

As Introduced

131st General Assembly

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H. B. No. 205

Representatives Henne, Retherford

**Cosponsors: Representatives Becker, Butler, Hambley, Hood, Terhar, Maag,
Brenner, Romanchuk, Amstutz, Reineke**

A BILL

To amend sections 9.315, 1561.04, 1561.31, 1701.86, 1
1729.55, 2705.05, 2913.48, 3121.01, 3121.0311, 2
3701.741, 3702.51, 3937.01, 3955.05, 3964.02, 3
4121.121, 4121.31, 4121.44, 4121.50, 4121.61, 4
4121.65, 4121.66, 4123.01, 4123.026, 4123.25, 5
4123.292, 4123.34, 4123.342, 4123.35, 4123.351, 6
4123.352, 4123.38, 4123.411, 4123.412, 4123.416, 7
4123.46, 4123.50, 4123.51, 4123.511, 4123.512, 8
4123.54, 4123.63, 4123.65, 4123.74, 4123.75, 9
4123.79, 4123.80, 4123.81, 4123.82, 4123.83, 10
4123.84, 4123.85, 4123.93, 4123.931, 4125.05, 11
and 5119.332; to amend, for the purpose of 12
adopting new section numbers as indicated in 13
parentheses, sections 4123.35 (3971.03), 14
4123.351 (3971.09), and 4123.352 (3971.12); to 15
enact new sections 4123.35 and 4123.351 and 16
sections 3971.01, 3971.04, 3971.05, 3971.06, 17
3971.07, 3971.08, 3971.10, 3971.11, and 3971.15; 18
and to repeal section 4123.353 of the Revised 19
Code to modify the requirements for an employer 20
to become a self-insuring employer for purposes 21
of the Workers' Compensation Law, to transfer 22
authority over the workers' compensation self- 23

insurance program to the Superintendent of 24
Insurance, and to allow certain employers and 25
groups of employers to obtain workers' 26
compensation coverage from a private workers' 27
compensation insurer. 28

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

Section 1. That sections 9.315, 1561.04, 1561.31, 1701.86, 29
1729.55, 2705.05, 2913.48, 3121.01, 3121.0311, 3701.741, 30
3702.51, 3937.01, 3955.05, 3964.02, 4121.121, 4121.31, 4121.44, 31
4121.50, 4121.61, 4121.65, 4121.66, 4123.01, 4123.026, 4123.25, 32
4123.292, 4123.34, 4123.342, 4123.38, 4123.411, 4123.412, 33
4123.416, 4123.46, 4123.50, 4123.51, 4123.511, 4123.512, 34
4123.54, 4123.63, 4123.65, 4123.74, 4123.75, 4123.79, 4123.80, 35
4123.81, 4123.82, 4123.83, 4123.84, 4123.85, 4123.93, 4123.931, 36
4125.05, and 5119.332 be amended; sections 4123.35 (3971.03), 37
4123.351 (3971.09), and 4123.352 (3971.12) be amended for the 38
purpose of adopting new section numbers as shown in parentheses; 39
and new sections 4123.35 and 4123.351 and sections 3971.01, 40
3971.04, 3971.05, 3971.06, 3971.07, 3971.08, 3971.10, 3971.11, 41
and 3971.15 of the Revised Code be enacted to read as follows: 42

Sec. 9.315. (A) As used in sections 9.315 and 9.316 of the 43
Revised Code: 44

(1) "Public authority" means the state or a county, 45
township, municipal corporation, school district, or other 46
political subdivision of the state, or any public agency, 47
authority, board, commission, instrumentality, or special 48
district of the state or of a county, township, municipal 49

corporation, school district, or other political subdivision of 50
the state. 51

(2) "Self-insured public authority" means a public 52
authority that has been granted the privilege to self-insure a 53
construction project against workers' compensation liability by 54
the administrator of workers' compensation pursuant to ~~division~~ 55
~~(C) of section 4123.35-3971.05~~ of the Revised Code. 56

(B) No officer, employee, or other agent of a public 57
authority, in issuing an invitation for bids or a request for 58
proposals for a contract with the public authority for the 59
rendering of services or the supplying of materials, or for the 60
construction, demolition, alteration, repair, or reconstruction 61
of any public building, structure, highway, or other 62
improvement, shall, directly or indirectly, require that any bid 63
bond, performance bond, payment bond, or other bond, or any 64
insurance policy, required under the contract be furnished by or 65
acquired from a particular surety or insurance company or a 66
particular agent or broker. 67

(C) ~~Division~~ Division (B) of this section does not apply to 68
any insurance policy entered into by a self-insured public 69
authority in connection with a contract otherwise subject to 70
this section. This division does not exempt any bid bond, 71
performance bond, payment bond, or other bond from the 72
appropriate application of division (B) of this section. 73

Sec. 1561.04. The chief of the division of mineral 74
resources management shall annually make a report to the 75
governor, which shall include: 76

(A) A summary of the activities and of the reports of the 77
deputy mine inspectors; 78

(B) A statement of the condition and the operation of the mines of the state;

(C) A statement of the number of accidents in and about the mines, the manner in which they occurred, and any other data and facts bearing upon the prevention of accidents and the preservation of life, health, and property, and any suggestions relative to the better preservation of the life, health, and property of those engaged in the mining industry.

The records of the bureau of workers' compensation and workers' compensation insurers shall be available to the chief for information concerning such a report. The chief shall send by mail to each coal operator in the state, to a duly designated representative of the miners at each mine, and to such other persons as the chief deems proper, a copy of such report. The chief may have as many copies of such report printed as are needed to make the distribution thereof as provided in this section.

The chief shall also prepare and publish for public distribution quarterly reports, including therein information relative to the items enumerated in this section that is pertinent or available at such times.

Sec. 1561.31. Each deputy mine inspector shall inspect each mine in the inspector's district, the owner, lessee, agent, or operator of which is an employer as defined in section 4123.01 of the Revised Code, or any other mine at which three or more persons work, at intervals not exceeding three months between inspections, and all other mines in the inspector's district as often as practical, noting particularly the location and condition of buildings, the condition of the boiler, machinery, workings of the mine, the traveling ways and

haulageways, the circulation and condition of the air and 109
drainage, and the condition of electrical circuits and 110
appliances. The inspector shall make tests for poisonous, 111
explosive, and noxious gases, and shall specifically order 112
compliance with any section of this chapter and Chapters 1563., 113
1565., and 1567. and sections 1509.09, 1509.12, 1509.13, 114
1509.14, 1509.15, 1509.17, and 1509.18 of the Revised Code that 115
the inspector finds is being violated. 116

Upon completion of the inspection of a mine, the inspector 117
shall fill out a report of the conditions found during 118
inspections on a form provided by the chief of the division of 119
mineral resources management, which form shall provide for 120
statements as to whether the laws are being observed or 121
violated, and if violated, the nature and extent thereof, the 122
date of the inspection, the number of persons employed in and 123
about the mine, whether or not the proof of workers' 124
compensation coverage issued pursuant to section ~~4123.35~~4123.83 125
of the Revised Code is posted and the date of expiration 126
thereof, and matters, things, and practices that specifically 127
are covered by law, order of the chief, or previous order of the 128
inspector. The inspector shall make this report in quadruplicate 129
or quintuplicate, and send the original to the chief, post a 130
copy at the mine, give a copy to the mine superintendent, and 131
retain a copy for the inspector's files. Where the miners of a 132
mine have a mine safety committee, the inspector shall post one 133
additional copy of the report of that mine at that mine for the 134
use and possession of the committee. The report required by this 135
section shall be known as the inspector's routine report. 136

If an inspector orders compliance with this chapter and 137
Chapters 1563., 1565., and 1567. and sections 1509.09, 1509.12, 138
1509.13, 1509.14, 1509.15, 1509.17, and 1509.18 of the Revised 139

Code, and is assured by the superintendent of the mine to which 140
the order applies that the order will be complied with, the 141
inspector shall revisit the mine within a reasonable period of 142
time and ascertain whether or not the order has been complied 143
with. The inspector shall report the inspector's findings to the 144
chief on a form to be provided by the chief, and take action to 145
enforce compliance. 146

Sec. 1701.86. (A) A corporation may be dissolved 147
voluntarily in the manner provided in this section, provided the 148
provisions of Chapter 1704. of the Revised Code do not prevent 149
the dissolution from being effected. 150

(B) A resolution of dissolution for a corporation shall 151
set forth that the corporation elects to be dissolved. The 152
resolution also may include any of the following: 153

(1) The date on which the certificate of dissolution is to 154
be filed or the conditions or events that will result in the 155
filing of the certificate; 156

(2) Authorization for the officers or directors to abandon 157
the proposed dissolution before the filing of the certificate of 158
dissolution; 159

(3) Any additional provision considered necessary with 160
respect to the proposed dissolution and winding up. 161

(C) If an initial stated capital is not set forth in the 162
articles then before the corporation begins business, or if an 163
initial stated capital is set forth in the articles then before 164
subscriptions to shares shall have been received in the amount 165
of that initial stated capital, the incorporators or a majority 166
of them may adopt, by a writing signed by each of them, a 167
resolution of dissolution. 168

(D) The directors may adopt a resolution of dissolution in any of the following cases:	169 170
(1) When the corporation has been adjudged bankrupt or has made a general assignment for the benefit of creditors;	171 172
(2) By leave of the court, when a receiver has been appointed in a general creditors' suit or in any suit in which the affairs of the corporation are to be wound up;	173 174 175
(3) When substantially all of the assets have been sold at judicial sale or otherwise;	176 177
(4) When the articles have been canceled for failure to file annual franchise or excise tax returns or for failure to pay franchise or excise taxes and the corporation has not been reinstated or does not desire to be reinstated;	178 179 180 181
(5) When the period of existence of the corporation specified in its articles has expired.	182 183
(E) The shareholders at a meeting held for such purpose may adopt a resolution of dissolution by the affirmative vote of the holders of shares entitling them to exercise two-thirds of the voting power of the corporation on such proposal or, if the articles provide or permit, by the affirmative vote of a greater or lesser proportion, though not less than a majority, of such voting power, and by such affirmative vote of the holders of shares of any particular class as is required by the articles. Notice of the meeting of the shareholders shall be given to all the shareholders whether or not entitled to vote at it.	184 185 186 187 188 189 190 191 192 193
(F) Upon the adoption of a resolution of dissolution, a certificate shall be prepared, on a form prescribed by the secretary of state, setting forth all of the following:	194 195 196

(1) The name of the corporation;	197
(2) A statement that a resolution of dissolution has been adopted;	198 199
(3) A statement of the manner of adoption of such resolution, and, in the case of its adoption by the incorporators or directors, a statement of the basis for such adoption;	200 201 202 203
(4) The place in this state where its principal office is or is to be located;	204 205
(5) The internet address of each domain name held or maintained by or on behalf of the corporation;	206 207
(6) The name and address of its statutory agent;	208
(7) The date of dissolution, if other than the filing date. The date of dissolution shall not be more than ninety days after the filing of the certificate of dissolution.	209 210 211
(G) When the resolution of dissolution is adopted by the incorporators, the certificate shall be signed by not less than a majority of them. In all other cases, the certificate shall be signed by any authorized officer, unless the officer fails to execute and file such certificate within thirty days after the date upon which such certificate is to be filed. In that latter event, the certificate of dissolution may be signed by any three shareholders or, if there are less than three shareholders, all of the shareholders and shall set forth a statement that the persons signing the certificate are shareholders and are filing the certificate because of the failure of the officers to do so.	212 213 214 215 216 217 218 219 220 221 222
(H) Except as otherwise provided in division (I) of this section, a certificate of dissolution, filed with the secretary	223 224

of state, shall be accompanied by all of the following: 225

(1) An affidavit of one or more of the persons executing 226
the certificate of dissolution or of an officer of the 227
corporation containing a statement of the counties, if any, in 228
this state in which the corporation has personal property or a 229
statement that the corporation is of a type required to pay 230
personal property taxes to state authorities only; 231

(2) A certificate or other evidence from the department of 232
taxation showing that the corporation has paid all taxes 233
administered by and required to be paid to the tax commissioner 234
that are or will be due from the corporation on the date of the 235
dissolution, or that the department has received an adequate 236
guarantee for the payment of all such taxes; 237

(3) A certificate or other evidence showing the payment of 238
all personal property taxes accruing up to the date of 239
dissolution or showing that such payment has been adequately 240
guaranteed, or an affidavit of one or more of the persons 241
executing the certificate of dissolution or of an officer of the 242
corporation containing a statement that the corporation is not 243
required to pay or the department of taxation has not assessed 244
any tax for which such a certificate or other evidence is not 245
provided; 246

(4) A receipt, certificate, or other evidence from the 247
director of job and family services showing that all 248
contributions due from the corporation as an employer have been 249
paid, or that such payment has been adequately guaranteed, or 250
that the corporation is not subject to such contributions; 251

(5) A receipt, certificate, or other evidence ~~from the~~ 252
~~bureau of workers' compensation~~ showing that all workers' 253

compensation premiums due from the corporation as an employer 254
have been paid, or that such payment has been adequately 255
guaranteed, or that the corporation is not subject to such 256
premium payments. 257

(I) In lieu of the receipt, certificate, or other evidence 258
described in division (H) (3), (4), or (5) of this section, an 259
affidavit of one or more persons executing the certificate of 260
dissolution or of an officer of the corporation containing a 261
statement of the date upon which the particular department, 262
agency, or authority was advised in writing of the scheduled 263
effective date of the dissolution and was advised in writing of 264
the acknowledgment by the corporation of the applicability of 265
the provisions of section 1701.95 of the Revised Code. 266

(J) Upon the filing of a certificate of dissolution and 267
such accompanying documents or on a later date specified in the 268
certificate that is not more than ninety days after the filing, 269
the corporation shall be dissolved. 270

Sec. 1729.55. (A) An association may be dissolved 271
voluntarily in the manner provided in this section. 272

(B) A resolution of dissolution for an association shall 273
state both of the following: 274

(1) That the association elects to be dissolved; 275

(2) Any additional provision considered necessary with 276
respect to the proposed dissolution and winding up. 277

(C) Before subscriptions for membership and any stock or 278
other ownership interest have been received, the incorporators 279
or a majority of the incorporators may adopt, by a writing 280
signed by them, a resolution of dissolution. 281

(D) The directors may adopt a resolution of dissolution in	282
the following cases:	283
(1) When the association has been adjudged bankrupt or has	284
made a general assignment for the benefit of creditors;	285
(2) By leave of the court, when a receiver has been	286
appointed in a general creditors' suit or in any suit in which	287
the affairs of the association are to be wound up;	288
(3) When substantially all of the assets have been sold at	289
judicial sale or otherwise;	290
(4) When the articles of incorporation have been canceled	291
for failure to file annual franchise or excise tax returns or	292
for failure to pay franchise or excise taxes and the association	293
has not been reinstated or does not desire to be reinstated;	294
(5) When the period of existence of the association	295
specified in its articles has expired.	296
(E) At a meeting held for such purpose, the members may	297
adopt a resolution of dissolution by the affirmative vote of	298
sixty per cent of the member votes cast on the proposal or, if	299
the articles provide or permit, by the affirmative vote of a	300
greater or lesser proportion though not less than a majority, of	301
the voting power, of any particular class as is required by the	302
articles of incorporation. Notice of the meeting of the members	303
shall be given to all members and stockholders whether or not	304
entitled to vote.	305
(F) Upon the adoption of a resolution of dissolution, a	306
certificate shall be filed with the secretary of state, on a	307
form prescribed by the secretary of state, stating all of the	308
following:	309

(1) The name of the association;	310
(2) A statement that a resolution of dissolution has been adopted, its manner of adoption, and, in the case of its adoption by the incorporators or directors, a statement of the basis for such adoption;	311 312 313 314
(3) The place where the association's principal place of business is located;	315 316
(4) The names and addresses of the association's directors and officers, or if the resolution of dissolution is adopted by the incorporators, the names and addresses of the incorporators;	317 318 319
(5) The name and address of the association's statutory agent.	320 321
(G) The certificate described in division (F) of this section shall be signed as follows:	322 323
(1) When the resolution of dissolution is adopted by the incorporators, the certificate shall be signed by not less than a majority of the incorporators;	324 325 326
(2) When the resolution is adopted by the directors or by the members, the certificate shall be signed by any authorized officer. However, if no authorized officer executes and files the certificate within thirty days after the adoption of the resolution or upon any date specified in the resolution as the date upon which the certificate is to be filed or upon the expiration of any period specified in the resolution as the period within which the certificate is to be filed, whichever is latest, the certificate of dissolution may be signed by any three members, or if there are less than three members, by all of the members, and shall set forth a statement that the persons signing the certificate are members and are filing the	327 328 329 330 331 332 333 334 335 336 337 338

certificate because of the failure of an authorized officer to 339
do so. 340

(H) A certificate of dissolution, filed with the secretary 341
of state, shall be accompanied by all of the following: 342

(1) An affidavit of one or more of the persons executing 343
the certificate of dissolution or of any authorized officer of 344
the association containing a statement of the counties, if any, 345
in this state in which the association has personal property or 346
a statement that the association is of a type required to pay 347
personal property taxes to state authorities only; 348

(2) A receipt, certificate, or other evidence showing the 349
payment of all franchise, sales, use, and highway use taxes 350
accruing up to the date of the filing or that payment adequately 351
has been guaranteed; 352

(3) A receipt, certificate, or other evidence showing the 353
payment of all personal property taxes accruing up to the date 354
of the filing; 355

(4) A receipt, certificate, or other evidence from the 356
director of job and family services showing that all 357
contributions due from the association as an employer have been 358
paid, that payment adequately has been guaranteed, or that the 359
association is not subject to such contributions; 360

(5) A receipt, certificate, or other evidence ~~from the~~ 361
~~bureau of workers' compensation~~ showing that all workers' 362
compensation premiums due from the association as an employer 363
have been paid, that payment adequately has been guaranteed, or 364
that the association is not subject to such premium payments; 365

(6) In lieu of the receipt, certificate, or other evidence 366
described in division (H) (2), (3), (4), or (5) of this section, 367

an affidavit of one or more persons executing the certificate of 368
dissolution or of any authorized officer of the association 369
containing a statement of the date upon which the particular 370
department, agency, or authority was advised in writing of the 371
scheduled date of filing of the certificate of dissolution and 372
was advised in writing of the acknowledgment by the association 373
of the applicability of section 1729.25 of the Revised Code. 374

(I) Upon the filing of a certificate of dissolution and 375
the accompanying documents required by division (H) of this 376
section, the association shall be dissolved. 377

Sec. 2705.05. (A) In all contempt proceedings, the court 378
shall conduct a hearing. At the hearing, the court shall 379
investigate the charge and hear any answer or testimony that the 380
accused makes or offers and shall determine whether the accused 381
is guilty of the contempt charge. If the accused is found 382
guilty, the court may impose any of the following penalties: 383

(1) For a first offense, a fine of not more than two 384
hundred fifty dollars, a definite term of imprisonment of not 385
more than thirty days in jail, or both; 386

(2) For a second offense, a fine of not more than five 387
hundred dollars, a definite term of imprisonment of not more 388
than sixty days in jail, or both; 389

(3) For a third or subsequent offense, a fine of not more 390
than one thousand dollars, a definite term of imprisonment of 391
not more than ninety days in jail, or both. 392

(B) In all contempt proceedings initiated pursuant to 393
section 2705.031 of the Revised Code against an employer, the 394
bureau of workers' compensation, a workers' compensation 395
insurer, an employer that is paying workers' compensation 396

benefits, a board, board of trustees, or other governing entity 397
of a retirement system, person paying or distributing income to 398
an obligor under a support order, or financial institution that 399
is ordered to withhold or deduct an amount of money from the 400
income or other assets of a person required to pay support and 401
that fails to withhold or deduct the amount of money as ordered 402
by the support order, the court also may require the employer, 403
the bureau of workers' compensation, the workers' compensation
insurer, an employer that is paying workers' compensation 404
benefits, a board, board of trustees, or other governing entity 406
of a retirement system, person paying or distributing income to 407
an obligor under a support order, or financial institution to 408
pay the accumulated support arrearages. 409

Sec. 2913.48. (A) No person, with purpose to defraud or 410
knowing that the person is facilitating a fraud, shall do any of 411
the following: 412

(1) Receive workers' compensation benefits to which the 413
person is not entitled; 414

(2) Make or present or cause to be made or presented a 415
false or misleading statement with the purpose to secure payment 416
for goods or services rendered under Chapter 4121., 4123., 417
4127., or 4131. of the Revised Code or to secure workers' 418
compensation benefits; 419

(3) Alter, falsify, destroy, conceal, or remove any record 420
or document that is necessary to fully establish the validity of 421
any claim filed with, or necessary to establish the nature and 422
validity of all goods and services for which reimbursement or 423
payment was received or is requested from, the bureau of 424
workers' compensation, a workers' compensation insurer, or a 425
self-insuring employer under Chapter 4121., 4123., 4127., or 426

4131. of the Revised Code; 427

(4) Enter into an agreement or conspiracy to defraud the 428
bureau, a workers' compensation insurer, or a self-insuring 429
employer by making or presenting or causing to be made or 430
presented a false claim for workers' compensation benefits; 431

(5) Make or present or cause to be made or presented a 432
false statement concerning manual codes, classification of 433
employees, payroll, paid compensation, or number of personnel, 434
when information of that nature is necessary to determine the 435
actual workers' compensation premium or assessment owed to the 436
bureau or to a workers' compensation insurer by an employer; 437

(6) Alter, forge, or create a workers' compensation 438
certificate to falsely show current or correct workers' 439
compensation coverage; 440

(7) Fail to secure or maintain workers' compensation 441
coverage as required by Chapter 4123. of the Revised Code with 442
the intent to defraud the bureau of workers' compensation. 443

(B) Whoever violates this section is guilty of workers' 444
compensation fraud. Except as otherwise provided in this 445
division, a violation of this section is a misdemeanor of the 446
first degree. If the value of premiums and assessments unpaid 447
pursuant to actions described in division (A) (5), (6), or (7) of 448
this section, or of goods, services, property, or money stolen 449
is one thousand dollars or more and is less than seven thousand 450
five hundred dollars, a violation of this section is a felony of 451
the fifth degree. If the value of premiums and assessments 452
unpaid pursuant to actions described in division (A) (5), (6), or 453
(7) of this section, or of goods, services, property, or money 454
stolen is seven thousand five hundred dollars or more and is 455

less than one hundred fifty thousand dollars, a violation of 456
this section is a felony of the fourth degree. If the value of 457
premiums and assessments unpaid pursuant to actions described in 458
division (A) (5), (6), or (7) of this section, or of goods, 459
services, property, or money stolen is one hundred fifty 460
thousand dollars or more, a violation of this section is a 461
felony of the third degree. 462

(C) Upon application of the governmental body that 463
conducted the investigation and prosecution of a violation of 464
this section, the court shall order the person who is convicted 465
of the violation to pay the governmental body its costs of 466
investigating and prosecuting the case. These costs are in 467
addition to any other costs or penalty provided in the Revised 468
Code or any other section of law. 469

(D) The remedies and penalties provided in this section 470
are not exclusive remedies and penalties and do not preclude the 471
use of any other criminal or civil remedy or penalty for any act 472
that is in violation of this section. 473

(E) As used in this section: 474

(1) "False" means wholly or partially untrue or deceptive. 475

(2) "Goods" includes, but is not limited to, medical 476
supplies, appliances, rehabilitative equipment, and any other 477
apparatus or furnishing provided or used in the care, treatment, 478
or rehabilitation of a claimant for workers' compensation 479
benefits. 480

(3) "Services" includes, but is not limited to, any 481
service provided by any health care provider to a claimant for 482
workers' compensation benefits and any and all services provided 483
by the bureau or a workers' compensation insurer as part of 484

workers' compensation insurance coverage. 485

(4) "Claim" means any attempt to cause the bureau, an 486
independent third party with whom the administrator or an 487
employer contracts under section 4121.44 of the Revised Code, a 488
workers' compensation insurer, or a self-insuring employer to 489
make payment or reimbursement for workers' compensation 490
benefits. 491

(5) "Employment" means participating in any trade, 492
occupation, business, service, or profession for substantial 493
gainful remuneration. 494

(6) "Employer," "employee," ~~and~~ "self-insuring employer," 495
and "workers' compensation insurer" have the same meanings as in 496
section 4123.01 of the Revised Code. 497

(7) "Remuneration" includes, but is not limited to, wages, 498
commissions, rebates, and any other reward or consideration. 499

(8) "Statement" includes, but is not limited to, any oral, 500
written, electronic, electronic impulse, or magnetic 501
communication notice, letter, memorandum, receipt for payment, 502
invoice, account, financial statement, or bill for services; a 503
diagnosis, prognosis, prescription, hospital, medical, or dental 504
chart or other record; and a computer generated document. 505

(9) "Records" means any medical, professional, financial, 506
or business record relating to the treatment or care of any 507
person, to goods or services provided to any person, or to rates 508
paid for goods or services provided to any person, or any record 509
that the administrator of workers' compensation requires 510
pursuant to rule. 511

(10) "Workers' compensation benefits" means any 512
compensation or benefits payable under Chapter 4121., 4123., 513

4127., or 4131. of the Revised Code. 514

Sec. 3121.01. As used in this chapter: 515

(A) "Court child support order," "court support order," 516
and "personal earnings" have the same meanings as in section 517
3119.01 of the Revised Code. 518

(B) "Default" means any failure to pay under a support 519
order that is an amount greater than or equal to the amount of 520
support payable under the support order for one month. 521

(C) "Financial institution" means a bank, savings and loan 522
association, or credit union, or a regulated investment company 523
or mutual fund. 524

(D) "Income" means any form of monetary payment, including 525
personal earnings; workers' compensation payments; unemployment 526
compensation benefits to the extent permitted by, and in 527
accordance with, sections 3121.07 and 4141.284 of the Revised 528
Code, and federal law governing the department of job and family 529
services; pensions; annuities; allowances; private or 530
governmental retirement benefits; disability or sick pay; 531
insurance proceeds; lottery prize awards; federal, state, or 532
local government benefits to the extent that the benefits can be 533
withheld or deducted under the law governing the benefits; any 534
form of trust fund or endowment; lump sum payments, including a 535
one-time pay supplement of one hundred fifty dollars or more 536
paid under section 124.183 of the Revised Code; and any other 537
payment in money. 538

