in any civil action as to any evidence or 192
other matters produced or presented during the proceedings of the 193
peer review committee or as to any finding, recommendation, 194
evaluation, opinion, or other action of the committee or a member 195
thereof. Information, documents, or records otherwise available 196
from original sources are not to be construed as being unavailable 197
for discovery or for use in any civil action merely because they 198
were produced or presented during proceedings of a peer review 199
committee, but the information, documents, or records are 200
available only from the original sources and cannot be obtained 201
from the peer review committee's proceedings or records. An 202
individual who testifies before a peer review committee, serves as 203
a representative of a peer review committee, serves as a member of 204
a peer review committee, works for or on behalf of a peer review 205
committee, or provides information to a peer review committee 206
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	545
as hourly, weekly, or monthly;	546
(xiii) The person's expenses are paid for by the other	547
contracting party;	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 legal representatives or beneficiaries elect, after injury or death, to regard such independent contractor as the employer.	564 565 566 567 568 569 570 571 572 573 574 575
(d) Every person to whom all of the following apply:	576
(i) The person is a resident of a state other than this state and is covered by that other state's workers' compensation law;	577 578

~~(ii) The person performs labor or provides services for that person's employer while temporarily within this state;~~ 579
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~~(iii) The laws of that other state do not include the provisions described in division (H)(4) of section 4123.54 of the Revised Code.~~ 581
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(2) "Employee" does not mean: 584

(a) A duly ordained, commissioned, or licensed minister or assistant or associate minister of a church in the exercise of ministry; 585
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(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 but who signs the waiver and affidavit specified in section 4123.15 of the Revised Code on the condition that the administrator has granted a waiver and exception to the individual's employer under section 4123.15 of the Revised Code. 590
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Any employer may elect to include as an "employee" within this chapter, any person excluded from the definition of "employee" pursuant to division (A)(2) of this section. If an employer is a partnership, sole proprietorship, individual incorporated as a corporation, or family farm corporation, such employer may elect to include as an "employee" within this chapter, any member of such partnership, the owner of the sole proprietorship, the individual incorporated as a corporation, or the officers of the family farm corporation. In the event of an election, the employer shall serve upon the bureau of workers' compensation written notice naming the persons to be covered, include such employee's remuneration for premium purposes in all future payroll reports, and no person excluded from the definition of "employee" pursuant to division (A)(2) of this section, proprietor, individual incorporated as a corporation, or partner 595
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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
about a mine, factory, or other establishment, including a
household establishment, shall be considered an employee in
determining whether such person, firm, or private corporation, or
public service corporation, has in its service, one or more
employees and the employer shall report the income derived from
such labor to the bureau as part of the payroll of such employer,
and such member shall thereupon be entitled to all the benefits of
an employee.

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

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

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

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

(4) A condition that pre-existed an injury unless that
pre-existing condition is substantially aggravated by the injury.
Such a substantial aggravation must be documented by objective
diagnostic findings, objective clinical findings, or objective
test results. Subjective complaints may be evidence of such a

substantial aggravation. However, subjective complaints without 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' 793
Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., and under 794
this chapter and Chapter 4121. of the Revised Code, both of the 795

following amounts: 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 981
of obtaining group workers' compensation under this division; 982

(iii) The employers' business in the organization is 983

substantially similar such that the risks which are grouped are 984
substantially homogeneous; 985

(iv) The group of employers consists of at least one hundred 986
members or the aggregate workers' compensation premiums of the 987
members, as determined by the administrator, are ~~expected~~ 988
estimated to exceed one hundred fifty thousand dollars during the 989
coverage period; 990

(v) The formation and operation of the group program in the 991
organization will substantially improve accident prevention and 992
claims handling for the employers in the group; 993

(vi) Each employer seeking to enroll in a group for workers' 994
compensation coverage has an ~~industrial insurance~~ account in good 995
standing with the bureau of workers' compensation ~~such that at the~~ 996
~~time the agreement is processed no outstanding premiums,~~ 997
~~penalties, or assessments are due from any of the employers. The~~ 998
administrator shall adopt rules setting forth the criteria by 999
which the administrator will determine whether an employer's 1000
account is in good standing. 1001

(b) If an organization sponsors more than one employer group 1002
to participate in group plans established under this section, that 1003
organization may submit a single application that supplies all of 1004
the information necessary for each group of employers that the 1005
organization wishes to sponsor. 1006

(c) In providing employer group plans under division (A)(4) 1007
of this section, the administrator shall consider an employer 1008
group as a single employing entity for purposes of group rating. 1009
No employer may be a member of more than one group for the purpose 1010
of obtaining workers' compensation coverage under this division. 1011

(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

Sec. 4123.291. (A) An adjudicating committee appointed by the 1103
administrator of workers' compensation to hear any matter 1104
specified in divisions (B)(1) to (7) of this section shall hear 1105
the matter within sixty days of the date on which an employer 1106
files the request, protest, or petition. An employer desiring to 1107
file a request, protest, or petition regarding any matter 1108
specified in divisions (B)(1) to (7) of this section shall file 1109

the request, protest, or petition to the adjudicating committee on 1110
or before twenty-four months after the administrator sends notice 1111
of the determination about which the employer is filing the 1112
request, protest, or petition. 1113

(B) An employer who is adversely affected by a decision of an 1114
adjudicating committee appointed by the administrator may appeal 1115
the decision of the committee to the administrator or the 1116
administrator's designee. The employer shall file the appeal in 1117
writing within thirty days after the employer receives the 1118
decision of the adjudicating committee. The administrator or the 1119
designee shall hear the appeal and hold a hearing, provided that 1120
the decision of the adjudicating committee relates to one of the 1121
following: 1122

(1) An employer request for a waiver of a default in the 1123
payment of premiums pursuant to section 4123.37 of the Revised 1124
Code; 1125

(2) An employer request for the settlement of liability as a 1126
noncomplying employer under section 4123.75 of the Revised Code; 1127

(3) An employer petition objecting to ~~the~~ an assessment ~~of a~~ 1128
~~premium made~~ pursuant to section 4123.37 of the Revised Code and 1129
the rules adopted pursuant to that section; 1130

(4) An employer request for the abatement of penalties 1131
assessed pursuant to section 4123.32 of the Revised Code and the 1132
rules adopted pursuant to that section; 1133

(5) An employer protest relating to an audit finding or a 1134
determination of a manual classification, experience rating, or 1135
transfer or combination of risk experience; 1136

(6) Any decision relating to any other risk premium matter 1137
under Chapters 4121., 4123., and 4131. of the Revised Code; 1138

(7) An employer petition objecting to the amount of security 1139

required under division (D) of section 4125.05 of the Revised Code 1140
and the rules adopted pursuant to that section. 1141

(C) The bureau of workers' compensation board of directors, 1142
based upon recommendations of the workers' compensation actuarial 1143
committee, shall establish the policy for all adjudicating 1144
committee procedures, including, but not limited to, specific 1145
criteria for manual premium rate adjustment. 1146

Sec. 4123.292. (A) Notwithstanding sections 4123.35 and 1147
4123.82 of the Revised Code, an employer may elect to obtain 1148
other-states' coverage through an other-states' insurer or, if the 1149
administrator of workers' compensation elects to offer such 1150
coverage, through the administrator pursuant to division (B) of 1151
this section. An employer who elects to obtain other-states' 1152
coverage shall submit a written notice to the administrator 1153
stating that election on a form prescribed by the administrator 1154
and, if the employer elects to obtain that coverage through an 1155
other-states' insurer, the name of the other-states' insurer 1156
through whom the employer has obtained that coverage. If an 1157
employer fails to pay the employer's premium for other-states' 1158
coverage, the administrator shall consider the employer to be 1159
noncompliant for the purposes of having other-states' coverage ~~but~~ 1160
~~shall not consider the employer to be a noncomplying employer for~~ 1161
~~purposes of this chapter or Chapter 4121., 4127., or 4131. of the~~ 1162
~~Revised Code unless the employer otherwise fails to comply with~~ 1163
and the employer's premiums in this state for any and all 1164
noncompliant periods of time shall be calculated in the same 1165
manner as otherwise required under division (A) of section 4123.29 1166
and section ~~4123.35~~ 4123.34 of the Revised Code, using both the 1167
wages reported in this state and the wages that the employer 1168
claimed would be reported to the other-states' insurer for 1169
securing coverage. 1170

(B) The administrator may ~~secure~~ offer other-states' coverage 1171
to allow an employer who wishes to obtain other-states' coverage 1172
pursuant to this section and who elects to ~~obtain~~ secure that 1173
coverage through the administrator for workers' compensation 1174
claims ~~arising in a state or states other than this state~~. If the 1175
administrator elects to secure a vehicle through which the 1176
administrator will provide other-states' coverage, the 1177
administrator shall follow the competitive bidding requirements 1178
specified in Chapter 125. of the Revised Code to select one or 1179
more other-states' ~~insurer~~ insurers, and the administrator, with 1180
the advice and consent of the bureau of workers' compensation 1181
board of directors, shall award ~~the~~ a contract to provide 1182
other-states' coverage for employers located in this state to ~~the~~ 1183
one or more other-states' ~~insurer~~ insurers that ~~is~~ are the lowest 1184
and best ~~bidder~~ bidders. 1185

(C) ~~If the administrator elects to secure other states'~~ 1186
~~coverage pursuant to division (B) of this section, the~~ 1187
~~administrator shall calculate an employer's premium for~~ 1188
~~other states' coverage provided through the administrator~~ 1189
~~separately from calculating any other premiums or assessments~~ 1190
~~charged under this chapter or Chapter 4121., 4127., or 4131. of~~ 1191
~~the Revised Code. The administrator shall calculate the employer's~~ 1192
~~other states' coverage premium in the same manner the~~ 1193
~~administrator calculates an employer's premium for the state~~ 1194
~~insurance fund pursuant to division (A) of section 4123.29 and~~ 1195
~~section 4123.34 of the Revised Code, except that, when calculating~~ 1196
~~the employer's premium for other states' coverage under this~~ 1197
~~division, the administrator shall do all of the following:~~ 1198

(1) ~~Base the employer's other states' coverage premium on the~~ 1199
~~terms specified in the contract the administrator enters into with~~ 1200
~~an insurance company pursuant to division (B) of this section;~~ 1201

(2) ~~When determining the expenditure of wages, payroll, or~~ 1202

~~both upon which to base the employer's other states' coverage 1203
premium, use only the amount of wages, payroll, or both the 1204
employer paid to the employer's employees for performing labor or 1205
providing services for the employer in a state or states other 1206
than this state; 1207~~

~~(3) Not take into account the amount of wages, payroll, or 1208
both the employer paid to the employer's employees for performing 1209
labor or providing services for the employer in this state or any 1210
compensation or benefits paid for claims covered by the state 1211
insurance fund Notwithstanding sections 4123.35 and 4123.82 of the 1212
Revised Code, the administrator may offer limited other-states' 1213
coverage to allow an employer who wishes to obtain limited 1214
other-states' coverage pursuant to this section. An employer who 1215
elects to obtain limited other-states' coverage shall submit a 1216
written notice to the administrator stating that election on a 1217
form prescribed by the administrator. 1218~~

~~If the administrator elects to secure a vehicle through which 1219
the administrator will provide limited other-states' coverage, the 1220
administrator shall follow the competitive bidding requirements 1221
specified in Chapter 125. of the Revised Code to select one or 1222
more other-states' insurers and, with the advice and consent of 1223
the board, award a contract to provide limited other-states' 1224
coverage to the lowest and best bidders. 1225~~

~~(D) If the administrator elects to ~~secure~~ offer other states' 1226
coverage or limited other-states' coverage, the administrator, 1227
with the advice and consent of the board, shall adopt rules to 1228
implement divisions (B) and (C) of this section. 1229~~

~~(E) ~~An other states' insurer that provides other states' 1230
coverage to an employer pursuant to this section shall do all of 1231
the following when calculating the employer's premium for that 1232
coverage; 1233~~~~

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

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

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

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

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

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

~~period beginning from the end of the six month period for which~~ 1265
~~the employer pays the premium due;~~ 1266

~~(B)~~ A rule providing for ascertaining the correctness of any 1267
employer's report of estimated or actual expenditure of wages and 1268
the determination and adjustment of proper premiums and the 1269
payment of those premiums by the employer ~~for or during any period~~ 1270
~~less than eight months and notwithstanding any payment or~~ 1271
~~determination of premium made when exceptional conditions or~~ 1272
~~circumstances in the judgment of the administrator justify the~~ 1273
~~action;~~ 1274

~~(C)~~(B) Such special rules as the administrator considers 1275
necessary to safeguard the fund and that are just in the 1276
circumstances, covering the rates to be applied where one employer 1277
takes over the occupation or industry of another or where an 1278
employer first makes application for state insurance, and the 1279
administrator may require that if any employer transfers a 1280
business in whole or in part or otherwise reorganizes the 1281
business, the successor in interest shall assume, in proportion to 1282
the extent of the transfer, as determined by the administrator, 1283
the employer's account and shall continue the payment of all 1284
contributions due under this chapter; 1285

~~(D)~~(C) A rule providing that an employer who employs an 1286
employee covered under the federal "Longshore and Harbor Workers'
Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., and this 1288
chapter and Chapter 4121. of the Revised Code shall be assessed a 1289
premium in accordance with the expenditure of wages, payroll, or 1290
both attributable to only labor performed and services provided by 1291
such an employee when the employee performs labor and provides 1292
services for which the employee is not eligible to receive 1293
compensation and benefits under that federal act. 1294

~~(E)~~(D) A rule providing for all of the following: 1295

(1) ~~If, within two months immediately after the expiration of~~ 1296
~~the six month period,~~ an employer fails to file a report of the 1297
employer's actual payroll expenditures ~~for the period~~ pursuant to 1298
section 4123.26 of the Revised Code for private employers or 1299
pursuant to section 4123.41 of the Revised Code for public 1300
employers, the premium ~~found to be~~ and assessments due from the 1301
employer for the period shall be calculated based on the estimated 1302
payroll of the employer used in calculating the estimated premium 1303
due, increased in an amount equal to one per cent of the premium, 1304
~~but the increase shall not be less than three nor more than~~ 1305
~~fifteen dollars~~ by ten per cent; 1306

(2) ~~The premium determined by the administrator to be due~~ 1307
~~from an employer shall be payable on or before the end of the~~ 1308
~~coverage period established by the premium security deposit, or~~ 1309
~~within the time specified by the administrator if the period for~~ 1310
~~which the advance premium has been paid is less than eight months.~~ 1311

(a) If an employer fails to pay the premium or assessments when 1312
due for a policy year commencing prior to July 1, 2015, the 1313
administrator may add a late fee penalty of not more than thirty 1314
dollars to the premium plus an additional penalty amount as 1315
follows: 1316

~~(a)~~(i) For a premium from sixty-one to ninety days past due, 1317
the prime interest rate, multiplied by the premium due; 1318

~~(b)~~(ii) For a premium from ninety-one to one hundred twenty 1319
days past due, the prime interest rate plus two per cent, 1320
multiplied by the premium due; 1321

~~(c)~~(iii) For a premium from one hundred twenty-one to one 1322
hundred fifty days past due, the prime interest rate plus four per 1323
cent, multiplied by the premium due; 1324

~~(d)~~(iv) For a premium from one hundred fifty-one to one 1325
hundred eighty days past due, the prime interest rate plus six per 1326

cent, multiplied by the premium due; 1327

~~(e)~~(v) For a premium from one hundred eighty-one to two 1328
hundred ten days past due, the prime interest rate plus eight per 1329
cent, multiplied by the premium due; 1330

~~(f)~~(vi) For each additional thirty-day period or portion 1331
thereof that a premium remains past due after it has remained past 1332
due for more than two hundred ten days, the prime interest rate 1333
plus eight per cent, multiplied by the premium due. 1334

(b) For purposes of division (D)(2)(a) of this section, 1335
"prime interest rate" means the average bank prime rate, and the 1336
administrator shall determine the prime interest rate in the same 1337
manner as a county auditor determines the average bank prime rate 1338
under section 929.02 of the Revised Code. 1339

(c) If an employer fails to pay the premium or assessments 1340
when due for a policy year commencing on or after July 1, 2015, 1341
the administrator may assess a penalty at the interest rate 1342
established by the state tax commissioner pursuant to section 1343
5703.47 of the Revised Code. 1344

(3) Notwithstanding the interest rates specified in division 1345
~~(E)~~(D)(2)(a) or (c) of this section, at no time shall the 1346
additional penalty amount assessed under division ~~(E)~~(D)(2)(a) or 1347
(c) of this section exceed fifteen per cent of the premium due. 1348

(4) If an employer recognized by the administrator as a 1349
professional employer organization fails to make a timely payment 1350
of premiums or assessments as required by section 4123.35 of the 1351
Revised Code, the administrator shall revoke the professional 1352
employer organization's registration pursuant to section 4125.06 1353
of the Revised Code. 1354

(5) An employer may appeal a late fee penalty or additional 1355
penalty to an adjudicating committee pursuant to section 4123.291 1356
of the Revised Code. 1357

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

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

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

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

~~(F)(E)~~ A rule providing that each employer, on the occasion of instituting coverage under this chapter for an effective date prior to July 1, 2015, shall submit a premium security deposit. The deposit shall be calculated equivalent to thirty per cent of the semiannual premium obligation of the employer based upon the employer's estimated expenditure for wages for the ensuing six-month period plus thirty per cent of an additional adjustment

period of two months but only up to a maximum of one thousand 1390
dollars and not less than ten dollars. The administrator shall 1391
review the security deposit of every employer who has submitted a 1392
deposit which is less than the one-thousand-dollar maximum. The 1393
administrator may require any such employer to submit additional 1394
money up to the maximum of one thousand dollars that, in the 1395
administrator's opinion, reflects the employer's current payroll 1396
expenditure for an eight-month period. 1397

~~(G)~~(F) A rule providing that each employer, on the occasion 1398
of instituting coverage under this chapter, shall submit an 1399
application fee and an application for coverage that completely 1400
provides all of the information required for the administrator to 1401
establish coverage for that employer, and that the employer's 1402
failure to pay the application fee or to provide all of the 1403
information ~~completely~~ requested on the application may be grounds 1404
for the administrator to deny coverage for that employer. 1405

~~(H)~~(G) A rule providing that, in addition to any other 1406
remedies permitted in this chapter, the administrator may 1407
discontinue an employer's coverage if the employer fails to pay 1408
the premium due on or before the premium's due date. 1409

~~(I)~~(H) A rule providing that if after a final adjudication it 1410
is determined that an employer has failed to pay an obligation, 1411
billing, account, or assessment that is greater than one thousand 1412
dollars on or before its due date, the administrator may 1413
discontinue the employer's coverage in addition to any other 1414
remedies permitted in this chapter, and that the administrator 1415
shall not discontinue an employer's coverage pursuant to this 1416
division prior to a final adjudication regarding the employer's 1417
failure to pay such obligation, billing, account, or assessment on 1418
or before its due date. 1419

~~(J)~~(I) As used in divisions (G) and (H) and ~~(I)~~ of this 1420
section: 1421

(1) "Employer" has the same meaning as in ~~division (B) of~~ 1422
section 4123.01 of the Revised Code except that "employer" does 1423
not include the state, a state hospital, or a state university or 1424
college. 1425

(2) "State university or college" has the same meaning as in 1426
section 3345.12 of the Revised Code and also includes the Ohio 1427
agricultural research and development center and OSU extension. 1428

(3) "State hospital" means the Ohio state university hospital 1429
and its ancillary facilities and the medical university of Ohio at 1430
Toledo hospital. 1431