(E) "Payor" means any person or entity that pays or 539
distributes income to an obligor, including an obligor if the 540
obligor is self-employed; an employer; an employer paying an 541
obligor's workers' compensation benefits; the public employees 542

retirement board; the governing entity of a municipal retirement 543
system; the board of trustees of the Ohio police and fire 544
pension fund; the state teachers retirement board; the school 545
employees retirement board; the state highway patrol retirement 546
board; a provider, as defined in section 3305.01 of the Revised 547
Code; the bureau of workers' compensation; a workers' 548
compensation insurer; or any other person or entity other than 549
the department of job and family services with respect to 550
unemployment compensation benefits paid pursuant to Chapter 551
4141. of the Revised Code. 552

Sec. 3121.0311. (A) If a lump sum payment referred to in 553
division (A)(11) of section 3121.037 of the Revised Code 554
consists of workers' compensation benefits and the obligor is 555
represented by an attorney with respect to the obligor's 556
workers' compensation claim, prior to issuing the notice to the 557
child support enforcement agency required by that division, the 558
administrator of workers' compensation, for claims involving 559
state fund employers, a workers' compensation insurer, for 560
claims involving privately insured employers, or a self-insuring 561
employer, for that employer's claims, shall notify the obligor 562
and the obligor's attorney in writing that the obligor is 563
subject to a support order and that the administrator, workers' 564
compensation insurer, or self-insuring employer, as appropriate, 565
shall hold the lump sum payment for a period of thirty days 566
after the administrator, workers' compensation insurer, or self- 567
insuring employer sends this written notice, pending receipt of 568
the information referred to in division (B) of this section. 569

(B) The administrator, workers' compensation insurer, or 570
self-insuring employer, as appropriate, shall instruct the 571
obligor's attorney in writing to file a copy of the fee 572
agreement signed by the obligor, along with an affidavit signed 573

by the attorney setting forth the amount of the attorney's fee 574
with respect to the lump sum payment award to the obligor and 575
the amount of all necessary expenses, along with documentation 576
of those expenses, incurred by the attorney with respect to 577
obtaining the lump sum award. The obligor's attorney shall file 578
the fee agreement and attorney affidavit with the administrator, 579
workers' compensation insurer, or self-insuring employer, as 580
appropriate, within thirty days after the date the 581
administrator, workers' compensation insurer, or self-insuring 582
employer sends the notice required by division (A) of this 583
section. 584

(C) Upon receipt of the fee agreement and attorney 585
affidavit, the administrator, workers' compensation insurer, or 586
self-insuring employer, as appropriate, shall deduct from the 587
lump sum payment the amount of the attorney's fee and necessary 588
expenses and pay that amount directly to and solely in the name 589
of the attorney within fourteen days after the fee agreement and 590
attorney affidavit have been filed with the administrator, 591
workers' compensation insurer, or self-insuring employer. 592

(D) After deducting any attorney's fee and necessary 593
expenses, if the lump sum payment is one hundred fifty dollars 594
or more, the administrator, workers' compensation insurer, or 595
self-insuring employer, as appropriate, shall hold the balance 596
of the lump sum award in accordance with division (A) (11) of 597
section 3121.037 of the Revised Code. 598

Sec. 3701.741. (A) Each health care provider and medical 599
records company shall provide copies of medical records in 600
accordance with this section. 601

(B) Except as provided in divisions (C) and (E) of this 602
section, a health care provider or medical records company that 603

receives a request for a copy of a patient's medical record 604
shall charge not more than the amounts set forth in this 605
section. 606

(1) If the request is made by the patient or the patient's 607
personal representative, total costs for copies and all services 608
related to those copies shall not exceed the sum of the 609
following: 610

(a) Except as provided in division (B)(1)(b) of this 611
section, with respect to data recorded on paper or 612
electronically, the following amounts adjusted in accordance 613
with section 3701.742 of the Revised Code: 614

(i) Two dollars and seventy-four cents per page for the 615
first ten pages; 616

(ii) Fifty-seven cents per page for pages eleven through 617
fifty; 618

(iii) Twenty-three cents per page for pages fifty-one and 619
higher; 620

(b) With respect to data resulting from an x-ray, magnetic 621
resonance imaging (MRI), or computed axial tomography (CAT) scan 622
and recorded on paper or film, one dollar and eighty-seven cents 623
per page; 624

(c) The actual cost of any related postage incurred by the 625
health care provider or medical records company. 626

(2) If the request is made other than by the patient or 627
the patient's personal representative, total costs for copies 628
and all services related to those copies shall not exceed the 629
sum of the following: 630

(a) An initial fee of sixteen dollars and eighty-four 631

cents adjusted in accordance with section 3701.742 of the Revised Code, which shall compensate for the records search;

(b) Except as provided in division (B)(2)(c) of this section, with respect to data recorded on paper or electronically, the following amounts adjusted in accordance with section 3701.742 of the Revised Code:

(i) One dollar and eleven cents per page for the first ten pages;

(ii) Fifty-seven cents per page for pages eleven through fifty;

(iii) Twenty-three cents per page for pages fifty-one and higher.

(c) With respect to data resulting from an x-ray, magnetic resonance imaging (MRI), or computed axial tomography (CAT) scan and recorded on paper or film, one dollar and eighty-seven cents per page;

(d) The actual cost of any related postage incurred by the health care provider or medical records company.

(C)(1) On request, a health care provider or medical records company shall provide one copy of the patient's medical record and one copy of any records regarding treatment performed subsequent to the original request, not including copies of records already provided, without charge to the following:

(a) The bureau of workers' compensation or a workers' compensation insurer, in accordance with Chapters 4121. and 4123. of the Revised Code and the rules adopted under those chapters;

(b) The industrial commission, in accordance with Chapters

4121. and 4123. of the Revised Code and the rules adopted under those chapters; 660
661

(c) The department of medicaid or a county department of job and family services, in accordance with Chapters 5160., 5161., 5162., 5163., 5164., 5165., 5166., and 5167. of the Revised Code and the rules adopted under those chapters; 662
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664
665

(d) The attorney general, in accordance with sections 2743.51 to 2743.72 of the Revised Code and any rules that may be adopted under those sections; 666
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(e) A patient, patient's personal representative, or authorized person if the medical record is necessary to support a claim under Title II or Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 401 and 1381, as amended, and the request is accompanied by documentation that a claim has been filed. 669
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(2) Nothing in division (C)(1) of this section requires a health care provider or medical records company to provide a copy without charge to any person or entity not listed in division (C)(1) of this section. 675
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(D) Division (C) of this section shall not be construed to supersede any rule of the bureau of workers' compensation, the industrial commission, or the department of medicaid. 679
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(E) A health care provider or medical records company may enter into a contract with either of the following for the copying of medical records at a fee other than as provided in division (B) of this section: 682
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684
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(1) A patient, a patient's personal representative, or an authorized person; 686
687

(2) An insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state or health insuring corporations holding a certificate of authority under Chapter 1751. of the Revised Code.

(F) This section does not apply to medical records the copying of which is covered by section 173.20 of the Revised Code or by 42 C.F.R. 483.10.

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the Revised Code:

(A) "Applicant" means any person that submits an application for a certificate of need and who is designated in the application as the applicant.

(B) "Person" means any individual, corporation, business trust, estate, firm, partnership, association, joint stock company, insurance company, government unit, or other entity.

(C) "Certificate of need" means a written approval granted by the director of health to an applicant to authorize conducting a reviewable activity.

(D) "Service area" means the current and projected primary and secondary service areas to which the long-term care facility is, or will be, providing long-term care services.

(E) "Primary service area" means the geographic region, usually comprised of the Ohio zip code in which the long-term care facility is located and contiguous zip codes, from which approximately seventy-five to eighty per cent of the facility's residents currently originate or are expected to originate.

(F) "Secondary service area" means the geographic region, usually comprised of Ohio zip codes not included in the primary

service area, excluding isolated exceptions, from which the 716
facility's remaining residents currently originate or are 717
expected to originate. 718

(G) "Third-party payer" means a health insuring 719
corporation licensed under Chapter 1751. of the Revised Code, a 720
health maintenance organization as defined in division (I) of 721
this section, an insurance company that issues sickness and 722
accident insurance in conformity with Chapter 3923. of the 723
Revised Code, a state-financed health insurance program under 724
Chapter 3701. or 4123. of the Revised Code, a workers' 725
compensation insurer as defined in section 4123.01 of the 726
Revised Code, the medicaid program, or any self-insurance plan. 727

(H) "Government unit" means the state and any county, 728
municipal corporation, township, or other political subdivision 729
of the state, or any department, division, board, or other 730
agency of the state or a political subdivision. 731

(I) "Health maintenance organization" means a public or 732
private organization organized under the law of any state that 733
is qualified under section 1310(d) of Title XIII of the "Public 734
Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9. 735

(J) "Existing long-term care facility" means either of the 736
following: 737

(1) A long-term care facility that is licensed or 738
otherwise authorized to operate in this state in accordance with 739
applicable law, including a county home or a county nursing home 740
that is certified under Title XVIII or Title XIX of the "Social 741
Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, 742
is staffed and equipped to provide long-term care services, and 743
is actively providing long-term care services; 744

(2) A long-term care facility that is licensed or 745
otherwise authorized to operate in this state in accordance with 746
applicable law, including a county home or a county nursing home 747
that is certified under Title XVIII or Title XIX of the "Social 748
Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, 749
or that has beds registered under section 3701.07 of the Revised 750
Code as skilled nursing beds or long-term care beds and has 751
provided long-term care services for at least three hundred 752
sixty-five consecutive days within the twenty-four months 753
immediately preceding the date a certificate of need application 754
is filed with the director of health. 755

(K) "State" means the state of Ohio, including, but not 756
limited to, the general assembly, the supreme court, the offices 757
of all elected state officers, and all departments, boards, 758
offices, commissions, agencies, institutions, and other 759
instrumentalities of the state of Ohio. "State" does not include 760
political subdivisions. 761

(L) "Political subdivision" means a municipal corporation, 762
township, county, school district, and all other bodies 763
corporate and politic responsible for governmental activities 764
only in geographic areas smaller than that of the state to which 765
the sovereign immunity of the state attaches. 766

(M) "Affected person" means: 767

(1) An applicant for a certificate of need, including an 768
applicant whose application was reviewed comparatively with the 769
application in question; 770

(2) The person that requested the reviewability ruling in 771
question; 772

(3) Any person that resides or regularly uses long-term 773

care facilities within the service area served or to be served 774
by the long-term care services that would be provided under the 775
certificate of need or reviewability ruling in question; 776

(4) Any long-term care facility that is located in the 777
service area where the long-term care services would be provided 778
under the certificate of need or reviewability ruling in 779
question; 780

(5) Third-party payers that reimburse long-term care 781
facilities for services in the service area where the long-term 782
care services would be provided under the certificate of need or 783
reviewability ruling in question. 784

(N) "Long-term care facility" means any of the following: 785

(1) A nursing home licensed under section 3721.02 of the 786
Revised Code or by a political subdivision certified under 787
section 3721.09 of the Revised Code; 788

(2) The portion of any facility, including a county home 789
or county nursing home, that is certified as a skilled nursing 790
facility or a nursing facility under Title XVIII or XIX of the 791
"Social Security Act"; 792

(3) The portion of any hospital that contains beds 793
registered under section 3701.07 of the Revised Code as skilled 794
nursing beds or long-term care beds. 795

(O) "Long-term care bed" or "bed" means a bed that is 796
categorized as one of the following: 797

(1) A bed that is located in a facility that is a nursing 798
home licensed under section 3721.02 of the Revised Code or a 799
facility licensed by a political subdivision certified under 800
section 3721.09 of the Revised Code and is included in the 801

authorized maximum licensed capacity of the facility; 802

(2) A bed that is located in the portion of any facility, 803
including a county home or county nursing home, that is 804
certified as a skilled nursing facility under the medicare 805
program or a nursing facility under the medicaid program and is 806
included in the authorized maximum certified capacity of that 807
portion of the facility; 808

(3) A bed that is registered under section 3701.07 of the 809
Revised Code as a skilled nursing bed, a long-term care bed, or 810
a special skilled nursing bed; 811

(4) A bed in a county home or county nursing home that has 812
been certified under section 5155.38 of the Revised Code as 813
having been in operation on July 1, 1993, and is eligible for 814
licensure as a nursing home bed; 815

(5) A bed held as an approved bed under a certificate of 816
need approved by the director. 817

A bed cannot simultaneously be both a bed described in 818
division (O) (1), (2), (3), or (4) of this section and a bed 819
described in division (O) (5) of this section. 820

(P) "Reviewability ruling" means a ruling issued by the 821
director of health under division (A) of section 3702.52 of the 822
Revised Code as to whether a particular proposed project is or 823
is not a reviewable activity. 824

(Q) "County nursing home" has the same meaning as in 825
section 5155.31 of the Revised Code. 826

(R) "Principal participant" means both of the following: 827

(1) A person who has an ownership or controlling interest 828
of at least five per cent in an applicant, in a long-term care 829

facility that is the subject of an application for a certificate 830
of need, or in the owner or operator of the applicant or such a 831
facility; 832

(2) An officer, director, trustee, or general partner of 833
an applicant, of a long-term care facility that is the subject 834
of an application for a certificate of need, or of the owner or 835
operator of the applicant or such a facility. 836

(S) "Actual harm but not immediate jeopardy deficiency" 837
means a deficiency that, under 42 C.F.R. 488.404, either 838
constitutes a pattern of deficiencies resulting in actual harm 839
that is not immediate jeopardy or represents widespread 840
deficiencies resulting in actual harm that is not immediate 841
jeopardy. 842

(T) "Immediate jeopardy deficiency" means a deficiency 843
that, under 42 C.F.R. 488.404, either constitutes a pattern of 844
deficiencies resulting in immediate jeopardy to resident health 845
or safety or represents widespread deficiencies resulting in 846
immediate jeopardy to resident health or safety. 847

(U) "Existing bed" or "existing long-term care bed" means 848
a bed from an existing long-term care facility, a bed described 849
in division (O) (5) of this section, or a bed correctly reported 850
as a long-term care bed pursuant to section 5155.38 of the 851
Revised Code. 852

Sec. 3937.01. Sections 3937.01 to 3937.16 of the Revised 853
Code apply to casualty insurance including fidelity, surety, and 854
guaranty bonds, and to all forms of motor vehicle insurance, on 855
risks or operations in this state, except: 856

(A) Reinsurance, other than joint reinsurance to the 857
extent stated in section 3937.10 of the Revised Code; 858

(B) Accident and health insurance;	859
(C) Insurance against loss of or damage to aircraft or against liability, other than employer's liability, arising out of the ownership, maintenance, or use of aircraft;	860 861 862
(D) Insurance against workers' compensation liability;	863
(E) Insurance of titles to property against loss by reason of defects, encumbrances, or other matters;	864 865
(F) <u>(E)</u> The insurance of the correctness of searches for instruments, liens, charges, or other matters affecting title to property.	866 867 868
Sec. 3955.05. Sections 3955.01 to 3955.19 of the Revised Code apply to all kinds of direct insurance, except:	869 870
(A) Title insurance;	871
(B) Fidelity or surety bonds, or any other bonding obligations;	872 873
(C) Credit insurance, vendors' single interest insurance, collateral protection insurance, or any similar insurance protecting the interests of a creditor arising out of a creditor-debtor transaction;	874 875 876 877
(D) Mortgage guaranty, financial guaranty, residual value, or other forms of insurance offering protection against investment risks;	878 879 880
(E) Ocean marine insurance;	881
(F) Any insurance provided by or guaranteed by government, including, but not limited to, any department, board, office, commission, agency, institution, or other instrumentality or entity of any branch of state government, any political	882 883 884 885

subdivision of this state, the United States or any agency of 886
the United States, or any separate or joint governmental self- 887
insurance or risk-pooling program, plan, or pool; 888

(G) Contracts of any corporation by which health services 889
are to be provided to its subscribers; 890

(H) Life, annuity, health, or disability insurance, 891
including sickness and accident insurance written pursuant to 892
Chapter 3923. of the Revised Code; 893

(I) Fraternal benefit insurance; 894

(J) Mutual protective insurance of persons or property; 895

(K) Reciprocal or interinsurance contracts written 896
pursuant to Chapter 3931. of the Revised Code for medical 897
malpractice insurance if the reciprocal exchange or 898
interinsurance exchange is not subject to the risk-based capital 899
requirements in effect in the state of domicile of the 900
reciprocal exchange or interinsurance exchange. As used in this 901
division, "medical malpractice insurance" means insurance 902
coverage against the legal liability of the insured and against 903
loss, damage, or expense incident to a claim arising out of the 904
death, disease, or injury of any person as the result of 905
negligence or malpractice in rendering professional service by 906
any licensed physician, podiatrist, or hospital, as those terms 907
are defined in section 2305.113 of the Revised Code. 908

(L) Any political subdivision self-insurance program or 909
joint political subdivision self-insurance pool established 910
under Chapter 2744. of the Revised Code; 911

(M) Warranty or service contracts, or the insurance of 912
those contracts; 913

(N) Any state university or college self-insurance program established under section 3345.202 of the Revised Code;	914 915
(O) Any transaction, or combination of transactions, between a person, including affiliates of such person, and an insurer, including affiliates of such insurer, that involves the transfer of investment or credit risk unaccompanied by a transfer of insurance risk;	916 917 918 919 920
(P) Credit union share guaranty insurance issued pursuant to Chapter 1761. of the Revised Code;	921 922
(Q) Insurance issued by risk retention groups as defined in Chapter 3960. of the Revised Code;	923 924
(R) Workers' compensation insurance, including any <u>Any contract indemnifying an employer who pays compensation directly to employees pursuant to Chapter 3971. of the Revised Code.</u>	925 926 927
Sec. 3964.02. (A) A captive insurance company may apply for authority to insure only the following lines of insurance:	928 929
(1) Commercial multiple peril;	930
(2) Ocean marine;	931
(3) Inland marine;	932
(4) Medical malpractice;	933
(5) Workers' compensation, to the extent permitted by law, but only for the purpose of indemnification of a self-insuring employer pursuant to division (B) (1) of section 4123.82 of the Revised Code;	934 935 936 937
(6) Commercial auto liability;	938
(7) Commercial auto physical damage;	939

(8) Fidelity;	940
(9) Notwithstanding division (C) of this section, a special purpose financial captive may apply to provide reinsurance of life insurance risks of an Ohio domiciled parent or an affiliated company that is authorized to transact the business of life insurance in this state;	941 942 943 944 945
(10) Except as provided in division (C)(2) of this section, any other line which the superintendent, at the superintendent's sole discretion, permits.	946 947 948
(B) A captive insurance company may purchase reinsurance coverage for any risk that a captive insurance company is permitted to write directly.	949 950 951
(C)(1) A captive insurance company shall not issue, offer, or present insurance policies or certificates, evidence of coverage, or any other similar documentation, to any person other than its parent or affiliated companies.	952 953 954 955
(2) A captive insurance company shall not do either of the following:	956 957
(a) Insure or reinsure any personal lines, as defined in division (B) of section 3905.06 of the Revised Code;	958 959
(b) Insure, offer, or enter a three-party agreement under which the captive agrees to pay a parent or affiliate, agrees to make complete, or become responsible for an obligation in response to the default, acts, or omissions of a third party, the parent, or an affiliate.	960 961 962 963 964
(D) A captive insurance company may reinsure any risks insured by its parent or an affiliated company, as approved by the superintendent.	965 966 967

<u>Sec. 3971.01. As used in this chapter:</u>	968
<u>(A) "Employee," "employer," "injury," "occupational disease," "self-insuring employer," and "public employer" have the same meanings as in section 4123.01 of the Revised Code.</u>	969 970 971
<u>(B) "Paid compensation" means all of the following:</u>	972
<u>(1) All amounts paid by a self-insuring employer for living maintenance benefits under Chapter 4121. of the Revised Code;</u>	973 974 975
<u>(2) All amounts for compensation paid pursuant to sections 4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 4123.64 of the Revised Code;</u>	976 977 978
<u>(3) All amounts paid by a self-insuring employer as wages in lieu of compensation payable pursuant to sections 4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 4123.64 of the Revised Code;</u>	979 980 981 982
<u>(4) All amounts paid by a self-insuring employer in lieu of compensation payable pursuant to sections 4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 4123.64 of the Revised Code under a nonoccupational accident and sickness program fully funded by the self-insuring employer;</u>	983 984 985 986 987
<u>(5) All amounts paid by a self-insuring employer for a violation of a specific safety standard pursuant to Section 35 of Article II, Ohio Constitution and section 4121.47 of the Revised Code.</u>	988 989 990 991
<u>(C) "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</u>	992 993 994 995

Chapter 3355. of the Revised Code, technical colleges created 996
pursuant to Chapter 3357. of the Revised Code, and state 997
community colleges created pursuant to Chapter 3358. of the 998
Revised Code. 999

(D) "Unvoted debt capacity" means the amount of money that 1000
a public employer may borrow without voter approval of a tax 1001
levy. 1002

Sec. ~~4123.35~~ 3971.03. (A) ~~Except as provided in this~~ 1003
~~section, and until the policy year commencing July 1, 2015,~~ 1004
~~every private employer and every publicly owned utility shall~~ 1005
~~pay semiannually in the months of January and July into the~~ 1006
~~state insurance fund the amount of annual premium the~~ 1007
~~administrator of workers' compensation fixes for the employment~~ 1008
~~or occupation of the employer, the amount of which premium to be~~ 1009
~~paid by each employer to be determined by the classifications,~~ 1010
~~rules, and rates made and published by the administrator. The~~ 1011
~~employer shall pay semiannually a further sum of money into the~~ 1012
~~state insurance fund as may be ascertained to be due from the~~ 1013
~~employer by applying the rules of the administrator.~~ 1014

~~Except as otherwise provided in this section, for a policy~~ 1015
~~year commencing on or after July 1, 2015, every private employer~~ 1016
~~and every publicly owned utility shall pay annually in the month~~ 1017
~~of June immediately preceding the policy year into the state~~ 1018
~~insurance fund the amount of estimated annual premium the~~ 1019
~~administrator fixes for the employment or occupation of the~~ 1020
~~employer, the amount of which estimated premium to be paid by~~ 1021
~~each employer to be determined by the classifications, rules,~~ 1022
~~and rates made and published by the administrator. The employer~~ 1023
~~shall pay a further sum of money into the state insurance fund~~ 1024
~~as may be ascertained to be due from the employer by applying~~ 1025

~~the rules of the administrator. Upon receipt of the payroll- 1026
report required by division (B) of section 4123.26 of the- 1027
Revised Code, the administrator shall adjust the premium and- 1028
assessments charged to each employer for the difference between- 1029
estimated gross payrolls and actual gross payrolls, and any- 1030
balance due to the administrator shall be immediately paid by- 1031
the employer. Any balance due the employer shall be credited to- 1032
the employer's account. 1033~~

~~For a policy year commencing on or after July 1, 2015,- 1034
each employer that is recognized by the administrator as a- 1035
professional employer organization shall pay monthly into the- 1036
state insurance fund the amount of premium the administrator- 1037
fixes for the employer for the prior month based on the actual- 1038
payroll of the employer reported pursuant to division (C) of- 1039
section 4123.26 of the Revised Code. 1040~~

~~A receipt certifying that payment has been made shall be- 1041
issued to the employer by the bureau of workers' compensation.- 1042
The receipt is prima facie evidence of the payment of the- 1043
premium. The administrator shall provide each employer written- 1044
proof of workers' compensation coverage as is required in- 1045
section 4123.83 of the Revised Code. Proper posting of the- 1046
notice constitutes the employer's compliance with the notice- 1047
requirement mandated in section 4123.83 of the Revised Code. 1048~~

~~The bureau shall verify with the secretary of state the- 1049
existence of all corporations and organizations making- 1050
application for workers' compensation coverage and shall require- 1051
every such application to include the employer's federal- 1052
identification number. 1053~~

~~A private employer who has contracted with a subcontractor- 1054
is liable for the unpaid premium due from any subcontractor with- 1055~~

~~respect to that part of the payroll of the subcontractor that is~~ 1056
~~for work performed pursuant to the contract with the employer.~~ 1057

~~Division (A) of this section providing for the payment of~~ 1058
~~premiums semiannually does not apply to any employer who was a~~ 1059
~~subscriber to the state insurance fund prior to January 1, 1914,~~ 1060
~~or, until July 1, 2015, who may first become a subscriber to the~~ 1061
~~fund in any month other than January or July. Instead, the~~ 1062
~~semiannual premiums shall be paid by those employers from time~~ 1063
~~to time upon the expiration of the respective periods for which~~ 1064
~~payments into the fund have been made by them. After July 1,~~ 1065
~~2015, an employer who first becomes a subscriber to the fund on~~ 1066
~~any day other than the first day of July shall pay premiums~~ 1067
~~according to rules adopted by the administrator, with the advice~~ 1068
~~and consent of the bureau of workers' compensation board of~~ 1069
~~directors, for the remainder of the policy year for which the~~ 1070
~~coverage is effective.~~ 1071

~~The administrator, with the advice and consent of the~~ 1072
~~board, shall adopt rules to permit employers to make periodic~~ 1073
~~payments of the premium and assessment due under this division.~~ 1074
~~The rules shall include provisions for the assessment of~~ 1075
~~interest charges, where appropriate, and for the assessment of~~ 1076
~~penalties when an employer fails to make timely premium~~ 1077
~~payments. The administrator, in the rules the administrator~~ 1078
~~adopts, may set an administrative fee for these periodic~~ 1079
~~payments. An employer who timely pays the amounts due under this~~ 1080
~~division is entitled to all of the benefits and protections of~~ 1081
~~this chapter. Upon receipt of payment, the bureau shall issue a~~ 1082
~~receipt to the employer certifying that payment has been made,~~ 1083
~~which receipt is prima facie evidence of payment. Workers'~~ 1084
~~compensation coverage under this chapter continues uninterrupted~~ 1085
~~upon timely receipt of payment under this division.~~ 1086

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

~~(B) Employers who will abide by the rules of the administrator superintendent of insurance and who may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and who, except as provided in section 4123.82 of the Revised Code, do not desire to insure the payment thereof or indemnify themselves against loss sustained by the direct payment thereof, upon a finding of such facts by the ~~administrator~~ superintendent, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. ~~The administrator may charge employers who apply for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application.~~~~

~~All employers granted status as self-insuring employers shall demonstrate sufficient financial and administrative ability to assure that all obligations under this section are promptly met. The administrator shall deny the privilege where~~

~~the employer is unable to demonstrate the employer's ability to promptly meet all the obligations imposed on the employer by this section.~~ 1118
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~~(1)(B)~~ The ~~administrator~~ superintendent shall consider, 1121
but is not limited to, the following factors, where applicable, 1122
in determining the employer's ability to meet all of the 1123
obligations imposed on the employer by this section: 1124

~~(a)(1)~~ The employer employs a minimum of ~~five hundred~~ 1125
three hundred employees in this state; 1126

~~(b)(2)~~ The employer has operated in this state for a 1127
minimum of two years, provided that an employer who has 1128
purchased, acquired, or otherwise succeeded to the operation of 1129
a business, or any part thereof, situated in this state that has 1130
operated for at least two years in this state, also shall 1131
qualify; 1132

~~(c)(3)~~ Where the employer previously contributed to the 1133
state insurance fund or is a successor employer as defined by 1134
~~bureau rules of the bureau of workers' compensation~~, the amount 1135
of the buyout, as defined by bureau rules; 1136

~~(d)(4)~~ The ~~sufficiency of the employer's assets located in this state to insure the employer's solvency in paying compensation directly~~ maintenance of minimum reserves that are necessary in the exercise of prudent actuarial judgment and that are certified by a member of the American academy of actuaries as having been computed in accordance with accepted loss reserving standards and as being fairly stated in accordance with sound loss reserving principles, or determined to be sufficient through such other documentation acceptable to the superintendent; 1137
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~~(e)~~ (5) The financial records, documents, and data, 1147
certified by a certified public accountant, necessary to provide 1148
the employer's full financial disclosure. The records, 1149
documents, and data include, but are not limited to, balance 1150
sheets and profit and loss history for the current year and 1151
previous ~~four~~ two years. 1152

~~(f)~~ (6) The employer's organizational plan for the 1153
administration of the workers' compensation law; 1154

~~(g)~~ (7) The employer's proposed plan to inform employees 1155
of ~~the~~ all of the following: 1156

(a) The change from a state fund insurer to a self- 1157
insuring employer, ~~the~~ i 1158

(b) The procedures the employer will follow as a self- 1159
insuring employer, ~~and the~~ i 1160

(c) The employees' rights to compensation and benefits, ~~—~~ 1161
~~and~~ . 1162

~~(h)~~ (8) The employer has either an account in a financial 1163
institution in this state, or if the employer maintains an 1164
account with a financial institution outside this state, ensures 1165
that workers' compensation checks are drawn from the same 1166
account as payroll checks or the employer clearly indicates that 1167
payment will be honored by a financial institution in this 1168
state; 1169

(9) The existence and terms of a contract or policy of 1170
indemnification held by the employer pursuant to section 4123.82 1171
of the Revised Code. 1172

The ~~administrator~~ superintendent may waive the 1173
requirements of divisions (B) (1) ~~(a)~~ and ~~(b)~~ (2) of this section 1174

and the requirement of division (B) ~~(1)(e)~~ (5) of this section 1175
that the financial records, documents, and data be certified by 1176
a certified public accountant. The ~~administrator~~ superintendent 1177
shall adopt rules establishing the criteria that an employer 1178
shall meet in order for the ~~administrator~~ superintendent to 1179
waive the requirements of divisions (B) (1) ~~(a)~~, ~~(b) (2)~~, and ~~(e)~~ 1180
(5) of this section. Such rules may require additional security 1181
of that employer pursuant to division (E) of section ~~4123.351-~~ 1182
3971.09 of the Revised Code. 1183

~~The administrator shall not grant the status of self-~~ 1184
~~insuring employer to the state, except that the administrator~~ 1185
~~may grant the status of self-insuring employer to a state~~ 1186
~~institution of higher education, including its hospitals, that~~ 1187
~~meets the requirements of division (B) (2) of this section.~~ 1188

~~(2) When considering the application of a public employer,~~ 1189
~~except for a board of county commissioners described in division~~ 1190
~~(G) of section 4123.01 of the Revised Code, a board of a county~~ 1191
~~hospital, or a publicly owned utility, the administrator shall~~ 1192
~~verify that the public employer satisfies all of the following~~ 1193
~~requirements as the requirements apply to that public employer:~~ 1194

~~(a) For the two year period preceding application under~~ 1195
~~this section, the public employer has maintained an unvoted debt~~ 1196
~~capacity equal to at least two times the amount of the current~~ 1197
~~annual premium established by the administrator under this~~ 1198
~~chapter for that public employer for the year immediately~~ 1199
~~preceding the year in which the public employer makes~~ 1200
~~application under this section.~~ 1201

~~(b) For each of the two fiscal years preceding application~~ 1202
~~under this section, the unreserved and undesignated year-end~~ 1203
~~fund balance in the public employer's general fund is equal to~~ 1204

~~at least five per cent of the public employer's general fund- 1205
revenues for the fiscal year computed in accordance with- 1206
generally accepted accounting principles. 1207~~

~~(c) For the five year period preceding application under- 1208
this section, the public employer, to the extent applicable, has- 1209
complied fully with the continuing disclosure requirements- 1210
established in rules adopted by the United States securities and- 1211
exchange commission under 17 C.F.R. 240.15c-2-12. 1212~~

~~(d) For the five year period preceding application under- 1213
this section, the public employer has not had its local- 1214
government fund distribution withheld on account of the public- 1215
employer being indebted or otherwise obligated to the state. 1216~~

~~(e) For the five year period preceding application under- 1217
this section, the public employer has not been under a fiscal- 1218
watch or fiscal emergency pursuant to section 118.023, 118.04,- 1219
or 3316.03 of the Revised Code. 1220~~

~~(f) For the public employer's fiscal year preceding- 1221
application under this section, the public employer has obtained- 1222
an annual financial audit as required under section 117.10 of- 1223
the Revised Code, which has been released by the auditor of- 1224
state within seven months after the end of the public employer's- 1225
fiscal year. 1226~~

~~(g) On the date of application, the public employer holds- 1227
a debt rating of Aa3 or higher according to Moody's investors- 1228
service, inc., or a comparable rating by an independent rating- 1229
agency similar to Moody's investors service, inc. 1230~~

~~(h) The public employer agrees to generate an annual- 1231
accumulating book reserve in its financial statements reflecting- 1232
an actuarially generated reserve adequate to pay projected- 1233~~

~~claims under this chapter for the applicable period of time, as
determined by the administrator.~~ 1234
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~~(i) For a public employer that is a hospital, the public
employer shall submit audited financial statements showing the
hospital's overall liquidity characteristics, and the
administrator shall determine, on an individual basis, whether
the public employer satisfies liquidity standards equivalent to
the liquidity standards of other public employers.~~ 1236
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~~(j) Any additional criteria that the administrator adopts
by rule pursuant to division (E) of this section.~~ 1242
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~~The administrator may adopt rules establishing the
criteria that a public employer shall satisfy in order for the
administrator to waive any of the requirements listed in
divisions (B) (2) (a) to (j) of this section. The rules may
require additional security from that employer pursuant to
division (E) of section 4123.351 of the Revised Code. The
administrator shall not waive any of the requirements listed in
divisions (B) (2) (a) to (j) of this section for a public employer
who does not satisfy the criteria established in the rules the
administrator adopts.~~ 1244
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~~(C) A board of county commissioners described in division
(G) of section 4123.01 of the Revised Code, as an employer, that
will abide by the rules of the administrator and that may be of
sufficient financial ability to render certain the payment of
compensation to injured employees or the dependents of killed
employees, and the furnishing of medical, surgical, nursing, and
hospital attention and services and medicines, and funeral
expenses, equal to or greater than is provided for in sections
4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the
Revised Code, and that does not desire to insure the payment~~ 1254
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~~thereof or indemnify itself against loss sustained by the direct~~ 1264
~~payment thereof, upon a finding of such facts by the~~ 1265
~~administrator, may be granted the privilege to pay individually~~ 1266
~~compensation, and furnish medical, surgical, nursing, and~~ 1267
~~hospital services and attention and funeral expenses directly to~~ 1268
~~injured employees or the dependents of killed employees, thereby~~ 1269
~~being granted status as a self-insuring employer. The~~ 1270
~~administrator may charge a board of county commissioners~~ 1271
~~described in division (G) of section 4123.01 of the Revised Code~~ 1272
~~that applies for the status as a self-insuring employer a~~ 1273
~~reasonable application fee to cover the bureau's costs in~~ 1274
~~connection with processing and making a determination with~~ 1275
~~respect to an application. All employers granted such status~~ 1276
~~shall demonstrate sufficient financial and administrative~~ 1277
~~ability to assure that all obligations under this section are~~ 1278
~~promptly met. The administrator shall deny the privilege where~~ 1279
~~the employer is unable to demonstrate the employer's ability to~~ 1280
~~promptly meet all the obligations imposed on the employer by~~ 1281
~~this section. The administrator shall consider, but is not~~ 1282
~~limited to, the following factors, where applicable, in~~ 1283
~~determining the employer's ability to meet all of the~~ 1284
~~obligations imposed on the board as an employer by this section:~~ 1285

~~(1) The board as an employer employs a minimum of five~~ 1286
~~hundred employees in this state;~~ 1287

~~(2) The board has operated in this state for a minimum of~~ 1288
~~two years;~~ 1289

~~(3) Where the board previously contributed to the state~~ 1290
~~insurance fund or is a successor employer as defined by bureau~~ 1291
~~rules, the amount of the buyout, as defined by bureau rules;~~ 1292

~~(4) The sufficiency of the board's assets located in this~~ 1293

~~state to insure the board's solvency in paying compensation directly;~~ 1294
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~~(5) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the board's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.~~ 1296
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~~(6) The board's organizational plan for the administration of the workers' compensation law;~~ 1301
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~~(7) The board's proposed plan to inform employees of the proposed self-insurance, the procedures the board will follow as a self-insuring employer, and the employees' rights to compensation and benefits;~~ 1303
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~~(8) The board has either an account in a financial institution in this state, or if the board maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the board clearly indicates that payment will be honored by a financial institution in this state;~~ 1307
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~~(9) The board shall provide the administrator a surety bond in an amount equal to one hundred twenty five per cent of the projected losses as determined by the administrator.~~ 1313
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~~(D) The administrator shall require a surety bond from all self-insuring employers, issued pursuant to section 4123.351 of the Revised Code, that is sufficient to compel, or secure to injured employees, or to the dependents of employees killed, the payment of compensation and expenses, which shall in no event be less than that paid or furnished out of the state insurance fund in similar cases to injured employees or to dependents of killed~~ 1316
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~~employees whose employers contribute to the fund, except when an~~ 1323
~~employee of the employer, who has suffered the loss of a hand,~~ 1324
~~arm, foot, leg, or eye prior to the injury for which~~ 1325
~~compensation is to be paid, and thereafter suffers the loss of~~ 1326
~~any other of the members as the result of any injury sustained~~ 1327
~~in the course of and arising out of the employee's employment,~~ 1328
~~the compensation to be paid by the self-insuring employer is~~ 1329
~~limited to the disability suffered in the subsequent injury,~~ 1330
~~additional compensation, if any, to be paid by the bureau out of~~ 1331
~~the surplus created by section 4123.34 of the Revised Code.~~ 1332

~~(E) In addition to the requirements of this section, the~~ 1333
~~administrator shall make and publish rules governing the manner~~ 1334
~~of making application and the nature and extent of the proof~~ 1335
~~required to justify a finding of fact by the administrator as to~~ 1336
~~granting the status of a self-insuring employer, which rules~~ 1337
~~shall be general in their application, one of which rules shall~~ 1338
~~provide that all self-insuring employers shall pay into the~~ 1339
~~state insurance fund such amounts as are required to be credited~~ 1340
~~to the surplus fund in division (B) of section 4123.34 of the~~ 1341
~~Revised Code. The administrator may adopt rules establishing~~ 1342
~~requirements in addition to the requirements described in~~ 1343
~~division (B) (2) of this section that a public employer shall~~ 1344
~~meet in order to qualify for self-insuring status.~~ 1345

~~Employers shall secure directly from the bureau central~~ 1346
~~offices application forms upon which the bureau shall stamp a~~ 1347
~~designating number. Prior to submission of an application, an~~ 1348
~~employer shall make available to the bureau, and the bureau~~ 1349
~~shall review, the information described in division (B) (1) of~~ 1350
~~this section, and public employers shall make available, and the~~ 1351
~~bureau shall review, the information necessary to verify whether~~ 1352
~~the public employer meets the requirements listed in division~~ 1353

~~(B) (2) of this section. An employer shall file the completed application forms with an application fee, which shall cover the costs of processing the application, as established by the administrator, by rule, with the bureau at least ninety days prior to the effective date of the employer's new status as a self-insuring employer. The application form is not deemed complete until all the required information is attached thereto. The bureau shall only accept applications that contain the required information.~~

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

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

~~The administrator shall monitor the programs conducted by self-insuring employers, to ensure compliance with bureau requirements and for that purpose, shall develop and issue to self-insuring employers standardized forms for use by the self-insuring employer in all aspects of the self-insuring employers' direct compensation program and for reporting of information to the bureau.~~ 1384
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~~The bureau shall receive and transmit to the self-insuring employer all complaints concerning any self-insuring employer. In the case of a complaint against a self-insuring employer, the administrator shall handle the complaint through the self-insurance division of the bureau. The bureau shall maintain a file by employer of all complaints received that relate to the employer. The bureau shall evaluate each complaint and take appropriate action.~~ 1391
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~~The administrator shall adopt as a rule a prohibition against any self-insuring employer from harassing, dismissing, or otherwise disciplining any employee making a complaint, which rule shall provide for a financial penalty to be levied by the administrator payable by the offending self-insuring employer.~~ 1399
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~~(H) For the purpose of making determinations as to whether to grant status as a self-insuring employer, the administrator may subscribe to and pay for a credit reporting service that offers financial and other business information about individual employers. The costs in connection with the bureau's subscription or individual reports from the service about an applicant may be included in the application fee charged employers under this section.~~ 1404
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~~(I) The administrator, notwithstanding other provisions of this chapter, may permit a self-insuring employer to resume~~ 1412
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~~payment of premiums to the state insurance fund with appropriate 1414
credit modifications to the employer's basic premium rate as 1415
such rate is determined pursuant to section 4123.29 of the 1416
Revised Code. 1417~~

~~(J) On the first day of July of each year, the 1418
administrator shall calculate separately each self-insuring 1419
employer's assessments for the safety and hygiene fund, 1420
administrative costs pursuant to section 4123.342 of the Revised 1421
Code, and for the portion of the surplus fund under division (B) 1422
of section 4123.34 of the Revised Code that is not used for 1423
handicapped reimbursement, on the basis of the paid compensation 1424
attributable to the individual self-insuring employer according 1425
to the following calculation: 1426~~

~~(1) The total assessment against all self-insuring 1427
employers as a class for each fund and for the administrative 1428
costs for the year that the assessment is being made, as 1429
determined by the administrator, divided by the total amount of 1430
paid compensation for the previous calendar year attributable to 1431
all amenable self-insuring employers; 1432~~

~~(2) Multiply the quotient in division (J) (1) of this 1433
section by the total amount of paid compensation for the 1434
previous calendar year that is attributable to the individual 1435
self-insuring employer for whom the assessment is being 1436
determined. Each self-insuring employer shall pay the assessment 1437
that results from this calculation, unless the assessment 1438
resulting from this calculation falls below a minimum 1439
assessment, which minimum assessment the administrator shall 1440
determine on the first day of July of each year with the advice 1441
and consent of the bureau of workers' compensation board of 1442
directors, in which event, the self-insuring employer shall pay 1443~~

~~the minimum assessment.~~ 1444

~~In determining the total amount due for the total
assessment against all self-insuring employers as a class for
each fund and the administrative assessment, the administrator
shall reduce proportionately the total for each fund and
assessment by the amount of money in the self-insurance
assessment fund as of the date of the computation of the
assessment.~~ 1445
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~~The administrator shall calculate the assessment for the
portion of the surplus fund under division (B) of section
4123.34 of the Revised Code that is used for handicapped
reimbursement in the same manner as set forth in divisions (J)
(1) and (2) of this section except that the administrator shall
calculate the total assessment for this portion of the surplus
fund only on the basis of those self-insuring employers that
retain participation in the handicapped reimbursement program
and the individual self-insuring employer's proportion of paid
compensation shall be calculated only for those self-insuring
employers who retain participation in the handicapped
reimbursement program. The administrator, as the administrator
determines appropriate, may determine the total assessment for
the handicapped portion of the surplus fund in accordance with
sound actuarial principles.~~ 1452
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~~The administrator shall calculate the assessment for the
portion of the surplus fund under division (B) of section
4123.34 of the Revised Code that under division (D) of section
4121.66 of the Revised Code is used for rehabilitation costs in
the same manner as set forth in divisions (J) (1) and (2) of this
section, except that the administrator shall calculate the total
assessment for this portion of the surplus fund only on the~~ 1467
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~~basis of those self-insuring employers who have not made the
election to make payments directly under division (D) of section
4121.66 of the Revised Code and an individual self-insuring
employer's proportion of paid compensation only for those self-
insuring employers who have not made that election.~~

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

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

~~(K) There is hereby created in the state treasury the
self-insurance assessment fund. All investment earnings of the~~

~~fund shall be deposited in the fund. The administrator shall use~~ 1504
~~the money in the self-insurance assessment fund only for~~ 1505
~~administrative costs as specified in section 4123.341 of the~~ 1506
~~Revised Code.~~ 1507

~~(L) Every self-insuring employer shall certify, in~~ 1508
~~affidavit form subject to the penalty for perjury, to the bureau~~ 1509
~~the amount of the self-insuring employer's paid compensation for~~ 1510
~~the previous calendar year. In reporting paid compensation paid~~ 1511
~~for the previous year, a self-insuring employer shall exclude~~ 1512
~~from the total amount of paid compensation any reimbursement the~~ 1513
~~self-insuring employer receives in the previous calendar year~~ 1514
~~from the surplus fund pursuant to section 4123.512 of the~~ 1515
~~Revised Code for any paid compensation. The self-insuring~~ 1516
~~employer also shall exclude from the paid compensation reported~~ 1517
~~any amount recovered under section 4123.931 of the Revised Code~~ 1518
~~and any amount that is determined not to have been payable to or~~ 1519
~~on behalf of a claimant in any final administrative or judicial~~ 1520
~~proceeding. The self-insuring employer shall exclude such~~ 1521
~~amounts from the paid compensation reported in the reporting~~ 1522
~~period subsequent to the date the determination is made. The~~ 1523
~~administrator shall adopt rules, in accordance with Chapter 119.~~ 1524
~~of the Revised Code, that provide for all of the following:~~ 1525

~~(1) Establishing the date by which self-insuring employers~~ 1526
~~must submit such information and the amount of the assessments~~ 1527
~~provided for in division (J) of this section for employers who~~ 1528
~~have been granted self-insuring status within the last calendar~~ 1529
~~year;~~ 1530

~~(2) If an employer fails to pay the assessment when due,~~ 1531
~~the administrator may add a late fee penalty of not more than~~ 1532
~~five hundred dollars to the assessment plus an additional~~ 1533

~~penalty amount as follows:~~ 1534

~~(a) For an assessment from sixty one to ninety days past due, the prime interest rate, multiplied by the assessment due;~~ 1535
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~~(b) For an assessment from ninety one to one hundred twenty days past due, the prime interest rate plus two per cent, multiplied by the assessment due;~~ 1537
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~~(c) For an assessment from one hundred twenty one to one hundred fifty days past due, the prime interest rate plus four per cent, multiplied by the assessment due;~~ 1540
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~~(d) For an assessment from one hundred fifty one to one hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the assessment due;~~ 1543
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~~(e) For an assessment from one hundred eighty one to two hundred ten days past due, the prime interest rate plus eight per cent, multiplied by the assessment due;~~ 1546
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~~(f) For each additional thirty day period or portion thereof that an assessment remains past due after it has remained past due for more than two hundred ten days, the prime interest rate plus eight per cent, multiplied by the assessment due.~~ 1549
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~~(3) An employer may appeal a late fee penalty and penalty assessment to the administrator.~~ 1554
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~~For purposes of division (L) (2) of this section, "prime interest rate" means the average bank prime rate, and the administrator shall determine the prime interest rate in the same manner as a county auditor determines the average bank prime rate under section 929.02 of the Revised Code.~~ 1556
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~~The administrator shall include any assessment and~~ 1561

~~penalties that remain unpaid for previous assessment periods in- 1562
the calculation and collection of any assessments due under this 1563
division or division (J) of this section. 1564~~

~~(M) As used in this section, "paid compensation" means all 1565
amounts paid by a self-insuring employer for living maintenance 1566
benefits, all amounts for compensation paid pursuant to sections 1567
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, 1568
and 4123.64 of the Revised Code, all amounts paid as wages in 1569
lieu of such compensation, all amounts paid in lieu of such 1570
compensation under a nonoccupational accident and sickness 1571
program fully funded by the self-insuring employer, and all 1572
amounts paid by a self-insuring employer for a violation of a 1573
specific safety standard pursuant to Section 35 of Article II, 1574
Ohio Constitution and section 4121.47 of the Revised Code. 1575~~

~~(N) Should any section of this chapter or Chapter 4121. of 1576
the Revised Code providing for self-insuring employers' 1577
assessments based upon compensation paid be declared 1578
unconstitutional by a final decision of any court, then that 1579
section of the Revised Code declared unconstitutional shall 1580
revert back to the section in existence prior to November 3, 1581
1989, providing for assessments based upon payroll. 1582~~

~~(O) The administrator may grant a self-insuring employer 1583
the privilege to self-insure a construction project entered into 1584
by the self-insuring employer that is scheduled for completion 1585
within six years after the date the project begins, and the 1586
total cost of which is estimated to exceed one hundred million 1587
dollars or, for employers described in division (R) of this 1588
section, if the construction project is estimated to exceed 1589
twenty five million dollars. The administrator may waive such 1590
cost and time criteria and grant a self-insuring employer the 1591~~

~~privilege to self insure a construction project regardless of 1592
the time needed to complete the construction project and 1593
provided that the cost of the construction project is estimated 1594
to exceed fifty million dollars. A self-insuring employer who 1595
desires to self insure a construction project shall submit to 1596
the administrator an application listing the dates the 1597
construction project is scheduled to begin and end, the 1598
estimated cost of the construction project, the contractors and 1599
subcontractors whose employees are to be self-insured by the 1600
self-insuring employer, the provisions of a safety program that 1601
is specifically designed for the construction project, and a 1602
statement as to whether a collective bargaining agreement 1603
governing the rights, duties, and obligations of each of the 1604
parties to the agreement with respect to the construction 1605
project exists between the self-insuring employer and a labor 1606
organization. 1607~~

~~A self-insuring employer may apply to self-insure the 1608
employees of either of the following: 1609~~

~~(1) All contractors and subcontractors who perform labor 1610
or work or provide materials for the construction project; 1611~~

~~(2) All contractors and, at the administrator's 1612
discretion, a substantial number of all the subcontractors who 1613
perform labor or work or provide materials for the construction 1614
project. 1615~~

~~Upon approval of the application, the administrator shall 1616
mail a certificate granting the privilege to self-insure the 1617
construction project to the self-insuring employer. The 1618
certificate shall contain the name of the self-insuring employer 1619
and the name, address, and telephone number of the self-insuring 1620
employer's representatives who are responsible for administering 1621~~

~~workers' compensation claims for the construction project. The~~ 1622
~~self-insuring employer shall post the certificate in a~~ 1623
~~conspicuous place at the site of the construction project.~~ 1624

~~The administrator shall maintain a record of the~~ 1625
~~contractors and subcontractors whose employees are covered under~~ 1626
~~the certificate issued to the self-insured employer. A self-~~ 1627
~~insuring employer immediately shall notify the administrator~~ 1628
~~when any contractor or subcontractor is added or eliminated from~~ 1629
~~inclusion under the certificate.~~ 1630

~~Upon approval of the application, the self-insuring~~ 1631
~~employer is responsible for the administration and payment of~~ 1632
~~all claims under this chapter and Chapter 4121. of the Revised~~ 1633
~~Code for the employees of the contractor and subcontractors~~ 1634
~~covered under the certificate who receive injuries or are killed~~ 1635
~~in the course of and arising out of employment on the~~ 1636
~~construction project, or who contract an occupational disease in~~ 1637
~~the course of employment on the construction project. For~~ 1638
~~purposes of this chapter and Chapter 4121. of the Revised Code,~~ 1639
~~a claim that is administered and paid in accordance with this~~ 1640
~~division is considered a claim against the self-insuring~~ 1641
~~employer listed in the certificate. A contractor or~~ 1642
~~subcontractor included under the certificate shall report to the~~ 1643
~~self-insuring employer listed in the certificate, all claims~~ 1644
~~that arise under this chapter and Chapter 4121. of the Revised~~ 1645
~~Code in connection with the construction project for which the~~ 1646
~~certificate is issued.~~ 1647

~~A self-insuring employer who complies with this division~~ 1648
~~is entitled to the protections provided under this chapter and~~ 1649
~~Chapter 4121. of the Revised Code with respect to the employees~~ 1650
~~of the contractors and subcontractors covered under a~~ 1651

~~certificate issued under this division for death or injuries~~ 1652
~~that arise out of, or death, injuries, or occupational diseases~~ 1653
~~that arise in the course of, those employees' employment on that~~ 1654
~~construction project, as if the employees were employees of the~~ 1655
~~self-insuring employer, provided that the self-insuring employer~~ 1656
~~also complies with this section. No employee of the contractors~~ 1657
~~and subcontractors covered under a certificate issued under this~~ 1658
~~division shall be considered the employee of the self-insuring~~ 1659
~~employer listed in that certificate for any purposes other than~~ 1660
~~this chapter and Chapter 4121. of the Revised Code. Nothing in~~ 1661
~~this division gives a self-insuring employer authority to~~ 1662
~~control the means, manner, or method of employment of the~~ 1663
~~employees of the contractors and subcontractors covered under a~~ 1664
~~certificate issued under this division.~~ 1665

~~The contractors and subcontractors included under a~~ 1666
~~certificate issued under this division are entitled to the~~ 1667
~~protections provided under this chapter and Chapter 4121. of the~~ 1668
~~Revised Code with respect to the contractor's or subcontractor's~~ 1669
~~employees who are employed on the construction project which is~~ 1670
~~the subject of the certificate, for death or injuries that arise~~ 1671
~~out of, or death, injuries, or occupational diseases that arise~~ 1672
~~in the course of, those employees' employment on that~~ 1673
~~construction project.~~ 1674