Sec. 4123.322. (A) ~~Notwithstanding any provision to the~~ 1432
~~contrary in section 4123.32 or 4123.41 of the Revised Code, the~~ 1433
The administrator of workers' compensation, with the advice and 1434
consent of the bureau of workers' compensation board of directors, 1435
~~may shall~~ adopt rules ~~with respect to the collection, maintenance,~~ 1436
~~and disbursements of the state insurance fund to provide for a~~ 1437
~~system of prospective payment of workers' compensation premiums.~~ 1438
~~If the administrator elects to adopt rules~~ establishing a 1439
prospective payment system, ~~those rules~~ which shall include all of 1440
the following: 1441

(1) ~~A requirement that, notwithstanding section 4123.26 of~~ 1442
~~the Revised Code, on or before the thirtieth day of June of each~~ 1443
~~year, or such other date as the administrator establishes, every~~ 1444
~~employer mentioned in division (B)(2) of section 4123.01 of the~~ 1445
~~Revised Code shall file with the bureau of workers' compensation~~ 1446
~~an estimate of the employer's payroll for the immediately~~ 1447
~~following twelve month period or other period as the administrator~~ 1448
~~establishes;~~ 1449

~~(2)~~ A requirement that upon an initial application for 1450
coverage, a private employer mentioned in ~~division (B)(2) of~~ 1451
~~section 4123.01 of the Revised Code shall file with the~~ 1452

application an estimate of the employer's payroll for the 1453
~~unexpired period from the date of application to the period ending~~ 1454
~~on the following thirtieth day of June or other date as~~ 1455
~~established by the administrator~~ determines pursuant to ~~division~~ 1456
~~(A)(1) of this section~~ rules the administrator adopts, and shall 1457
pay the amount the administrator determines by rule in order to 1458
establish coverage for the employer as described in division 1459
(B)(12) of section 4121.121 of the Revised Code; 1460

~~(3) A requirement that, notwithstanding section 4123.26 or~~ 1461
~~4123.41 of the Revised Code, on or before the first day of January~~ 1462
~~of each year, or such other date as the administrator establishes,~~ 1463
~~every employer mentioned in division (B)(1) of section 4123.01 of~~ 1464
~~the Revised Code, except for a state agency or a state university~~ 1465
~~or college, shall file with the bureau an estimate of the~~ 1466
~~employer's payroll for the immediately following twelve month~~ 1467
~~period or other period as the administrator establishes;~~ 1468

~~(4)(2)~~ A requirement that upon an initial application for 1469
coverage, ~~an a public~~ employer mentioned in ~~division (B)(1) of~~ 1470
~~section 4123.01 of the Revised Code, except for a state agency or~~ 1471
state university or college, shall file with the application an 1472
estimate of the employer's payroll for the ~~unexpired period from~~ 1473
~~the date of application to the period ending on the following~~ 1474
~~thirty first day of December or other date as established by the~~ 1475
administrator determines pursuant to ~~division (A)(3) of this~~ 1476
~~section~~ rules the administrator adopts, and shall pay the amount 1477
the administrator determines by rule in order to establish 1478
coverage for the employer as described in division (B)(12) of 1479
section 4121.121 of the Revised Code; 1480

~~(5) The assessment of a penalty if an employer fails to~~ 1481
~~timely file the estimates of payroll required by the rules adopted~~ 1482
~~pursuant to this section;~~ 1483

~~(6)(3)~~ A requirement that an employer complete periodic 1484

payroll reports of actual expenditures for previous coverage	1485
periods for reconciliation with estimated payroll reports;	1486
(7) (4) The assessment of a penalty for late payroll	1487
reconciliation reports and for late payment of any reconciliation	1488
premium;	1489
(8) (5) The establishment of a transition period during which	1490
time the bureau shall determine the adequacy of existing premium	1491
security deposits of employers, the establishment of provisions	1492
for additional premium payments during that transition, the	1493
provision of a credit of those deposits toward the first premium	1494
due from an employer under the rules adopted under divisions	1495
(A)(1) to (7) (4) of this section, and the establishment of	1496
penalties for late payment or failure to comply with the rules.	1497
(B) For purposes of division (A) (6) (3) of this section, an	1498
employer shall make timely payment of any premium owed when actual	1499
payroll expenditures exceeded estimated payroll, and the employer	1500
shall receive premium credit when the estimated payroll exceeded	1501
the actual payroll.	1502
(C) For purposes of division (A) (7) (4) of this section, if	1503
the employer's actual payroll substantially exceeds the estimated	1504
payroll, the administrator may assess additional penalties	1505
specified in rules the administrator adopts on the reconciliation	1506
premium.	1507
(D) As used in this section, "state university or college"	1508
has the same meaning as in section 4123.32 of the Revised Code.	1509
<u>Sec. 4123.323. (A) Except as provided in division (B) of this</u>	1510
<u>section, a payment required under this chapter or Chapter 4121. of</u>	1511
<u>the Revised Code, including a payment due for purposes of</u>	1512
<u>continuing coverage, is due on the date specified in those</u>	1513
<u>chapters, unless otherwise provided in a rule adopted by the</u>	1514

administrator of workers' compensation, with the advice and 1515
consent of the bureau of workers' compensation board of directors. 1516

(B) For purposes of collection referrals to the attorney 1517
general under section 131.02 of the Revised Code, a premium 1518
payment is due thirty days after the date upon which a private 1519
employer must submit the payroll report for the corresponding 1520
policy year pursuant to section 4123.26 of the Revised Code or the 1521
date upon which a public employer must submit the payroll report 1522
for the corresponding policy year pursuant to section 4123.41 of 1523
the Revised Code, as applicable. 1524

Sec. 4123.34. It shall be the duty of the bureau of workers' 1525
compensation board of directors and the administrator of workers' 1526
compensation to safeguard and maintain the solvency of the state 1527
insurance fund and all other funds specified in this chapter and 1528
Chapters 4121., 4127., and 4131. of the Revised Code. The 1529
administrator, in the exercise of the powers and discretion 1530
conferred upon the administrator in section 4123.29 of the Revised 1531
Code, shall fix and maintain, with the advice and consent of the 1532
board, for each class of occupation or industry, the lowest 1533
possible rates of premium consistent with the maintenance of a 1534
solvent state insurance fund and the creation and maintenance of a 1535
reasonable surplus, after the payment of legitimate claims for 1536
injury, occupational disease, and death that the administrator 1537
authorizes to be paid from the state insurance fund for the 1538
benefit of injured, diseased, and the dependents of killed 1539
employees. In establishing rates, the administrator shall take 1540
into account the necessity of ensuring sufficient money is set 1541
aside in the premium payment security fund to cover any defaults 1542
in premium obligations. The administrator shall observe all of the 1543
following requirements in fixing the rates of premium for the 1544
risks of occupations or industries: 1545

(A) The administrator shall keep an accurate account of the 1546
money paid in premiums by each of the several classes of 1547
occupations or industries, and the losses on account of injuries, 1548
occupational disease, and death of employees thereof, and also 1549
keep an account of the money received from each individual 1550
employer and the amount of losses incurred against the state 1551
insurance fund on account of injuries, occupational disease, and 1552
death of the employees of the employer. 1553

(B) A portion of the money paid into the state insurance fund 1554
shall be set aside for the creation of a surplus fund account 1555
within the state insurance fund. Any references in this chapter or 1556
in Chapter 4121., 4125., 4127., or 4131. of the Revised Code to 1557
the surplus fund, the surplus created in this division, the 1558
statutory surplus fund, or the statutory surplus of the state 1559
insurance fund are hereby deemed to be references to the surplus 1560
fund account. The administrator may transfer the portion of the 1561
state insurance fund to the surplus fund account as the 1562
administrator determines is necessary to satisfy the needs of the 1563
surplus fund account and to guarantee the solvency of the state 1564
insurance fund and the surplus fund account. In addition to all 1565
statutory authority under this chapter and Chapter 4121. of the 1566
Revised Code, the administrator has discretionary and contingency 1567
authority to make charges to the surplus fund account. The 1568
administrator shall account for all charges, whether statutory, 1569
discretionary, or contingency, that the administrator may make to 1570
the surplus fund account. A revision of basic rates shall be made 1571
annually on the first day of July. 1572

Notwithstanding any provision of the law to the contrary, one 1573
hundred eighty days after the effective date on which 1574
self-insuring employers first may elect under division (D) of 1575
section 4121.66 of the Revised Code to directly pay for 1576
rehabilitation expenses, the administrator shall calculate the 1577

deficit, if any, in the portion of the surplus fund account that 1578
is used for reimbursement to self-insuring employers for all 1579
expenses other than handicapped reimbursement under section 1580
4123.343 of the Revised Code. The administrator, from time to 1581
time, may determine whether the surplus fund account has such a 1582
deficit and may assess all self-insuring employers who 1583
participated in the portion of the surplus fund account during the 1584
accrual of the deficit and who during that time period have not 1585
made the election under division (D) of section 4121.66 of the 1586
Revised Code the amount the administrator determines necessary to 1587
reduce the deficit. 1588

Revisions For policy years commencing prior to July 1, 2016, 1589
revisions of basic rates for private employers shall be in 1590
accordance with the oldest four of the last five calendar years of 1591
the combined accident and occupational disease experience of the 1592
administrator in the administration of this chapter, as shown by 1593
the accounts kept as provided in this section,~~excluding.~~ For a 1594
policy year commencing on or after July 1, 2016, revisions of 1595
basic rates for private employers shall be in accordance with the 1596
oldest four of the last five policy years combined accident and 1597
occupational disease experience of the administrator in the 1598
administration of this chapter, as shown by the accounts kept as 1599
provided in this section. 1600

Revisions of basic rates for public employers shall be in 1601
accordance with the oldest four of the last five policy years of 1602
the combined accident and occupational disease experience of the 1603
administrator in the administration of this chapter, as shown by 1604
the accounts kept as provided in this section. 1605

In revising basic rates, the administrator shall exclude the 1606
experience of employers that are no longer active if the 1607
administrator determines that the inclusion of those employers 1608
would have a significant negative impact on the remainder of the 1609

employers in a particular manual classification; ~~and the.~~ The 1610
administrator shall adopt rules, with the advice and consent of 1611
the board, governing rate revisions, the object of which shall be 1612
to make an equitable distribution of losses among the several 1613
classes of occupation or industry, which rules shall be general in 1614
their application. 1615

(C) The administrator may apply that form of rating system 1616
that the administrator finds is best calculated to merit rate or 1617
individually rate the risk more equitably, predicated upon the 1618
basis of its individual industrial accident and occupational 1619
disease experience, and may encourage and stimulate accident 1620
prevention. The administrator shall develop fixed and equitable 1621
rules controlling the rating system, which rules shall conserve to 1622
each risk the basic principles of workers' compensation insurance. 1623

(D) The administrator, from the money paid into the state 1624
insurance fund, shall set aside into an account of the state 1625
insurance fund titled a premium payment security fund sufficient 1626
money to pay for any premiums due from an employer and uncollected 1627
~~that are in excess of the employer's premium security deposit.~~ 1628

~~The fund shall be in the custody of the treasurer of state.~~ 1629
~~All investment earnings of the fund shall be deposited in the~~ 1630
~~fund. Disbursements from the fund shall be made by the bureau of~~ 1631
~~workers' compensation upon order of the administrator to the state~~ 1632
~~insurance fund. The use of the moneys held by the premium payment~~ 1633
~~security fund account is restricted to reimbursement to the state~~ 1634
~~insurance fund of premiums due and uncollected in excess of an~~ 1635
~~employer's premium security deposit. The moneys constituting the~~ 1636
~~premium payment security fund shall be maintained without regard~~ 1637
~~to or reliance upon any other fund. This section does not prevent~~ 1638
~~the deposit or investment of the premium payment security fund~~ 1639
~~with any other fund created by this chapter, but the premium~~ 1640
~~payment security fund is separate and distinct for every other~~ 1641

~~purpose and a strict accounting thereof shall be maintained.~~ 1642

(E) The administrator may grant discounts on premium rates 1643
for employers who meet either of the following requirements: 1644

(1) Have not incurred a compensable injury for one year or 1645
more and who maintain an employee safety committee or similar 1646
organization or make periodic safety inspections of the workplace. 1647

(2) Successfully complete a loss prevention program 1648
prescribed by the superintendent of the division of safety and 1649
hygiene and conducted by the division or by any other person 1650
approved by the superintendent. 1651

(F)(1) In determining the premium rates for the construction 1652
industry the administrator shall calculate the employers' premiums 1653
based upon the actual remuneration construction industry employees 1654
receive from construction industry employers, provided that the 1655
amount of remuneration the administrator uses in calculating the 1656
premiums shall not exceed an average weekly wage equal to one 1657
hundred fifty per cent of the statewide average weekly wage as 1658
defined in division (C) of section 4123.62 of the Revised Code. 1659

(2) Division (F)(1) of this section shall not be construed as 1660
affecting the manner in which benefits to a claimant are awarded 1661
under this chapter. 1662

(3) As used in division (F) of this section, "construction 1663
industry" includes any activity performed in connection with the 1664
erection, alteration, repair, replacement, renovation, 1665
installation, or demolition of any building, structure, highway, 1666
or bridge. 1667

(G) The administrator ~~of workers' compensation~~ shall not 1668
place a limit on the length of time that an employer may 1669
participate in the bureau of workers' compensation drug free 1670
workplace and workplace safety programs. 1671

Sec. 4123.35. (A) Except as provided in this section, and 1672
until the policy year commencing July 1, 2015, every private 1673
employer ~~mentioned in division (B)(2) of section 4123.01 of the~~ 1674
~~Revised Code,~~ and every publicly owned utility shall pay 1675
semiannually in the months of January and July into the state 1676
insurance fund the amount of annual premium the administrator of 1677
workers' compensation fixes for the employment or occupation of 1678
the employer, the amount of which premium to be paid by each 1679
employer to be determined by the classifications, rules, and rates 1680
made and published by the administrator. The employer shall pay 1681
semiannually a further sum of money into the state insurance fund 1682
as may be ascertained to be due from the employer by applying the 1683
rules of the administrator, ~~and a.~~ 1684

Except as otherwise provided in this section, for a policy 1685
year commencing on or after July 1, 2015, every private employer 1686
and every publicly owned utility shall pay annually in the month 1687
of June immediately preceding the policy year into the state 1688
insurance fund the amount of estimated annual premium the 1689
administrator fixes for the employment or occupation of the 1690
employer, the amount of which estimated premium to be paid by each 1691
employer to be determined by the classifications, rules, and rates 1692
made and published by the administrator. The employer shall pay a 1693
further sum of money into the state insurance fund as may be 1694
ascertained to be due from the employer by applying the rules of 1695
the administrator. Upon receipt of the payroll report required by 1696
division (B) of section 4123.26 of the Revised Code, the 1697
administrator shall adjust the premium and assessments charged to 1698
each employer for the difference between estimated gross payrolls 1699
and actual gross payrolls, and any balance due to the 1700
administrator shall be immediately paid by the employer. Any 1701
balance due the employer shall be credited to the employer's 1702
account. 1703

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

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

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

The bureau of ~~workers' compensation~~ shall verify with the secretary of state the existence of all corporations and organizations making application for workers' compensation

coverage and shall require every such application to include the 1736
employer's federal identification number. 1737

~~An A private employer as defined in division (B)(2) of 1738
section 4123.01 of the Revised Code who has contracted with a 1739
subcontractor is liable for the unpaid premium due from any 1740
subcontractor with respect to that part of the payroll of the 1741
subcontractor that is for work performed pursuant to the contract 1742
with the employer. 1743~~

Division (A) of this section providing for the payment of 1744
premiums semiannually does not apply to any employer who was a 1745
subscriber to the state insurance fund prior to January 1, 1914, 1746
or, until July 1, 2015, who may first become a subscriber to the 1747
fund in any month other than January or July. Instead, the 1748
semiannual premiums shall be paid by those employers from time to 1749
time upon the expiration of the respective periods for which 1750
payments into the fund have been made by them. After July 1, 2015, 1751
an employer who first becomes a subscriber to the fund on any day 1752
other than the first day of July shall pay premiums according to 1753
rules adopted by the administrator, with the advice and consent of 1754
the bureau of workers' compensation board of directors, for the 1755
remainder of the policy year for which the coverage is effective. 1756

The administrator, with the advice and consent of the board, 1757
shall adopt rules to permit employers to make periodic payments of 1758
the ~~semiannual~~ premium and assessment due under this division. The 1759
rules shall include provisions for the assessment of interest 1760
charges, where appropriate, and for the assessment of penalties 1761
when an employer fails to make timely premium payments. The 1762
administrator, in the rules the administrator adopts, may set an 1763
administrative fee for these periodic payments. An employer who 1764
timely pays the amounts due under this division is entitled to all 1765
of the benefits and protections of this chapter. Upon receipt of 1766
payment, the bureau ~~immediately~~ shall ~~mail~~ issue a receipt ~~or~~ 1767

~~certificate~~ to the employer certifying that payment has been made, 1768
which receipt is prima-facie evidence of payment. Workers' 1769
compensation coverage under this chapter continues uninterrupted 1770
upon timely receipt of payment under this division. 1771

Every public employer, except public employers that are 1772
self-insuring employers under this section, shall comply with 1773
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 1774
regard to the contribution of moneys to the public insurance fund. 1775

(B) Employers who will abide by the rules of the 1776
administrator and who may be of sufficient financial ability to 1777
render certain the payment of compensation to injured employees or 1778
the dependents of killed employees, and the furnishing of medical, 1779
surgical, nursing, and hospital attention and services and 1780
medicines, and funeral expenses, equal to or greater than is 1781
provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 1782
to 4123.67 of the Revised Code, and who do not desire to insure 1783
the payment thereof or indemnify themselves against loss sustained 1784
by the direct payment thereof, upon a finding of such facts by the 1785
administrator, may be granted the privilege to pay individually 1786
compensation, and furnish medical, surgical, nursing, and hospital 1787
services and attention and funeral expenses directly to injured 1788
employees or the dependents of killed employees, thereby being 1789
granted status as a self-insuring employer. The administrator may 1790
charge employers who apply for the status as a self-insuring 1791
employer a reasonable application fee to cover the bureau's costs 1792
in connection with processing and making a determination with 1793
respect to an application. 1794

All employers granted status as self-insuring employers shall 1795
demonstrate sufficient financial and administrative ability to 1796
assure that all obligations under this section are promptly met. 1797
The administrator shall deny the privilege where the employer is 1798
unable to demonstrate the employer's ability to promptly meet all 1799

the obligations imposed on the employer by this section. 1800

(1) The administrator shall consider, but is not limited to, 1801
the following factors, where applicable, in determining the 1802
employer's ability to meet all of the obligations imposed on the 1803
employer by this section: 1804

(a) The employer employs a minimum of five hundred employees 1805
in this state; 1806

(b) The employer has operated in this state for a minimum of 1807
two years, provided that an employer who has purchased, acquired, 1808
or otherwise succeeded to the operation of a business, or any part 1809
thereof, situated in this state that has operated for at least two 1810
years in this state, also shall qualify; 1811

(c) Where the employer previously contributed to the state 1812
insurance fund or is a successor employer as defined by bureau 1813
rules, the amount of the buyout, as defined by bureau rules; 1814

(d) The sufficiency of the employer's assets located in this 1815
state to insure the employer's solvency in paying compensation 1816
directly; 1817

(e) The financial records, documents, and data, certified by 1818
a certified public accountant, necessary to provide the employer's 1819
full financial disclosure. The records, documents, and data 1820
include, but are not limited to, balance sheets and profit and 1821
loss history for the current year and previous four years. 1822

(f) The employer's organizational plan for the administration 1823
of the workers' compensation law; 1824