~~The contractors and subcontractors included under a~~ 1675
~~certificate issued under this division shall identify in their~~ 1676
~~payroll records the employees who are considered the employees~~ 1677
~~of the self-insuring employer listed in that certificate for~~ 1678
~~purposes of this chapter and Chapter 4121. of the Revised Code,~~ 1679
~~and the amount that those employees earned for employment on the~~ 1680
~~construction project that is the subject of that certificate.~~ 1681
~~Notwithstanding any provision to the contrary under this chapter~~ 1682

~~and Chapter 4121. of the Revised Code, the administrator shall~~ 1683
~~exclude the payroll that is reported for employees who are~~ 1684
~~considered the employees of the self-insuring employer listed in~~ 1685
~~that certificate, and that the employees earned for employment~~ 1686
~~on the construction project that is the subject of that~~ 1687
~~certificate, when determining those contractors' or~~ 1688
~~subcontractors' premiums or assessments required under this~~ 1689
~~chapter and Chapter 4121. of the Revised Code. A self-insuring~~ 1690
~~employer issued a certificate under this division shall include~~ 1691
~~in the amount of paid compensation it reports pursuant to~~ 1692
~~division (L) of this section, the amount of paid compensation~~ 1693
~~the self-insuring employer paid pursuant to this division for~~ 1694
~~the previous calendar year.~~ 1695

~~Nothing in this division shall be construed as altering~~ 1696
~~the rights of employees under this chapter and Chapter 4121. of~~ 1697
~~the Revised Code as those rights existed prior to September 17,~~ 1698
~~1996. Nothing in this division shall be construed as altering~~ 1699
~~the rights devolved under sections 2305.31 and 4123.82 of the~~ 1700
~~Revised Code as those rights existed prior to September 17,~~ 1701
~~1996.~~ 1702

~~As used in this division, "privilege to self-insure a~~ 1703
~~construction project" means privilege to pay individually~~ 1704
~~compensation, and to furnish medical, surgical, nursing, and~~ 1705
~~hospital services and attention and funeral expenses directly to~~ 1706
~~injured employees or the dependents of killed employees.~~ 1707

~~(P) A self-insuring employer whose application is granted~~ 1708
~~under division (O) of this section shall designate a safety~~ 1709
~~professional to be responsible for the administration and~~ 1710
~~enforcement of the safety program that is specifically designed~~ 1711
~~for the construction project that is the subject of the~~ 1712

~~application.~~ 1713

~~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:~~ 1714
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~~(1) Communicate with and provide information to employees who are injured in the course of, or whose injury arises out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project;~~ 1720
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~~(2) Investigate the status of a claim upon the request of an employee to do so;~~ 1725
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~~(3) Provide information to claimants, third party administrators, employers, and other persons to assist those persons in protecting their rights under this chapter and Chapter 4121. of the Revised Code.~~ 1727
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~~A self-insuring employer whose application is granted under division (O) of this section shall post the name of the safety professional and the ombudsperson and instructions for contacting the safety professional and the ombudsperson in a conspicuous place at the site of the construction project.~~ 1731
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~~(Q) The administrator may consider all of the following when deciding whether to grant a self-insuring employer the privilege to self-insure a construction project as provided under division (O) of this section:~~ 1736
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~~(1) Whether the self-insuring employer has an organizational plan for the administration of the workers'~~ 1740
1741

compensation law;	1742
(2) Whether the safety program that is specifically designed for the construction project provides for the safety of employees employed on the construction project, is applicable to all contractors and subcontractors who perform labor or work or provide materials for the construction project, and has as a component, a safety training program that complies with standards adopted pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing management and employee involvement;	1743 1744 1745 1746 1747 1748 1749 1750 1751
(3) Whether granting the privilege to self-insure the construction project will reduce the costs of the construction project;	1752 1753 1754
(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;	1755 1756
(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.	1757 1758 1759 1760 1761
(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:	1762 1763 1764 1765
(1) A state institution of higher education;	1766
(2) A school district;	1767
(3) A county school financing district;	1768
(4) An educational service center;	1769

(5) A community school established under Chapter 3314. of	1770
the Revised Code;	1771
(6) A municipal power agency as defined in section	1772
3734.058 of the Revised Code.	1773
(S) As used in this section:	1774
(1) "Unvoted debt capacity" means the amount of money that	1775
a public employer may borrow without voter approval of a tax	1776
levy;	1777
(2) "State institution of higher education" means the	1778
state universities listed in section 3345.011 of the Revised	1779
Code, community colleges created pursuant to Chapter 3354. of	1780
the Revised Code, university branches created pursuant to	1781
Chapter 3355. of the Revised Code, technical colleges created	1782
pursuant to Chapter 3357. of the Revised Code, and state	1783
community colleges created pursuant to Chapter 3358. of the	1784
Revised Code.	1785
<u>Sec. 3971.04. (A) The superintendent of insurance shall</u>	1786
<u>not grant the status of self-insuring employer to the state,</u>	1787
<u>except that the superintendent may grant the status of self-</u>	1788
<u>insuring employer to a state institution of higher education,</u>	1789
<u>including its hospitals, that meets the requirements of division</u>	1790
<u>(B) of this section.</u>	1791
<u>(B) When considering the application of a public employer,</u>	1792
<u>except for a board of county commissioners described in division</u>	1793
<u>(G) of section 4123.01 of the Revised Code, a board of a county</u>	1794
<u>hospital, or a publicly owned utility, the superintendent shall</u>	1795
<u>verify that the public employer satisfies all of the following</u>	1796
<u>requirements as the requirements apply to that public employer:</u>	1797
<u>(1) For the two-year period preceding application under</u>	1798

this section, the public employer has maintained an unvoted debt capacity equal to at least two times the amount of the annual premium established by the administrator of workers' compensation under Chapter 4123. of the Revised Code for that public employer for the year immediately preceding the year in which the public employer makes application under this section.

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

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

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

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

(6) For the public employer's fiscal year preceding application under this section, the public employer has obtained an annual financial audit as required under section 117.10 of the Revised Code, which has been released by the auditor of

state within seven months after the end of the public employer's 1828
fiscal year. 1829

(7) On the date of application, the public employer holds 1830
a debt rating of Aa3 or higher according to Moody's investors 1831
service, inc., or a comparable rating by an independent rating 1832
agency similar to Moody's investors service, inc. 1833

(8) The public employer agrees to generate an annual 1834
accumulating book reserve in its financial statements reflecting 1835
an actuarially generated reserve adequate to pay projected 1836
claims under this chapter for the applicable period of time, as 1837
determined by the superintendent. 1838

(9) For a public employer that is a hospital, the public 1839
employer shall submit audited financial statements showing the 1840
hospital's overall liquidity characteristics, and the 1841
superintendent shall determine, on an individual basis, whether 1842
the public employer satisfies liquidity standards equivalent to 1843
the liquidity standards of other public employers. 1844

(10) Any additional criteria that the superintendent 1845
adopts by rule pursuant to section 3971.06 of the Revised Code. 1846

(C) The superintendent may adopt rules establishing the 1847
criteria that a public employer shall satisfy in order for the 1848
administrator to waive any of the requirements listed in 1849
division (B) of this section. The rules may require additional 1850
security from that employer pursuant to section 3971.09 of the 1851
Revised Code. The superintendent shall not waive any of the 1852
requirements listed in divisions (B)(1) to (10) of this section 1853
for a public employer who does not satisfy the criteria 1854
established in the rules the superintendent adopts. 1855

(D) A board of county commissioners described in division 1856

(G) of section 4123.01 of the Revised Code, as an employer, that 1857
will abide by the rules of the superintendent and that may be of 1858
sufficient financial ability to render certain the payment of 1859
compensation to injured employees or the dependents of killed 1860
employees, and the furnishing of medical, surgical, nursing, and 1861
hospital attention and services and medicines, and funeral 1862
expenses, equal to or greater than is provided for in sections 1863
4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the 1864
Revised Code, upon a finding of such facts by the 1865
superintendent, may be granted the privilege to pay individually 1866
compensation, and furnish medical, surgical, nursing, and 1867
hospital services and attention and funeral expenses directly to 1868
injured employees or the dependents of killed employees, thereby 1869
being granted status as a self-insuring employer. All employers 1870
granted such status shall demonstrate sufficient financial and 1871
administrative ability to assure that all obligations under this 1872
section are promptly met. The superintendent shall deny the 1873
privilege where the employer is unable to demonstrate the 1874
employer's ability to promptly meet all the obligations imposed 1875
on the employer by this section. The superintendent shall 1876
consider, but is not limited to, the following factors, where 1877
applicable, in determining the employer's ability to meet all of 1878
the obligations imposed on the board as an employer by this 1879
section: 1880

(1) The board as an employer employs a minimum of three 1881
hundred employees in this state. 1882

(2) The board has operated in this state for a minimum of 1883
two years. 1884

(3) Where the board previously contributed to the state 1885
insurance fund or is a successor employer as defined by rules of 1886

the bureau of workers' compensation, the amount of the buyout, 1887
as defined by bureau rules; 1888

(4) The board's maintenance of minimum reserves that are 1889
necessary in the exercise of prudent actuarial judgment and that 1890
are certified by a member of the American academy of actuaries 1891
as having been computed in accordance with accepted loss 1892
reserving standards and as being fairly stated in accordance 1893
with sound loss reserving principles, or determined to be 1894
sufficient through such other documentation acceptable to the 1895
superintendent; 1896

(5) The financial records, documents, and data, certified 1897
by a certified public accountant, necessary to provide the 1898
board's full financial disclosure. The records, documents, and 1899
data include, but are not limited to, balance sheets and profit 1900
and loss history for the current year and previous two years. 1901

(6) The board's organizational plan for the administration 1902
of the workers' compensation law; 1903

(7) The board's proposed plan to inform employees of all 1904
of the following: 1905

(a) The proposed self-insurance; 1906

(b) The procedures the board will follow as a self- 1907
insuring employer; 1908

(c) The employees' rights to compensation and benefits. 1909

(8) The board has either an account in a financial 1910
institution in this state, or if the board maintains an account 1911
with a financial institution outside this state, ensures that 1912
workers' compensation checks are drawn from the same account as 1913
payroll checks or the board clearly indicates that payment will 1914

be honored by a financial institution in this state. 1915

(9) The board shall provide the superintendent a surety bond in an amount equal to one hundred twenty-five per cent of the projected losses as determined by the superintendent. 1916
1917
1918

(E) The superintendent shall charge employers who apply for the status as a self-insuring employer under this section a reasonable application fee, of not more than one thousand dollars, to cover the superintendent's costs in connection with processing and making a determination with respect to an application. All fees collected under this division shall be paid into the state treasury to the credit of the department of insurance operating fund created under section 3901.021 of the Revised Code. 1919
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(F) A public employer, except for a board of county commissioners described in division (G) of section 4123.01 of the Revised Code, a board of a county hospital, or a publicly owned utility, who is granted the status of self-insuring employer pursuant to this section shall do all of the following: 1928
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1932

(1) Reserve funds as necessary, in accordance with sound and prudent actuarial judgment, to cover the costs the public employer may potentially incur to remain in compliance with this chapter and Chapters 4121. and 4123. of the Revised Code; 1933
1934
1935
1936

(2) Include all activity under this chapter, Chapter 4121., and Chapter 4123. of the Revised Code in a single fund on the public employer's accounting records; 1937
1938
1939

(3) Within ninety days after the last day of each fiscal year, prepare and maintain a report of the reserved funds described in division (F)(1) of this section and disbursements made from those reserved funds. 1940
1941
1942
1943

(G) A public employer who is subject to division (F) of this section shall make the reports required by that division available for inspection by the superintendent and any other person at all reasonable times during regular business hours. 1944
1945
1946
1947

Sec. 3971.05. (A) As used in this section: 1948

(1) "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. 1949
1950
1951
1952
1953

(2) "Self-insuring employer" includes the following employers, whether or not they have been granted the status of being a self-insuring employer under this chapter: 1954
1955
1956

(a) A state institution of higher education; 1957

(b) A school district; 1958

(c) A county school financing district; 1959

(d) An educational service center; 1960

(e) A community school established under Chapter 3314. of the Revised Code; 1961
1962

(f) A municipal power agency as defined in section 3734.058 of the Revised Code. 1963
1964

(B) (1) The superintendent may grant a self-insuring employer the privilege to self-insure a construction project entered into by the self-insuring employer that is scheduled for completion within six years after the date the project begins, and the total cost of which is estimated to exceed one hundred million dollars or, for employers described in division (A) (2) 1965
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of this section, if the construction project is estimated to 1971
exceed twenty-five million dollars. The superintendent may waive 1972
such cost and time criteria and grant a self-insuring employer 1973
the privilege to self-insure a construction project regardless 1974
of the time needed to complete the construction project and 1975
provided that the cost of the construction project is estimated 1976
to exceed fifty million dollars. A self-insuring employer who 1977
desires to self-insure a construction project shall submit to 1978
the superintendent an application that includes all of the 1979
following: 1980

(a) A list of the dates the construction project is 1981
scheduled to begin and end; 1982

(b) The estimated cost of the construction project; 1983

(c) The contractors and subcontractors whose employees are 1984
to be self-insured by the self-insuring employer; 1985

(d) The provisions of a safety program that is 1986
specifically designed for the construction project; 1987

(e) A statement as to whether a collective bargaining 1988
agreement governing the rights, duties, and obligations of each 1989
of the parties to the agreement with respect to the construction 1990
project exists between the self-insuring employer and a labor 1991
organization. 1992

(2) A self-insuring employer may apply to self-insure the 1993
employees of either of the following: 1994

(a) All contractors and subcontractors who perform labor 1995
or work or provide materials for the construction project; 1996

(b) All contractors and, at the superintendent's 1997
discretion, a substantial number of all the subcontractors who 1998

perform labor or work or provide materials for the construction project. 1999
2000

(3) Upon approval of the application, the superintendent shall mail a certificate granting the privilege to self-insure the construction project to the self-insuring employer. The certificate shall contain the name of the self-insuring employer and the name, address, and telephone number of the self-insuring employer's representatives who are responsible for administering workers' compensation claims for the construction project. The self-insuring employer shall post the certificate in a conspicuous place at the site of the construction project. 2001
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(4) The superintendent shall maintain a record of the contractors and subcontractors whose employees are covered under the certificate issued to the self-insured employer. A self-insuring employer immediately shall notify the superintendent when any contractor or subcontractor is added or eliminated from inclusion under the certificate. 2010
2011
2012
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2015

(5) Upon approval of the application, the self-insuring employer is responsible for the administration and payment of all claims under Chapters 4121. and 4123. of the Revised Code for the employees of the contractor and subcontractors covered under the certificate who receive injuries or are killed in the course of and arising out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project. For purposes of Chapters 4121. and 4123. of the Revised Code, a claim that is administered and paid in accordance with this section is considered a claim against the self-insuring employer listed in the certificate. A contractor or subcontractor included under the certificate shall report to the self-insuring employer 2016
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listed in the certificate, all claims that arise under Chapters 2029
4121. and 4123. of the Revised Code in connection with the 2030
construction project for which the certificate is issued. 2031

(6) A self-insuring employer who complies with this 2032
section is entitled to the protections provided under Chapters 2033
4121. and 4123. of the Revised Code with respect to the 2034
employees of the contractors and subcontractors covered under a 2035
certificate issued under this division for death or injuries 2036
that arise out of, or death, injuries, or occupational diseases 2037
that arise in the course of, those employees' employment on that 2038
construction project, as if the employees were employees of the 2039
self-insuring employer, provided that the self-insuring employer 2040
also complies with this section. No employee of the contractors 2041
and subcontractors covered under a certificate issued under this 2042
division shall be considered the employee of the self-insuring 2043
employer listed in that certificate for any purposes other than 2044
Chapters 4121. and 4123. of the Revised Code. Nothing in this 2045
section gives a self-insuring employer authority to control the 2046
means, manner, or method of employment of the employees of the 2047
contractors and subcontractors covered under a certificate 2048
issued under this section. 2049

(7) The contractors and subcontractors included under a 2050
certificate issued under this section are entitled to the 2051
protections provided under Chapters 4121. and 4123. of the 2052
Revised Code with respect to the contractor's or subcontractor's 2053
employees who are employed on the construction project which is 2054
the subject of the certificate, for death or injuries that arise 2055
out of, or death, injuries, or occupational diseases that arise 2056
in the course of, those employees' employment on that 2057
construction project. 2058

(8) The contractors and subcontractors included under a 2059
certificate issued under this section shall identify in their 2060
payroll records the employees who are considered the employees 2061
of the self-insuring employer listed in that certificate for 2062
purposes of Chapters 4121. and 4123. of the Revised Code, and 2063
the amount that those employees earned for employment on the 2064
construction project that is the subject of that certificate. 2065
Notwithstanding any provision to the contrary under Chapters 2066
4121. and 4123. of the Revised Code, the superintendent shall 2067
exclude the payroll that is reported for employees who are 2068
considered the employees of the self-insuring employer listed in 2069
that certificate, and that the employees earned for employment 2070
on the construction project that is the subject of that 2071
certificate, when determining those contractors' or 2072
subcontractors' premiums or assessments required under Chapters 2073
4121. and 4123. of the Revised Code. A self-insuring employer 2074
issued a certificate under this section shall include in the 2075
amount of paid compensation it reports pursuant to section 2076
3971.10 of the Revised Code, the amount of paid compensation the 2077
self-insuring employer paid pursuant to this section for the 2078
previous calendar year. 2079

(9) Nothing in this section shall be construed as altering 2080
the rights of employees under Chapters 4121. and 4123. of the 2081
Revised Code as those rights existed prior to September 17, 2082
1996. Nothing in this division shall be construed as altering 2083
the rights devolved under sections 2305.31 and 4123.82 of the 2084
Revised Code as those rights existed prior to September 17, 2085
1996. 2086

(C) A self-insuring employer whose application is granted 2087
under this section shall do all of the following: 2088

(1) 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. 2089
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2092

(2) Employ for the construction project that is the subject of the application an ombudsperson who has experience in workers' compensation, the construction industry, or both; 2093
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(3) Post the name of the safety professional and the ombudsperson and instructions for contacting the safety professional and the ombudsperson in a conspicuous place at the site of the construction project. 2096
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(D) The ombudsperson appointed under division (C) (2) of this section shall do all of the following: 2100
2101

(1) Communicate with and provide information to employees who are injured in the course of, or whose injury arises out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project; 2102
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(2) Investigate the status of a claim upon the request of an employee to do so; 2107
2108

(3) Provide information to claimants, third party administrators, employers, and other persons to assist those persons in protecting their rights under Chapters 4121. and 4123. of the Revised Code. 2109
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2112

(E) The superintendent may consider all of the following when deciding whether to grant a self-insuring employer the privilege to self-insure a construction project under this section: 2113
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(1) Whether the self-insuring employer has an 2117
organizational plan for the administration of the workers' 2118
compensation law; 2119

(2) Whether the safety program that is specifically 2120
designed for the construction project provides for the safety of 2121
employees employed on the construction project, is applicable to 2122
all contractors and subcontractors who perform labor or work or 2123
provide materials for the construction project, and has as a 2124
component, a safety training program that complies with 2125
standards adopted pursuant to the "Occupational Safety and 2126
Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and 2127
provides for continuing management and employee involvement; 2128

(3) Whether granting the privilege to self-insure the 2129
construction project will reduce the costs of the construction 2130
project; 2131

(4) Whether the self-insuring employer has employed an 2132
ombudsperson as required under division (C) (2) of this section; 2133

(5) Whether the self-insuring employer maintains minimum 2134
reserves that are necessary in the exercise of prudent actuarial 2135
judgment and that are certified by a member of the American 2136
academy of actuaries as having been computed in accordance with 2137
accepted loss reserving standards and as being fairly stated in 2138
accordance with sound loss reserving principles, or determined 2139
to be sufficient through such other documentation acceptable to 2140
the superintendent. 2141

Sec. 3971.06. The superintendent of insurance shall 2142
require a surety bond from all self-insuring employers, issued 2143
pursuant to section 3971.09 of the Revised Code, that is 2144
sufficient to compel, or secure to injured employees, or to the 2145

dependents of employees killed, the payment of compensation and 2146
expenses, which shall not in any event be less than that paid or 2147
furnished out of the state insurance fund in similar cases to 2148
injured employees or to dependents of killed employees whose 2149
employers contribute to the fund, except when an employee of the 2150
employer, who has suffered the loss of a hand, arm, foot, leg, 2151
or eye prior to the injury for which compensation is to be paid, 2152
and thereafter suffers the loss of any other of the members as 2153
the result of any injury sustained in the course of and arising 2154
out of the employee's employment, the compensation to be paid by 2155
the self-insuring employer is limited to the disability suffered 2156
in the subsequent injury, and additional compensation, if any, 2157
to be paid by the bureau of workers' compensation out of the 2158
surplus fund account created by section 4123.34 of the Revised 2159
Code. 2160

In addition to the requirements of this section, the 2161
superintendent shall make and publish rules governing the manner 2162
of making application and the nature and extent of the proof 2163
required to justify a finding of fact by the superintendent as 2164
to granting the status of a self-insuring employer, which rules 2165
shall be general in their application, one of which rules shall 2166
provide that all self-insuring employers shall pay into the 2167
state insurance fund such amounts as are required to be credited 2168
to the surplus fund in division (B) of section 4123.34 of the 2169
Revised Code. The superintendent may adopt rules establishing 2170
requirements in addition to the requirements described in 2171
section 3971.04 or 3971.05 of the Revised Code that a public 2172
employer shall meet in order to qualify for self-insuring 2173
status. 2174

Sec. 3971.07. (A) An employer that wishes to be granted 2175
the status as a self-insuring employer shall do all of the 2176

following: 2177

(1) Secure directly from the offices of the superintendent of insurance an application form upon which the superintendent shall stamp a designating number; 2178
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(2) File with the superintendent the completed application forms with the application fee established by the superintendent pursuant to division (E) of section 3971.04 of the Revised Code, at least ninety days prior to the effective date of the employer's new status as a self-insuring employer. The application form is not complete until all the required information is attached to the form. 2181
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(B) The superintendent shall only accept an application filed under division (A) (2) of this section if the application contains the required information. Before submitting an application under division (A) (2) of this section, an employer seeking status as a self-insuring employer shall make available to the superintendent, and the superintendent shall review, the information described in section 3971.03 of the Revised Code, and a public employer seeking status as a self-insuring employer shall make available, and the superintendent shall review, the information necessary to verify whether the public employer meets the requirements listed in section 3971.04 or 3971.05 of the Revised Code, as applicable. 2188
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(C) The superintendent shall review completed applications within a reasonable time. 2200
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(D) (1) If the superintendent determines to grant an employer the status as a self-insuring employer, the superintendent shall issue to the employer and the administrator of workers' compensation a statement containing the 2202
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superintendent's findings of fact, that is prepared and signed 2206
by the superintendent. 2207

(2) If the superintendent determines not to grant the 2208
status as a self-insuring employer, the superintendent shall 2209
notify the employer and the administrator of the determination 2210
and the administrator shall require the employer to continue to 2211
pay its full premium into the state insurance fund in accordance 2212
with Chapter 4123. of the Revised Code. 2213

(E) The superintendent shall adopt rules establishing a 2214
minimum level of performance as a criterion for granting and 2215
maintaining the status as a self-insuring employer and fixing 2216
time limits beyond which failure of the self-insuring employer 2217
to provide for the necessary medical examinations and 2218
evaluations may not delay a decision on a claim. The 2219
superintendent, annually, shall certify to the administrator a 2220
list of employers who have met the minimum level of performance 2221
and maintained their status as self-insuring employers under 2222
this section. 2223

(F) For the purpose of making determinations as to whether 2224
to grant status as a self-insuring employer, the superintendent 2225
may subscribe to and pay for a credit reporting service that 2226
offers financial and other business information about individual 2227
employers. The costs in connection with the superintendent's 2228
subscription or individual reports from the service about an 2229
applicant shall be paid from the application fee charged 2230
employers under this section. 2231

(G) All employers granted status as self-insuring 2232
employers shall demonstrate sufficient financial and 2233
administrative ability to assure that all obligations under this 2234
section are promptly met. The superintendent shall deny the 2235

privilege where the employer is unable to demonstrate the 2236
employer's ability to promptly meet all the obligations imposed 2237
on the employer by this section. 2238

(H) All fees collected under division (A) of this section 2239
shall be paid into the state treasury to the credit of the 2240
department of insurance operating fund created under section 2241
3901.021 of the Revised Code. 2242

Sec. 3971.08. (A) The superintendent of insurance shall 2243
adopt rules setting forth procedures for auditing the program of 2244
self-insuring employers. The superintendent shall conduct audits 2245
on a random basis or whenever the superintendent has grounds to 2246
believe that a self-insuring employer is not in full compliance 2247
with the superintendent's rules, this chapter, or Chapter 4123. 2248
of the Revised Code. 2249

(B) The superintendent shall monitor the programs 2250
conducted by self-insuring employers to ensure compliance with 2251
the requirements of this chapter, Chapter 4121. and Chapter 2252
4123. of the Revised Code, and for that purpose, shall develop 2253
and issue to self-insuring employers standardized forms for use 2254
by the self-insuring employer in all aspects of the self- 2255
insuring employers' direct compensation program and for 2256
reporting of information to the superintendent. 2257

(C) The superintendent shall receive and transmit to the 2258
self-insuring employer all complaints concerning any self- 2259
insuring employer. In the case of a complaint against a self- 2260
insuring employer, the superintendent shall handle the complaint 2261
through the self-insurance division of the department of 2262
insurance. The superintendent shall maintain a file by employer 2263
of all complaints received that relate to the employer. The 2264
superintendent shall evaluate each complaint and take 2265

appropriate action. 2266

(D) The superintendent shall adopt as a rule a prohibition 2267
against any self-insuring employer harassing, dismissing, or 2268
otherwise disciplining any employee making a complaint, which 2269
rule shall provide for a financial penalty to be levied by the 2270
superintendent payable by the offending self-insuring employer. 2271

Sec. ~~4123.351~~ 3971.09. (A) ~~The administrator of workers'~~ 2272
~~compensation superintendent of insurance shall require every~~ 2273
self-insuring employer, including any self-insuring employer 2274
that is indemnified by a captive insurance company granted a 2275
certificate of authority under Chapter ~~3694.3964.~~ of the Revised 2276
Code, to pay a contribution, calculated under this section, to 2277
the self-insuring employers' guaranty fund established pursuant 2278
to this section. The fund shall provide for payment of 2279
compensation and benefits to employees of the self-insuring 2280
employer in order to cover any default in payment by that 2281
employer. 2282