(g) The employer's proposed plan to inform employees of the 1825
change from a state fund insurer to a self-insuring employer, the 1826
procedures the employer will follow as a self-insuring employer, 1827
and the employees' rights to compensation and benefits; and 1828

(h) The employer has either an account in a financial 1829

institution in this state, or if the employer maintains an account 1830
with a financial institution outside this state, ensures that 1831
workers' compensation checks are drawn from the same account as 1832
payroll checks or the employer clearly indicates that payment will 1833
be honored by a financial institution in this state. 1834

The administrator may waive the requirements of divisions 1835
(B)(1)(a) and (b) of this section and the requirement of division 1836
(B)(1)(e) of this section that the financial records, documents, 1837
and data be certified by a certified public accountant. The 1838
administrator shall adopt rules establishing the criteria that an 1839
employer shall meet in order for the administrator to waive the 1840
requirements of divisions (B)(1)(a), (b), and (e) of this section. 1841
Such rules may require additional security of that employer 1842
pursuant to division (E) of section 4123.351 of the Revised Code. 1843

The administrator shall not grant the status of self-insuring 1844
employer to the state, except that the administrator may grant the 1845
status of self-insuring employer to a state institution of higher 1846
education, including its hospitals, that meets the requirements of 1847
division (B)(2) of this section. 1848

(2) When considering the application of a public employer, 1849
except for a board of county commissioners described in division 1850
(G) of section 4123.01 of the Revised Code, a board of a county 1851
hospital, or a publicly owned utility, the administrator shall 1852
verify that the public employer satisfies all of the following 1853
requirements as the requirements apply to that public employer: 1854

(a) For the two-year period preceding application under this 1855
section, the public employer has maintained an unvoted debt 1856
capacity equal to at least two times the amount of the current 1857
annual premium established by the administrator under this chapter 1858
for that public employer for the year immediately preceding the 1859
year in which the public employer makes application under this 1860
section. 1861

(b) For each of the two fiscal years preceding application 1862
under this section, the unreserved and undesignated year-end fund 1863
balance in the public employer's general fund is equal to at least 1864
five per cent of the public employer's general fund revenues for 1865
the fiscal year computed in accordance with generally accepted 1866
accounting principles. 1867

(c) For the five-year period preceding application under this 1868
section, the public employer, to the extent applicable, has 1869
complied fully with the continuing disclosure requirements 1870
established in rules adopted by the United States securities and 1871
exchange commission under 17 C.F.R. 240.15c 2-12. 1872

(d) For the five-year period preceding application under this 1873
section, the public employer has not had its local government fund 1874
distribution withheld on account of the public employer being 1875
indebted or otherwise obligated to the state. 1876

(e) For the five-year period preceding application under this 1877
section, the public employer has not been under a fiscal watch or 1878
fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 1879
of the Revised Code. 1880

(f) For the public employer's fiscal year preceding 1881
application under this section, the public employer has obtained 1882
an annual financial audit as required under section 117.10 of the 1883
Revised Code, which has been released by the auditor of state 1884
within seven months after the end of the public employer's fiscal 1885
year. 1886

(g) On the date of application, the public employer holds a 1887
debt rating of Aa3 or higher according to Moody's investors 1888
service, inc., or a comparable rating by an independent rating 1889
agency similar to Moody's investors service, inc. 1890

(h) The public employer agrees to generate an annual 1891
accumulating book reserve in its financial statements reflecting 1892

an actuarially generated reserve adequate to pay projected claims 1893
under this chapter for the applicable period of time, as 1894
determined by the administrator. 1895

(i) For a public employer that is a hospital, the public 1896
employer shall submit audited financial statements showing the 1897
hospital's overall liquidity characteristics, and the 1898
administrator shall determine, on an individual basis, whether the 1899
public employer satisfies liquidity standards equivalent to the 1900
liquidity standards of other public employers. 1901

(j) Any additional criteria that the administrator adopts by 1902
rule pursuant to division (E) of this section. 1903

The administrator may adopt rules establishing the criteria 1904
that a public employer shall satisfy in order for the 1905
administrator to waive any of the requirements listed in divisions 1906
(B)(2)(a) to (j) of this section. The rules may require additional 1907
security from that employer pursuant to division (E) of section 1908
4123.351 of the Revised Code. The administrator shall not waive 1909
any of the requirements listed in divisions (B)(2)(a) to (j) of 1910
this section for a public employer who does not satisfy the 1911
criteria established in the rules the administrator adopts. 1912

(C) A board of county commissioners described in division (G) 1913
of section 4123.01 of the Revised Code, as an employer, that will 1914
abide by the rules of the administrator and that may be of 1915
sufficient financial ability to render certain the payment of 1916
compensation to injured employees or the dependents of killed 1917
employees, and the furnishing of medical, surgical, nursing, and 1918
hospital attention and services and medicines, and funeral 1919
expenses, equal to or greater than is provided for in sections 1920
4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised 1921
Code, and that does not desire to insure the payment thereof or 1922
indemnify itself against loss sustained by the direct payment 1923
thereof, upon a finding of such facts by the administrator, may be 1924

granted the privilege to pay individually compensation, and 1925
furnish medical, surgical, nursing, and hospital services and 1926
attention and funeral expenses directly to injured employees or 1927
the dependents of killed employees, thereby being granted status 1928
as a self-insuring employer. The administrator may charge a board 1929
of county commissioners described in division (G) of section 1930
4123.01 of the Revised Code that applies for the status as a 1931
self-insuring employer a reasonable application fee to cover the 1932
bureau's costs in connection with processing and making a 1933
determination with respect to an application. All employers 1934
granted such status shall demonstrate sufficient financial and 1935
administrative ability to assure that all obligations under this 1936
section are promptly met. The administrator shall deny the 1937
privilege where the employer is unable to demonstrate the 1938
employer's ability to promptly meet all the obligations imposed on 1939
the employer by this section. The administrator shall consider, 1940
but is not limited to, the following factors, where applicable, in 1941
determining the employer's ability to meet all of the obligations 1942
imposed on the board as an employer by this section: 1943

(1) The board as an employer employs a minimum of five 1944
hundred employees in this state; 1945

(2) The board has operated in this state for a minimum of two 1946
years; 1947

(3) Where the board previously contributed to the state 1948
insurance fund or is a successor employer as defined by bureau 1949
rules, the amount of the buyout, as defined by bureau rules; 1950

(4) The sufficiency of the board's assets located in this 1951
state to insure the board's solvency in paying compensation 1952
directly; 1953

(5) The financial records, documents, and data, certified by 1954
a certified public accountant, necessary to provide the board's 1955

full financial disclosure. The records, documents, and data 1956
include, but are not limited to, balance sheets and profit and 1957
loss history for the current year and previous four years. 1958

(6) The board's organizational plan for the administration of 1959
the workers' compensation law; 1960

(7) The board's proposed plan to inform employees of the 1961
proposed self-insurance, the procedures the board will follow as a 1962
self-insuring employer, and the employees' rights to compensation 1963
and benefits; 1964

(8) The board has either an account in a financial 1965
institution in this state, or if the board maintains an account 1966
with a financial institution outside this state, ensures that 1967
workers' compensation checks are drawn from the same account as 1968
payroll checks or the board clearly indicates that payment will be 1969
honored by a financial institution in this state; 1970

(9) The board shall provide the administrator a surety bond 1971
in an amount equal to one hundred twenty-five per cent of the 1972
projected losses as determined by the administrator. 1973

(D) The administrator shall require a surety bond from all 1974
self-insuring employers, issued pursuant to section 4123.351 of 1975
the Revised Code, that is sufficient to compel, or secure to 1976
injured employees, or to the dependents of employees killed, the 1977
payment of compensation and expenses, which shall in no event be 1978
less than that paid or furnished out of the state insurance fund 1979
in similar cases to injured employees or to dependents of killed 1980
employees whose employers contribute to the fund, except when an 1981
employee of the employer, who has suffered the loss of a hand, 1982
arm, foot, leg, or eye prior to the injury for which compensation 1983
is to be paid, and thereafter suffers the loss of any other of the 1984
members as the result of any injury sustained in the course of and 1985
arising out of the employee's employment, the compensation to be 1986

paid by the self-insuring employer is limited to the disability 1987
suffered in the subsequent injury, additional compensation, if 1988
any, to be paid by the bureau out of the surplus created by 1989
section 4123.34 of the Revised Code. 1990

(E) In addition to the requirements of this section, the 1991
administrator shall make and publish rules governing the manner of 1992
making application and the nature and extent of the proof required 1993
to justify a finding of fact by the administrator as to granting 1994
the status of a self-insuring employer, which rules shall be 1995
general in their application, one of which rules shall provide 1996
that all self-insuring employers shall pay into the state 1997
insurance fund such amounts as are required to be credited to the 1998
surplus fund in division (B) of section 4123.34 of the Revised 1999
Code. The administrator may adopt rules establishing requirements 2000
in addition to the requirements described in division (B)(2) of 2001
this section that a public employer shall meet in order to qualify 2002
for self-insuring status. 2003

Employers shall secure directly from the bureau central 2004
offices application forms upon which the bureau shall stamp a 2005
designating number. Prior to submission of an application, an 2006
employer shall make available to the bureau, and the bureau shall 2007
review, the information described in division (B)(1) of this 2008
section, and public employers shall make available, and the bureau 2009
shall review, the information necessary to verify whether the 2010
public employer meets the requirements listed in division (B)(2) 2011
of this section. An employer shall file the completed application 2012
forms with an application fee, which shall cover the costs of 2013
processing the application, as established by the administrator, 2014
by rule, with the bureau at least ninety days prior to the 2015
effective date of the employer's new status as a self-insuring 2016
employer. The application form is not deemed complete until all 2017
the required information is attached thereto. The bureau shall 2018

only accept applications that contain the required information. 2019

(F) The bureau shall review completed applications within a 2020
reasonable time. If the bureau determines to grant an employer the 2021
status as a self-insuring employer, the bureau shall issue a 2022
statement, containing its findings of fact, that is prepared by 2023
the bureau and signed by the administrator. If the bureau 2024
determines not to grant the status as a self-insuring employer, 2025
the bureau shall notify the employer of the determination and 2026
require the employer to continue to pay its full premium into the 2027
state insurance fund. The administrator also shall adopt rules 2028
establishing a minimum level of performance as a criterion for 2029
granting and maintaining the status as a self-insuring employer 2030
and fixing time limits beyond which failure of the self-insuring 2031
employer to provide for the necessary medical examinations and 2032
evaluations may not delay a decision on a claim. 2033

(G) The administrator shall adopt rules setting forth 2034
procedures for auditing the program of self-insuring employers. 2035
The bureau shall conduct the audit upon a random basis or whenever 2036
the bureau has grounds for believing that a self-insuring employer 2037
is not in full compliance with bureau rules or this chapter. 2038

The administrator shall monitor the programs conducted by 2039
self-insuring employers, to ensure compliance with bureau 2040
requirements and for that purpose, shall develop and issue to 2041
self-insuring employers standardized forms for use by the 2042
self-insuring employer in all aspects of the self-insuring 2043
employers' direct compensation program and for reporting of 2044
information to the bureau. 2045

The bureau shall receive and transmit to the self-insuring 2046
employer all complaints concerning any self-insuring employer. In 2047
the case of a complaint against a self-insuring employer, the 2048
administrator shall handle the complaint through the 2049
self-insurance division of the bureau. The bureau shall maintain a 2050

file by employer of all complaints received that relate to the 2051
employer. The bureau shall evaluate each complaint and take 2052
appropriate action. 2053

The administrator shall adopt as a rule a prohibition against 2054
any self-insuring employer from harassing, dismissing, or 2055
otherwise disciplining any employee making a complaint, which rule 2056
shall provide for a financial penalty to be levied by the 2057
administrator payable by the offending self-insuring employer. 2058

(H) For the purpose of making determinations as to whether to 2059
grant status as a self-insuring employer, the administrator may 2060
subscribe to and pay for a credit reporting service that offers 2061
financial and other business information about individual 2062
employers. The costs in connection with the bureau's subscription 2063
or individual reports from the service about an applicant may be 2064
included in the application fee charged employers under this 2065
section. 2066

(I) The administrator, notwithstanding other provisions of 2067
this chapter, may permit a self-insuring employer to resume 2068
payment of premiums to the state insurance fund with appropriate 2069
credit modifications to the employer's basic premium rate as such 2070
rate is determined pursuant to section 4123.29 of the Revised 2071
Code. 2072

(J) On the first day of July of each year, the administrator 2073
shall calculate separately each self-insuring employer's 2074
assessments for the safety and hygiene fund, administrative costs 2075
pursuant to section 4123.342 of the Revised Code, and for the 2076
portion of the surplus fund under division (B) of section 4123.34 2077
of the Revised Code that is not used for handicapped 2078
reimbursement, on the basis of the paid compensation attributable 2079
to the individual self-insuring employer according to the 2080
following calculation: 2081

(1) The total assessment against all self-insuring employers 2082
as a class for each fund and for the administrative costs for the 2083
year that the assessment is being made, as determined by the 2084
administrator, divided by the total amount of paid compensation 2085
for the previous calendar year attributable to all amenable 2086
self-insuring employers; 2087

(2) Multiply the quotient in division (J)(1) of this section 2088
by the total amount of paid compensation for the previous calendar 2089
year that is attributable to the individual self-insuring employer 2090
for whom the assessment is being determined. Each self-insuring 2091
employer shall pay the assessment that results from this 2092
calculation, unless the assessment resulting from this calculation 2093
falls below a minimum assessment, which minimum assessment the 2094
administrator shall determine on the first day of July of each 2095
year with the advice and consent of the bureau of workers' 2096
compensation board of directors, in which event, the self-insuring 2097
employer shall pay the minimum assessment. 2098

In determining the total amount due for the total assessment 2099
against all self-insuring employers as a class for each fund and 2100
the administrative assessment, the administrator shall reduce 2101
proportionately the total for each fund and assessment by the 2102
amount of money in the self-insurance assessment fund as of the 2103
date of the computation of the assessment. 2104

The administrator shall calculate the assessment for the 2105
portion of the surplus fund under division (B) of section 4123.34 2106
of the Revised Code that is used for handicapped reimbursement in 2107
the same manner as set forth in divisions (J)(1) and (2) of this 2108
section except that the administrator shall calculate the total 2109
assessment for this portion of the surplus fund only on the basis 2110
of those self-insuring employers that retain participation in the 2111
handicapped reimbursement program and the individual self-insuring 2112
employer's proportion of paid compensation shall be calculated 2113

only for those self-insuring employers who retain participation in 2114
the handicapped reimbursement program. The administrator, as the 2115
administrator determines appropriate, may determine the total 2116
assessment for the handicapped portion of the surplus fund in 2117
accordance with sound actuarial principles. 2118

The administrator shall calculate the assessment for the 2119
portion of the surplus fund under division (B) of section 4123.34 2120
of the Revised Code that under division (D) of section 4121.66 of 2121
the Revised Code is used for rehabilitation costs in the same 2122
manner as set forth in divisions (J)(1) and (2) of this section, 2123
except that the administrator shall calculate the total assessment 2124
for this portion of the surplus fund only on the basis of those 2125
self-insuring employers who have not made the election to make 2126
payments directly under division (D) of section 4121.66 of the 2127
Revised Code and an individual self-insuring employer's proportion 2128
of paid compensation only for those self-insuring employers who 2129
have not made that election. 2130

The administrator shall calculate the assessment for the 2131
portion of the surplus fund under division (B) of section 4123.34 2132
of the Revised Code that is used for reimbursement to a 2133
self-insuring employer under division (H) of section 4123.512 of 2134
the Revised Code in the same manner as set forth in divisions 2135
(J)(1) and (2) of this section except that the administrator shall 2136
calculate the total assessment for this portion of the surplus 2137
fund only on the basis of those self-insuring employers that 2138
retain participation in reimbursement to the self-insuring 2139
employer under division (H) of section 4123.512 of the Revised 2140
Code and the individual self-insuring employer's proportion of 2141
paid compensation shall be calculated only for those self-insuring 2142
employers who retain participation in reimbursement to the 2143
self-insuring employer under division (H) of section 4123.512 of 2144
the Revised Code. 2145

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

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

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

(1) Establishing the date by which self-insuring employers

must submit such information and the amount of the assessments 2178
provided for in division (J) of this section for employers who 2179
have been granted self-insuring status within the last calendar 2180
year; 2181

(2) If an employer fails to pay the assessment when due, the 2182
administrator may add a late fee penalty of not more than five 2183
hundred dollars to the assessment plus an additional penalty 2184
amount as follows: 2185

(a) For an assessment from sixty-one to ninety days past due, 2186
the prime interest rate, multiplied by the assessment due; 2187

(b) For an assessment from ninety-one to one hundred twenty 2188
days past due, the prime interest rate plus two per cent, 2189
multiplied by the assessment due; 2190

(c) For an assessment from one hundred twenty-one to one 2191
hundred fifty days past due, the prime interest rate plus four per 2192
cent, multiplied by the assessment due; 2193

(d) For an assessment from one hundred fifty-one to one 2194
hundred eighty days past due, the prime interest rate plus six per 2195
cent, multiplied by the assessment due; 2196

(e) For an assessment from one hundred eighty-one to two 2197
hundred ten days past due, the prime interest rate plus eight per 2198
cent, multiplied by the assessment due; 2199

(f) For each additional thirty-day period or portion thereof 2200
that an assessment remains past due after it has remained past due 2201
for more than two hundred ten days, the prime interest rate plus 2202
eight per cent, multiplied by the assessment due. 2203

(3) An employer may appeal a late fee penalty and penalty 2204
assessment to the administrator. 2205

For purposes of division (L)(2) of this section, "prime 2206
interest rate" means the average bank prime rate, and the 2207

administrator shall determine the prime interest rate in the same 2208
manner as a county auditor determines the average bank prime rate 2209
under section 929.02 of the Revised Code. 2210

The administrator shall include any assessment and penalties 2211
that remain unpaid for previous assessment periods in the 2212
calculation and collection of any assessments due under this 2213
division or division (J) of this section. 2214

(M) As used in this section, "paid compensation" means all 2215
amounts paid by a self-insuring employer for living maintenance 2216
benefits, all amounts for compensation paid pursuant to sections 2217
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 2218
4123.64 of the Revised Code, all amounts paid as wages in lieu of 2219
such compensation, all amounts paid in lieu of such compensation 2220
under a nonoccupational accident and sickness program fully funded 2221
by the self-insuring employer, and all amounts paid by a 2222
self-insuring employer for a violation of a specific safety 2223
standard pursuant to Section 35 of Article II, Ohio Constitution 2224
and section 4121.47 of the Revised Code. 2225

(N) Should any section of this chapter or Chapter 4121. of 2226
the Revised Code providing for self-insuring employers' 2227
assessments based upon compensation paid be declared 2228
unconstitutional by a final decision of any court, then that 2229
section of the Revised Code declared unconstitutional shall revert 2230
back to the section in existence prior to November 3, 1989, 2231
providing for assessments based upon payroll. 2232

(O) The administrator may grant a self-insuring employer the 2233
privilege to self-insure a construction project entered into by 2234
the self-insuring employer that is scheduled for completion within 2235
six years after the date the project begins, and the total cost of 2236
which is estimated to exceed one hundred million dollars or, for 2237
employers described in division (R) of this section, if the 2238
construction project is estimated to exceed twenty-five million 2239

dollars. The administrator may waive such cost and time criteria 2240
and grant a self-insuring employer the privilege to self-insure a 2241
construction project regardless of the time needed to complete the 2242
construction project and provided that the cost of the 2243
construction project is estimated to exceed fifty million dollars. 2244
A self-insuring employer who desires to self-insure a construction 2245
project shall submit to the administrator an application listing 2246
the dates the construction project is scheduled to begin and end, 2247
the estimated cost of the construction project, the contractors 2248
and subcontractors whose employees are to be self-insured by the 2249
self-insuring employer, the provisions of a safety program that is 2250
specifically designed for the construction project, and a 2251
statement as to whether a collective bargaining agreement 2252
governing the rights, duties, and obligations of each of the 2253
parties to the agreement with respect to the construction project 2254
exists between the self-insuring employer and a labor 2255
organization. 2256