(B) ~~The bureau of workers' compensation superintendent~~ 2283
shall operate the self-insuring employers' guaranty fund for 2284
self-insuring employers. ~~The administrator superintendent~~ 2285
annually shall establish the contributions due from self- 2286
insuring employers for the fund at rates as low as possible but 2287
such as will assure sufficient moneys to guarantee the payment 2288
of any claims against the fund. ~~The bureau's superintendent's~~ 2289
operation of the fund is not subject to sections 3929.10 to 2290
3929.18 of the Revised Code ~~or to regulation by the~~ 2291
~~superintendent of insurance.~~ 2292

(C) If a self-insuring employer defaults, ~~the bureau~~ 2293
superintendent shall recover the amounts paid as a result of the 2294
default from the self-insuring employers' guaranty fund. If a 2295

self-insuring employer defaults and is in compliance with this 2296
section for the payment of contributions to the fund, such self- 2297
insuring employer is entitled to the immunity conferred by 2298
section 4123.74 of the Revised Code for any claim arising during 2299
any period the employer is in compliance with this section. 2300

(D) (1) There is hereby established a self-insuring 2301
employers' guaranty fund, which shall be in the custody of the 2302
treasurer of state and which shall be separate from the other 2303
funds established and administered pursuant to ~~this~~ 2304
~~chapter~~ Chapter 4123. of the Revised Code. The fund shall consist 2305
of contributions and other payments made by self-insuring 2306
employers under this section. All investment earnings of the 2307
fund shall be credited to the fund. The ~~bureau~~ superintendent 2308
shall make disbursements from the fund pursuant to this section. 2309

(2) The ~~administrator~~ superintendent has the same powers 2310
to invest any of the surplus or reserve belonging to the fund as 2311
are delegated to the administrator of workers' compensation 2312
under section 4123.44 of the Revised Code with respect to the 2313
state insurance fund. The ~~administrator~~ superintendent shall 2314
apply interest earned solely to the reduction of assessments for 2315
contributions from self-insuring employers and to the payments 2316
required due to defaults. 2317

(3) If the ~~bureau of workers' compensation board of~~ 2318
~~directors~~ superintendent determines that reinsurance of the 2319
risks of the fund is necessary to assure solvency of the fund, 2320
the ~~board~~ superintendent may: 2321

(a) Enter into contracts for the purchase of reinsurance 2322
coverage of the risks of the fund with any company or agency 2323
authorized by law to issue contracts of reinsurance; 2324

(b) ~~Require the administrator to pay~~ Pay the cost of 2325
reinsurance from the fund; 2326

(c) Include the costs of reinsurance as a liability and 2327
estimated liability of the fund. 2328

(E) The ~~administrator, with the advice and consent of the~~ 2329
~~board, superintendent~~ may adopt rules pursuant to Chapter 119. 2330
of the Revised Code for the implementation of this section, 2331
including a rule, notwithstanding division (C) of this section, 2332
requiring self-insuring employers to provide security in 2333
addition to the contribution to the self-insuring employers' 2334
guaranty fund required by this section. The additional security 2335
required by the rule, as the ~~administrator~~ superintendent 2336
determines appropriate, shall be sufficient and adequate to 2337
provide for financial assurance to meet the obligations of self- 2338
insuring employers under this chapter and ~~Chapter~~ Chapters 4121. 2339
and 4123. of the Revised Code. 2340

(F) The purchase of coverage under this section by self- 2341
insuring employers is valid notwithstanding the prohibitions 2342
contained in division (A) of section 4123.82 of the Revised Code 2343
and is in addition to the indemnity contracts that self-insuring 2344
employers may purchase pursuant to division (B) of section 2345
4123.82 of the Revised Code. 2346

(G) The ~~administrators~~ superintendent, on behalf of the 2347
self-insuring employers' guaranty fund, has the rights of 2348
reimbursement and subrogation and shall collect from a 2349
defaulting self-insuring employer or other liable person all 2350
amounts the ~~administrator~~ superintendent has paid or reasonably 2351
expects to pay from the fund on account of the defaulting self- 2352
insuring employer. 2353

(H) The assessments for contributions, the administration 2354
of the self-insuring employers' guaranty fund, the investment of 2355
the money in the fund, and the payment of liabilities incurred 2356
by the fund do not create any liability upon the state. 2357

Except for a gross abuse of discretion, ~~neither the board,~~ 2358
~~nor the individual members thereof, nor the administrator~~ 2359
superintendent shall not incur any obligation or liability 2360
respecting the assessments for contributions, the administration 2361
of the self-insuring employers' guaranty fund, the investment of 2362
the fund, or the payment of liabilities therefrom. 2363

Sec. 3971.10. (A) As used in this section, "prime interest 2364
rate" means the average bank prime rate, and the superintendent 2365
shall determine the prime interest rate in the same manner as a 2366
county auditor determines the average bank prime rate under 2367
section 929.02 of the Revised Code. 2368

(B) On the first day of July of each year, the 2369
superintendent, in consultation with the administrator of 2370
workers' compensation, shall calculate separately each self- 2371
insuring employer's assessments for the safety and hygiene fund, 2372
administrative costs pursuant to section 4123.342 of the Revised 2373
Code, and for the portion of the surplus fund account under 2374
division (B) of section 4123.34 of the Revised Code that is not 2375
used for handicapped reimbursement, on the basis of the paid 2376
compensation attributable to the individual self-insuring 2377
employer according to the following calculation: 2378

(1) The total assessment against all self-insuring 2379
employers as a class for each fund and for the administrative 2380
costs for the year that the assessment is being made, as 2381
determined by the superintendent, divided by the total amount of 2382
paid compensation for the previous calendar year attributable to 2383

all amenable self-insuring employers; 2384

(2) Multiply the quotient in division (B)(1) of this 2385
section by the total amount of paid compensation for the 2386
previous calendar year that is attributable to the individual 2387
self-insuring employer for whom the assessment is being 2388
determined. 2389

(C) Each self-insuring employer shall pay to the 2390
administrator the assessment that results from the calculation 2391
described in division (B) of this section, unless the assessment 2392
resulting from this calculation falls below a minimum assessment 2393
that the administrator shall determine on the first day of July 2394
of each year, in which event, the self-insuring employer shall 2395
pay the minimum assessment. 2396

(D) In determining the total amount due for the total 2397
assessment against all self-insuring employers as a class for 2398
each fund and the administrative assessment, the superintendent 2399
shall reduce proportionately the total for each fund and 2400
assessment by the amount of money in the self-insurance 2401
assessment fund as of the date of the computation of the 2402
assessment. 2403

(E) The superintendent, in consultation with the 2404
administrator, shall calculate the assessment for the portion of 2405
the surplus fund account under division (B) of section 4123.34 2406
of the Revised Code that is used for handicapped reimbursement 2407
in the same manner as set forth in divisions (B)(1) and (2) of 2408
this section except that the superintendent shall calculate the 2409
total assessment for this portion of the surplus fund only on 2410
the basis of those self-insuring employers that retain 2411
participation in the handicapped reimbursement program, and the 2412
individual self-insuring employer's proportion of paid 2413

compensation shall be calculated only for those self-insuring 2414
employers who retain participation in the handicapped 2415
reimbursement program. The superintendent, as the superintendent 2416
determines appropriate, may determine the total assessment for 2417
the handicapped portion of the surplus fund in accordance with 2418
sound actuarial principles. 2419

(F) The superintendent, in consultation with the 2420
administrator, shall calculate the assessment for the portion of 2421
the surplus fund account under division (B) of section 4123.34 2422
of the Revised Code that under division (D) of section 4121.66 2423
of the Revised Code is used for rehabilitation costs in the same 2424
manner as set forth in divisions (B)(1) and (2) of this section, 2425
except that the superintendent shall calculate the total 2426
assessment for this portion of the surplus fund only on the 2427
basis of those self-insuring employers who have not made the 2428
election to make payments directly under division (D) of section 2429
4121.66 of the Revised Code and an individual self-insuring 2430
employer's proportion of paid compensation only for those self- 2431
insuring employers who have not made that election. 2432

(G) The superintendent, in consultation with the 2433
administrator, shall calculate the assessment for the portion of 2434
the surplus fund account under division (B) of section 4123.34 2435
of the Revised Code that is used for reimbursement to a self- 2436
insuring employer under division (H) of section 4123.512 of the 2437
Revised Code in the same manner as set forth in divisions (J)(1) 2438
and (2) of this section except that the superintendent shall 2439
calculate the total assessment for this portion of the surplus 2440
fund only on the basis of those self-insuring employers that 2441
retain participation in reimbursement to the self-insuring 2442
employer under division (H) of section 4123.512 of the Revised 2443
Code, and the individual self-insuring employer's proportion of 2444

paid compensation shall be calculated only for those self- 2445
insuring employers who retain participation in reimbursement to 2446
the self-insuring employer under division (H) of section 2447
4123.512 of the Revised Code. 2448

(H) An employer who no longer is a self-insuring employer 2449
in this state or who no longer is operating in this state shall 2450
continue to pay assessments for administrative costs and for the 2451
portion of the surplus fund under division (B) of section 2452
4123.34 of the Revised Code that is not used for handicapped 2453
reimbursement, based upon paid compensation attributable to 2454
claims that occurred while the employer was a self-insuring 2455
employer within this state. 2456

(I) There is hereby created in the state treasury the 2457
self-insurance assessment fund. All investment earnings of the 2458
fund shall be deposited in the fund. The superintendent shall 2459
use the money in the self-insurance assessment fund only for 2460
administrative costs as specified in section 4123.341 of the 2461
Revised Code. 2462

(J) Every self-insuring employer shall certify to the 2463
superintendent, in affidavit form subject to the penalty for 2464
perjury, the amount of the self-insuring employer's paid 2465
compensation for the previous calendar year. In reporting paid 2466
compensation paid for the previous year, a self-insuring 2467
employer shall exclude from the total amount of paid 2468
compensation any reimbursement the self-insuring employer 2469
receives in the previous calendar year from the surplus fund 2470
pursuant to section 4123.512 of the Revised Code for any paid 2471
compensation. The self-insuring employer also shall exclude from 2472
the paid compensation reported any amount recovered under 2473
section 4123.931 of the Revised Code and any amount that is 2474

determined not to have been payable to or on behalf of a 2475
claimant in any final administrative or judicial proceeding. The 2476
self-insuring employer shall exclude such amounts from the paid 2477
compensation reported in the reporting period subsequent to the 2478
date the determination is made. The superintendent shall adopt 2479
rules, in accordance with Chapter 119. of the Revised Code, that 2480
provide for all of the following: 2481

(1) Establishing the date by which self-insuring employers 2482
must submit such information and the amount of the assessments 2483
provided for in division (B) of this section for employers who 2484
have been granted self-insuring status within the last calendar 2485
year; 2486

(2) If an employer fails to pay the assessment when due, 2487
the administrator may add a late fee penalty of not more than 2488
five hundred dollars to the assessment plus an additional 2489
penalty amount as follows: 2490

(a) For an assessment from sixty-one to ninety days past 2491
due, the prime interest rate, multiplied by the assessment due; 2492

(b) For an assessment from ninety-one to one hundred 2493
twenty days past due, the prime interest rate plus two per cent, 2494
multiplied by the assessment due; 2495

(c) For an assessment from one hundred twenty-one to one 2496
hundred fifty days past due, the prime interest rate plus four 2497
per cent, multiplied by the assessment due; 2498

(d) For an assessment from one hundred fifty-one to one 2499
hundred eighty days past due, the prime interest rate plus six 2500
per cent, multiplied by the assessment due; 2501

(e) For an assessment from one hundred eighty-one to two 2502
hundred ten days past due, the prime interest rate plus eight 2503

per cent, multiplied by the assessment due; 2504

(f) For each additional thirty-day period or portion 2505
thereof that an assessment remains past due after it has 2506
remained past due for more than two hundred ten days, the prime 2507
interest rate plus eight per cent, multiplied by the assessment 2508
due. 2509

(3) An employer may appeal a late fee penalty and penalty 2510
assessment to the superintendent. 2511

The superintendent shall, in consultation with the 2512
administrator, include any assessment and penalties that remain 2513
unpaid for previous assessment periods in the calculation of any 2514
assessments due under this division or division (B) of this 2515
section. 2516

Sec. 3971.11. The superintendent, notwithstanding other 2517
provisions of this chapter, may permit a self-insuring employer 2518
to resume payment of premiums to the state insurance fund with 2519
appropriate credit modifications to the employer's basic premium 2520
rate as such rate is determined by the administrator of workers' 2521
compensation pursuant to section 4123.29 of the Revised Code. 2522

Sec. ~~4123.352~~ 3971.12. (A) There is hereby created the 2523
self-insuring employers evaluation board consisting of three 2524
members. The member of the industrial commission representing 2525
the public shall be a member of the self-insuring employers 2526
evaluation board and shall serve, ex officio, as ~~chairman~~ 2527
chairperson. The governor shall appoint the remaining two 2528
members with the advice and consent of the senate. One member 2529
shall be a member of the Ohio self-insurance association and one 2530
member shall be a representative of labor. Not more than two of 2531
the three members of the board may be of the same political 2532

party. 2533

Of the two members originally appointed by the governor 2534
pursuant to this section, one shall serve an initial term of two 2535
years and one an initial term of four years. Thereafter, terms 2536
of office of the two members are for four years, each term 2537
ending on the same date as the original date of appointment. Any 2538
member appointed to fill a vacancy occurring prior to the 2539
expiration of the term for which ~~his~~ the member's predecessor 2540
was appointed shall hold office for the remainder of such term. 2541
Any member shall continue in office subsequent to the expiration 2542
date of ~~his~~ the member's term until ~~his~~ the member's successor 2543
takes office, or until a period of sixty days has elapsed, 2544
whichever occurs first. A vacancy in an unexpired term shall be 2545
filled in the same manner as the original appointment. The 2546
governor may remove any member pursuant to section ~~3.05~~ 3.04 of 2547
the Revised Code. 2548

The board member who also is a member of the commission 2549
shall receive no additional compensation but shall be reimbursed 2550
for actual and necessary expenses in the performance of ~~his~~ the 2551
board member's duties. The two remaining members of the board 2552
shall receive per diem compensation fixed pursuant to division 2553
(J) of section 124.15 of the Revised Code and actual and 2554
necessary expenses incurred in the performance of their duties. 2555

For administrative purposes, the board is a part of 2556
~~the bureau of workers' compensation department of insurance,~~ and 2557
the ~~bureau~~ department shall furnish the board with necessary 2558
office space, staff, and supplies. The board shall meet as 2559
required by the ~~administrator of workers' compensation~~ 2560
superintendent of insurance. 2561

(B) In addition to the grounds listed in ~~section 4123.35~~ 2562

sections 3971.03 to 3971.11 of the Revised Code pertaining to 2563
criteria for being granted the status as a self-insuring 2564
employer, the grounds upon which the ~~administrator~~ 2565
superintendent may revoke or refuse to renew the status includes 2566
failure to comply with any rules or orders of the ~~administrator~~ 2567
superintendent or to pay contributions to the self-insuring 2568
employers' guaranty fund established by section ~~4123.351~~ 3971.09 2569
of the Revised Code, continued failure to file medical reports 2570
bearing upon the injury of the claimant, and failure to pay 2571
compensation or benefits in accordance with law in a timely 2572
manner. A deficiency in any of the grounds listed in this 2573
division is sufficient to justify the ~~administrator's~~ 2574
superintendent's revocation or refusal to renew the employer's 2575
status as a self-insuring employer. The ~~administrator~~ 2576
superintendent need not revoke or refuse to renew an employer's 2577
status as a self-insuring employer if adequate corrective action 2578
is taken by the employer pursuant to division (C) of this 2579
section. 2580

(C) The ~~administrator~~ superintendent shall refer to the 2581
board all complaints or allegations of misconduct against a 2582
self-insuring employer or questions as to whether a self- 2583
insuring employer continues to meet minimum standards. The board 2584
shall investigate and may order the employer to take corrective 2585
action in accordance with the schedule the board fixes. The 2586
board's determination in this regard need not be made by formal 2587
hearing but shall be issued in written form and contain the 2588
signature of at least two board members. If the board 2589
determines, after a hearing conducted pursuant to Chapter 119. 2590
of the Revised Code and the rules of the ~~bureau~~ superintendent, 2591
that the employer has failed to correct the deficiencies within 2592
the time fixed by the board or is otherwise in violation of this 2593

chapter, the board shall recommend to the ~~administrator~~ 2594
superintendent revocation of an employer's status as a self- 2595
insuring employer or such other penalty which may include, but 2596
is not limited to, probation, or a civil penalty not to exceed 2597
ten thousand dollars for each failure. A board recommendation to 2598
revoke an employer's status as a self-insuring employer shall be 2599
by unanimous vote. A recommendation for any other penalty shall 2600
be by majority vote. Where the board makes recommendations to 2601
the ~~administrator~~superintendent for disciplining a self- 2602
insuring employer, the ~~administrator~~superintendent promptly and 2603
fully shall implement the recommendations. 2604

Sec. 3971.15. Should any section of this chapter or 2605
Chapter 4121. or 4123. of the Revised Code providing for self- 2606
insuring employers' assessments based upon compensation paid be 2607
declared unconstitutional by a final decision of any court, then 2608
that section of the Revised Code declared unconstitutional shall 2609
revert back to the section in existence prior to November 3, 2610
1989, providing for assessments based upon payroll. 2611

Sec. 4121.121. (A) There is hereby created the bureau of 2612
workers' compensation, which shall be administered by the 2613
administrator of workers' compensation. A person appointed to 2614
the position of administrator shall possess significant 2615
management experience in effectively managing an organization or 2616
organizations of substantial size and complexity. A person 2617
appointed to the position of administrator also shall possess a 2618
minimum of five years of experience in the field of workers' 2619
compensation insurance or in another insurance industry, except 2620
as otherwise provided when the conditions specified in division 2621
(C) of this section are satisfied. The governor shall appoint 2622
the administrator as provided in section 121.03 of the Revised 2623
Code, and the administrator shall serve at the pleasure of the 2624

governor. The governor shall fix the administrator's salary on 2625
the basis of the administrator's experience and the 2626
administrator's responsibilities and duties under this chapter 2627
and Chapters 4123., 4125., 4127., 4131., and 4167. of the 2628
Revised Code. The governor shall not appoint to the position of 2629
administrator any person who has, or whose spouse has, given a 2630
contribution to the campaign committee of the governor in an 2631
amount greater than one thousand dollars during the two-year 2632
period immediately preceding the date of the appointment of the 2633
administrator. 2634

The administrator shall hold no other public office and 2635
shall devote full time to the duties of administrator. Before 2636
entering upon the duties of the office, the administrator shall 2637
take an oath of office as required by sections 3.22 and 3.23 of 2638
the Revised Code, and shall file in the office of the secretary 2639
of state, a bond signed by the administrator and by surety 2640
approved by the governor, for the sum of fifty thousand dollars 2641
payable to the state, conditioned upon the faithful performance 2642
of the administrator's duties. 2643

(B) The administrator is responsible for the management of 2644
the bureau and for the discharge of all administrative duties 2645
imposed upon the administrator in this chapter and Chapters 2646
4123., 4125., 4127., 4131., and 4167. of the Revised Code, and 2647
in the discharge thereof shall do all of the following: 2648

(1) Perform all acts and exercise all authorities and 2649
powers, discretionary and otherwise that are required of or 2650
vested in the bureau or any of its employees in this chapter and 2651
Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised 2652
Code, except the acts and the exercise of authority and power 2653
that is required of and vested in the bureau of workers' 2654

compensation board of directors or the industrial commission 2655
pursuant to those chapters. The treasurer of state shall honor 2656
all warrants signed by the administrator, or by one or more of 2657
the administrator's employees, authorized by the administrator 2658
in writing, or bearing the facsimile signature of the 2659
administrator or such employee under sections 4123.42 and 2660
4123.44 of the Revised Code. 2661

(2) Employ, direct, and supervise all employees required 2662
in connection with the performance of the duties assigned to the 2663
bureau by this chapter and Chapters 4123., 4125., 4127., 4131., 2664
and 4167. of the Revised Code, including an actuary, and may 2665
establish job classification plans and compensation for all 2666
employees of the bureau provided that this grant of authority 2667
shall not be construed as affecting any employee for whom the 2668
state employment relations board has established an appropriate 2669
bargaining unit under section 4117.06 of the Revised Code. All 2670
positions of employment in the bureau are in the classified 2671
civil service except those employees the administrator may 2672
appoint to serve at the administrator's pleasure in the 2673
unclassified civil service pursuant to section 124.11 of the 2674
Revised Code. The administrator shall fix the salaries of 2675
employees the administrator appoints to serve at the 2676
administrator's pleasure, including the chief operating officer, 2677
staff physicians, and other senior management personnel of the 2678
bureau and shall establish the compensation of staff attorneys 2679
of the bureau's legal section and their immediate supervisors, 2680
and take whatever steps are necessary to provide adequate 2681
compensation for other staff attorneys. 2682

The administrator may appoint a person who holds a 2683
certified position in the classified service within the bureau 2684
to a position in the unclassified service within the bureau. A 2685

person appointed pursuant to this division to a position in the 2686
unclassified service shall retain the right to resume the 2687
position and status held by the person in the classified service 2688
immediately prior to the person's appointment in the 2689
unclassified service, regardless of the number of positions the 2690
person held in the unclassified service. An employee's right to 2691
resume a position in the classified service may only be 2692
exercised when the administrator demotes the employee to a pay 2693
range lower than the employee's current pay range or revokes the 2694
employee's appointment to the unclassified service. An employee 2695
forfeits the right to resume a position in the classified 2696
service when the employee is removed from the position in the 2697
unclassified service due to incompetence, inefficiency, 2698
dishonesty, drunkenness, immoral conduct, insubordination, 2699
discourteous treatment of the public, neglect of duty, violation 2700
of this chapter or Chapter 124., 4123., 4125., 4127., 4131., or 2701
4167. of the Revised Code, violation of the rules of the 2702
director of administrative services or the administrator, any 2703
other failure of good behavior, any other acts of misfeasance, 2704
malfeasance, or nonfeasance in office, or conviction of a 2705
felony. An employee also forfeits the right to resume a position 2706
in the classified service upon transfer to a different agency. 2707

Reinstatement to a position in the classified service 2708
shall be to a position substantially equal to that position in 2709
the classified service held previously, as certified by the 2710
department of administrative services. If the position the 2711
person previously held in the classified service has been placed 2712
in the unclassified service or is otherwise unavailable, the 2713
person shall be appointed to a position in the classified 2714
service within the bureau that the director of administrative 2715
services certifies is comparable in compensation to the position 2716

the person previously held in the classified service. Service in 2717
the position in the unclassified service shall be counted as 2718
service in the position in the classified service held by the 2719
person immediately prior to the person's appointment in the 2720
unclassified service. When a person is reinstated to a position 2721
in the classified service as provided in this division, the 2722
person is entitled to all rights, status, and benefits accruing 2723
to the position during the person's time of service in the 2724
position in the unclassified service. 2725

(3) Reorganize the work of the bureau, its sections, 2726
departments, and offices to the extent necessary to achieve the 2727
most efficient performance of its functions and to that end may 2728
establish, change, or abolish positions and assign and reassign 2729
duties and responsibilities of every employee of the bureau. All 2730
persons employed by the commission in positions that, after 2731
November 3, 1989, are supervised and directed by the 2732
administrator under this section are transferred to the bureau 2733
in their respective classifications but subject to reassignment 2734
and reclassification of position and compensation as the 2735
administrator determines to be in the interest of efficient 2736
administration. The civil service status of any person employed 2737
by the commission is not affected by this section. Personnel 2738
employed by the bureau or the commission who are subject to 2739
Chapter 4117. of the Revised Code shall retain all of their 2740
rights and benefits conferred pursuant to that chapter as it 2741
presently exists or is hereafter amended and nothing in this 2742
chapter or Chapter 4123. of the Revised Code shall be construed 2743
as eliminating or interfering with Chapter 4117. of the Revised 2744
Code or the rights and benefits conferred under that chapter to 2745
public employees or to any bargaining unit. 2746

(4) Provide offices, equipment, supplies, and other 2747

facilities for the bureau. 2748

(5) Prepare and submit to the board information the 2749
administrator considers pertinent or the board requires, 2750
together with the administrator's recommendations, in the form 2751
of administrative rules, for the advice and consent of the 2752
board, for classifications of occupations or industries, for 2753
premium rates and contributions, for the amount to be credited 2754
to the surplus fund, for rules and systems of rating, rate 2755
revisions, and merit rating. The administrator shall obtain, 2756
prepare, and submit any other information the board requires for 2757
the prompt and efficient discharge of its duties. 2758

(6) Keep the accounts required by division (A) of section 2759
4123.34 of the Revised Code and all other accounts and records 2760
necessary to the collection, administration, and distribution of 2761
the workers' compensation funds and shall obtain the statistical 2762
and other information required by section 4123.19 of the Revised 2763
Code. 2764

(7) Exercise the investment powers vested in the 2765
administrator by section 4123.44 of the Revised Code in 2766
accordance with the investment policy approved by the board 2767
pursuant to section 4121.12 of the Revised Code and in 2768
consultation with the chief investment officer of the bureau of 2769
workers' compensation. The administrator shall not engage in any 2770
prohibited investment activity specified by the board pursuant 2771
to division (F) (9) of section 4121.12 of the Revised Code and 2772
shall not invest in any type of investment specified in 2773
divisions (B) (1) to (10) of section 4123.442 of the Revised 2774
Code. All business shall be transacted, all funds invested, all 2775
warrants for money drawn and payments made, and all cash and 2776
securities and other property held, in the name of the bureau, 2777

or in the name of its nominee, provided that nominees are 2778
authorized by the administrator solely for the purpose of 2779
facilitating the transfer of securities, and restricted to the 2780
administrator and designated employees. 2781

(8) Make contracts for and supervise the construction of 2782
any project or improvement or the construction or repair of 2783
buildings under the control of the bureau. 2784

(9) Purchase supplies, materials, equipment, and services; 2785
make contracts for, operate, and superintend the telephone, 2786
other telecommunication, and computer services for the use of 2787
the bureau; and make contracts in connection with office 2788
reproduction, forms management, printing, and other services. 2789
Notwithstanding sections 125.12 to 125.14 of the Revised Code, 2790
the administrator may transfer surplus computers and computer 2791
equipment directly to an accredited public school within the 2792
state. The computers and computer equipment may be repaired or 2793
refurbished prior to the transfer. 2794