A self-insuring employer may apply to self-insure the 2257
employees of either of the following: 2258

(1) All contractors and subcontractors who perform labor or 2259
work or provide materials for the construction project; 2260

(2) All contractors and, at the administrator's discretion, a 2261
substantial number of all the subcontractors who perform labor or 2262
work or provide materials for the construction project. 2263

Upon approval of the application, the administrator shall 2264
mail a certificate granting the privilege to self-insure the 2265
construction project to the self-insuring employer. The 2266
certificate shall contain the name of the self-insuring employer 2267
and the name, address, and telephone number of the self-insuring 2268
employer's representatives who are responsible for administering 2269
workers' compensation claims for the construction project. The 2270
self-insuring employer shall post the certificate in a conspicuous 2271

place at the site of the construction project. 2272

The administrator shall maintain a record of the contractors 2273
and subcontractors whose employees are covered under the 2274
certificate issued to the self-insured employer. A self-insuring 2275
employer immediately shall notify the administrator when any 2276
contractor or subcontractor is added or eliminated from inclusion 2277
under the certificate. 2278

Upon approval of the application, the self-insuring employer 2279
is responsible for the administration and payment of all claims 2280
under this chapter and Chapter 4121. of the Revised Code for the 2281
employees of the contractor and subcontractors covered under the 2282
certificate who receive injuries or are killed in the course of 2283
and arising out of employment on the construction project, or who 2284
contract an occupational disease in the course of employment on 2285
the construction project. For purposes of this chapter and Chapter 2286
4121. of the Revised Code, a claim that is administered and paid 2287
in accordance with this division is considered a claim against the 2288
self-insuring employer listed in the certificate. A contractor or 2289
subcontractor included under the certificate shall report to the 2290
self-insuring employer listed in the certificate, all claims that 2291
arise under this chapter and Chapter 4121. of the Revised Code in 2292
connection with the construction project for which the certificate 2293
is issued. 2294

A self-insuring employer who complies with this division is 2295
entitled to the protections provided under this chapter and 2296
Chapter 4121. of the Revised Code with respect to the employees of 2297
the contractors and subcontractors covered under a certificate 2298
issued under this division for death or injuries that arise out 2299
of, or death, injuries, or occupational diseases that arise in the 2300
course of, those employees' employment on that construction 2301
project, as if the employees were employees of the self-insuring 2302
employer, provided that the self-insuring employer also complies 2303

with this section. No employee of the contractors and 2304
subcontractors covered under a certificate issued under this 2305
division shall be considered the employee of the self-insuring 2306
employer listed in that certificate for any purposes other than 2307
this chapter and Chapter 4121. of the Revised Code. Nothing in 2308
this division gives a self-insuring employer authority to control 2309
the means, manner, or method of employment of the employees of the 2310
contractors and subcontractors covered under a certificate issued 2311
under this division. 2312

The contractors and subcontractors included under a 2313
certificate issued under this division are entitled to the 2314
protections provided under this chapter and Chapter 4121. of the 2315
Revised Code with respect to the contractor's or subcontractor's 2316
employees who are employed on the construction project which is 2317
the subject of the certificate, for death or injuries that arise 2318
out of, or death, injuries, or occupational diseases that arise in 2319
the course of, those employees' employment on that construction 2320
project. 2321

The contractors and subcontractors included under a 2322
certificate issued under this division shall identify in their 2323
payroll records the employees who are considered the employees of 2324
the self-insuring employer listed in that certificate for purposes 2325
of this chapter and Chapter 4121. of the Revised Code, and the 2326
amount that those employees earned for employment on the 2327
construction project that is the subject of that certificate. 2328
Notwithstanding any provision to the contrary under this chapter 2329
and Chapter 4121. of the Revised Code, the administrator shall 2330
exclude the payroll that is reported for employees who are 2331
considered the employees of the self-insuring employer listed in 2332
that certificate, and that the employees earned for employment on 2333
the construction project that is the subject of that certificate, 2334
when determining those contractors' or subcontractors' premiums or 2335

assessments required under this chapter and Chapter 4121. of the Revised Code. A self-insuring employer issued a certificate under this division shall include in the amount of paid compensation it reports pursuant to division (L) of this section, the amount of paid compensation the self-insuring employer paid pursuant to this division for the previous calendar year.

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

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

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

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

(1) Communicate with and provide information to employees who are injured in the course of, or whose injury arises out of

employment on the construction project, or who contract an 2367
occupational disease in the course of employment on the 2368
construction project; 2369

(2) Investigate the status of a claim upon the request of an 2370
employee to do so; 2371

(3) Provide information to claimants, third party 2372
administrators, employers, and other persons to assist those 2373
persons in protecting their rights under this chapter and Chapter 2374
4121. of the Revised Code. 2375

A self-insuring employer whose application is granted under 2376
division (O) of this section shall post the name of the safety 2377
professional and the ombudsperson and instructions for contacting 2378
the safety professional and the ombudsperson in a conspicuous 2379
place at the site of the construction project. 2380

(Q) The administrator may consider all of the following when 2381
deciding whether to grant a self-insuring employer the privilege 2382
to self-insure a construction project as provided under division 2383
(O) of this section: 2384

(1) Whether the self-insuring employer has an organizational 2385
plan for the administration of the workers' compensation law; 2386

(2) Whether the safety program that is specifically designed 2387
for the construction project provides for the safety of employees 2388
employed on the construction project, is applicable to all 2389
contractors and subcontractors who perform labor or work or 2390
provide materials for the construction project, and has as a 2391
component, a safety training program that complies with standards 2392
adopted pursuant to the "Occupational Safety and Health Act of 2393
1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing 2394
management and employee involvement; 2395

(3) Whether granting the privilege to self-insure the 2396
construction project will reduce the costs of the construction 2397

project;	2398
(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;	2399 2400
(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible pursuant to the granting of the privilege to self-insure a construction project under division (O) of this section.	2401 2402 2403 2404 2405
(R) As used in divisions (O), (P), and (Q), "self-insuring employer" includes the following employers, whether or not they have been granted the status of being a self-insuring employer under division (B) of this section:	2406 2407 2408 2409
(1) A state institution of higher education;	2410
(2) A school district;	2411
(3) A county school financing district;	2412
(4) An educational service center;	2413
(5) A community school established under Chapter 3314. of the Revised Code;	2414 2415
(6) A municipal power agency as defined in section 3734.058 of the Revised Code.	2416 2417
(S) As used in this section:	2418
(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;	2419 2420
(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges	2421 2422 2423 2424 2425 2426

created pursuant to Chapter 3358. of the Revised Code. 2427

Sec. 4123.353. (A) A public employer, except for a board of 2428
county commissioners described in division (G) of section 4123.01 2429
of the Revised Code, a board of a county hospital, or a publicly 2430
owned utility, who is granted the status of self-insuring employer 2431
pursuant to section 4123.35 of the Revised Code shall do all of 2432
the following: 2433

(1) Reserve funds as necessary, in accordance with sound and 2434
prudent actuarial judgment, to cover the costs the public employer 2435
may potentially incur to remain in compliance with this chapter 2436
and Chapter 4121. of the Revised Code; 2437

(2) Include all activity under this chapter and Chapter 4121. 2438
of the Revised Code in a single fund on the public employer's 2439
accounting records; 2440

(3) Within ninety days after the last day of each fiscal 2441
year, prepare and maintain a report of the reserved funds 2442
described in division (A)(1) of this section and disbursements 2443
made from those reserved funds; 2444

~~(4) Within ninety days after the last day of each fiscal 2445
year, obtain a written report prepared by a member of the American 2446
academy of actuaries, certifying whether the reserved funds 2447
described in division (A)(1) of this section are sufficient to 2448
cover the costs the public employer may potentially incur to 2449
remain in compliance with this chapter and Chapter 4121. of the 2450
Revised Code, are computed in accordance with accepted loss 2451
reserving standards, and are fairly stated in accordance with 2452
sound loss reserving principles. 2453~~

(B) A public employer who is subject to division (A) of this 2454
section shall make the reports required by that division available 2455
for inspection by the administrator of workers' compensation and 2456

any other person at all reasonable times during regular business 2457
hours. 2458

Sec. 4123.36. Whenever an employer fails to pay a premium 2459
due, and the administrator of workers' compensation determines the 2460
employer's account to be uncollectible, the administrator shall 2461
cover the default ~~in excess of the employer's premium security~~ 2462
~~deposit~~ by transfer of money from the premium payment security 2463
fund account to the state insurance fund. ~~The transfer establishes~~ 2464
~~coverage of the employer for the immediately completed six month~~ 2465
~~period together with the ensuing two month adjustment period and~~ 2466
~~the employer is not liable to respond in damages at common law or~~ 2467
~~by statute for injuries or death of any employees wherever~~ 2468
~~occurring during that eight month period. Payments from the~~ 2469
~~premium payment security fund may not be used to cover a default~~ 2470
~~of an employer with respect to any period longer than eight~~ 2471
~~months.~~ Thereafter, the employer shall be considered a 2472
noncomplying employer under this chapter and shall not be entitled 2473
to the benefits and protection of this chapter ~~until the employer~~ 2474
~~again establishes coverage pursuant to this chapter through~~ 2475
~~reimbursement to the premium payment security fund for the money~~ 2476
~~paid to the state insurance fund, on account of the default,~~ 2477
~~payment of any semiannual premium obligations due but in default,~~ 2478
~~and submission of a new premium security deposit pursuant to~~ 2479
~~section 4123.32 of the Revised Code.~~ 2480

Sec. 4123.37. In this section "amenable employer" has the 2481
same meaning as "employer" as defined in division ~~(F)~~(I) of 2482
section 4123.32 of the Revised Code. 2483

If the administrator of workers' compensation finds that any 2484
person, firm, or private corporation, including any public service 2485
corporation, is, or has been at any time after January 1, 1923, an 2486
amenable employer and has not complied with section 4123.35 of the 2487

Revised Code the administrator shall determine the period during 2488
which the person, firm, or corporation was an amenable employer 2489
and shall forthwith give notice of the determination to the 2490
employer. Within twenty days thereafter the employer shall furnish 2491
the bureau with the payroll covering the period included in the 2492
determination and, if the employer is an amenable employer at the 2493
time of the determination, ~~shall pay a premium security deposit~~ 2494
~~for the eight months next succeeding the date of the determination~~ 2495
~~and~~ shall pay into the state insurance fund the amount of premium 2496
and assessments applicable to such payroll. If the administrator 2497
determines that the employer is an amenable employer prior to the 2498
policy year commencing July 1, 2015, the administrator may require 2499
the employer to pay a premium security deposit. 2500

If the employer does not furnish the payroll and pay the 2501
applicable premium, assessments, and, if applicable, the premium 2502
security deposit within the twenty days, the administrator shall 2503
forthwith make an assessment of the premium amounts due from the 2504
employer for the period the administrator determined the employer 2505
to be an amenable employer ~~including the premium security deposit~~ 2506
~~according to section 4123.32 of the Revised Code~~ if the employer 2507
is an amenable employer at the time of the determination, basing 2508
the assessment upon the information in the possession of the 2509
administrator. 2510

The administrator shall give to the employer assessed written 2511
notice of the assessment. The notice shall be mailed to the 2512
employer at the employer's residence or usual place of business by 2513
certified mail. Unless the employer to whom the notice of 2514
assessment is directed files with the bureau within twenty days 2515
after receipt thereof, a petition in writing, verified under oath 2516
by the employer, or the employer's authorized agent having 2517
knowledge of the facts, setting forth with particularity the items 2518
of the assessment objected to, together with the reason for the 2519

objections, the assessment shall become conclusive and the amount 2520
thereof shall be due and payable from the employer so assessed to 2521
the state insurance fund. When a petition objecting to an 2522
assessment is filed the bureau shall assign a time and place for 2523
the hearing of the same and shall notify the petitioner thereof by 2524
certified mail. When an employer files a petition the assessment 2525
made by the administrator shall become due and payable ten days 2526
after notice of the finding made at the hearing has been sent by 2527
certified mail to the party assessed. An appeal may be taken from 2528
any finding to the court of common pleas of Franklin county upon 2529
the execution by the party assessed of a bond to the state in 2530
double the amount found due and ordered paid by the bureau 2531
conditioned that the party will pay any judgment and costs 2532
rendered against it for the premium. 2533

When no petition objecting to an assessment is filed or when 2534
a finding is made affirming or modifying an assessment after 2535
hearing, a certified copy of the assessment as affirmed or 2536
modified may be filed by the administrator in the office of the 2537
clerk of the court of common pleas in any county in which the 2538
employer has property or in which the employer has a place of 2539
business. The clerk, immediately upon the filing of the 2540
assessment, shall enter a judgment for the state against the 2541
employer in the amount shown on the assessment. The judgment may 2542
be filed by the clerk in a loose leaf book entitled "special 2543
judgments for state insurance fund." The judgment shall bear the 2544
same rate of interest, have the same effect as other judgments, 2545
and be given the same preference allowed by law on other judgments 2546
rendered for claims for taxes. An assessment or judgment under 2547
this section shall not be a bar to the adjustment of the 2548
employer's account upon the employer furnishing the employer's 2549
payroll records to the bureau. 2550

The administrator, for good cause shown, may waive a default 2551

in the payment of premium where the default is of less than sixty 2552
days' duration, and upon payment by the employer of the premium 2553
for the period, the employer and the employer's employees are 2554
entitled to all of the benefits and immunities provided by this 2555
chapter. 2556

Sec. 4123.40. On or before the first day of July of every 2557
year, the administrator of workers' compensation shall estimate 2558
the gross payroll of all state employers for the succeeding 2559
biennium or fiscal year. 2560

The administrator shall determine and certify for the office 2561
of budget and management that rate or rates which, when applied to 2562
the gross payroll estimate, will produce an amount equal to the 2563
estimated cost of awards or claim payments to be made during the 2564
like fiscal period, as determined by the administrator. 2565

The rate certified shall be applied and made a part of the 2566
gross payroll calculation for the period for which the foregoing 2567
estimates have been made, in conformity with section 125.21 of the 2568
Revised Code. The amounts collected shall be remitted to the 2569
bureau of workers' compensation as provided in section 125.21 of 2570
the Revised Code. 2571

If the historical amounts remitted to the bureau ~~for a fiscal~~ 2572
~~period~~ are greater or less than ~~actual~~ historical awards or claim 2573
~~payments for the like period by reason of an error in the prior~~ 2574
~~estimates of gross payroll or awards or payments, the overage or~~ 2575
~~shortage~~ difference shall be ~~included~~ returned to the state 2576
employer or recovered by the bureau in a manner determined by the 2577
administrator ~~in determining the rate for the next succeeding~~ 2578
~~fiscal period.~~ 2579

In fixing the amount of contribution to be made by the state 2580
and each of its departments, agencies, and instrumentalities, the 2581
administrator shall classify departments, agencies, and 2582

instrumentalities into such groups as will equitably determine the 2583
contributions in accordance with their expected individual 2584
accident experience so that the state and its departments, 2585
agencies, and instrumentalities contribute an amount sufficient to 2586
meet individual obligations and ~~maintain a solvent public~~ 2587
~~insurance fund~~ the obligations of the participants in total. 2588

Moneys collected from state employers shall not be used to 2589
pay compensation or other benefits attributable to service of 2590
persons as employees of counties or taxing districts therein, nor 2591
shall moneys collected from counties and taxing districts therein 2592
be used to pay compensation or other benefits attributable to 2593
service of persons as employees of the state. 2594

Sec. 4123.41. (A) By (1) For policy years that begin prior to 2595
January 1, 2016, by the first day of January of each year, the 2596
bureau of workers' compensation shall furnish to the county 2597
auditor of each county and the chief fiscal officer of each taxing 2598
district in a county and of each district activity and institution 2599
mentioned in section 4123.39 of the Revised Code forms containing 2600
the premium rates applicable to the county, district, district 2601
activity, or institution as an employer, on which to report the 2602
amount of money expended by the county, district, district 2603
activity, or institution during the previous twelve calendar 2604
months for the services of employees under this chapter. 2605

~~(B)~~ Each county auditor and each fiscal officer of a 2606
district, district activity, and institution shall calculate on 2607
the form it receives from the bureau under division (A) of this 2608
section the premium due as its proper contribution to the public 2609
insurance fund and issue a warrant in favor of the bureau for the 2610
amount due from the county, district, district activity, or 2611
institution to the public insurance fund. 2612

(2) For a policy year commencing on or after January 1, 2016, 2613

by the first day of November of each year, the bureau shall 2614
furnish to the county auditor of each county and the chief fiscal 2615
officer of each taxing district in a county and of each district 2616
activity and institution mentioned in section 4123.39 of the 2617
Revised Code forms showing the estimated premium due from the 2618
county, district, district activity, or institution for the 2619
forthcoming policy year. 2620

After the conclusion of each policy year, the county auditor 2621
of each county and the chief fiscal officer of each taxing 2622
district in a county and of each district activity and institution 2623
mentioned in section 4123.39 of the Revised Code shall, on or 2624
before the fifteenth day of February immediately following the 2625
conclusion of the policy year, report the amount of money expended 2626
by the county, district, district activity, or institution during 2627
the policy year for the services of employees under this chapter. 2628
The bureau shall adjust the premium and assessments charged to the 2629
employer for the difference between estimated gross payrolls and 2630
actual gross payrolls, and the employer immediately shall pay any 2631
balance due to the bureau. Any balance due the employer shall be 2632
credited to the employer's account. 2633

The administrator may adopt rules setting forth penalties for 2634
failure to submit the report of money expended as required by this 2635
division, including, but not limited to, exclusion from 2636
alternative rating plans and discount programs. 2637

(B)(1) Except as otherwise provided in division (B) of this 2638
section, payments due under this section shall be made according 2639
to the following schedule: 2640

~~(1) On~~ (a) For payments of premium and assessments due for a 2641
policy year that commences prior to July 1, 2015: 2642

(i) On or before the fifteenth day of May ~~of each~~ immediately 2643
following the conclusion of the policy year, no less than 2644

forty-five per cent of the annual amount due for the policy year; 2645

~~(2)~~(ii) On or before the first day of September immediately 2646
following the conclusion of ~~each~~ the policy year, no less than the 2647
total amount due for the policy year. 2648

(b) For the policy year commencing January 1, 2015: 2649

(i) On or before the fifteenth day of May immediately 2650
following the conclusion of the policy year, no less than fifty 2651
per cent of the annual amount due for the policy year; 2652

(ii) On or before the first day of September immediately 2653
following the conclusion of the policy year, no less than the 2654
total amount due for the policy year. 2655

(c) For the policy year commencing January 1, 2016: 2656

(i) On or before the fifteenth day of May in that policy 2657
year, no less than fifty per cent of the annual premium estimated 2658
by the bureau. 2659

(ii) On or before the first day of September in that policy 2660
year, no less than the total amount of annual premium estimated by 2661
the bureau. 2662

(d) For a policy year commencing on or after January 1, 2017, 2663
the total amount of annual premium estimated by the bureau on or 2664
before the thirty-first day of December immediately preceding the 2665
start of the policy year. 2666

(2) The administrator, with the advice and consent of the 2667
bureau of workers' compensation board of directors, shall adopt 2668
rules to permit employers to make periodic payments of the premium 2669
and assessments due under this section. The rules shall include 2670
provisions for the assessment of interest charges, if appropriate, 2671
and for the assessment of penalties when an employer fails to make 2672
timely premium payments. The administrator may adopt rules to 2673
establish an administrative fee for those periodic payments. 2674

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

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

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

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

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

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

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

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

(F) The For payments of premium and assessments for a policy year prior to the policy year commencing January 1, 2015, the administrator shall provide a discount to any county, district, district activity, or institution that pays its total amount due

to the public insurance fund on or before the fifteenth day of May 2739
of each year as its proper contribution for premiums. The 2740
administrator shall base the discount provided under this division 2741
on the savings generated by the early payment to the public 2742
insurance fund. The administrator may provide the discount through 2743
a refund to the county, district, district activity, or 2744
institution or an offset against the future contributions due to 2745
the public insurance fund from the county, district, district 2746
activity, or institution. 2747

(G) The administrator may impose an interest penalty for late 2748
payment of any amount due from a county, district, district 2749
activity, and institution at the interest rate established by the 2750
state tax commissioner pursuant to section 5703.47 of the Revised 2751
Code. 2752

~~(H) If the administrator adopts rules for the prospective 2753
payment of premium as permitted under section 4123.322 of the 2754
Revised Code, every employer mentioned in division (B)(1) of 2755
section 4123.01 of the Revised Code, except for a state agency or 2756
a state university or college as defined in section 4123.32 of the 2757
Revised Code, shall pay into the state insurance fund the amount 2758
of premium the administrator fixes for the employment or 2759
occupation of the employer, the amount of which premium to be paid 2760
by each employer to be determined by the classifications, rules, 2761
and rates made and published by the administrator and based upon 2762
the estimates and reconciliations required by the rules the 2763
administrator adopts under section 4123.322 of the Revised Code. 2764~~

Sec. 4123.411. (A) For the purpose of carrying out sections 2765
4123.412 to 4123.418 of the Revised Code, the administrator of 2766
workers' compensation, with the advice and consent of the bureau 2767
of workers' compensation board of directors, shall levy an 2768
assessment against all employers at a rate, ~~of at least five but~~ 2769

not to exceed ten cents per one hundred dollars of payroll, such 2770
rate to be determined annually for each employer group listed in 2771
divisions (A)(1) to (3) of this section, which will produce an 2772
amount no greater than the amount the administrator estimates to 2773
be necessary to carry out such sections for the period for which 2774
the assessment is levied. In the event the amount produced by the 2775
assessment is not sufficient to carry out such sections the 2776
additional amount necessary shall be provided from the income 2777
produced as a result of investments made pursuant to section 2778
4123.44 of the Revised Code. 2779

Assessments shall be levied according to the following 2780
schedule: 2781

(1) ~~Private~~ For private fund employers, except self-insuring 2782
employers—: 2783

(a) For policy years commencing prior to July 1, 2015, in 2784
January and July of each year upon gross payrolls of the preceding 2785
six months; 2786

(b) For policy years commencing on or after July 1, 2015, in 2787
June of each year upon gross payrolls estimated for the next 2788
twelve months. 2789

(2) ~~Counties~~ For counties and taxing district employers 2790
therein, except county hospitals that are self-insuring 2791
employers—: 2792

(a) For policy years commencing prior to January 1, 2015, in 2793
January of each year upon gross payrolls of the preceding twelve 2794
months; 2795

(b) For policy years commencing on or after January 1, 2015, 2796
in December of each year upon gross payrolls estimated for the 2797
next twelve months. 2798

(3) ~~The~~ For the state as an employer--in January, April, 2799

July, and October of each year upon gross payrolls of the 2800
preceding three months or at other intervals as the administrator 2801
establishes. 2802

After the completion of each policy year that commences on or 2803
after July 1, 2015, for private fund employers or that commences 2804
on or after January 1, 2015, for counties and taxing district 2805
employers therein, the assessments levied under this section shall 2806
be adjusted for the difference between estimated gross payrolls 2807
and actual gross payrolls reported by the employer on the payroll 2808
report submitted by a private employer pursuant to section 4123.26 2809
of the Revised Code, or, for a public employer, submitted pursuant 2810
to section 4123.41 of the Revised Code. 2811

Amounts assessed in accordance with this section shall be 2812
collected from each employer as prescribed in rules the 2813
administrator adopts. 2814

The moneys derived from the assessment provided for in this 2815
section shall be credited to the disabled workers' relief fund 2816
created by section 4123.412 of the Revised Code. The administrator 2817
shall establish by rule classifications of employers within 2818
divisions (A)(1) to (3) of this section and shall determine rates 2819
for each class so as to fairly apportion the costs of carrying out 2820
sections 4123.412 to 4123.418 of the Revised Code. 2821

(B) For all injuries and disabilities occurring on or after 2822
January 1, 1987, the administrator, for the purposes of carrying 2823
out sections 4123.412 to 4123.418 of the Revised Code, shall levy 2824
an assessment against all employers at a rate per one hundred 2825
dollars of payroll, such rate to be determined annually for each 2826
classification of employer in each employer group listed in 2827
divisions (A)(1) to (3) of this section, which will produce an 2828
amount no greater than the amount the administrator estimates to 2829
be necessary to carry out such sections for the period for which 2830
the assessment is levied. The administrator annually shall 2831

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

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

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

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

(B) The auditor of state annually shall conduct an audit of 2863
the administration of this chapter by the industrial commission 2864
and the bureau of workers' compensation and the safety and hygiene 2865
fund. The cost of the audit shall be charged to the administrative 2866
costs of the bureau as defined in section 4123.341 of the Revised 2867
Code. The audit shall include audits of all fiscal activities, 2868
claims processing and handling, and employer premium collections. 2869
The auditor shall prepare a report of the audit together with 2870
recommendations and transmit copies of the report to the 2871
industrial commission, the board, the administrator, the governor, 2872
and to the general assembly. The auditor shall make copies of the 2873
report available to the public at cost. 2874

(C) The administrator may retain the services of a recognized 2875
actuary on a consulting basis for the purpose of evaluating the 2876
actuarial soundness of premium rates and classifications and all 2877
other matters involving the administration of the state insurance 2878
fund. The expense of services provided by the actuary shall be 2879
paid from the state insurance fund. 2880

Sec. 4123.511. (A) Within seven days after receipt of any 2881
claim under this chapter, the bureau of workers' compensation 2882
shall notify the claimant and the employer of the claimant of the 2883
receipt of the claim and of the facts alleged therein. If the 2884
bureau receives from a person other than the claimant written or 2885
facsimile information or information communicated verbally over 2886
the telephone indicating that an injury or occupational disease 2887
has occurred or been contracted which may be compensable under 2888
this chapter, the bureau shall notify the employee and the 2889
employer of the information. If the information is provided 2890
verbally over the telephone, the person providing the information 2891
shall provide written verification of the information to the 2892
bureau according to division (E) of section 4123.84 of the Revised 2893
Code. The receipt of the information in writing or facsimile, or 2894

if initially by telephone, the subsequent written verification, 2895
and the notice by the bureau shall be considered an application 2896
for compensation under section 4123.84 or 4123.85 of the Revised 2897
Code, provided that the conditions of division (E) of section 2898
4123.84 of the Revised Code apply to information provided verbally 2899
over the telephone. Upon receipt of a claim, the bureau shall 2900
advise the claimant of the claim number assigned and the 2901
claimant's right to representation in the processing of a claim or 2902
to elect no representation. If the bureau determines that a claim 2903
is determined to be a compensable lost-time claim, the bureau 2904
shall notify the claimant and the employer of the availability of 2905
rehabilitation services. No bureau or industrial commission 2906
employee shall directly or indirectly convey any information in 2907
derogation of this right. This section shall in no way abrogate 2908
the bureau's responsibility to aid and assist a claimant in the 2909
filing of a claim and to advise the claimant of the claimant's 2910
rights under the law. 2911

The administrator of workers' compensation shall assign all 2912
claims and investigations to the bureau service office from which 2913
investigation and determination may be made most expeditiously. 2914

The bureau shall investigate the facts concerning an injury 2915
or occupational disease and ascertain such facts in whatever 2916
manner is most appropriate and may obtain statements of the 2917
employee, employer, attending physician, and witnesses in whatever 2918
manner is most appropriate. 2919

The administrator, with the advice and consent of the bureau 2920
of workers' compensation board of directors, may adopt rules that 2921
identify specified medical conditions that have a historical 2922
record of being allowed whenever included in a claim. The 2923
administrator may grant immediate allowance of any medical 2924
condition identified in those rules upon the filing of a claim 2925
involving that medical condition and may make immediate payment of 2926

medical bills for any medical condition identified in those rules 2927
that is included in a claim. If an employer contests the allowance 2928
of a claim involving any medical condition identified in those 2929
rules, and the claim is disallowed, payment for the medical 2930
condition included in that claim shall be charged to and paid from 2931
the surplus fund created under section 4123.34 of the Revised 2932
Code. 2933

(B)(1) Except as provided in division (B)(2) of this section, 2934
in claims other than those in which the employer is a 2935
self-insuring employer, if the administrator determines under 2936
division (A) of this section that a claimant is or is not entitled 2937
to an award of compensation or benefits, the administrator shall 2938
issue an order no later than twenty-eight days after the sending 2939
of the notice under division (A) of this section, granting or 2940
denying the payment of the compensation or benefits, or both as is 2941
appropriate to the claimant. Notwithstanding the time limitation 2942
specified in this division for the issuance of an order, if a 2943
medical examination of the claimant is required by statute, the 2944
administrator promptly shall schedule the claimant for that 2945
examination and shall issue an order no later than twenty-eight 2946
days after receipt of the report of the examination. The 2947
administrator shall notify the claimant and the employer of the 2948
claimant and their respective representatives in writing of the 2949
nature of the order and the amounts of compensation and benefit 2950
payments involved. The employer or claimant may appeal the order 2951
pursuant to division (C) of this section within fourteen days 2952
after the date of the receipt of the order. The employer and 2953
claimant may waive, in writing, their rights to an appeal under 2954
this division. 2955

(2) Notwithstanding the time limitation specified in division 2956
(B)(1) of this section for the issuance of an order, if the 2957
employer certifies a claim for payment of compensation or 2958

benefits, or both, to a claimant, and the administrator has 2959
completed the investigation of the claim, the payment of benefits 2960
or compensation, or both, as is appropriate, shall commence upon 2961
the later of the date of the certification or completion of the 2962
investigation and issuance of the order by the administrator, 2963
provided that the administrator shall issue the order no later 2964
than the time limitation specified in division (B)(1) of this 2965
section. 2966

(3) If an appeal is made under division (B)(1) or (2) of this 2967
section, the administrator shall forward the claim file to the 2968
appropriate district hearing officer within seven days of the 2969
appeal. In contested claims other than state fund claims, the 2970
administrator shall forward the claim within seven days of the 2971
administrator's receipt of the claim to the industrial commission, 2972
which shall refer the claim to an appropriate district hearing 2973
officer for a hearing in accordance with division (C) of this 2974
section. 2975

(C) If an employer or claimant timely appeals the order of 2976
the administrator issued under division (B) of this section or in 2977
the case of other contested claims other than state fund claims, 2978
the commission shall refer the claim to an appropriate district 2979
hearing officer according to rules the commission adopts under 2980
section 4121.36 of the Revised Code. The district hearing officer 2981
shall notify the parties and their respective representatives of 2982
the time and place of the hearing. 2983

The district hearing officer shall hold a hearing on a 2984
disputed issue or claim within forty-five days after the filing of 2985
the appeal under this division and issue a decision within seven 2986
days after holding the hearing. The district hearing officer shall 2987
notify the parties and their respective representatives in writing 2988
of the order. Any party may appeal an order issued under this 2989
division pursuant to division (D) of this section within fourteen 2990

days after receipt of the order under this division. 2991

(D) Upon the timely filing of an appeal of the order of the 2992
district hearing officer issued under division (C) of this 2993
section, the commission shall refer the claim file to an 2994
appropriate staff hearing officer according to its rules adopted 2995
under section 4121.36 of the Revised Code. The staff hearing 2996
officer shall hold a hearing within forty-five days after the 2997
filing of an appeal under this division and issue a decision 2998
within seven days after holding the hearing under this division. 2999
The staff hearing officer shall notify the parties and their 3000
respective representatives in writing of the staff hearing 3001
officer's order. Any party may appeal an order issued under this 3002
division pursuant to division (E) of this section within fourteen 3003
days after receipt of the order under this division. 3004

(E) Upon the filing of a timely appeal of the order of the 3005
staff hearing officer issued under division (D) of this section, 3006
the commission or a designated staff hearing officer, on behalf of 3007
the commission, shall determine whether the commission will hear 3008
the appeal. If the commission or the designated staff hearing 3009
officer decides to hear the appeal, the commission or the 3010
designated staff hearing officer shall notify the parties and 3011
their respective representatives in writing of the time and place 3012
of the hearing. The commission shall hold the hearing within 3013
forty-five days after the filing of the notice of appeal and, 3014
within seven days after the conclusion of the hearing, the 3015
commission shall issue its order affirming, modifying, or 3016
reversing the order issued under division (D) of this section. The 3017
commission shall notify the parties and their respective 3018
representatives in writing of the order. If the commission or the 3019
designated staff hearing officer determines not to hear the 3020
appeal, within fourteen days after the expiration of the period in 3021
which an appeal of the order of the staff hearing officer may be 3022

filed as provided in division (D) of this section, the commission 3023
or the designated staff hearing officer shall issue an order to 3024
that effect and notify the parties and their respective 3025
representatives in writing of that order. 3026

Except as otherwise provided in this chapter and Chapters 3027
4121., 4127., and 4131. of the Revised Code, any party may appeal 3028
an order issued under this division to the court pursuant to 3029
section 4123.512 of the Revised Code within sixty days after 3030
receipt of the order, subject to the limitations contained in that 3031
section. 3032

(F) Every notice of an appeal from an order issued under 3033
divisions (B), (C), (D), and (E) of this section shall state the 3034
names of the claimant and employer, the number of the claim, the 3035
date of the decision appealed from, and the fact that the 3036
appellant appeals therefrom. 3037

(G) All of the following apply to the proceedings under 3038
divisions (C), (D), and (E) of this section: 3039

(1) The parties shall proceed promptly and without 3040
continuances except for good cause; 3041

(2) The parties, in good faith, shall engage in the free 3042
exchange of information relevant to the claim prior to the conduct 3043
of a hearing according to the rules the commission adopts under 3044
section 4121.36 of the Revised Code; 3045

(3) The administrator is a party and may appear and 3046
participate at all administrative proceedings on behalf of the 3047
state insurance fund. However, in cases in which the employer is 3048
represented, the administrator shall neither present arguments nor 3049
introduce testimony that is cumulative to that presented or 3050
introduced by the employer or the employer's representative. The 3051
administrator may file an appeal under this section on behalf of 3052
the state insurance fund; however, except in cases arising under 3053

section 4123.343 of the Revised Code, the administrator only may 3054
appeal questions of law or issues of fraud when the employer 3055
appears in person or by representative. 3056

(H) Except as provided in section 4121.63 of the Revised Code 3057
and division (K) of this section, payments of compensation to a 3058
claimant or on behalf of a claimant as a result of any order 3059
issued under this chapter shall commence upon the earlier of the 3060
following: 3061

(1) Fourteen days after the date the administrator issues an 3062
order under division (B) of this section, unless that order is 3063
appealed; 3064

(2) The date when the employer has waived the right to appeal 3065
a decision issued under division (B) of this section; 3066

(3) If no appeal of an order has been filed under this 3067
section or to a court under section 4123.512 of the Revised Code, 3068
the expiration of the time limitations for the filing of an appeal 3069
of an order; 3070

(4) The date of receipt by the employer of an order of a 3071
district hearing officer, a staff hearing officer, or the 3072
industrial commission issued under division (C), (D), or (E) of 3073
this section. 3074

(I) ~~Payments~~ Except as otherwise provided in division (B) of 3075
section 4123.66 of the Revised Code, payments of medical benefits 3076
payable under this chapter or Chapter 4121., 4127., or 4131. of 3077
the Revised Code shall commence upon the earlier of the following: 3078

(1) The date of the issuance of the staff hearing officer's 3079
order under division (D) of this section; 3080

(2) The date of the final administrative or judicial 3081
determination. 3082

(J) The administrator shall charge the compensation payments 3083

made in accordance with division (H) of this section or medical 3084
benefits payments made in accordance with division (I) of this 3085
section to an employer's experience immediately after the employer 3086
has exhausted the employer's administrative appeals as provided in 3087
this section or has waived the employer's right to an 3088
administrative appeal under division (B) of this section, subject 3089
to the adjustment specified in division (H) of section 4123.512 of 3090
the Revised Code. 3091

(K) Upon the final administrative or judicial determination 3092
under this section or section 4123.512 of the Revised Code of an 3093
appeal of an order to pay compensation, if a claimant is found to 3094
have received compensation pursuant to a prior order which is 3095
reversed upon subsequent appeal, the claimant's employer, if a 3096
self-insuring employer, or the bureau, shall withhold from any 3097
amount to which the claimant becomes entitled pursuant to any 3098
claim, past, present, or future, under Chapter 4121., 4123., 3099
4127., or 4131. of the Revised Code, the amount of previously paid 3100
compensation to the claimant which, due to reversal upon appeal, 3101
the claimant is not entitled, pursuant to the following criteria: 3102

(1) No withholding for the first twelve weeks of temporary 3103
total disability compensation pursuant to section 4123.56 of the 3104
Revised Code shall be made; 3105

(2) Forty per cent of all awards of compensation paid 3106
pursuant to sections 4123.56 and 4123.57 of the Revised Code, 3107
until the amount overpaid is refunded; 3108

(3) Twenty-five per cent of any compensation paid pursuant to 3109
section 4123.58 of the Revised Code until the amount overpaid is 3110
refunded; 3111

(4) If, pursuant to an appeal under section 4123.512 of the 3112
Revised Code, the court of appeals or the supreme court reverses 3113
the allowance of the claim, then no amount of any compensation 3114

will be withheld. 3115

The administrator and self-insuring employers, as 3116
appropriate, are subject to the repayment schedule of this 3117
division only with respect to an order to pay compensation that 3118
was properly paid under a previous order, but which is 3119
subsequently reversed upon an administrative or judicial appeal. 3120
The administrator and self-insuring employers are not subject to, 3121
but may utilize, the repayment schedule of this division, or any 3122
other lawful means, to collect payment of compensation made to a 3123
person who was not entitled to the compensation due to fraud as 3124
determined by the administrator or the industrial commission. 3125

(L) If a staff hearing officer or the commission fails to 3126
issue a decision or the commission fails to refuse to hear an 3127
appeal within the time periods required by this section, payments 3128
to a claimant shall cease until the staff hearing officer or 3129
commission issues a decision or hears the appeal, unless the 3130
failure was due to the fault or neglect of the employer or the 3131
employer agrees that the payments should continue for a longer 3132
period of time. 3133

(M) Except as otherwise provided in this section or section 3134
4123.522 of the Revised Code, no appeal is timely filed under this 3135
section unless the appeal is filed with the time limits set forth 3136
in this section. 3137

(N) No person who is not an employee of the bureau or 3138
commission or who is not by law given access to the contents of a 3139
claims file shall have a file in the person's possession. 3140

(O) Upon application of a party who resides in an area in 3141
which an emergency or disaster is declared, the industrial 3142
commission and hearing officers of the commission may waive the 3143
time frame within which claims and appeals of claims set forth in 3144
this section must be filed upon a finding that the applicant was 3145

unable to comply with a filing deadline due to an emergency or a 3146
disaster. 3147

As used in this division: 3148

(1) "Emergency" means any occasion or instance for which the 3149
governor of Ohio or the president of the United States publicly 3150
declares an emergency and orders state or federal assistance to 3151
save lives and protect property, the public health and safety, or 3152
to lessen or avert the threat of a catastrophe. 3153

(2) "Disaster" means any natural catastrophe or fire, flood, 3154
or explosion, regardless of the cause, that causes damage of 3155
sufficient magnitude that the governor of Ohio or the president of 3156
the United States, through a public declaration, orders state or 3157
federal assistance to alleviate damage, loss, hardship, or 3158
suffering that results from the occurrence. 3159

Sec. 4123.512. (A) The claimant or the employer may appeal an 3160
order of the industrial commission made under division (E) of 3161
section 4123.511 of the Revised Code in any injury or occupational 3162
disease case, other than a decision as to the extent of disability 3163
to the court of common pleas of the county in which the injury was 3164
inflicted or in which the contract of employment was made if the 3165
injury occurred outside the state, or in which the contract of 3166
employment was made if the exposure occurred outside the state. If 3167
no common pleas court has jurisdiction for the purposes of an 3168
appeal by the use of the jurisdictional requirements described in 3169
this division, the appellant may use the venue provisions in the 3170
Rules of Civil Procedure to vest jurisdiction in a court. If the 3171
claim is for an occupational disease, the appeal shall be to the 3172
court of common pleas of the county in which the exposure which 3173
caused the disease occurred. Like appeal may be taken from an 3174
order of a staff hearing officer made under division (D) of 3175
section 4123.511 of the Revised Code from which the commission has 3176

refused to hear an appeal. The appellant shall file the notice of
appeal with a court of common pleas within sixty days after the
date of the receipt of the order appealed from or the date of
receipt of the order of the commission refusing to hear an appeal
of a staff hearing officer's decision under division (D) of
section 4123.511 of the Revised Code. The filing of the notice of
the appeal with the court is the only act required to perfect the
appeal.