(10) Prepare and submit to the board an annual budget for 2795
internal operating purposes for the board's approval. The 2796
administrator also shall, separately from the budget the 2797
industrial commission submits, prepare and submit to the 2798
director of budget and management a budget for each biennium. 2799
The budgets submitted to the board and the director shall 2800
include estimates of the costs and necessary expenditures of the 2801
bureau in the discharge of any duty imposed by law. 2802

(11) As promptly as possible in the course of efficient 2803
administration, decentralize and relocate such of the personnel 2804
and activities of the bureau as is appropriate to the end that 2805
the receipt, investigation, determination, and payment of claims 2806
may be undertaken at or near the place of injury or the 2807

residence of the claimant and for that purpose establish 2808
regional offices, in such places as the administrator considers 2809
proper, capable of discharging as many of the functions of the 2810
bureau as is practicable so as to promote prompt and efficient 2811
administration in the processing of claims. All active and 2812
inactive lost-time claims files shall be held at the service 2813
office responsible for the claim. A claimant, at the claimant's 2814
request, shall be provided with information by telephone as to 2815
the location of the file pertaining to the claimant's claim. The 2816
administrator shall ensure that all service office employees 2817
report directly to the director for their service office. 2818

(12) Provide a written binder on new coverage where the 2819
administrator considers it to be in the best interest of the 2820
risk. The administrator, or any other person authorized by the 2821
administrator, shall grant the binder upon submission of a 2822
request for coverage by the employer. A binder is effective for 2823
a period of thirty days from date of issuance and is 2824
nonrenewable. Payroll reports and premium charges shall coincide 2825
with the effective date of the binder. 2826

(13) Set standards for the reasonable and maximum handling 2827
time of claims payment functions, ensure, by rules, the 2828
impartial and prompt treatment of all claims and employer risk 2829
accounts, and establish a secure, accurate method of time 2830
stamping all incoming mail and documents hand delivered to 2831
bureau employees. 2832

(14) Ensure that all employees of the bureau follow the 2833
orders and rules of the commission as such orders and rules 2834
relate to the commission's overall adjudicatory policy-making 2835
and management duties under this chapter and Chapters 4123., 2836
4127., and 4131. of the Revised Code. 2837

(15) Manage and operate a data processing system with a 2838
common data base for the use of both the bureau and the 2839
commission and, in consultation with the commission, using 2840
electronic data processing equipment, shall develop a claims 2841
tracking system that is sufficient to monitor the status of a 2842
claim at any time and that lists appeals that have been filed 2843
and orders or determinations that have been issued pursuant to 2844
section 4123.511 or 4123.512 of the Revised Code, including the 2845
dates of such filings and issuances. 2846

(16) Establish and maintain a medical section within the 2847
bureau. The medical section shall do all of the following: 2848

(a) Assist the administrator in establishing standard 2849
medical fees, approving medical procedures, and determining 2850
eligibility and reasonableness of the compensation payments for 2851
medical, hospital, and nursing services, and in establishing 2852
guidelines for payment policies which recognize usual, 2853
customary, and reasonable methods of payment for covered 2854
services; 2855

(b) Provide a resource to respond to questions from claims 2856
examiners for employees of the bureau; 2857

(c) Audit fee bill payments; 2858

(d) Implement a program to utilize, to the maximum extent 2859
possible, electronic data processing equipment for storage of 2860
information to facilitate authorizations of compensation 2861
payments for medical, hospital, drug, and nursing services; 2862

(e) Perform other duties assigned to it by the 2863
administrator. 2864

(17) Appoint, as the administrator determines necessary, 2865
panels to review and advise the administrator on disputes 2866

arising over a determination that a health care service or 2867
supply provided to a claimant is not covered under this chapter 2868
or Chapter 4123., 4127., or 4131. of the Revised Code or is 2869
medically unnecessary. If an individual health care provider is 2870
involved in the dispute, the panel shall consist of individuals 2871
licensed pursuant to the same section of the Revised Code as 2872
such health care provider. 2873

(18) Pursuant to section 4123.65 of the Revised Code, 2874
approve applications for the final settlement of claims for 2875
compensation or benefits under this chapter and Chapters 4123., 2876
4127., and 4131. of the Revised Code as the administrator 2877
determines appropriate, except in regard to the applications of 2878
privately insured and self-insuring employers and their 2879
employees. 2880

(19) Comply with section 3517.13 of the Revised Code, and 2881
except in regard to contracts entered into pursuant to the 2882
authority contained in section 4121.44 of the Revised Code, 2883
comply with the competitive bidding procedures set forth in the 2884
Revised Code for all contracts into which the administrator 2885
enters provided that those contracts fall within the type of 2886
contracts and dollar amounts specified in the Revised Code for 2887
competitive bidding and further provided that those contracts 2888
are not otherwise specifically exempt from the competitive 2889
bidding procedures contained in the Revised Code. 2890

(20) Adopt, with the advice and consent of the board, 2891
rules for the operation of the bureau. 2892

(21) Prepare and submit to the board information the 2893
administrator considers pertinent or the board requires, 2894
together with the administrator's recommendations, in the form 2895
of administrative rules, for the advice and consent of the 2896

board, for the health partnership program and the qualified 2897
health plan system, as provided in sections 4121.44, 4121.441, 2898
and 4121.442 of the Revised Code. 2899

(C) The administrator, with the advice and consent of the 2900
senate, shall appoint a chief operating officer who has a 2901
minimum of five years of experience in the field of workers' 2902
compensation insurance or in another similar insurance industry 2903
if the administrator does not possess such experience. The chief 2904
operating officer shall not commence the chief operating 2905
officer's duties until after the senate consents to the chief 2906
operating officer's appointment. The chief operating officer 2907
shall serve in the unclassified civil service of the state. 2908

Sec. 4121.31. (A) The administrator of workers' 2909
compensation and the industrial commission jointly shall adopt 2910
rules covering the following general topics with respect to this 2911
chapter and Chapter 4123. of the Revised Code: 2912

(1) Rules that set forth any general policy and the 2913
principal operating procedures of the bureau of workers' 2914
compensation or commission, including but not limited to: 2915

(a) Assignment to various operational units of any duties 2916
placed upon the administrator or the commission by statute; 2917

(b) Procedures for decision-making; 2918

(c) Procedures governing the appearances of a claimant, 2919
employer, or their representatives before the agency in a 2920
hearing; 2921

(d) Procedures that inform claimants, on request, of the 2922
status of a claim and any actions necessary to maintain the 2923
claim; 2924

(e) Time goals for activities of the bureau or commission;	2925
(f) Designation of the person or persons authorized to issue directives with directives numbered and distributed from a central distribution point to persons on a list maintained for that purpose.	2926 2927 2928 2929
(2) A rule barring any employee of the bureau or commission from having a workers' compensation claims file in the employee's possession unless the file is necessary to the performance of the employee's duties.	2930 2931 2932 2933
(3) All claims, whether of a state fund, <u>privately insured</u> , or self-insuring employer, be processed in an orderly, uniform, and timely fashion.	2934 2935 2936
(4) Rules governing the submission and sending of applications, notices, evidence, and other documents by electronic means. The rules shall provide that where this chapter or Chapter 4123., 4127., or 4131. of the Revised Code requires that a document be in writing or requires a signature, the administrator and the commission, to the extent of their respective jurisdictions, may approve of and provide for the electronic submission and sending of those documents, and the use of an electronic signature on those documents.	2937 2938 2939 2940 2941 2942 2943 2944 2945
(B) As used in this section:	2946
(1) "Electronic" includes electrical, digital, magnetic, optical, electromagnetic, facsimile, or any other form of technology that entails capabilities similar to these technologies.	2947 2948 2949 2950
(2) "Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information	2951 2952 2953

system to another. 2954

(3) "Electronic signature" means a signature in electronic 2955
form attached to or logically associated with an electronic 2956
record. 2957

Sec. 4121.44. (A) The administrator of workers' 2958
compensation shall oversee the implementation of the Ohio 2959
workers' compensation qualified health plan system as 2960
established under section 4121.442 of the Revised Code. 2961

(B) The administrator shall direct the implementation of 2962
the health partnership program administered by the bureau as set 2963
forth in section 4121.441 of the Revised Code. To implement the 2964
health partnership program and to ensure the efficiency and 2965
effectiveness of the public services provided through the 2966
program, the bureau: 2967

(1) Shall certify one or more external vendors, which 2968
shall be known as "managed care organizations," to provide 2969
medical management and cost containment services in the health 2970
partnership program for a period of two years beginning on the 2971
date of certification, consistent with the standards established 2972
under this section; 2973

(2) May recertify managed care organizations for 2974
additional periods of two years; and 2975

(3) May integrate the certified managed care organizations 2976
with bureau staff and existing bureau services for purposes of 2977
operation and training to allow the bureau to assume operation 2978
of the health partnership program at the conclusion of the 2979
certification periods set forth in division (B) (1) or (2) of 2980
this section; 2981

(4) May enter into a contract with any managed care 2982

organization that is certified by the bureau, pursuant to 2983
division (B)(1) or (2) of this section, to provide medical 2984
management and cost containment services in the health 2985
partnership program. 2986

(C) A contract entered into pursuant to division (B)(4) of 2987
this section shall include both of the following: 2988

(1) Incentives that may be awarded by the administrator, 2989
at the administrator's discretion, based on compliance and 2990
performance of the managed care organization; 2991

(2) Penalties that may be imposed by the administrator, at 2992
the administrator's discretion, based on the failure of the 2993
managed care organization to reasonably comply with or perform 2994
terms of the contract, which may include termination of the 2995
contract. 2996

(D) Notwithstanding section 119.061 of the Revised Code, a 2997
contract entered into pursuant to division (B)(4) of this 2998
section may include provisions limiting, restricting, or 2999
regulating any marketing or advertising by the managed care 3000
organization, or by any individual or entity that is affiliated 3001
with or acting on behalf of the managed care organization, under 3002
the health partnership program. 3003

(E) No managed care organization shall receive 3004
compensation under the health partnership program unless the 3005
managed care organization has entered into a contract with the 3006
bureau pursuant to division (B)(4) of this section. 3007

(F) Any managed care organization selected shall 3008
demonstrate all of the following: 3009

(1) Arrangements and reimbursement agreements with a 3010
substantial number of the medical, professional and pharmacy 3011

providers currently being utilized by claimants.	3012
(2) Ability to accept a common format of medical bill data in an electronic fashion from any provider who wishes to submit medical bill data in that form.	3013 3014 3015
(3) A computer system able to handle the volume of medical bills and willingness to customize that system to the bureau's needs and to be operated by the managed care organization's staff, bureau staff, or some combination of both staffs.	3016 3017 3018 3019
(4) A prescription drug system where pharmacies on a statewide basis have access to the eligibility and pricing, at a discounted rate, of all prescription drugs.	3020 3021 3022
(5) A tracking system to record all telephone calls from claimants and providers regarding the status of submitted medical bills so as to be able to track each inquiry.	3023 3024 3025
(6) Data processing capacity to absorb all of the bureau's medical bill processing or at least that part of the processing which the bureau arranges to delegate.	3026 3027 3028
(7) Capacity to store, retrieve, array, simulate, and model in a relational mode all of the detailed medical bill data so that analysis can be performed in a variety of ways and so that the bureau and its governing authority can make informed decisions.	3029 3030 3031 3032 3033
(8) Wide variety of software programs which translate medical terminology into standard codes, and which reveal if a provider is manipulating the procedures codes, commonly called "unbundling."	3034 3035 3036 3037
(9) Necessary professional staff to conduct, at a minimum, authorizations for treatment, medical necessity, utilization	3038 3039

review, concurrent review, post-utilization review, and have the attendant computer system which supports such activity and measures the outcomes and the savings.

(10) Management experience and flexibility to be able to react quickly to the needs of the bureau in the case of required change in federal or state requirements.

(G) (1) The administrator may decertify a managed care organization if the managed care organization does any of the following:

(a) Fails to maintain any of the requirements set forth in division (F) of this section;

(b) Fails to reasonably comply with or to perform in accordance with the terms of a contract entered into under division (B) (4) of this section;

(c) Violates a rule adopted under section 4121.441 of the Revised Code.

(2) The administrator shall provide each managed care organization that is being decertified pursuant to division (G) (1) of this section with written notice of the pending decertification and an opportunity for a hearing pursuant to rules adopted by the administrator.

(H) (1) Information contained in a managed care organization's application for certification in the health partnership program, and other information furnished to the bureau by a managed care organization for purposes of obtaining certification or to comply with performance and financial auditing requirements established by the administrator, is for the exclusive use and information of the bureau in the discharge of its official duties, and shall not be open to the public or

be used in any court in any proceeding pending therein, unless 3069
the bureau is a party to the action or proceeding, but the 3070
information may be tabulated and published by the bureau in 3071
statistical form for the use and information of other state 3072
departments and the public. No employee of the bureau, except as 3073
otherwise authorized by the administrator, shall divulge any 3074
information secured by the employee while in the employ of the 3075
bureau in respect to a managed care organization's application 3076
for certification or in respect to the business or other trade 3077
processes of any managed care organization to any person other 3078
than the administrator or to the employee's superior. 3079

(2) Notwithstanding the restrictions imposed by division 3080
(H) (1) of this section, the governor, members of select or 3081
standing committees of the senate or house of representatives, 3082
the auditor of state, the attorney general, or their designees, 3083
pursuant to the authority granted in this chapter and Chapter 3084
4123. of the Revised Code, may examine any managed care 3085
organization application or other information furnished to the 3086
bureau by the managed care organization. None of those 3087
individuals shall divulge any information secured in the 3088
exercise of that authority in respect to a managed care 3089
organization's application for certification or in respect to 3090
the business or other trade processes of any managed care 3091
organization to any person. 3092

(I) On and after January 1, 2001, a managed care 3093
organization shall not be an insurance company holding a 3094
certificate of authority issued pursuant to Title XXXIX of the 3095
Revised Code or a health insuring corporation holding a 3096
certificate of authority under Chapter 1751. of the Revised 3097
Code. 3098

(J) The administrator may limit freedom of choice of health care provider or supplier by requiring, beginning with the period set forth in division (B)(1) or (2) of this section, that claimants shall pay an appropriate out-of-plan copayment for selecting a medical provider not within the health partnership program as provided for in this section.

(K) The administrator, six months prior to the expiration of the bureau's certification or recertification of the managed care organizations as set forth in division (B)(1) or (2) of this section, may certify and provide evidence to the governor, the speaker of the house of representatives, and the president of the senate that the existing bureau staff is able to match or exceed the performance and outcomes of the managed care organizations and that the bureau should be permitted to internally administer the health partnership program upon the expiration of the certification or recertification as set forth in division (B)(1) or (2) of this section.

(L) The administrator shall establish and operate a bureau of workers' compensation health care data program. The administrator shall develop reporting requirements from all employees, employers, medical providers, managed care organizations, and plans that participate in the workers' compensation system. The administrator shall do all of the following:

(1) Utilize the collected data to measure and perform comparison analyses of costs, quality, appropriateness of medical care, and effectiveness of medical care delivered by all components of the workers' compensation system.

(2) Compile data to support activities of the selected managed care organizations and to measure the outcomes and

savings of the health partnership program. 3129

(3) Publish and report compiled data on the measures of 3130
outcomes and savings of the health partnership program and 3131
submit the report to the president of the senate, the speaker of 3132
the house of representatives, and the governor with the annual 3133
report prepared under division (F) (3) of section 4121.12 of the 3134
Revised Code. The administrator shall protect the 3135
confidentiality of all proprietary pricing data. 3136

(M) Any rehabilitation facility the bureau operates is 3137
eligible for inclusion in the Ohio workers' compensation 3138
qualified health plan system or the health partnership program 3139
under the same terms as other providers within health care plans 3140
or the program. 3141

(N) In areas outside the state or within the state where 3142
no qualified health plan or an inadequate number of providers 3143
within the health partnership program exist, the administrator 3144
shall permit employees to use a nonplan or nonprogram health 3145
care provider and shall pay the provider for the services or 3146
supplies provided to or on behalf of an employee for an injury 3147
or occupational disease that is compensable under this chapter 3148
or Chapter 4123., 4127., or 4131. of the Revised Code on a fee 3149
schedule the administrator adopts. 3150

(O) No health care provider, whether certified or not, 3151
shall charge, assess, or otherwise attempt to collect from an 3152
employee, employer, a managed care organization, or the bureau 3153
any amount for covered services or supplies that is in excess of 3154
the allowed amount paid by a managed care organization, the 3155
bureau, or a qualified health plan. 3156

(P) The administrator shall permit any employer or group 3157

of employers who agree to abide by the rules adopted under this 3158
section and sections 4121.441 and 4121.442 of the Revised Code 3159
to provide services or supplies to or on behalf of an employee 3160
for an injury or occupational disease that is compensable under 3161
this chapter or Chapter 4123., 4127., or 4131. of the Revised 3162
Code through qualified health plans of the Ohio workers' 3163
compensation qualified health plan system pursuant to section 3164
4121.442 of the Revised Code or through the health partnership 3165
program pursuant to section 4121.441 of the Revised Code. No 3166
amount paid under the qualified health plan system pursuant to 3167
section 4121.442 of the Revised Code by an employer who is a 3168
state fund employer shall be charged to the employer's 3169
experience or otherwise be used in merit-rating or determining 3170
the risk of that employer for the purpose of the payment of 3171
premiums under this chapter, and if the employer is a self- 3172
insuring employer, the employer shall not include that amount in 3173
the paid compensation the employer reports under section ~~4123.35-~~ 3174
3971.10 of the Revised Code. 3175

Sec. 4121.50. Not later than July 1, 2012, the 3176
administrator of workers' compensation shall adopt rules in 3177
accordance with Chapter 119. of the Revised Code to implement a 3178
coordinated services program for claimants under this chapter or 3179
Chapter 4123., 4127., or 4131. of the Revised Code who are found 3180
to have obtained prescription drugs that were reimbursed 3181
pursuant to an order of the administrator or of the industrial 3182
commission or by a privately insured or self-insuring employer 3183
but were obtained at a frequency or in an amount that is not 3184
medically necessary. The program shall be implemented in a 3185
manner that is substantially similar to the coordinated services 3186
programs established for the medicaid program under sections 3187
5164.758 and 5167.13 of the Revised Code. 3188

Sec. 4121.61. (A) As used in sections 4121.61 to 4121.70 3189
of the Revised Code, "self-insuring employer" has the same 3190
meaning as in section 4123.01 of the Revised Code. 3191

(B) The administrator of workers' compensation, with the 3192
advice and consent of the bureau of workers' compensation board 3193
of directors, shall adopt rules, take measures, and make 3194
expenditures as it deems necessary to aid claimants who have 3195
sustained compensable injuries or incurred compensable 3196
occupational diseases pursuant to Chapter 4123., 4127., or 4131. 3197
of the Revised Code to return to work or to assist in lessening 3198
or removing any resulting handicap. 3199

Sec. 4121.65. ~~Employers who provide compensation and~~ 3200
~~benefits pursuant to section 4123.35 of the Revised Code~~ Self- 3201
insuring employers also may be granted authority to furnish 3202
rehabilitation services directly as long as the quality and 3203
content of the same is equal to or greater than that provided by 3204
the bureau of workers' compensation, and prior approval therefor 3205
has been given by the bureau. 3206

Sec. 4121.66. (A) The administrator of workers' 3207
compensation shall pay the expense of providing rehabilitation 3208
services, counseling, training, and living maintenance payments 3209
from the surplus fund account established by section 4123.34 of 3210
the Revised Code. 3211

(B) Living maintenance payments are not subject to 3212
garnishment, levy, or attachment. 3213

(C) Sections 4123.343, 4123.63, and 4123.64 of the Revised 3214
Code do not apply to living maintenance payments. 3215

(D) A self-insuring employer ~~under section 4123.35 of the~~ 3216
~~Revised Code~~ may elect to pay directly to a claimant or to the 3217

provider of the rehabilitation services, counseling, or training 3218
the expenses listed in division (A) of this section by filing an 3219
application with the bureau of workers' compensation not more 3220
than one hundred eighty days and not less than ninety days prior 3221
to the first day of the employer's next six-month coverage 3222
period. If the self-insuring employer timely files the 3223
application, the application is effective on the first day of 3224
the employer's next six-month coverage period, provided that the 3225
superintendent of insurance, in consultation with the 3226
administrator, shall compute the employer's assessment for the 3227
surplus fund account due with respect to the period during which 3228
such application was filed without regard to the filing of the 3229
application. Following the timely filing, the self-insuring 3230
employer shall pay directly to a claimant or to the provider of 3231
the rehabilitation services, counseling, or training the 3232
expenses listed in division (A) of this section for all periods 3233
of rehabilitation occurring on or after the effective date of 3234
~~his~~ the self-insuring employer's election, regardless of the 3235
date of the injury or occupational disease, and ~~he~~ the self- 3236
insuring employer shall receive no money or credits from the 3237
surplus fund on account of such payments and shall not be 3238
required to pay any amounts into the surplus fund on account of 3239
this section, provided that for a period not to exceed one 3240
hundred eighty days after the effective date of the application, 3241
the self-insuring employer may submit to the bureau requests for 3242
reimbursement from the surplus fund on account of payments made 3243
for services rendered or living maintenance periods prior to the 3244
effective date of the application pursuant to division (A) of 3245
this section. The election made under this division is 3246
irrevocable. 3247

Sec. 4123.01. As used in this chapter: 3248

(A) (1) "Employee" means:	3249
(a) Every person in the service of the state, or of any county, municipal corporation, township, or school district therein, including regular members of lawfully constituted police and fire departments of municipal corporations and townships, whether paid or volunteer, and wherever serving within the state or on temporary assignment outside thereof, and executive officers of boards of education, under any appointment or contract of hire, express or implied, oral or written, including any elected official of the state, or of any county, municipal corporation, or township, or members of boards of education.	3250 3251 3252 3253 3254 3255 3256 3257 3258 3259 3260
As used in division (A) (1) (a) of this section, the term "employee" includes the following persons when responding to an inherently dangerous situation that calls for an immediate response on the part of the person, regardless of whether the person is within the limits of the jurisdiction of the person's regular employment or voluntary service when responding, on the condition that the person responds to the situation as the person otherwise would if the person were on duty in the person's jurisdiction:	3261 3262 3263 3264 3265 3266 3267 3268 3269
(i) Off-duty peace officers. As used in division (A) (1) (a) (i) of this section, "peace officer" has the same meaning as in section 2935.01 of the Revised Code.	3270 3271 3272
(ii) Off-duty firefighters, whether paid or volunteer, of a lawfully constituted fire department.	3273 3274
(iii) Off-duty first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, or emergency medical technicians-paramedic, whether paid or	3275 3276 3277

volunteer, of an ambulance service organization or emergency 3278
medical service organization pursuant to Chapter 4765. of the 3279
Revised Code. 3280

(b) Every person in the service of any person, firm, or 3281
private corporation, including any public service corporation, 3282
that (i) employs one or more persons regularly in the same 3283
business or in or about the same establishment under any 3284
contract of hire, express or implied, oral or written, including 3285
aliens and minors, household workers who earn one hundred sixty 3286
dollars or more in cash in any calendar quarter from a single 3287
household and casual workers who earn one hundred sixty dollars 3288
or more in cash in any calendar quarter from a single employer, 3289
or (ii) is bound by any such contract of hire or by any other 3290
written contract, to pay into the state insurance fund the 3291
premiums provided by this chapter. 3292

(c) Every person who performs labor or provides services 3293
pursuant to a construction contract, as defined in section 3294
4123.79 of the Revised Code, if at least ten of the following 3295
criteria apply: 3296

(i) The person is required to comply with instructions 3297
from the other contracting party regarding the manner or method 3298
of performing services; 3299

(ii) The person is required by the other contracting party 3300
to have particular training; 3301

(iii) The person's services are integrated into the 3302
regular functioning of the other contracting party; 3303

(iv) The person is required to perform the work 3304
personally; 3305

(v) The person is hired, supervised, or paid by the other 3306

contracting party;	3307
(vi) A continuing relationship exists between the person	3308
and the other contracting party that contemplates continuing or	3309
recurring work even if the work is not full time;	3310
(vii) The person's hours of work are established by the	3311
other contracting party;	3312
(viii) The person is required to devote full time to the	3313
business of the other contracting party;	3314
(ix) The person is required to perform the work on the	3315
premises of the other contracting party;	3316
(x) The person is required to follow the order of work set	3317
by the other contracting party;	3318
(xi) The person is required to make oral or written	3319
reports of progress to the other contracting party;	3320
(xii) The person is paid for services on a regular basis	3321
such as hourly, weekly, or monthly;	3322
(xiii) The person's expenses are paid for by the other	3323
contracting party;	3324
(xiv) The person's tools and materials are furnished by	3325
the other contracting party;	3326
(xv) The person is provided with the facilities used to	3327
perform services;	3328
(xvi) The person does not realize a profit or suffer a	3329
loss as a result of the services provided;	3330
(xvii) The person is not performing services for a number	3331
of employers at the same time;	3332

(xviii) The person does not make the same services available to the general public;	3333 3334
(xix) The other contracting party has a right to discharge the person;	3335 3336
(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.	3337 3338 3339
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.	3340 3341 3342 3343 3344 3345 3346 3347 3348 3349 3350 3351 3352
(2) "Employee" does not mean:	3353
(a) A duly ordained, commissioned, or licensed minister or assistant or associate minister of a church in the exercise of ministry;	3354 3355 3356
(b) Any officer of a family farm corporation;	3357
(c) An individual incorporated as a corporation; or	3358
(d) An individual who otherwise is an employee of an employer but who signs the waiver and affidavit specified in	3359 3360

section 4123.15 of the Revised Code on the condition that the 3361
administrator has granted a waiver and exception to the 3362
individual's employer under section 4123.15 of the Revised Code. 3363

Any employer may elect to include as an "employee" within 3364
this chapter, any person excluded from the definition of 3365
"employee" pursuant to division (A)(2) of this section. If an 3366
employer is a partnership, sole proprietorship, individual 3367
incorporated as a corporation, or family farm corporation, such 3368
employer may elect to include as an "employee" within this 3369
chapter, any member of such partnership, the owner of the sole 3370
proprietorship, the individual incorporated as a corporation, or 3371
the officers of the family farm corporation. In the event of an 3372
election, the employer shall serve upon the bureau of workers' 3373
compensation written notice naming the persons to be covered, 3374
include such employee's remuneration for premium purposes in all 3375
future payroll reports, and no person excluded from the 3376
definition of "employee" pursuant to division (A)(2) of this 3377
section, proprietor, individual incorporated as a corporation, 3378
or partner shall be deemed an employee within this division 3379
until the employer has served such notice. 3380