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

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

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

The administrator ~~of workers' compensation~~, the claimant, and
the employer shall be parties to the appeal and the court, upon
the application of the commission, shall make the commission a
party. The party filing the appeal shall serve a copy of the
notice of appeal on the administrator at the central office of the
bureau of workers' compensation in Columbus. The administrator
shall notify the employer that if the employer fails to become an

active party to the appeal, then the administrator may act on 3209
behalf of the employer and the results of the appeal could have an 3210
adverse effect upon the employer's premium rates. 3211

(C) The attorney general or one or more of the attorney 3212
general's assistants or special counsel designated by the attorney 3213
general shall represent the administrator and the commission. In 3214
the event the attorney general or the attorney general's 3215
designated assistants or special counsel are absent, the 3216
administrator or the commission shall select one or more of the 3217
attorneys in the employ of the administrator or the commission as 3218
the administrator's attorney or the commission's attorney in the 3219
appeal. Any attorney so employed shall continue the representation 3220
during the entire period of the appeal and in all hearings thereof 3221
except where the continued representation becomes impractical. 3222

(D) Upon receipt of notice of appeal, the clerk of courts 3223
shall provide notice to all parties who are appellees and to the 3224
commission. 3225

The claimant shall, within thirty days after the filing of 3226
the notice of appeal, file a petition containing a statement of 3227
facts in ordinary and concise language showing a cause of action 3228
to participate or to continue to participate in the fund and 3229
setting forth the basis for the jurisdiction of the court over the 3230
action. Further pleadings shall be had in accordance with the 3231
Rules of Civil Procedure, provided that service of summons on such 3232
petition shall not be required and provided that the claimant may 3233
not dismiss the complaint without the employer's consent if the 3234
employer is the party that filed the notice of appeal to court 3235
pursuant to this section. The clerk of the court shall, upon 3236
receipt thereof, transmit by certified mail a copy thereof to each 3237
party named in the notice of appeal other than the claimant. Any 3238
party may file with the clerk prior to the trial of the action a 3239
deposition of any physician taken in accordance with the 3240

provisions of the Revised Code, which deposition may be read in 3241
the trial of the action even though the physician is a resident of 3242
or subject to service in the county in which the trial is had. The 3243
bureau of workers' compensation shall pay the cost of the 3244
stenographic deposition filed in court and of copies of the 3245
stenographic deposition for each party from the surplus fund and 3246
charge the costs thereof against the unsuccessful party if the 3247
claimant's right to participate or continue to participate is 3248
finally sustained or established in the appeal. In the event the 3249
deposition is taken and filed, the physician whose deposition is 3250
taken is not required to respond to any subpoena issued in the 3251
trial of the action. The court, or the jury under the instructions 3252
of the court, if a jury is demanded, shall determine the right of 3253
the claimant to participate or to continue to participate in the 3254
fund upon the evidence adduced at the hearing of the action. 3255

(E) The court shall certify its decision to the commission 3256
and the certificate shall be entered in the records of the court. 3257
Appeals from the judgment are governed by the law applicable to 3258
the appeal of civil actions. 3259

(F) The cost of any legal proceedings authorized by this 3260
section, including an attorney's fee to the claimant's attorney to 3261
be fixed by the trial judge, based upon the effort expended, in 3262
the event the claimant's right to participate or to continue to 3263
participate in the fund is established upon the final 3264
determination of an appeal, shall be taxed against the employer or 3265
the commission if the commission or the administrator rather than 3266
the employer contested the right of the claimant to participate in 3267
the fund. The attorney's fee shall not exceed forty-two hundred 3268
dollars. 3269

(G) If the finding of the court or the verdict of the jury is 3270
in favor of the claimant's right to participate in the fund, the 3271
commission and the administrator shall thereafter proceed in the 3272

matter of the claim as if the judgment were the decision of the 3273
commission, subject to the power of modification provided by 3274
section 4123.52 of the Revised Code. 3275

(H)(1) An appeal from an order issued under division (E) of 3276
section 4123.511 of the Revised Code or any action filed in court 3277
in a case in which an award of compensation or medical benefits 3278
has been made shall not stay the payment of compensation or 3279
medical benefits under the award, or payment for subsequent 3280
periods of total disability or medical benefits during the 3281
pendency of the appeal. If, in a final administrative or judicial 3282
action, it is determined that payments of compensation or 3283
benefits, or both, made to or on behalf of a claimant should not 3284
have been made, the amount thereof shall be charged to the surplus 3285
fund account under division (B) of section 4123.34 of the Revised 3286
Code. In the event the employer is a state risk, the amount shall 3287
not be charged to the employer's experience, and the administrator 3288
shall adjust the employer's account accordingly. In the event the 3289
employer is a self-insuring employer, the self-insuring employer 3290
shall deduct the amount from the paid compensation the 3291
self-insuring employer reports to the administrator under division 3292
(L) of section 4123.35 of the Revised Code. If an employer is a 3293
state risk and has paid an assessment for a violation of a 3294
specific safety requirement, and, in a final administrative or 3295
judicial action, it is determined that the employer did not 3296
violate the specific safety requirement, the administrator shall 3297
reimburse the employer from the surplus fund account under 3298
division (B) of section 4123.34 of the Revised Code for the amount 3299
of the assessment the employer paid for the violation. 3300

(2)(a) Notwithstanding a final determination that payments of 3301
benefits made to or on behalf of a claimant should not have been 3302
made, the administrator or self-insuring employer shall award 3303
payment of medical or vocational rehabilitation services submitted 3304

for payment after the date of the final determination if all of 3305
the following apply: 3306

(i) The services were approved and were rendered by the 3307
provider in good faith prior to the date of the final 3308
determination. 3309

(ii) The services were payable under division (I) of section 3310
4123.511 of the Revised Code prior to the date of the final 3311
determination. 3312

(iii) The request for payment is submitted within the time 3313
limit set forth in section 4123.52 of the Revised Code. 3314

(b) Payments made under division (H)(1) of this section shall 3315
be charged to the surplus fund account under division (B) of 3316
section 4123.34 of the Revised Code. If the employer of the 3317
employee who is the subject of a claim described in division 3318
(H)(2)(a) of this section is a state fund employer, the payments 3319
made under that division shall not be charged to the employer's 3320
experience. If that employer is a self-insuring employer, the 3321
self-insuring employer shall deduct the amount from the paid 3322
compensation the self-insuring employer reports to the 3323
administrator under division (L) of section 4123.35 of the Revised 3324
Code. 3325

(c) Division (H)(2) of this section shall apply only to a 3326
claim under this chapter or Chapter 4121., 4127., or 4131. of the 3327
Revised Code arising on or after ~~the effective date of this~~ 3328
~~amendment~~ July 29, 2011. 3329

(3) A self-insuring employer may elect to pay compensation 3330
and benefits under this section directly to an employee or an 3331
employee's dependents by filing an application with the bureau of 3332
workers' compensation not more than one hundred eighty days and 3333
not less than ninety days before the first day of the employer's 3334
next six-month coverage period. If the self-insuring employer 3335

timely files the application, the application is effective on the 3336
first day of the employer's next six-month coverage period, 3337
provided that the administrator shall compute the employer's 3338
assessment for the surplus fund account due with respect to the 3339
period during which that application was filed without regard to 3340
the filing of the application. On and after the effective date of 3341
the employer's election, the self-insuring employer shall pay 3342
directly to an employee or to an employee's dependents 3343
compensation and benefits under this section regardless of the 3344
date of the injury or occupational disease, and the employer shall 3345
receive no money or credits from the surplus fund account on 3346
account of those payments and shall not be required to pay any 3347
amounts into the surplus fund account on account of this section. 3348
The election made under this division is irrevocable. 3349

(I) All actions and proceedings under this section which are 3350
the subject of an appeal to the court of common pleas or the court 3351
of appeals shall be preferred over all other civil actions except 3352
election causes, irrespective of position on the calendar. 3353

This section applies to all decisions of the commission or 3354
the administrator on November 2, 1959, and all claims filed 3355
thereafter are governed by sections 4123.511 and 4123.512 of the 3356
Revised Code. 3357

Any action pending in common pleas court or any other court 3358
on January 1, 1986, under this section is governed by former 3359
sections 4123.514, 4123.515, 4123.516, and 4123.519 and section 3360
4123.522 of the Revised Code. 3361

Sec. 4123.54. (A) Except as otherwise provided in divisions 3362
(I) and (K) of this section, every employee, who is injured or who 3363
contracts an occupational disease, and the dependents of each 3364
employee who is killed, or dies as the result of an occupational 3365
disease contracted in the course of employment, wherever such 3366

injury has occurred or occupational disease has been contracted, 3367
provided the same were not: 3368

(1) Purposely self-inflicted; or 3369

(2) Caused by the employee being intoxicated or under the 3370
influence of a controlled substance not prescribed by a physician 3371
where the intoxication or being under the influence of the 3372
controlled substance not prescribed by a physician was the 3373
proximate cause of the injury, is entitled to receive, either 3374
directly from the employee's self-insuring employer as provided in 3375
section 4123.35 of the Revised Code, or from the state insurance 3376
fund, the compensation for loss sustained on account of the 3377
injury, occupational disease, or death, and the medical, nurse, 3378
and hospital services and medicines, and the amount of funeral 3379
expenses in case of death, as are provided by this chapter. 3380

(B) For the purpose of this section, provided that an 3381
employer has posted written notice to employees that the results 3382
of, or the employee's refusal to submit to, any chemical test 3383
described under this division may affect the employee's 3384
eligibility for compensation and benefits pursuant to this chapter 3385
and Chapter 4121. of the Revised Code, there is a rebuttable 3386
presumption that an employee is intoxicated or under the influence 3387
of a controlled substance not prescribed by the employee's 3388
physician and that being intoxicated or under the influence of a 3389
controlled substance not prescribed by the employee's physician is 3390
the proximate cause of an injury under either of the following 3391
conditions: 3392

(1) When any one or more of the following is true: 3393

(a) The employee, through a qualifying chemical test 3394
administered within eight hours of an injury, is determined to 3395
have an alcohol concentration level equal to or in excess of the 3396
levels established in divisions (A)(1)(b) to (i) of section 3397

4511.19 of the Revised Code;	3398
(b) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have one of the following controlled substances not prescribed by the employee's physician in the employee's system that tests above the following levels in an enzyme multiplied immunoassay technique screening test and above the levels established in division (B)(1)(c) of this section in a gas chromatography mass spectrometry test:	3399 3400 3401 3402 3403 3404 3405 3406
(i) For amphetamines, one thousand nanograms per milliliter of urine;	3407 3408
(ii) For cannabinoids, fifty nanograms per milliliter of urine;	3409 3410
(iii) For cocaine, including crack cocaine, three hundred nanograms per milliliter of urine;	3411 3412
(iv) For opiates, two thousand nanograms per milliliter of urine;	3413 3414
(v) For phencyclidine, twenty-five nanograms per milliliter of urine.	3415 3416
(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:	3417 3418 3419 3420 3421 3422
(i) For amphetamines, five hundred nanograms per milliliter of urine;	3423 3424
(ii) For cannabinoids, fifteen nanograms per milliliter of urine;	3425 3426
(iii) For cocaine, including crack cocaine, one hundred fifty	3427

nanograms per milliliter of urine;	3428
(iv) For opiates, two thousand nanograms per milliliter of urine;	3429 3430
(v) For phencyclidine, twenty-five nanograms per milliliter of urine.	3431 3432
(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.	3433 3434 3435 3436 3437 3438
(2) When the employee refuses to submit to a requested chemical test, on the condition that that employee is or was given notice that the refusal to submit to any chemical test described in division (B)(1) of this section may affect the employee's eligibility for compensation and benefits under this chapter and Chapter 4121. of the Revised Code.	3439 3440 3441 3442 3443 3444
(C)(1) For purposes of division (B) of this section, a chemical test is a qualifying chemical test if it is administered to an employee after an injury under at least one of the following conditions:	3445 3446 3447 3448
(a) When the employee's employer had reasonable cause to suspect that the employee may be intoxicated or under the influence of a controlled substance not prescribed by the employee's physician;	3449 3450 3451 3452
(b) At the request of a police officer pursuant to section 4511.191 of the Revised Code, and not at the request of the employee's employer;	3453 3454 3455
(c) At the request of a licensed physician who is not employed by the employee's employer, and not at the request of the	3456 3457

employee's employer. 3458

(2) As used in division (C)(1)(a) of this section, 3459
"reasonable cause" means, but is not limited to, evidence that an 3460
employee is or was using alcohol or a controlled substance drawn 3461
from specific, objective facts and reasonable inferences drawn 3462
from these facts in light of experience and training. These facts 3463
and inferences may be based on, but are not limited to, any of the 3464
following: 3465

(a) Observable phenomena, such as direct observation of use, 3466
possession, or distribution of alcohol or a controlled substance, 3467
or of the physical symptoms of being under the influence of 3468
alcohol or a controlled substance, such as but not limited to 3469
slurred speech, dilated pupils, odor of alcohol or a controlled 3470
substance, changes in affect, or dynamic mood swings; 3471

(b) A pattern of abnormal conduct, erratic or aberrant 3472
behavior, or deteriorating work performance such as frequent 3473
absenteeism, excessive tardiness, or recurrent accidents, that 3474
appears to be related to the use of alcohol or a controlled 3475
substance, and does not appear to be attributable to other 3476
factors; 3477

(c) The identification of an employee as the focus of a 3478
criminal investigation into unauthorized possession, use, or 3479
trafficking of a controlled substance; 3480

(d) A report of use of alcohol or a controlled substance 3481
provided by a reliable and credible source; 3482

(e) Repeated or flagrant violations of the safety or work 3483
rules of the employee's employer, that are determined by the 3484
employee's supervisor to pose a substantial risk of physical 3485
injury or property damage and that appear to be related to the use 3486
of alcohol or a controlled substance and that do not appear 3487
attributable to other factors. 3488

(D) Nothing in this section shall be construed to affect the 3489
rights of an employer to test employees for alcohol or controlled 3490
substance abuse. 3491

(E) For the purpose of this section, laboratories certified 3492
by the United States department of health and human services or 3493
laboratories that meet or exceed the standards of that department 3494
for laboratory certification shall be used for processing the test 3495
results of a qualifying chemical test. 3496

(F) The written notice required by division (B) of this 3497
section shall be the same size or larger than the ~~certificate~~ 3498
proof of premium payment notice workers' compensation coverage 3499
furnished by the bureau of workers' compensation and shall be 3500
posted by the employer in the same location as the ~~certificate~~ 3501
proof of premium payment notice workers' compensation coverage or 3502
the certificate of self-insurance. 3503

(G) If a condition that pre-existed an injury is 3504
substantially aggravated by the injury, and that substantial 3505
aggravation is documented by objective diagnostic findings, 3506
objective clinical findings, or objective test results, no 3507
compensation or benefits are payable because of the pre-existing 3508
condition once that condition has returned to a level that would 3509
have existed without the injury. 3510

(H)(1) Whenever, with respect to an employee of an employer 3511
who is subject to and has complied with this chapter, there is 3512
possibility of conflict with respect to the application of 3513
workers' compensation laws because the contract of employment is 3514
entered into and all or some portion of the work is or is to be 3515
performed in a state or states other than Ohio, the employer and 3516
the employee may agree to be bound by the laws of this state or by 3517
the laws of some other state in which all or some portion of the 3518
work of the employee is to be performed. The agreement shall be in 3519
writing and shall be filed with the bureau of workers' 3520

compensation within ten days after it is executed and shall remain 3521
in force until terminated or modified by agreement of the parties 3522
similarly filed. If the agreement is to be bound by the laws of 3523
this state and the employer has complied with this chapter, then 3524
the employee is entitled to compensation and benefits regardless 3525
of where the injury occurs or the disease is contracted and the 3526
rights of the employee and the employee's dependents under the 3527
laws of this state are the exclusive remedy against the employer 3528
on account of injury, disease, or death in the course of and 3529
arising out of the employee's employment. If the agreement is to 3530
be bound by the laws of another state and the employer has 3531
complied with the laws of that state, the rights of the employee 3532
and the employee's dependents under the laws of that state are the 3533
exclusive remedy against the employer on account of injury, 3534
disease, or death in the course of and arising out of the 3535
employee's employment without regard to the place where the injury 3536
was sustained or the disease contracted. If an employer and an 3537
employee enter into an agreement under this division, the fact 3538
that the employer and the employee entered into that agreement 3539
shall not be construed to change the status of an employee whose 3540
continued employment is subject to the will of the employer or the 3541
employee, unless the agreement contains a provision that expressly 3542
changes that status. 3543

(2) ~~If any employee or the employee's dependents pursue 3544
workers' compensation benefits or recover damages from the 3545
employer under the laws of another state, the amount awarded or 3546
recovered, whether paid or to be paid in future installments, 3547
shall be credited on the amount of any award of compensation or 3548
benefits made to the employee or the employee's dependents by the 3549
bureau.~~ If an employee or the employee's dependents pursue or 3550
receive an award of compensation or benefits under this chapter or 3551
Chapter 4121., 4127., or 4131. of the Revised Code for the same 3552
injury, occupational disease, or death for which the employee or 3553

the employee's dependents previously pursued or otherwise elected 3554
to accept workers' compensation benefits and received a decision 3555
on the merits as defined in section 4123.542 of the Revised Code 3556
under the laws of another state or recovered damages under the 3557
laws of another state, the claim shall be disallowed and the 3558
administrator or any self-insuring employer, by any lawful means, 3559
may collect ~~the~~ from the employee or the employee's dependents any 3560
of the following: 3561

(i) The amount of compensation or benefits paid to or on 3562
behalf of the employee or the employee's dependents by the 3563
administrator or a self-insuring employer pursuant to this chapter 3564
or Chapter 4121., 4127., or 4131. of the Revised Code for that 3565
award; 3566

(ii) Any interest, attorney's fees, and costs the 3567
administrator or the self-insuring employer incurs in collecting 3568
that payment. 3569

(3) If an employee or the employee's dependents receive an 3570
award of compensation or benefits under this chapter or Chapter 3571
4121., 4127., or 4131. of the Revised Code and subsequently pursue 3572
or otherwise elected to accept workers' compensation benefits or 3573
damages under the laws of another state for the same injury, 3574
occupational disease, or death the claim under this chapter or 3575
Chapter 4121., 4127., or 4131. of the Revised Code shall be 3576
disallowed. The administrator or ~~any~~ a self-insuring employer 3577
~~also,~~ by any lawful means, may collect from the employee or the 3578
employee's dependents ~~any~~ or other-states' insurer any of the 3579
following: 3580

(i) The amount of compensation or benefits paid to or on 3581
behalf of the employee or the employee's dependents by the 3582
administrator or the self-insuring employer pursuant to this 3583
chapter or Chapter 4121., 4127., or 4131. of the Revised Code for 3584
that award; 3585

(ii) Any interest, costs, and attorney's fees the 3586
administrator or the self-insuring employer incurs in collecting 3587
that payment ~~and any attorney's fees, penalties, interest, awards,~~ 3588
~~and;~~ 3589

(iii) Any costs incurred by an employer in contesting or 3590
responding to any claim filed by the employee or the employee's 3591
dependents for the same injury, occupational disease, or death 3592
that was filed after the original claim for which the employee or 3593
the employee's dependents received a decision on the merits as 3594
described in section 4123.542 of the Revised Code. ~~¶~~ 3595

(4) If the employee's employer pays premiums into the state 3596
insurance fund, the administrator shall not charge the amount of 3597
compensation or benefits the administrator collects pursuant to 3598
~~this~~ division (H)(2) or (3) of this section to the employer's 3599
experience. If the administrator collects any costs, ~~penalties,~~ 3600
~~interest, awards, or attorney's fees~~ incurred by a ~~state fund~~ an 3601
employer in contesting or responding to any claim pursuant to 3602
division (H)(2) or (3) of this section, the administrator shall 3603
forward the amount of ~~such costs, penalties, interest, awards, and~~ 3604
~~attorney's fees the administrator collects~~ collected to that 3605
employer. If the employee's employer is a self-insuring employer, 3606
the self-insuring employer shall deduct the amount of compensation 3607
or benefits the self-insuring employer collects pursuant to this 3608
division from the paid compensation the self-insuring employer 3609
reports to the administrator under division (L) of section 4123.35 3610
of the Revised Code. 3611

~~(3) Except as otherwise stipulated in division (H)(4) of this~~ 3612
~~section, if~~ (5) If an employee is a resident of a state other than 3613
this state and is insured under the workers' compensation law or 3614
similar laws of a state other than this state, the employee and 3615
the employee's dependents are not entitled to receive compensation 3616
or benefits under this chapter, on account of injury, disease, or 3617

death arising out of or in the course of employment while 3618
temporarily within this state, and the rights of the employee and 3619
the employee's dependents under the laws of the other state are 3620
the exclusive remedy against the employer on account of the 3621
injury, disease, or death. 3622

~~(4) Division (H)(3) of this section does not apply to an 3623
employee described in that division, or the employee's dependents, 3624
unless both of the following apply: 3625~~

~~(a) The laws of the other state limit the ability of an 3626
employee who is a resident of this state and is covered by this 3627
chapter and Chapter 4123. of the Revised Code, or the employee's 3628
dependents, to receive compensation or benefits under the other 3629
state's workers' compensation law on account of injury, disease, 3630
or death incurred by the employee that arises out of or in the 3631
course of the employee's employment while temporarily within that 3632
state in the same manner as specified in division (H)(3) of this 3633
section for an employee who is a resident of a state other than 3634
this state, or the employee's dependents; 3635~~

~~(b) The laws of the other state limit the liability of the 3636
employer of the employee who is a resident of this state and who 3637
is described in division (H)(4)(a) of this section for that 3638
injury, disease, or death, in the same manner specified in 3639
division (H)(3) of this section for the employer of an employee 3640
who is a resident of the other state. 3641~~

~~(5)(6) An employee, or the dependent of an employee, who 3642
elects to receive compensation and benefits under this chapter or 3643
Chapter 4121., 4127., or 4131. of the Revised Code for a claim may 3644
not receive compensation and benefits under the workers' 3645
compensation laws of any state other than this state for that same 3646
claim. For each claim submitted by or on behalf of an employee, 3647
the administrator or, if the employee is employed by a 3648
self-insuring employer, the self-insuring employer, shall request 3649~~

the employee or the employee's dependent to sign an election that 3650
affirms the employee's or employee's dependent's acceptance of 3651
electing to receive compensation and benefits under this chapter 3652
or Chapter 4121., 4127., or 4131. of the Revised Code for that 3653
claim that also affirmatively waives and releases the employee's 3654
or the employee's dependent's right to file for and receive 3655
compensation and benefits under the laws of any state other than 3656
this state for that claim. The employee or employee's dependent 3657
shall sign the election form within twenty-eight days after the 3658
administrator or self-insuring employer submits the request or the 3659
administrator or self-insuring employer shall ~~suspend~~ dismiss that 3660
claim ~~until the administrator or self-insuring employer receives~~ 3661
~~the signed election form.~~ 3662

In the event a workers' compensation claim has been filed in 3663
another jurisdiction on behalf of an employee or the dependents of 3664
an employee, and the employee or dependents subsequently elect to 3665
receive compensation, benefits, or both under this chapter or 3666
Chapter 4121., 4127., or 4131. of the Revised Code, the employee 3667
or dependent shall withdraw or refuse acceptance of the workers' 3668
compensation claim filed in the other jurisdiction in order to 3669
pursue compensation or benefits under the laws of this state. If 3670
the employee or dependents were awarded workers' compensation 3671
benefits or had recovered damages under the laws of the other 3672
state, any compensation and benefits awarded under this chapter or 3673
Chapters 4121., 4127., or 4131. of the Revised Code shall be paid 3674
only to the extent to which those payments exceed the amounts paid 3675
under the laws of the other state. If the employee or dependent 3676
fails to withdraw or to refuse acceptance of the workers' 3677
compensation claim in the other jurisdiction within twenty-eight 3678
days after a request made by the administrator or a self-insuring 3679
employer, the administrator or self-insuring employer shall 3680
dismiss the employee's or employee's dependents' claim made in 3681
this state. 3682

(I) If an employee who is covered under the federal 3683
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 3684
33 U.S.C. 901 et seq., is injured or contracts an occupational 3685
disease or dies as a result of an injury or occupational disease, 3686
and if that employee's or that employee's dependents' claim for 3687
compensation or benefits for that injury, occupational disease, or 3688
death is subject to the jurisdiction of that act, the employee or 3689
the employee's dependents are not entitled to apply for and shall 3690
not receive compensation or benefits under this chapter and 3691
Chapter 4121. of the Revised Code. The rights of such an employee 3692
and the employee's dependents under the federal "Longshore and 3693
Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et 3694
seq., are the exclusive remedy against the employer for that 3695
injury, occupational disease, or death. 3696

(J) Compensation or benefits are not payable to a claimant 3697
during the period of confinement of the claimant in any state or 3698
federal correctional institution, or in any county jail in lieu of 3699
incarceration in a state or federal correctional institution, 3700
whether in this or any other state for conviction of violation of 3701
any state or federal criminal law. 3702

(K) An employer, upon the approval of the administrator, may 3703
provide for workers' compensation coverage for the employer's 3704
employees who are professional athletes and coaches by submitting 3705
to the administrator proof of coverage under a league policy 3706
issued under the laws of another state under either of the 3707
following circumstances: 3708

(1) The employer administers the payroll and workers' 3709
compensation insurance for a professional sports team subject to a 3710
collective bargaining agreement, and the collective bargaining 3711
agreement provides for the uniform administration of workers' 3712
compensation benefits and compensation for professional athletes. 3713

(2) The employer is a professional sports league, or is a 3714

member team of a professional sports league, and all of the 3715
following apply: 3716

(a) The professional sports league operates as a single 3717
entity, whereby all of the players and coaches of the sports 3718
league are employees of the sports league and not of the 3719
individual member teams. 3720

(b) The professional sports league at all times maintains 3721
workers' compensation insurance that provides coverage for the 3722
players and coaches of the sports league. 3723

(c) Each individual member team of the professional sports 3724
league, pursuant to the organizational or operating documents of 3725
the sports league, is obligated to the sports league to pay to the 3726
sports league any workers' compensation claims that are not 3727
covered by the workers' compensation insurance maintained by the 3728
sports league. 3729

If the administrator approves the employer's proof of 3730
coverage submitted under division (K) of this section, a 3731
professional athlete or coach who is an employee of the employer 3732
and the dependents of the professional athlete or coach are not 3733
entitled to apply for and shall not receive compensation or 3734
benefits under this chapter and Chapter 4121. of the Revised Code. 3735
The rights of such an athlete or coach and the dependents of such 3736
an athlete or coach under the laws of the state where the policy 3737
was issued are the exclusive remedy against the employer for the 3738
athlete or coach if the athlete or coach suffers an injury or 3739
contracts an occupational disease in the course of employment, or 3740
for the dependents of the athlete or the coach if the athlete or 3741
coach is killed as a result of an injury or dies as a result of an 3742
occupational disease, regardless of the location where the injury 3743
was suffered or the occupational disease was contracted. 3744

Sec. 4123.542. An employee or the dependents of an employee 3745

who receive a decision on the merits of a claim for compensation 3746
or benefits under this chapter or Chapter 4121., 4127., or 4131. 3747
of the Revised Code shall not file a claim for the same injury, 3748
occupational disease, or death in another state under the workers' 3749
compensation laws of that state. ~~An~~ Except as otherwise provided 3750
in division (H) of section 4123.54 of the Revised Code, an 3751
employee or the employee's dependents who receive a decision on 3752
the merits of a claim for compensation or benefits under the 3753
workers' compensation laws of another state shall not file a claim 3754
for compensation and benefits under this chapter or Chapter 4121., 3755
4127., or 4131. of the Revised Code for the same injury, 3756
occupational disease, or death. 3757

As used in this section, "a decision on the merits" means a 3758
decision determined or adjudicated for compensability of a claim 3759
and not on jurisdictional grounds. 3760

Sec. 4123.66. (A) In addition to the compensation provided 3761
for in this chapter, the administrator of workers' compensation 3762
shall disburse and pay from the state insurance fund the amounts 3763
for medical, nurse, and hospital services and medicine as the 3764
administrator deems proper and, in case death ensues from the 3765
injury or occupational disease, the administrator shall disburse 3766
and pay from the fund reasonable funeral expenses in an amount not 3767
to exceed fifty-five hundred dollars. The bureau of workers' 3768
compensation shall reimburse anyone, whether dependent, volunteer, 3769
or otherwise, who pays the funeral expenses of any employee whose 3770
death ensues from any injury or occupational disease as provided 3771
in this section. The administrator may adopt rules, with the 3772
advice and consent of the bureau of workers' compensation board of 3773
directors, with respect to furnishing medical, nurse, and hospital 3774
service and medicine to injured or disabled employees entitled 3775
thereto, and for the payment therefor. In case an injury or 3776

industrial accident that injures an employee also causes damage to 3777
the employee's eyeglasses, artificial teeth or other denture, or 3778
hearing aid, or in the event an injury or occupational disease 3779
makes it necessary or advisable to replace, repair, or adjust the 3780
same, the bureau shall disburse and pay a reasonable amount to 3781
repair or replace the same. 3782

(B) The administrator, in the rules the administrator adopts 3783
pursuant to division (A) of this section, may adopt rules 3784
specifying the circumstances under which the bureau may make 3785
immediate payment for the first fill of prescription drugs for 3786
medical conditions identified in an application for compensation 3787
or benefits under section 4123.84 or 4123.85 of the Revised Code 3788
that occurs prior to the date the administrator issues an initial 3789
determination order under division (B) of section 4123.511 of the 3790
Revised Code. If the claim is ultimately disallowed in a final 3791
administrative or judicial order, and if the employer is a state 3792
fund employer who pays assessments into the surplus fund account 3793
created under section 4123.34 of the Revised Code, the payments 3794
for medical services made pursuant to this division for the first 3795
fill of prescription drugs shall be charged to and paid from the 3796
surplus fund account and not charged through the state insurance 3797
fund to the employer against whom the claim was filed. 3798

(C)(1) If an employer or a welfare plan has provided to or on 3799
behalf of an employee any benefits or compensation for an injury 3800
or occupational disease and that injury or occupational disease is 3801
determined compensable under this chapter, the employer or a 3802
welfare plan may request that the administrator reimburse the 3803
employer or welfare plan for the amount the employer or welfare 3804
plan paid to or on behalf of the employee in compensation or 3805
benefits. The administrator shall reimburse the employer or 3806
welfare plan for the compensation and benefits paid if, at the 3807
time the employer or welfare plan provides the benefits or 3808

compensation to or on behalf of employee, the injury or 3809
occupational disease had not been determined to be compensable 3810
under this chapter and if the employee was not receiving 3811
compensation or benefits under this chapter for that injury or 3812
occupational disease. The administrator shall reimburse the 3813
employer or welfare plan in the amount that the administrator 3814
would have paid to or on behalf of the employee under this chapter 3815
if the injury or occupational disease originally would have been 3816
determined compensable under this chapter. If the employer is a 3817
merit-rated employer, the administrator shall adjust the amount of 3818
premium next due from the employer according to the amount the 3819
administrator pays the employer. The administrator shall adopt 3820
rules, in accordance with Chapter 119. of the Revised Code, to 3821
implement this division. 3822

(2) As used in this division, "welfare plan" has the same 3823
meaning as in division (1) of 29 U.S.C.A. 1002. 3824

Sec. 4123.82. (A) All contracts and agreements are void which 3825
undertake to indemnify or insure an employer against loss or 3826
liability for the payment of compensation to workers or their 3827
dependents for death, injury, or occupational disease occasioned 3828
in the course of the workers' employment, or which provide that 3829
the insurer shall pay the compensation, or which indemnify the 3830
employer against damages when the injury, disease, or death arises 3831
from the failure to comply with any lawful requirement for the 3832
protection of the lives, health, and safety of employees, or when 3833
the same is occasioned by the willful act of the employer or any 3834
of the employer's officers or agents, or by which it is agreed 3835
that the insurer shall pay any such damages. No license or 3836
authority to enter into any such agreements or issue any such 3837
policies of insurance shall be granted or issued by any public 3838
authority in this state. Any corporation organized or admitted 3839
under the laws of this state to transact liability insurance as 3840

defined in section 3929.01 of the Revised Code may by amendment of 3841
its articles of incorporation or by original articles of 3842
incorporation, provide therein for the authority and purpose to 3843
make insurance in states, territories, districts, and counties, 3844
other than the state of Ohio, and in the state of Ohio in respect 3845
of contracts permitted by division (B) of this section, 3846
indemnifying employers against loss or liability for payment of 3847
compensation to workers and employees and their dependents for 3848
death, injury, or occupational disease occasioned in the course of 3849
the employment and to insure and indemnify employers against loss, 3850
expense, and liability by risk of bodily injury or death by 3851
accident, disability, sickness, or disease suffered by workers and 3852
employees for which the employer may be liable or has assumed 3853
liability. 3854

(B) Notwithstanding division (A) of this section: 3855

(1) No contract because of that division is void which 3856
undertakes to indemnify a self-insuring employer against all or 3857
part of such employer's loss in excess of at least fifty thousand 3858
dollars from any one disaster or event arising out of the 3859
employer's liability under this chapter, but no insurance 3860
corporation shall, directly or indirectly, represent an employer 3861
in the settlement, adjudication, determination, allowance, or 3862
payment of claims. The superintendent of insurance shall enforce 3863
this prohibition by such disciplinary orders directed against the 3864
offending insurance corporation as the superintendent of insurance 3865
deems appropriate in the circumstances and the administrator of 3866
workers' compensation shall enforce this prohibition by such 3867
disciplinary orders directed against the offending employer as the 3868
administrator deems appropriate in the circumstances, which orders 3869
may include revocation of the insurance corporation's right to 3870
enter into indemnity contracts and revocation of the employer's 3871
status as a self-insuring employer. 3872

(2) The administrator may enter into a contract of indemnity 3873
with any such employer upon such terms, payment of such premium, 3874
and for such amount and form of indemnity as the administrator 3875
determines and the bureau of workers' compensation board of 3876
directors may procure reinsurance of the liability of the public 3877
and private funds under this chapter, or any part of the liability 3878
in respect of either or both of the funds, upon such terms and 3879
premiums or other payments from the fund or funds as the 3880
administrator deems prudent in the maintenance of a solvent fund 3881
or funds from year to year. When making the finding of fact which 3882
the administrator is required by section 4123.35 of the Revised 3883
Code to make with respect to the financial ability of an employer, 3884
no contract of indemnity, or the ability of the employer to 3885
procure such a contract, shall be considered as increasing the 3886
financial ability of the employer. 3887

(C) Nothing in this section shall be construed to prohibit 3888
the administrator or an other-states' insurer from providing to 3889
employers in this state other-states' coverage or limited 3890
other-states' coverage in accordance with section 4123.292 of the 3891
Revised Code. 3892

(D) Notwithstanding any other section of the Revised Code, 3893
but subject to division (A) of this section, the superintendent of 3894
insurance shall have the sole authority to regulate any insurance 3895
products, except for the bureau of workers' compensation and those 3896
products offered by the bureau, that indemnify or insure employers 3897
against workers' compensation losses in this state or that are 3898
sold to employers in this state. 3899

Sec. 4123.83. Each employer paying premiums into the state 3900
insurance fund or electing directly to pay compensation to the 3901
employer's injured employees or the dependents of the employer's 3902
killed employees as provided in section 4123.35 of the Revised 3903

Code, shall post conspicuously in the employer's place or places 3904
of employment notices, which shall be furnished ~~in adequate number~~ 3905
at least annually by the bureau of workers' compensation ~~at the~~ 3906
~~time of the payment of the premium, stating the fact that the~~ 3907
~~employer has made the payment, the date thereof, and period for~~ 3908
~~which the payment is made. The notice shall state that it is proof~~ 3909
of workers' compensation coverage, or that the employer has 3910
complied with section 4123.35 of the Revised Code, and has been 3911
authorized by the administrator of workers' compensation directly 3912
to compensate employees or dependents, and the date of the 3913
authorization. The notice shall indicate that coverage is 3914
contingent on continued payment of premiums and assessments due. 3915
The notice, when posted, constitutes sufficient notice to the 3916
employer's employees of the fact that the employer ~~has made~~ 3917
~~payment~~ carries workers' compensation coverage or that the 3918
employer has complied with the elective provisions of section 3919
4123.35 of the Revised Code. 3920

Sec. 4125.05. (A) ~~Not later than thirty days after November~~ 3921
~~5, 2004, or not~~ later than thirty days after the formation of a 3922
professional employer organization, ~~whichever date occurs later,~~ a 3923
professional employer organization operating in this state shall 3924
register with the administrator of workers' compensation on forms 3925
provided by the administrator. Following initial registration, 3926
each professional employer organization shall register with the 3927
administrator annually on or before the thirty-first day of 3928
December. Commonly owned or controlled applicants may register as 3929
a professional employer organization reporting entity or register 3930
individually. Registration as a part of a professional employer 3931
organization reporting entity shall not disqualify an individual 3932
professional employer organization from participating in a 3933
group-rated plan under division (A)(4) of section 4123.29 of the 3934
Revised Code. 3935