For informational purposes only, the bureau shall 3381
prescribe such language as it considers appropriate, on such of 3382
its forms as it considers appropriate, to advise employers of 3383
their right to elect to include as an "employee" within this 3384
chapter a sole proprietor, any member of a partnership, an 3385
individual incorporated as a corporation, the officers of a 3386
family farm corporation, or a person excluded from the 3387
definition of "employee" under division (A)(2) of this section, 3388
that they should check any health and disability insurance 3389
policy, or other form of health and disability plan or contract, 3390
presently covering them, or the purchase of which they may be 3391

considering, to determine whether such policy, plan, or contract 3392
excludes benefits for illness or injury that they might have 3393
elected to have covered by workers' compensation. 3394

(B) "Employer" means: 3395

(1) The state, including state hospitals, each county, 3396
municipal corporation, township, school district, and hospital 3397
owned by a political subdivision or subdivisions other than the 3398
state; 3399

(2) Every person, firm, professional employer 3400
organization, and private corporation, including any public 3401
service corporation, that (a) has in service one or more 3402
employees or shared employees regularly in the same business or 3403
in or about the same establishment under any contract of hire, 3404
express or implied, oral or written, or (b) is bound by any such 3405
contract of hire or by any other written contract, to pay into 3406
the insurance fund the premiums provided by this chapter. 3407

All such employers are subject to this chapter. Any member 3408
of a firm or association, who regularly performs manual labor in 3409
or about a mine, factory, or other establishment, including a 3410
household establishment, shall be considered an employee in 3411
determining whether such person, firm, or private corporation, 3412
or public service corporation, has in its service, one or more 3413
employees and the employer shall report the income derived from 3414
such labor to the bureau as part of the payroll of such 3415
employer, and such member shall thereupon be entitled to all the 3416
benefits of an employee. 3417

(C) "Injury" includes any injury, whether caused by 3418
external accidental means or accidental in character and result, 3419
received in the course of, and arising out of, the injured 3420

employee's employment. "Injury" does not include:	3421
(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;	3422 3423 3424 3425 3426 3427
(2) Injury or disability caused primarily by the natural deterioration of tissue, an organ, or part of the body;	3428 3429
(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;	3430 3431 3432 3433 3434
(4) A condition that pre-existed an injury unless that pre-existing condition is substantially aggravated by the injury. Such a substantial aggravation must be documented by objective diagnostic findings, objective clinical findings, or objective test results. Subjective complaints may be evidence of such a substantial aggravation. However, subjective complaints without objective diagnostic findings, objective clinical findings, or objective test results are insufficient to substantiate a substantial aggravation.	3435 3436 3437 3438 3439 3440 3441 3442 3443
(D) "Child" includes a posthumous child and a child legally adopted prior to the injury.	3444 3445
(E) "Family farm corporation" means a corporation founded for the purpose of farming agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons or the spouse of persons related to	3446 3447 3448 3449

each other within the fourth degree of kinship, according to the 3450
rules of the civil law, and at least one of the related persons 3451
is residing on or actively operating the farm, and none of whose 3452
stockholders are a corporation. A family farm corporation does 3453
not cease to qualify under this division where, by reason of any 3454
devise, bequest, or the operation of the laws of descent or 3455
distribution, the ownership of shares of voting stock is 3456
transferred to another person, as long as that person is within 3457
the degree of kinship stipulated in this division. 3458

(F) "Occupational disease" means a disease contracted in 3459
the course of employment, which by its causes and the 3460
characteristics of its manifestation or the condition of the 3461
employment results in a hazard which distinguishes the 3462
employment in character from employment generally, and the 3463
employment creates a risk of contracting the disease in greater 3464
degree and in a different manner from the public in general. 3465

(G) "Self-insuring employer" means an employer who is 3466
granted the privilege of paying compensation and benefits 3467
directly under ~~section 4123.35~~ Chapter 3971. of the Revised 3468
Code, including a board of county commissioners for the sole 3469
purpose of constructing a sports facility as defined in section 3470
307.696 of the Revised Code, provided that the electors of the 3471
county in which the sports facility is to be built have approved 3472
construction of a sports facility by ballot election no later 3473
than November 6, 1997. 3474

(H) "Private employer" means an employer as defined in 3475
division (B) (2) of this section. 3476

(I) "Professional employer organization" has the same 3477
meaning as in section 4125.01 of the Revised Code. 3478

(J) "Public employer" means an employer as defined in	3479
division (B) (1) of this section.	3480
(K) "Sexual conduct" means vaginal intercourse between a	3481
male and female; anal intercourse, fellatio, and cunnilingus	3482
between persons regardless of gender; and, without privilege to	3483
do so, the insertion, however slight, of any part of the body or	3484
any instrument, apparatus, or other object into the vaginal or	3485
anal cavity of another. Penetration, however slight, is	3486
sufficient to complete vaginal or anal intercourse.	3487
(L) "Other-states' insurer" means an insurance company	3488
that is authorized to provide workers' compensation insurance	3489
coverage in any of the states that permit employers to obtain	3490
insurance for workers' compensation claims through insurance	3491
companies.	3492
(M) "Other-states' coverage" means both of the following:	3493
(1) Insurance coverage secured by an eligible employer for	3494
workers' compensation claims of employees who are in employment	3495
relationships localized in a state other than this state or	3496
those employees' dependents;	3497
(2) Insurance coverage secured by an eligible employer for	3498
workers' compensation claims that arise in a state other than	3499
this state where an employer elects to obtain coverage through	3500
either the administrator or an other-states' insurer.	3501
(N) "Limited other-states coverage" means insurance	3502
coverage provided by the administrator to an eligible employer	3503
for workers' compensation claims of employees who are in an	3504
employment relationship localized in this state but are	3505
temporarily working in a state other than this state, or those	3506
employees' dependents.	3507

(O) "Privately insured employer" means an employer who has 3508
obtained coverage for claims arising under this chapter or 3509
Chapter 4121. of the Revised Code through a workers' 3510
compensation insurer. 3511

(P) "Workers' compensation insurer" means an insurance 3512
company holding a certificate of authority issued pursuant to 3513
Title XXXIX of the Revised Code or any health insuring 3514
corporation holding a certificate of authority under Chapter 3515
1751. of the Revised Code authorized to sell coverage for claims 3516
arising under this chapter. "Workers' compensation insurer" does 3517
not mean the administrator of workers' compensation, the bureau 3518
of workers' compensation board of directors, or the bureau of 3519
workers' compensation. 3520

Sec. 4123.026. (A) The administrator of workers' 3521
compensation, a workers' compensation insurer, or a self- 3522
insuring public employer for the peace officers, firefighters, 3523
and emergency medical workers employed by or volunteering for 3524
that self-insuring public employer, shall pay the costs of 3525
conducting post-exposure medical diagnostic services, consistent 3526
with the standards of medical care existing at the time of the 3527
exposure, to investigate whether an injury or occupational 3528
disease was sustained by a peace officer, firefighter, or 3529
emergency medical worker when coming into contact with the blood 3530
or other body fluid of another person in the course of and 3531
arising out of the peace officer's, firefighter's, or emergency 3532
medical worker's employment, or when responding to an inherently 3533
dangerous situation in the manner described in, and in 3534
accordance with the conditions specified under, division (A)(1) 3535
(a) of section 4123.01 of the Revised Code, through any of the 3536
following means: 3537

(1) Splash or spatter in the eye or mouth, including when 3538
received in the course of conducting mouth-to-mouth 3539
resuscitation; 3540

(2) A puncture in the skin; 3541

(3) A cut in the skin or another opening in the skin such 3542
as an open sore, wound, lesion, abrasion, or ulcer. 3543

(B) As used in this section: 3544

(1) "Peace officer" has the same meaning as in section 3545
2935.01 of the Revised Code. 3546

(2) "Firefighter" means a firefighter, whether paid or 3547
volunteer, of a lawfully constituted fire department. 3548

(3) "Emergency medical worker" means a first responder, 3549
emergency medical technician-basic, emergency medical 3550
technician-intermediate, or emergency medical technician- 3551
paramedic, certified under Chapter 4765. of the Revised Code, 3552
whether paid or volunteer. 3553

Sec. 4123.25. (A) No employer shall knowingly misrepresent 3554
to the ~~bureau administrator~~ of workers' compensation or the 3555
employer's workers' compensation insurer the amount or 3556
classification of payroll upon which the premium under this 3557
chapter is based. ~~Whoever~~ A state fund employer who violates 3558
this division shall be liable to the state in an amount 3559
determined by the administrator ~~of workers' compensation~~ for not 3560
more than ten times the amount of the difference between the 3561
premium paid and the amount the employer should have paid. The 3562
liability to the state under this division may be enforced in a 3563
civil action in the name of the state, and all sums collected 3564
under this division shall be paid into the state insurance fund. 3565
A workers' compensation insurer may address the consequences of 3566

such a misrepresentation in the insurer's policy, but any 3567
financial penalty assessed by the workers' compensation insurer 3568
cannot exceed ten times the amount of the difference between the 3569
premium paid and the amount the employer should have paid. 3570

(B) No self-insuring employer shall knowingly misrepresent 3571
the amount of paid compensation paid by such employer for 3572
purposes of the assessments provided under this chapter and 3573
Chapter 4121. of the Revised Code as required by section ~~4123.35-~~ 3574
3971.10 of the Revised Code. Whoever violates this division is 3575
liable to the state in an amount determined by the self-insuring 3576
employers evaluation board pursuant to division (C) of section 3577
~~4123.352-~~3971.12 of the Revised Code or for an amount the board 3578
determines that is not more than ten times the amount of the 3579
difference between the assessment paid and the amount of the 3580
assessment that should have been paid. The liability to the 3581
state under this division may be enforced in a civil action in 3582
the name of the state and all sums collected under this division 3583
shall be paid into the self-insurance assessment fund created 3584
pursuant to ~~division (K) of section 4123.35-~~3971.10 of the 3585
Revised Code. 3586

(C) ~~The administrator of workers' compensation,~~ with the 3587
advice and consent of the bureau of workers' compensation board 3588
of directors, shall adopt rules establishing criteria for 3589
determining both of the following: 3590

(1) The amount of the penalty assessed against ~~an a state~~
fund employer for a violation of division (A) of this section; 3591
3592

(2) Acts or omissions that do not constitute a violation 3593
of division (A) or (B) of this section. 3594

Sec. 4123.292. (A) Notwithstanding ~~sections 4123.35 and~~ 3595

section 4123.82 of the Revised Code, an employer may elect to 3596
obtain other-states' coverage through an other-states' insurer 3597
or, if the administrator of workers' compensation elects to 3598
offer such coverage, through the administrator pursuant to 3599
division (B) of this section. An employer who elects to obtain 3600
other-states' coverage shall submit a written notice to the 3601
administrator stating that election on a form prescribed by the 3602
administrator and, if the employer elects to obtain that 3603
coverage through an other-states' insurer, the name of the 3604
other-states' insurer through whom the employer has obtained 3605
that coverage. If an employer fails to pay the employer's 3606
premium for other-states' coverage, the administrator shall 3607
consider the employer to be noncompliant for the purposes of 3608
having other-states' coverage and the employer's premiums in 3609
this state for any and all noncompliant periods of time shall be 3610
calculated in the same manner as otherwise required under 3611
division (A) of section 4123.29 and section 4123.34 of the 3612
Revised Code, using both the wages reported in this state and 3613
the wages that the employer claimed would be reported to the 3614
other-states' insurer for securing coverage. 3615

(B) The administrator may offer other-states' coverage to 3616
allow an employer who wishes to obtain other-states' coverage 3617
pursuant to this section and who elects to secure that coverage 3618
through the administrator for workers' compensation claims. If 3619
the administrator elects to secure a vehicle through which the 3620
administrator will provide other-states' coverage, the 3621
administrator shall follow the competitive bidding requirements 3622
specified in Chapter 125. of the Revised Code to select one or 3623
more other-states' insurers, and the administrator, with the 3624
advice and consent of the bureau of workers' compensation board 3625
of directors, shall award a contract to provide other-states' 3626

coverage for employers located in this state to one or more 3627
other-states' insurers that are the lowest and best bidders. 3628

(C) Notwithstanding ~~sections 4123.35 and section~~ section 4123.82 3629
of the Revised Code, the administrator may offer limited other- 3630
states' coverage to allow an employer who wishes to obtain 3631
limited other-states' coverage pursuant to this section. An 3632
employer who elects to obtain limited other-states' coverage 3633
shall submit a written notice to the administrator stating that 3634
election on a form prescribed by the administrator. 3635

If the administrator elects to secure a vehicle through 3636
which the administrator will provide limited other-states' 3637
coverage, the administrator shall follow the competitive bidding 3638
requirements specified in Chapter 125. of the Revised Code to 3639
select one or more other-states' insurers and, with the advice 3640
and consent of the board, award a contract to provide limited 3641
other-states' coverage to the lowest and best bidders. 3642

(D) If the administrator elects to offer other states' 3643
coverage or limited other-states' coverage, the administrator, 3644
with the advice and consent of the board, shall adopt rules to 3645
implement divisions (B) and (C) of this section. 3646

(E) The board and the individual members thereof, the 3647
administrator, and the bureau of workers' compensation shall not 3648
incur any obligation or liability if another state determines 3649
that the other-states' coverage or limited other-states' 3650
coverage provided under this section does not satisfy the 3651
requirements specified in that state's workers' compensation law 3652
for obtaining workers' compensation coverage in that state. 3653

Sec. 4123.34. It shall be the duty of the bureau of 3654
workers' compensation board of directors and the administrator 3655

of workers' compensation to safeguard and maintain the solvency 3656
of the state insurance fund and all other funds specified in 3657
this chapter and Chapters 4121., 4127., and 4131. of the Revised 3658
Code. The administrator, in the exercise of the powers and 3659
discretion conferred upon the administrator in section 4123.29 3660
of the Revised Code, shall fix and maintain, with the advice and 3661
consent of the board, for each class of occupation or industry, 3662
the lowest possible rates of premium consistent with the 3663
maintenance of a solvent state insurance fund and the creation 3664
and maintenance of a reasonable surplus, after the payment of 3665
legitimate claims for injury, occupational disease, and death 3666
that the administrator authorizes to be paid from the state 3667
insurance fund for the benefit of injured, diseased, and the 3668
dependents of killed employees. In establishing rates, the 3669
administrator shall take into account the necessity of ensuring 3670
sufficient money is set aside in the premium payment security 3671
fund to cover any defaults in premium obligations. The 3672
administrator shall observe all of the following requirements in 3673
fixing the rates of premium for the risks of occupations or 3674
industries: 3675

(A) The administrator shall keep an accurate account of 3676
the money paid in premiums by each of the several classes of 3677
occupations or industries, and the losses on account of 3678
injuries, occupational disease, and death of employees thereof, 3679
and also keep an account of the money received from each 3680
individual employer and the amount of losses incurred against 3681
the state insurance fund on account of injuries, occupational 3682
disease, and death of the employees of the employer. 3683

(B) A portion of the money paid into the state insurance 3684
fund shall be set aside for the creation of a surplus fund 3685
account within the state insurance fund. Any references in this 3686

chapter or in Chapter ~~3971.~~, 4121., 4125., 4127., or 4131. of 3687
the Revised Code to the surplus fund, the surplus created in 3688
this division, the statutory surplus fund, or the statutory 3689
surplus of the state insurance fund are hereby deemed to be 3690
references to the surplus fund account. The administrator may 3691
transfer the portion of the state insurance fund to the surplus 3692
fund account as the administrator determines is necessary to 3693
satisfy the needs of the surplus fund account and to guarantee 3694
the solvency of the state insurance fund and the surplus fund 3695
account. In addition to all statutory authority under this 3696
chapter and Chapter 4121. of the Revised Code, the administrator 3697
has discretionary and contingency authority to make charges to 3698
the surplus fund account. The administrator shall account for 3699
all charges, whether statutory, discretionary, or contingency, 3700
that the administrator may make to the surplus fund account. A 3701
revision of basic rates shall be made annually on the first day 3702
of July. 3703

~~Notwithstanding any provision of the law to the contrary,~~ 3704
~~one hundred eighty days after the effective date on which self-~~ 3705
~~insuring employers first may elect under division (D) of section~~ 3706
~~4121.66 of the Revised Code to directly pay for rehabilitation~~ 3707
~~expenses, the administrator shall calculate the deficit, if any,~~ 3708
~~in the portion of the surplus fund account that is used for~~ 3709
~~reimbursement to self-insuring employers for all expenses other-~~ 3710
~~than handicapped reimbursement under section 4123.343 of the~~ 3711
~~Revised Code. The administrator, from time to time, may~~ 3712
~~determine whether the surplus fund account has such a deficit~~ 3713
~~and may assess all self-insuring employers who participated in~~ 3714
~~the portion of the surplus fund account during the accrual of~~ 3715
~~the deficit and who during that time period have not made the~~ 3716
~~election under division (D) of section 4121.66 of the Revised~~ 3717

~~Code the amount the administrator determines necessary to reduce~~ 3718
~~the deficit.~~ 3719

For policy years commencing prior to July 1, 2016, 3720
revisions of basic rates for private employers shall be in 3721
accordance with the oldest four of the last five calendar years 3722
of the combined accident and occupational disease experience of 3723
the administrator in the administration of this chapter, as 3724
shown by the accounts kept as provided in this section. For a 3725
policy year commencing on or after July 1, 2016, revisions of 3726
basic rates for private employers shall be in accordance with 3727
the oldest four of the last five policy years combined accident 3728
and occupational disease experience of the administrator in the 3729
administration of this chapter, as shown by the accounts kept as 3730
provided in this section. 3731

Revisions of basic rates for public employers shall be in 3732
accordance with the oldest four of the last five policy years of 3733
the combined accident and occupational disease experience of the 3734
administrator in the administration of this chapter, as shown by 3735
the accounts kept as provided in this section. 3736

In revising basic rates, the administrator shall exclude 3737
the experience of employers that are no longer active if the 3738
administrator determines that the inclusion of those employers 3739
would have a significant negative impact on the remainder of the 3740
employers in a particular manual classification. The 3741
administrator shall adopt rules, with the advice and consent of 3742
the board, governing rate revisions, the object of which shall 3743
be to make an equitable distribution of losses among the several 3744
classes of occupation or industry, which rules shall be general 3745
in their application. 3746

(C) The administrator may apply that form of rating system 3747

that the administrator finds is best calculated to merit rate or 3748
individually rate the risk more equitably, predicated upon the 3749
basis of its individual industrial accident and occupational 3750
disease experience, and may encourage and stimulate accident 3751
prevention. The administrator shall develop fixed and equitable 3752
rules controlling the rating system, which rules shall conserve 3753
to each risk the basic principles of workers' compensation 3754
insurance. 3755

(D) The administrator, from the money paid into the state 3756
insurance fund, shall set aside into an account of the state 3757
insurance fund titled a premium payment security fund sufficient 3758
money to pay for any premiums due from an employer and 3759
uncollected. 3760

The use of the moneys held by the premium payment security 3761
fund account is restricted to reimbursement to the state 3762
insurance fund of premiums due and uncollected. 3763

(E) The administrator may grant discounts on premium rates 3764
for employers who meet either of the following requirements: 3765

(1) Have not incurred a compensable injury for one year or 3766
more and who maintain an employee safety committee or similar 3767
organization or make periodic safety inspections of the 3768
workplace. 3769

(2) Successfully complete a loss prevention program 3770
prescribed by the superintendent of the division of safety and 3771
hygiene and conducted by the division or by any other person 3772
approved by the superintendent. 3773

(F) (1) In determining the premium rates for the 3774
construction industry the administrator shall calculate the 3775
employers' premiums based upon the actual remuneration 3776

construction industry employees receive from construction 3777
industry employers, provided that the amount of remuneration the 3778
administrator uses in calculating the premiums shall not exceed 3779
an average weekly wage equal to one hundred fifty per cent of 3780
the statewide average weekly wage as defined in division (C) of 3781
section 4123.62 of the Revised Code. 3782

(2) Division (F)(1) of this section shall not be construed 3783
as affecting the manner in which benefits to a claimant are 3784
awarded under this chapter. 3785

(3) As used in division (F) of this section, "construction 3786
industry" includes any activity performed in connection with the 3787
erection, alteration, repair, replacement, renovation, 3788
installation, or demolition of any building, structure, highway, 3789
or bridge. 3790

(G) The administrator shall not place a limit on the 3791
length of time that an employer may participate in the bureau of 3792
workers' compensation drug free workplace and workplace safety 3793
programs. 3794

Sec. 4123.342. (A) The administrator of workers' 3795
compensation shall allocate among counties and taxing districts 3796
therein as a class, the state and its instrumentalities as a 3797
class, private employers who are insured under the ~~private-state~~ 3798
insurance fund as a class, privately insured employers as a 3799
class, and self-insuring employers as a class their fair shares 3800
of the administrative costs which are to be borne by such 3801
employers under division (D) of section 4123.341 of the Revised 3802
Code, separately allocating to each class those costs solely 3803
attributable to the activities of the industrial commission and 3804
those costs solely attributable to the activities of the bureau 3805
of workers' compensation board of directors, and the bureau of 3806

workers' compensation in respect of the class, allocating to any 3807
combination of classes those costs attributable to the 3808
activities of the industrial commission, board, or bureau in 3809
respect of the classes, and allocating to all ~~four~~ five classes 3810
those costs attributable to the activities of the industrial 3811
commission, board, and bureau in respect of all classes. The 3812
administrator shall separately calculate each employer's 3813
assessment in the class, except privately insured and self- 3814
insuring employers, on the basis of the following three factors: 3815
payroll, paid compensation, and paid medical costs of the 3816
employer for those costs solely attributable to the activities 3817
of the board and the bureau. The administrator shall separately 3818
calculate each employer's assessment in the class, except 3819
privately insured and self-insuring employers, on the basis of 3820
the following three factors: payroll, paid compensation, and 3821
paid medical costs of the employer for those costs solely 3822
attributable to the activities of the industrial commission. The 3823
administrator shall separately calculate each ~~self-insuring-~~ 3824
privately insured employer's assessment in accordance with 3825
section ~~4123.35-4123.351~~ of the Revised Code for those costs 3826
solely attributable to the activities of the board and the 3827
bureau. The administrator shall separately calculate each ~~self-~~ 3828
~~insuring~~ privately insured employer's assessment in accordance 3829
with section ~~4123.35-4123.351~~ of the Revised Code for those 3830
costs solely attributable to the activities of the industrial 3831
commission. In a timely manner, the industrial commission shall 3832
provide to the administrator, the information necessary for the 3833
administrator to allocate and calculate, with the approval of 3834
the chairperson of the industrial commission, for each class of 3835
employer as described in this division, the costs solely 3836
attributable to the activities of the industrial commission. The 3837
administrator shall provide the superintendent of insurance with 3838

the costs attributable to self-insuring employers as a group. 3839
For amounts calculated by the superintendent under section 3840
3971.10 of the Revised Code, the administrator shall determine 3841
the costs solely attributable to activities of the industrial 3842
commission, solely attributable to activities of the bureau, and 3843
solely attributable to activities of the self-insurance division 3844
in the the department of insurance. 3845

(B) The administrator shall divide the administrative cost 3846
assessments collected by the administrator under this section 3847
and section 3971.10 of the Revised Code into ~~two~~ three 3848
administrative assessment accounts within the state insurance 3849
fund. One of the administrative assessment accounts shall 3850
consist of the administrative cost assessment collected by the 3851
administrator for the industrial commission. One of the 3852
administrative assessment accounts shall consist of the 3853
administrative cost assessments collected by the administrator 3854
for the bureau and the board. One of the administrative 3855
assessment accounts shall consist of the administrative cost 3856
assessment collected by the administrator for the self-insurance 3857
division in the department of insurance. The administrator may 3858
invest the administrative cost assessments in these accounts on 3859
behalf of the bureau ~~and the~~, the industrial commission, and 3860
the department of insurance as authorized in section 4123.44 of 3861
the Revised Code. In a timely manner, the administrator shall 3862
provide to the industrial commission and the superintendent of 3863
insurance the information and reports the commission deems 3864
necessary for the commission and superintendent to monitor the 3865
receipts and the disbursements from the administrative 3866
assessment account for the industrial commission and the 3867
superintendent, respectively. 3868

(C) The administrator or the administrator's designee 3869

shall transfer moneys as necessary from the administrative 3870
assessment account identified for the bureau ~~and, the board,~~ 3871
and the department of insurance to the workers' compensation 3872
fund for the use of the bureau ~~and, the board,~~ and the 3873
department. As necessary and upon the authorization of the 3874
industrial commission, the administrator or the administrator's 3875
designee shall transfer moneys from the administrative 3876
assessment account identified for the industrial commission to 3877
the industrial commission operating fund created under section 3878
4121.021 of the Revised Code. As necessary and upon the 3879
authorization of the department of insurance, the administrator 3880
or the administrator's designee shall transfer moneys from the 3881
administrative assessment account identified for the department 3882
of insurance to the department of insurance operating fund 3883
created under section 3901.021 of the Revised Code. To the 3884
extent that the moneys collected by the administrator in any 3885
fiscal biennium of the state equal the sum appropriated by the 3886
general assembly for administrative costs of the industrial 3887
commission, board, ~~and bureau,~~ and department for the biennium, 3888
the moneys shall be paid into the workers' compensation fund ~~and~~ 3889
~~the,~~ industrial commission operating fund, and department of 3890
insurance operating fund of the state, as appropriate, and any 3891
remainder shall be retained in those funds and applied to reduce 3892
the amount collected during the next biennium. 3893

Sections 3971.10, 4123.351, 4123.41, ~~4123.35,~~ and 4123.37 3894
of the Revised Code apply to the collection of assessments from 3895
public and private employers respectively, except that for 3896
boards of county hospital trustees that are self-insuring 3897
employers, only those provisions applicable to the collection of 3898
assessments for private employers apply. 3899

Sec. 4123.35. (A) Unless otherwise exempted under this 3900

chapter, an employer shall obtain coverage for claims arising 3901
under this chapter. An employer shall cover such claims in one 3902
of the following ways: 3903

(1) By paying premiums or contributions to the state 3904
insurance fund in accordance with this chapter; 3905