(B) Initial registration and each annual registration renewal shall include all of the following:	3936 3937
(1) A list of each of the professional employer organization's client employers current as of the date of registration for purposes of initial registration or current as of the date of annual registration renewal, or within fourteen days of adding or releasing a client, that includes the client employer's name, address, federal tax identification number, and bureau of workers' compensation risk number;	3938 3939 3940 3941 3942 3943 3944
(2) A fee as determined by the administrator;	3945
(3) The name or names under which the professional employer organization conducts business;	3946 3947
(4) The address of the professional employer organization's principal place of business and the address of each office it maintains in this state;	3948 3949 3950
(5) The professional employer organization's taxpayer or employer identification number;	3951 3952
(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;	3953 3954 3955 3956 3957 3958
(7) The most recent financial statement prepared and audited pursuant to division (B) of section 4125.051 of the Revised Code;	3959 3960
(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;	3961 3962 3963 3964 3965

(9) An attestation of the accuracy of the data submissions 3966
from the chief executive officer of the professional employer 3967
organization. 3968

(C) Upon terms and for periods that the administrator 3969
considers appropriate, the administrator may issue a limited 3970
registration to a professional employer organization or 3971
professional employer organization reporting entity that provides 3972
all of the following items: 3973

(1) A properly executed request for limited registration on a 3974
form provided by the administrator; 3975

(2) All information and materials required for registration 3976
in divisions (B)(1) to (6) of this section; 3977

(3) Information and documentation necessary to show that the 3978
professional employer organization or professional employer 3979
organization reporting entity satisfies all of the following 3980
criteria: 3981

(a) It is domiciled outside of this state. 3982

(b) It is licensed or registered as a professional employer 3983
organization in another state. 3984

(c) It does not maintain an office in this state. 3985

(d) It does not participate in direct solicitations for 3986
client employers located or domiciled in this state. 3987

(e) It has fifty or fewer shared employees employed or 3988
domiciled in this state on any given day. 3989

(D)(1) The administrator, with the advice and consent of the 3990
bureau of workers' compensation board of directors, ~~shall~~ may 3991
adopt rules in accordance with Chapter 119. of the Revised Code to 3992
require, in addition to the requirement under division (B)(8) of 3993
this section ~~and except as otherwise specified in division (D)(2)~~ 3994
~~of this section~~, a professional employer organization to provide 3995

security in the form of a bond or letter of credit assignable to 3996
the Ohio bureau of workers' compensation not to exceed an amount 3997
equal to the premiums and assessments incurred for the ~~two~~ most 3998
recent ~~payroll periods~~ policy year, prior to any discounts or 3999
dividends, to meet the financial obligations of the professional 4000
employer organization pursuant to this chapter and Chapters 4121. 4001
and 4123. of the Revised Code. 4002

~~(2) As an alternative to providing security in the form of a 4003
bond or letter of credit under division (D)(1) of this section, 4004
the administrator shall permit a professional employer 4005
organization to make periodic payments of prospective premiums and 4006
assessments to the bureau. 4007~~

~~(3) A professional employer organization may appeal the 4008
amount of the security required pursuant to rules adopted under 4009
division (D)(1) of this section in accordance with section 4010
4123.291 of the Revised Code. 4011~~

(3) A professional employer organization shall pay premiums 4012
and assessments for purposes of Chapters 4121. and 4123. of the 4013
Revised Code on a monthly basis pursuant to division (A) of 4014
section 4123.35 of the Revised Code. 4015

(E) Notwithstanding division (D) of this section, a 4016
professional employer organization that qualifies for 4017
self-insurance or retrospective rating under section 4123.29 or 4018
4123.35 of the Revised Code shall abide by the financial 4019
disclosure and security requirements pursuant to those sections 4020
and the rules adopted under those sections in place of the 4021
requirements specified in division (D) of this section or 4022
specified in rules adopted pursuant to that division. 4023

(F) Except to the extent necessary for the administrator to 4024
administer the statutory duties of the administrator and for 4025
employees of the state to perform their official duties, all 4026

records, reports, client lists, and other information obtained 4027
from a professional employer organization and professional 4028
employer organization reporting entity under divisions (A), (B), 4029
and (C) of this section are confidential and shall be considered 4030
trade secrets and shall not be published or open to public 4031
inspection. 4032

(G) The list described in division (B)(1) of this section 4033
shall be considered a trade secret. 4034

(H) The administrator shall establish the fee described in 4035
division (B)(2) of this section in an amount that does not exceed 4036
the cost of the administration of the initial and renewal 4037
registration process. 4038

(I) A financial statement required under division (B)(7) of 4039
this section for initial registration shall be the most recent 4040
financial statement of the professional employer organization or 4041
professional employer organization reporting entity of which the 4042
professional employer organization is a member and shall not be 4043
older than thirteen months. For each registration renewal, the 4044
professional employer organization shall file the required 4045
financial statement within one hundred eighty days after the end 4046
of the professional employer organization's or professional 4047
employer organization reporting entity's fiscal year. A 4048
professional employer organization may apply to the administrator 4049
for an extension beyond that time if the professional employer 4050
organization provides the administrator with a letter from the 4051
professional employer organization's auditor stating the reason 4052
for delay and the anticipated completion date. 4053

(J) Multiple, unrelated professional employer organizations 4054
shall not combine together for purposes of obtaining workers' 4055
compensation coverage or for forming any type of self-insurance 4056
arrangement available under this chapter. Multiple, unrelated 4057
professional employer organization reporting entities shall not 4058

combine together for purposes of obtaining workers' compensation 4059
coverage or for forming any type of self-insurance arrangement 4060
available under this chapter. 4061

(K) The administrator shall maintain a list of professional 4062
employer organizations and professional employer organization 4063
reporting entities registered under this section that is readily 4064
available to the public by electronic or other means. 4065

Sec. 4729.80. (A) If the state board of pharmacy establishes 4066
and maintains a drug database pursuant to section 4729.75 of the 4067
Revised Code, the board is authorized or required to provide 4068
information from the database in accordance with the following: 4069

(1) On receipt of a request from a designated representative 4070
of a government entity responsible for the licensure, regulation, 4071
or discipline of health care professionals with authority to 4072
prescribe, administer, or dispense drugs, the board may provide to 4073
the representative information from the database relating to the 4074
professional who is the subject of an active investigation being 4075
conducted by the government entity. 4076

(2) On receipt of a request from a federal officer, or a 4077
state or local officer of this or any other state, whose duties 4078
include enforcing laws relating to drugs, the board shall provide 4079
to the officer information from the database relating to the 4080
person who is the subject of an active investigation of a drug 4081
abuse offense, as defined in section 2925.01 of the Revised Code, 4082
being conducted by the officer's employing government entity. 4083

(3) Pursuant to a subpoena issued by a grand jury, the board 4084
shall provide to the grand jury information from the database 4085
relating to the person who is the subject of an investigation 4086
being conducted by the grand jury. 4087

(4) Pursuant to a subpoena, search warrant, or court order in 4088

connection with the investigation or prosecution of a possible or 4089
alleged criminal offense, the board shall provide information from 4090
the database as necessary to comply with the subpoena, search 4091
warrant, or court order. 4092

(5) On receipt of a request from a prescriber or the 4093
prescriber's delegate approved by the board, the board ~~may~~ shall 4094
provide to the prescriber information from the database relating 4095
to a patient who is either of the following, if the prescriber 4096
certifies in a form specified by the board that it is for the 4097
purpose of providing medical treatment to the patient who is the 4098
subject of the request: 4099

(a) A current patient of the prescriber; 4100

(b) A potential patient of the prescriber based on a referral 4101
of the patient to the prescriber. 4102

(6) On receipt of a request from a pharmacist or the 4103
pharmacist's delegate approved by the board, the board ~~may~~ shall 4104
provide to the pharmacist information from the database relating 4105
to a current patient of the pharmacist, if the pharmacist 4106
certifies in a form specified by the board that it is for the 4107
purpose of the pharmacist's practice of pharmacy involving the 4108
patient who is the subject of the request. 4109

(7) On receipt of a request from an individual seeking the 4110
individual's own database information in accordance with the 4111
procedure established in rules adopted under section 4729.84 of 4112
the Revised Code, the board may provide to the individual the 4113
individual's own database information. 4114

(8) On receipt of a request from the medical director of a 4115
managed care organization that has entered into a data security 4116
agreement with the board required by section 5167.14 of the 4117
Revised Code, the board shall provide to the medical director 4118
information from the database relating to a medicaid recipient 4119

enrolled in the managed care organization, including information 4120
in the database related to prescriptions for the recipient that 4121
were not covered or reimbursed under a program administered by the 4122
department of medicaid. 4123

(9) On receipt of a request from the medicaid director, the 4124
board shall provide to the director information from the database 4125
relating to a recipient of a program administered by the 4126
department of medicaid, including information in the database 4127
related to prescriptions for the recipient that were not covered 4128
or paid by a program administered by the department. 4129

(10) Except as otherwise provided in division (E) or (F) of 4130
this section, on receipt of a request from the medical director of 4131
a managed care organization, the board shall provide to the 4132
medical director information from the database relating to a 4133
claimant under Chapter 4121., 4123., 4127., or 4131. of the 4134
Revised Code assigned to the managed care organization, including 4135
information in the database related to prescriptions for the 4136
claimant that were not covered or reimbursed under those chapters, 4137
if both of the following apply: 4138

(a) The managed care organization has entered into a contract 4139
with the administrator of workers' compensation under division 4140
(B)(4) of section 4121.44 of the Revised Code; 4141

(b) The managed care organization has entered into a data 4142
security agreement with the board as required by section 4121.447 4143
of the Revised Code. 4144

(11) On receipt of a request from the administrator of 4145
workers' compensation, the board ~~may~~ shall provide to the 4146
administrator information from the database relating to a claimant 4147
under Chapter 4121., 4123., 4127., or 4131. of the Revised Code, 4148
including information in the database related to prescriptions for 4149
the claimant that were not covered or reimbursed under Chapter 4150

4121., 4123., 4127., or 4131. of the Revised Code. 4151

~~(11)~~(12) On receipt of a request from a requestor described 4152
in division (A)(1), (2), (5), or (6) of this section who is from 4153
or participating with another state's prescription monitoring 4154
program, the board may provide to the requestor information from 4155
the database, but only if there is a written agreement under which 4156
the information is to be used and disseminated according to the 4157
laws of this state. 4158

(B) The state board of pharmacy shall maintain a record of 4159
each individual or entity that requests information from the 4160
database pursuant to this section. In accordance with rules 4161
adopted under section 4729.84 of the Revised Code, the board may 4162
use the records to document and report statistics and law 4163
enforcement outcomes. 4164

The board may provide records of an individual's requests for 4165
database information to the following: 4166

(1) A designated representative of a government entity that 4167
is responsible for the licensure, regulation, or discipline of 4168
health care professionals with authority to prescribe, administer, 4169
or dispense drugs who is involved in an active investigation being 4170
conducted by the government entity of the individual who submitted 4171
the requests for database information; 4172

(2) A federal officer, or a state or local officer of this or 4173
any other state, whose duties include enforcing laws relating to 4174
drugs and who is involved in an active investigation being 4175
conducted by the officer's employing government entity of the 4176
individual who submitted the requests for database information. 4177

(C) Information contained in the database and any information 4178
obtained from it is not a public record. Information contained in 4179
the records of requests for information from the database is not a 4180
public record. Information that does not identify a person may be 4181

released in summary, statistical, or aggregate form. 4182

(D) A pharmacist or prescriber shall not be held liable in 4183
damages to any person in any civil action for injury, death, or 4184
loss to person or property on the basis that the pharmacist or 4185
prescriber did or did not seek or obtain information from the 4186
database. 4187

(E) The administrator, upon request of the board, shall 4188
review at least quarterly a list of the individuals about whom 4189
information was requested by a medical director of a managed care 4190
organization and confirm that the individuals are assigned to the 4191
managed care organization. The board may prohibit a medical 4192
director of a managed care organization from obtaining further 4193
information from the drug database if the administrator fails to 4194
review and confirm the list. 4195

(F) The board, after notice and hearing in accordance with 4196
Chapter 119. of the Revised Code, may prohibit a medical director 4197
of a managed care organization from obtaining further information 4198
from the drug database or may impose a monetary penalty of not 4199
more than five thousand dollars, for requesting information on 4200
individuals pursuant to division (A)(10) of this section who were 4201
not assigned to the managed care organization. 4202

Sec. 4729.86. If the state board of pharmacy establishes and 4203
maintains a drug database pursuant to section 4729.75 of the 4204
Revised Code, all of the following apply: 4205

(A)(1) No person identified in divisions (A)(1) to ~~(10)~~(11) 4206
or (B) of section 4729.80 of the Revised Code shall disseminate 4207
any written or electronic information the person receives from the 4208
drug database or otherwise provide another person access to the 4209
information that the person receives from the database, except as 4210
follows: 4211

(a) When necessary in the investigation or prosecution of a possible or alleged criminal offense;	4212 4213
(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;	4214 4215 4216 4217 4218 4219
(c) When a prescriber or pharmacist provides the information to a person who is approved by the board to serve as such a delegate of the prescriber or pharmacist.	4220 4221 4222
(2) No person shall provide false information to the state board of pharmacy with the intent to obtain or alter information contained in the drug database.	4223 4224 4225
(3) No person shall obtain drug database information by any means except as provided under section 4729.80 or 4729.81 of the Revised Code.	4226 4227 4228
(B) A person shall not use information obtained pursuant to division (A) of section 4729.80 of the Revised Code as evidence in any civil or administrative proceeding.	4229 4230 4231
(C)(1) The board may restrict a person from obtaining further information from the drug database if any of the following is the case:	4232 4233 4234
(a) The person violates division (A)(1), (2), or (3) of this section;	4235 4236
(b) The person is a requestor identified in division (A) (11) (12) of section 4729.80 of the Revised Code and the board determines that the person's actions in another state would have constituted a violation of division (A)(1), (2), or (3) of this section;	4237 4238 4239 4240 4241

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

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

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

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

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

FND AI	AI TITLE	Appropriations	
	BWC BUREAU OF WORKERS' COMPENSATION		
	Workers' Compensation Fund Group		
7023 855401	William Green Lease	\$ 16,026,100	\$ 0
	Payments to OBA		
7023 855407	Claims, Risk and Medical Management	\$ 118,338,586	\$ 118,338,586
7023 855408	Fraud Prevention	\$ 12,114,226	\$ 12,114,226

7023	855409	Administrative Services	\$	105,857,276	\$	105,357,276	4269
7023	855410	Attorney General Payments	\$	4,621,850	\$	4,621,850	4270
8220	855606	Coal Workers' Fund	\$	147,666	\$	147,666	4271
8230	855608	Marine Industry	\$	75,527	\$	75,527	4272
8250	855605	Disabled Workers Relief Fund	\$	319,718	\$	319,718	4273
8260	855609	Safety and Hygiene Operating	\$	21,661,132	\$	21,661,132	4274
8260	855610	Safety Grants	\$	15,000,000	\$	15,000,000	4275
8290	855604	Long Term Care Loan Program	\$	100,000	\$	100,000	4276
TOTAL WCF Workers' Compensation							4277
Fund Group			\$	294,262,081	\$	277,735,981	4278
Federal Special Revenue Fund Group							4279
3490	855601	OSHA Enforcement	\$	1,731,000	\$	1,731,000	4280
3FW0	855614	BLS SOII Grant	\$	116,919	\$	116,919	4281
TOTAL FED Federal Special Revenue			\$	1,847,919	\$	1,847,919	4282
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	296,110,000	\$	279,583,900	4283
WILLIAM GREEN LEASE PAYMENTS							4284
Of the foregoing appropriation item 855401, William Green							4285
Lease Payments, up to \$16,026,100 shall be used to make lease							4286
payments to the Treasurer of State at the times they are required							4287
to be made during the period from July 1, 2013 to June 30, 2015,							4288
pursuant to leases and agreements made under section 154.24 of the							4289
Revised Code. If it is determined that additional appropriations							4290
are necessary for such purpose, such amounts are hereby							4291
appropriated.							4292
WORKERS' COMPENSATION FRAUD UNIT							4293
Of the foregoing appropriation item 855410, Attorney General							4294

Payments, \$828,200 in each fiscal year shall be used to fund the 4295
expenses of the Workers' Compensation Fraud Unit within the 4296
Attorney General's Office. These payments shall be processed at 4297
the beginning of each quarter of each fiscal year and deposited 4298
into the Workers' Compensation Section Fund (Fund 1950) used by 4299
the Attorney General. 4300

SAFETY AND HYGIENE 4301

Notwithstanding section 4121.37 of the Revised Code, the 4302
Treasurer of State shall transfer \$21,661,132 cash in fiscal year 4303
2014 and \$21,661,132 cash in fiscal year 2015 from the State 4304
Insurance Fund to the Safety and Hygiene Fund (Fund 8260). 4305

OSHA ON-SITE CONSULTATION PROGRAM 4306

The Bureau of Workers' Compensation may designate a portion 4307
of appropriation item 855609, Safety and Hygiene Operating, to be 4308
used to match federal funding for the federal Occupational Safety 4309
and Health Administration's (OSHA) on-site consultation program. 4310

VOCATIONAL REHABILITATION 4311

The Bureau of Workers' Compensation and the Opportunities for 4312
Ohioans with Disabilities Agency shall enter into an interagency 4313
agreement for the provision of vocational rehabilitation services 4314
and staff to mutually eligible clients. The bureau may provide not 4315
more than \$605,407 in fiscal year 2014 and not more than \$605,407 4316
in fiscal year 2015 from the State Insurance Fund to fund 4317
vocational rehabilitation services and staff in accordance with 4318
the interagency agreement. 4319

~~FUND BALANCE~~ 4320

~~Any unencumbered cash balance in excess of \$45,000,000 in the 4321
Workers' Compensation Fund (Fund 7023) on the thirtieth day of 4322
June of each fiscal year shall be used to reduce the 4323
administrative cost rate charged to employers to cover 4324~~

~~appropriations for Bureau of Workers' Compensation operations.~~ 4325

Section 4. That Section 1 of Sub. H.B. 34 of the 130th 4326
General Assembly, as amended by Am. Sub. H.B. 59 of the 130th 4327
General Assembly, is hereby repealed. 4328

Section 5. The amendments to section 4125.05 of the Revised 4329
Code by Section 1 of this act take effect July 1, 2015. 4330

Section 6. The amendments made by Section 1 of this act to 4331
sections 4123.01, 4123.26, 4123.29, 4123.292, 4123.54, and 4123.82 4332
of the Revised Code apply to claims that arise on or after the 4333
effective date of those amendments. 4334

Section 7. This act applies to an appeal filed pursuant to 4335
section 4123.512 of the Revised Code, as amended by this act, on 4336
or after the effective date of this act. 4337

Section 8. The items of law contained in this act, and their 4338
applications, are severable. If any item of law contained in this 4339
act, or if any application of any item of law contained in this 4340
act, is held invalid, the invalidity does not affect other items 4341
of law contained in this act and their applications that can be 4342
given effect without the invalid item of law or application. 4343

Section 9. Section 4123.26 of the Revised Code is presented 4344
in this act as a composite of the section as amended by both Am. 4345
Sub. H.B. 562 and Am. Sub. S.B. 334 of the 127th General Assembly. 4346
The General Assembly, applying the principle stated in division 4347
(B) of section 1.52 of the Revised Code that amendments are to be 4348
harmonized if reasonably capable of simultaneous operation, finds 4349
that the composite is the resulting version of the section in 4350
effect prior to the effective date of the section as presented in 4351
this act. 4352