(2) By being a self-insuring employer that pays 3906
compensation and benefits directly under Chapter 3971. of the 3907
Revised Code; 3908

(3) By obtaining coverage through a private insurer under 3909
section 4123.351 of the Revised Code. 3910

(B) (1) Except as otherwise provided in this section, until 3911
the policy year commencing July 1, 2015, every private employer 3912
and publicly owned utility that is not a self-insuring employer 3913
and does not have private coverage under section 4123.351 of the 3914
Revised Code shall pay semiannually in the months of January and 3915
July into the state insurance fund the amount of annual premium 3916
the administrator of workers' compensation fixes for the 3917
employment or occupation of the employer, the amount of which 3918
premium to be paid by each employer to be determined by the 3919
classifications, rules, and rates made and published by the 3920
administrator. The employer shall pay semiannually a further sum 3921
of money into the state insurance fund as may be ascertained to 3922
be due from the employer by applying the rules of the 3923
administrator. 3924

(2) Except as otherwise provided in this section, for a 3925
policy year commencing on or after July 1, 2015, every private 3926
employer and publicly owned utility that is not a self-insuring 3927
employer and does not have private coverage under section 3928
4123.351 of the Revised Code shall pay annually in the month of 3929

June immediately preceding the policy year into the state 3930
insurance fund the amount of estimated annual premium the 3931
administrator fixes for the employment or occupation of the 3932
employer, the amount of which estimated premium to be paid by 3933
each employer to be determined by the classifications, rules, 3934
and rates made and published by the administrator. The employer 3935
shall pay a further sum of money into the state insurance fund 3936
as may be ascertained to be due from the employer by applying 3937
the rules of the administrator. Upon receipt of the payroll 3938
report required by division (B) of section 4123.26 of the 3939
Revised Code, the administrator shall adjust the premium and 3940
assessments charged to each employer for the difference between 3941
estimated gross payrolls and actual gross payrolls, and any 3942
balance due to the administrator shall be immediately paid by 3943
the employer. Any balance due the employer shall be credited to 3944
the employer's account. 3945

(3) Except as otherwise provided in this section, for a 3946
policy year commencing on or after July 1, 2015, each employer 3947
who is recognized by the administrator as a professional 3948
employer organization, who is not a self-insuring employer, and 3949
who does not have private coverage under section 4123.351 of the 3950
Revised Code shall pay monthly into the state insurance fund the 3951
amount of premium the administrator fixes for the employer for 3952
the prior month based on the actual payroll of the employer 3953
reported pursuant to division (C) of section 4123.26 of the 3954
Revised Code. 3955

(C) A receipt certifying payment of premium shall be 3956
issued by the bureau of workers' compensation to each employer 3957
who pays premiums into the state insurance fund under division 3958
(A) of this section. The receipt is prima facie evidence of the 3959
payment of the premium. The administrator shall provide each 3960

employer written proof of workers' compensation coverage as is 3961
required in section 4123.83 of the Revised Code. Proper posting 3962
of the notice constitutes the employer's compliance with the 3963
notice requirement mandated in section 4123.83 of the Revised 3964
Code. 3965

(D) The bureau shall verify with the secretary of state 3966
the existence of all corporations and organizations making 3967
application for workers' compensation coverage and shall require 3968
every such application to include the employer's federal 3969
identification number. 3970

(E) A private employer who has contracted with a 3971
subcontractor is liable for the unpaid premium due from any 3972
subcontractor with respect to that part of the payroll of the 3973
subcontractor that is for work performed pursuant to the 3974
contract with the employer. 3975

(F) The requirement in this section for the payment of 3976
premiums semiannually does not apply to any employer who was a 3977
subscriber to the state insurance fund prior to January 1, 1914, 3978
or, until July 1, 2015, who may first become a subscriber to the 3979
fund in any month other than January or July. Instead, the 3980
semiannual premiums shall be paid by those employers from time 3981
to time upon the expiration of the respective periods for which 3982
payments into the fund have been made by them. After July 1, 3983
2015, an employer who first becomes a subscriber to the fund on 3984
any day other than the first day of July shall pay premiums 3985
according to rules adopted by the administrator, with the advice 3986
and consent of the bureau of workers' compensation board of 3987
directors, for the remainder of the policy year for which the 3988
coverage is effective. 3989

(G) The administrator, with the advice and consent of the 3990

board, shall adopt rules to permit employers to make periodic 3991
payments of the premium and assessment due under this section. 3992
The rules shall include provisions for the assessment of 3993
interest charges, where appropriate, and for the assessment of 3994
penalties when an employer fails to make timely premium 3995
payments. The administrator, in the rules the administrator 3996
adopts, may set an administrative fee for these periodic 3997
payments. An employer who timely pays the amounts due under this 3998
division is entitled to all of the benefits and protections of 3999
this chapter. Upon receipt of payment, the bureau shall issue a 4000
receipt to the employer certifying that payment has been made, 4001
which receipt is prima facie evidence of payment. Workers' 4002
compensation coverage under this chapter continues uninterrupted 4003
upon timely receipt of payment under this division. 4004

(H) Every public employer, except public employers who are 4005
self-insuring employers or that have private coverage under 4006
section 4123.351 of the Revised Code, shall comply with sections 4007
4123.38 to 4123.41, and 4123.48 of the Revised Code with regard 4008
to the contribution of moneys to the public insurance fund. 4009

(I) An employer that wishes to pay compensation and 4010
benefits directly may apply under Chapter 3971. of the Revised 4011
Code to be granted status as a self-insuring employer. A self- 4012
insuring employer shall pay compensation and benefits directly 4013
under Chapter 3971. of the Revised Code. 4014

Sec. 4123.351. (A) As used in this section: 4015

(1) "Group" means a trade association, industry 4016
association, or professional association that has been organized 4017
and maintained in good faith for a continuous period of one year 4018
or more for purposes other than obtaining coverage under this 4019
section and maintains a minimum enrollment of three hundred 4020

employees in this state of two or more employers whose 4021
businesses are substantially similar such that the risks which 4022
are grouped are substantially homogeneous. 4023

(2) "Paid compensation" means all amounts paid by a 4024
workers' compensation insurer for living maintenance benefits 4025
and all amounts for compensation paid by a workers' compensation 4026
insurer pursuant to sections 3965.80, 3965.81, 3965.82, 3965.83, 4027
3965.90, and 3965.91 of the Revised Code. 4028

(B) (1) An employer who employs a minimum of one thousand 4029
employees in this state or a group may elect to obtain coverage 4030
for claims arising under this chapter through a workers' 4031
compensation insurer. 4032

(2) An employer who wishes to elect to obtain coverage 4033
through a workers' compensation insurer shall submit an 4034
application to the administrator of workers' compensation on a 4035
form prescribed by the administrator. 4036

(3) The administrator shall adopt rules, in accordance 4037
with Chapter 119. of the Revised Code, governing the manner of 4038
applying for and the nature and extent of the proof required to 4039
justify a finding of fact by the administrator as to granting 4040
the status of a privately insured employer and the information 4041
necessary to verify whether the requirements under this section 4042
are satisfied. 4043

(4) Upon a finding by the administrator that an employer 4044
satisfies the requirements under this section and the rules 4045
adopted pursuant to it, the administrator shall grant the 4046
employer the ability to obtain coverage through a workers' 4047
compensation insurer. 4048

(5) A privately insured employer shall annually provide 4049

proof of coverage through a workers' compensation insurer to the 4050
administrator for the purpose of verifying compliance under 4051
section 4123.83 of the Revised Code. 4052

(C) If an employer is a state fund employer and wishes to 4053
obtain coverage through a workers' compensation insurer for 4054
claims arising under this chapter, the employer shall notify the 4055
administrator not less than thirty days prior to the date the 4056
employer wishes to change insurers. If the administrator 4057
determines that the amount in the employer's account within the 4058
state insurance fund is not sufficient to cover claims that 4059
involve the employer and that exist on the date the 4060
administrator receives the notice, the administrator may charge 4061
the employer a fee in an amount that is sufficient to cover the 4062
deficit. If the administrator charges this fee, the 4063
administrator shall send to the employer a written fee statement 4064
that details the outstanding amounts due for each claim that is 4065
not covered by the amount in the employer's account within the 4066
state insurance fund. If the employer disagrees with the amount 4067
of the fee charged or any of the amounts identified in the fee 4068
statement, the employer may file a protest with an adjudicating 4069
committee in accordance with section 4123.291 of the Revised 4070
Code. 4071

The administrator may charge the fee described in this 4072
division only at the time the employer exits the state insurance 4073
fund. If, at a later date, the administrator determines that the 4074
amount of the fee charged was miscalculated and the fee paid by 4075
the employer does not cover the outstanding claims, the 4076
administrator shall not collect the additional amount necessary 4077
to cover those claims from the employer. The administrator shall 4078
transfer funds from the surplus fund account to cover the 4079
necessary amount for those claims. If the administrator charged 4080

the employer a fee in an amount that was higher than the amount 4081
necessary to cover the outstanding claims, the administrator 4082
shall refund to the employer the amount of the fee that is in 4083
excess of the actual amount owed. 4084

(D) A privately insured employer shall pay an annual 4085
assessment to the administrator for administrative costs borne 4086
by the employer pursuant to section 4123.342 of the Revised 4087
Code. The assessment shall be based on the paid compensation 4088
attributable to the privately insured employer. A privately 4089
insured employer shall report to the administrator its amount of 4090
paid compensation annually. The administrator shall adopt rules 4091
for the calculation and collection of the assessments. 4092

(E) If an employer fails to pay the employer's premium for 4093
coverage through a workers' compensation insurer, the 4094
administrator shall consider the employer to be noncompliant for 4095
the purpose of having coverage under this chapter and the 4096
employer's premiums for any and all noncompliant periods of time 4097
shall be calculated in the same manner as otherwise required 4098
under division (A) of section 4123.29 and section 4123.34 of the 4099
Revised Code, using the wages the employer claimed would be 4100
reported to the workers' compensation insurer for securing 4101
coverage. 4102

(F) (1) Coverage offered by a workers' compensation insurer 4103
shall provide for the payment of compensation to injured 4104
employees or the dependents of killed employees, and the 4105
furnishing of medical, surgical, nursing, and hospital attention 4106
and services and medicines, and funeral expenses, equal to or 4107
greater than is provided for in sections 4123.52, 4123.55 to 4108
4123.62, and 4123.64 to 4123.67 of the Revised Code. 4109

(2) Each workers' compensation insurer shall provide 4110

compensation that is similar to the compensation provided under 4111
sections 4123.411 to 4123.419 of the Revised Code. 4112

(G) A workers' compensation insurer shall be subject to 4113
sections 3937.01 to 3937.16 of the Revised Code for the purpose 4114
of setting rates. 4115

(H) If a workers' compensation insurer ceases to operate 4116
in this state, any claims under this chapter covered by that 4117
insurer at the time the insurer ceases operations shall be 4118
administered in accordance with Chapter 3955. of the Revised 4119
Code. If an employer insured by that insurer does not select a 4120
different workers' compensation insurer or is not granted the 4121
privilege of self-insurance under Chapter 3971. of the Revised 4122
Code, that employer shall obtain coverage through the state 4123
insurance fund. 4124

Sec. 4123.38. Every employer mentioned in division (B)(1) 4125
of section 4123.01 of the Revised Code, ~~except for boards of~~ 4126
~~county hospital trustees that are self-insurers under section~~ 4127
~~4123.35 of the Revised Code,~~ that is a state fund employer shall 4128
contribute to the public insurance fund the amount of money 4129
determined by the administrator of workers' compensation, and 4130
the manner of determining contributions and the classifications 4131
of employers is as provided in sections 4123.39 to 4123.41 and 4132
4123.48 of the Revised Code. 4133

Sec. 4123.411. (A) For the purpose of carrying out 4134
sections 4123.412 to 4123.418 of the Revised Code, the 4135
administrator of workers' compensation, with the advice and 4136
consent of the bureau of workers' compensation board of 4137
directors, shall levy an assessment against all state fund 4138
employers at a rate not to exceed ten cents per one hundred 4139
dollars of payroll, such rate to be determined annually for each 4140

employer group listed in divisions (A) (1) to (3) of this 4141
section, which will produce an amount no greater than the amount 4142
the administrator estimates to be necessary to carry out such 4143
sections for the period for which the assessment is levied. In 4144
the event the amount produced by the assessment is not 4145
sufficient to carry out such sections the additional amount 4146
necessary shall be provided from the income produced as a result 4147
of investments made pursuant to section 4123.44 of the Revised 4148
Code. 4149

Assessments shall be levied according to the following 4150
schedule: 4151

(1) For private state fund employers, ~~except self-insuring~~ 4152
~~employers:~~ 4153

(a) For policy years commencing prior to July 1, 2015, in 4154
January and July of each year upon gross payrolls of the 4155
preceding six months; 4156

(b) For policy years commencing on or after July 1, 2015, 4157
in the month of June immediately preceding each policy year upon 4158
gross payrolls estimated for that policy year. 4159

(2) For counties that are state fund employers and taxing 4160
district state fund employers therein, ~~except county hospitals~~ 4161
~~that are self-insuring employers:~~ 4162

(a) For policy years commencing prior to January 1, 2016, 4163
in January of each year upon gross payrolls of the preceding 4164
twelve months; 4165

(b) For policy years commencing on or after January 1, 4166
2016, in the month of December immediately preceding each policy 4167
year upon gross payrolls estimated for that policy year. 4168

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

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

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

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

(B) For all injuries and disabilities occurring on or after January 1, 1987, the administrator, for the purposes of carrying out sections 4123.412 to 4123.418 of the Revised Code, shall levy an assessment against all state fund employers at a rate per one hundred dollars of payroll, such rate to be

determined annually for each classification of employer in each 4199
employer group listed in divisions (A) (1) to (3) of this 4200
section, which will produce an amount no greater than the amount 4201
the administrator estimates to be necessary to carry out such 4202
sections for the period for which the assessment is levied. The 4203
administrator annually shall establish the contributions due 4204
from employers for the disabled workers' relief fund at rates as 4205
low as possible but that will assure sufficient moneys to 4206
guarantee the payment of any claims against that fund. 4207

Amounts assessed in accordance with this division shall be 4208
billed at the same time premiums are billed and credited to the 4209
disabled workers' relief fund created by section 4123.412 of the 4210
Revised Code. The administrator shall determine the rates for 4211
each class in the same manner as the administrator fixes the 4212
rates for premiums pursuant to section 4123.29 of the Revised 4213
Code. 4214

(C) For a self-insuring employer, the bureau of workers' 4215
compensation shall pay to employees who are participants 4216
regardless of the date of injury, any amounts due to the 4217
participants under section 4123.414 of the Revised Code and 4218
shall bill the self-insuring employer, semiannually, for all 4219
amounts paid to a participant. 4220

Sec. 4123.412. For the relief of persons who are 4221
permanently and totally disabled as the result of injury or 4222
disease sustained in the course of their employment with a state 4223
fund or self-insuring employer and who are receiving workers' 4224
compensation ~~which~~ that is payable to them by virtue of and 4225
under the laws of this state in amounts, the total of which, 4226
when combined with disability benefits received pursuant to the 4227
Social Security Act is less than three hundred forty-two dollars 4228

per month adjusted annually as provided in division (B) of 4229
section 4123.62 of the Revised Code, there is hereby created a 4230
separate fund to be known as the disabled workers' relief fund, 4231
which fund shall consist of the sums that are from time to time 4232
appropriated by the general assembly and made available to the 4233
order of the bureau of workers' compensation to carry out the 4234
objects and purposes of sections 4123.412 to 4123.418 of the 4235
Revised Code. The fund shall be in the custody of the treasurer 4236
of the state. Disbursements from the fund shall be made by the 4237
bureau to those persons entitled to participate therein and in 4238
amounts to each participant as is provided in section 4123.414 4239
of the Revised Code. All investment earnings of the fund shall 4240
be credited to the fund. 4241

Sec. 4123.416. The administrator of workers' compensation 4242
shall promptly require of each ~~employer who has elected to pay~~ 4243
~~compensation direct under the provisions of section 4123.35 of~~ 4244
~~the Revised Code~~ self-insuring employer a verified list of the 4245
names and addresses of all persons to whom the employer is 4246
paying workers' compensation on account of permanent and total 4247
disability and the evidence respecting such persons as the 4248
administrator reasonably deems necessary to determine the 4249
eligibility of any such person to participate in the disabled 4250
workers' relief fund. The superintendent of insurance shall 4251
promptly require of each insurance company which is organized or 4252
licensed to do business in this state and which has at any time 4253
written workers' compensation insurance in this state a like 4254
verified list and like evidence respecting persons to whom the 4255
insurance companies are paying workers' compensation under the 4256
Ohio workers' compensation laws and contracts of insurance in 4257
respect thereof; and the superintendent of insurance shall 4258
promptly transmit all such lists and evidence to the bureau of 4259

workers' compensation. Any person claiming the right to 4260
participate in the fund may file ~~his~~ the person's application 4261
therefor with the bureau if the person was employed by a state 4262
fund or self-insuring employer at the time the person suffered 4263
the injury or contracted the occupational disease that resulted 4264
in the permanent and total disability and shall be accorded a 4265
hearing thereon. If the person was employed by a privately 4266
insured employer at the time the person suffered the injury or 4267
contracted the occupational disease that resulted in the 4268
permanent and total disability, the person shall apply to the 4269
workers' compensation insurer for the right to receive similar 4270
compensation as required under division (F) of section 4123.351 4271
of the Revised Code. 4272

Sec. 4123.46. (A) (1) Except as provided in division (A) (2) 4273
of this section, the bureau of workers' compensation shall 4274
disburse the state insurance fund to employees of employers who 4275
have paid into the fund the premiums applicable to the classes 4276
to which they belong when the employees have been injured in the 4277
course of their employment, wherever the injuries have occurred, 4278
and provided the injuries have not been purposely self- 4279
inflicted, or to the dependents of the employees in case death 4280
has ensued. 4281

(2) As long as injuries have not been purposely self- 4282
inflicted, the bureau shall disburse the surplus fund created 4283
under section 4123.34 of the Revised Code to off-duty peace 4284
officers, firefighters, emergency medical technicians, and first 4285
responders, or to their dependents if death ensues, who are 4286
injured while responding to inherently dangerous situations that 4287
call for an immediate response on the part of the person, 4288
regardless of whether the person was within the limits of the 4289
person's jurisdiction when responding, on the condition that the 4290

person responds to the situation as the person otherwise would 4291
if the person were on duty in the person's jurisdiction. 4292

As used in division (A) (2) of this section, "peace 4293
officer," "firefighter," "emergency medical technician," "first 4294
responder," and "jurisdiction" have the same meanings as in 4295
section 4123.01 of the Revised Code. 4296

(B) All self-insuring employers, in compliance with this 4297
chapter, shall pay the compensation to injured employees, or to 4298
the dependents of employees who have been killed in the course 4299
of their employment, unless the injury or death of the employee 4300
was purposely self-inflicted, and shall furnish the medical, 4301
surgical, nurse, and hospital care and attention or funeral 4302
expenses as would have been paid and furnished by virtue of this 4303
chapter under a similar state of facts by the bureau out of the 4304
state insurance fund if the employer had paid the premium into 4305
the fund or by a workers' compensation insurer if the employer 4306
had paid the premium to that insurer. 4307

If any rule or regulation of a self-insuring employer 4308
provides for or authorizes the payment of greater compensation 4309
or more complete or extended medical care, nursing, surgical, 4310
and hospital attention, or funeral expenses to the injured 4311
employees, or to the dependents of the employees as may be 4312
killed, the employer shall pay to the employees, or to the 4313
dependents of employees killed, the amount of compensation and 4314
furnish the medical care, nursing, surgical, and hospital 4315
attention or funeral expenses provided by the self-insuring 4316
employer's rules and regulations. 4317

(C) Payment to injured employees, or to their dependents 4318
in case death has ensued, is in lieu of any and all rights of 4319
action against the employer of the injured or killed employees. 4320

Sec. 4123.50. (A) Each member of a firm, and the 4321
president, secretary, general manager, or managing agent of each 4322
private corporation, including any public service corporation 4323
mentioned in section 4123.01 of the Revised Code or publicly 4324
owned utility, shall cause the firm or corporation to comply 4325
with section 4123.35 of the Revised Code and, for self-insuring 4326
employers and privately insured employers, to comply with the 4327
assessment based upon paid compensation provisions of this 4328
chapter, Chapter 3971., and Chapter 4121. of the Revised Code. 4329
No person mentioned in section 4123.01 of the Revised Code and 4330
no member of the firms and no officer of the corporations or 4331
publicly owned utilities referred to in this section shall fail 4332
to comply with section 4123.35 of the Revised Code and, for 4333
self-insuring employers and privately insured employers, to 4334
comply with the assessment based upon paid compensation 4335
provisions of this chapter, Chapter 3971., and Chapter 4121. of 4336
the Revised Code. All fines collected for a violation of this 4337
section shall be paid to the general fund of the political 4338
subdivision where the case is prosecuted. 4339

(B) The administrator of workers' compensation, with the 4340
advice and consent of the bureau of workers' compensation board 4341
of directors, shall adopt rules governing treatment of employers 4342
found in violation of division (A) of this section. The rules 4343
shall cover enforcement and prosecution procedures and methods 4344
and grounds for settlement of liability of a noncomplying 4345
employer. 4346

Sec. 4123.51. The administrator of workers' compensation 4347
shall by published notices and other appropriate means endeavor 4348
to cause claims to be filed in the service office of the bureau 4349
of workers' compensation from which the investigation and 4350
determination of the claim may be made most expeditiously. A 4351

claim or appeal under this chapter or Chapter 4121., 4127., or 4352
4131. of the Revised Code may be filed with any office of the 4353
bureau of workers' compensation or the industrial commission, 4354
within the required statutory period, and is considered received 4355
for the purpose of processing the claims or appeals. 4356

The administrator, a workers' compensation insurer, or a 4357
self-insuring employer, on the form an employee or an individual 4358
acting on behalf of the employee files with the administrator, a 4359
workers' compensation insurer, or a self-insuring employer to 4360
initiate a claim under this chapter or Chapter 4121., 4127., or 4361
4131. of the Revised Code, shall include a statement that is 4362
substantially similar to the following statement in bold font 4363
and set apart from all other text in the form: 4364

"By signing this form, I elect to only receive 4365
compensation, benefits, or both that are provided for in this 4366
claim under Ohio's workers' compensation laws. I understand and 4367
I hereby waive and release my right to receive compensation and 4368
benefits under the workers' compensation laws of another state 4369
for the injury or occupational disease, or the death resulting 4370
from an injury or occupational disease, for which I am filing 4371
this claim. I have not received compensation and benefits under 4372
the workers' compensation laws of another state for this claim, 4373
and I will not file and have not filed a claim in another state 4374
for the injury or occupational disease or death resulting from 4375
an injury or occupational disease for which I am filing this 4376
claim." 4377

Sec. 4123.511. (A) Within seven days after receipt of any 4378
claim under this chapter, the bureau of workers' compensation 4379
shall notify the claimant and the employer of the claimant of 4380
the receipt of the claim and of the facts alleged therein. If 4381

the bureau receives from a person other than the claimant 4382
written or facsimile information or information communicated 4383
verbally over the telephone indicating that an injury or 4384
occupational disease has occurred or been contracted which may 4385
be compensable under this chapter, the bureau shall notify the 4386
employee and the employer of the information. If the information 4387
is provided verbally over the telephone, the person providing 4388
the information shall provide written verification of the 4389
information to the bureau according to division (E) of section 4390
4123.84 of the Revised Code. The receipt of the information in 4391
writing or facsimile, or if initially by telephone, the 4392
subsequent written verification, and the notice by the bureau 4393
shall be considered an application for compensation under 4394
section 4123.84 or 4123.85 of the Revised Code, provided that 4395
the conditions of division (E) of section 4123.84 of the Revised 4396
Code apply to information provided verbally over the telephone. 4397
Upon receipt of a claim, the bureau shall advise the claimant of 4398
the claim number assigned and the claimant's right to 4399
representation in the processing of a claim or to elect no 4400
representation. If the bureau determines that a claim is 4401
determined to be a compensable lost-time claim, the bureau shall 4402
notify the claimant and the employer of the availability of 4403
rehabilitation services. No bureau or industrial commission 4404
employee shall directly or indirectly convey any information in 4405
derogation of this right. This section shall in no way abrogate 4406
the bureau's responsibility to aid and assist a claimant in the 4407
filing of a claim and to advise the claimant of the claimant's 4408
rights under the law. 4409

The administrator of workers' compensation shall assign 4410
all claims and investigations to the bureau service office from 4411
which investigation and determination may be made most 4412

expeditiously. 4413

The bureau shall investigate the facts concerning an 4414
injury or occupational disease and ascertain such facts in 4415
whatever manner is most appropriate and may obtain statements of 4416
the employee, employer, attending physician, and witnesses in 4417
whatever manner is most appropriate. 4418

The administrator, with the advice and consent of the 4419
bureau of workers' compensation board of directors, may adopt 4420
rules that identify specified medical conditions that have a 4421
historical record of being allowed whenever included in a claim. 4422
The administrator may grant immediate allowance of any medical 4423
condition identified in those rules upon the filing of a claim 4424
involving that medical condition and may make immediate payment 4425
of medical bills for any medical condition identified in those 4426
rules that is included in a claim. If an employer contests the 4427
allowance of a claim involving any medical condition identified 4428
in those rules, and the claim is disallowed, payment for the 4429
medical condition included in that claim shall be charged to and 4430
paid from the surplus fund created under section 4123.34 of the 4431
Revised Code. 4432

(B) (1) Except as provided in division (B) (2) of this 4433
section, in claims other than those in which the employer is a 4434
privately insured or self-insuring employer, if the 4435
administrator determines under division (A) of this section that 4436
a claimant is or is not entitled to an award of compensation or 4437
benefits, the administrator shall issue an order no later than 4438
twenty-eight days after the sending of the notice under division 4439
(A) of this section, granting or denying the payment of the 4440
compensation or benefits, or both as is appropriate to the 4441
claimant. Notwithstanding the time limitation specified in this 4442

division for the issuance of an order, if a medical examination 4443
of the claimant is required by statute, the administrator 4444
promptly shall schedule the claimant for that examination and 4445
shall issue an order no later than twenty-eight days after 4446
receipt of the report of the examination. The administrator 4447
shall notify the claimant and the employer of the claimant and 4448
their respective representatives in writing of the nature of the 4449
order and the amounts of compensation and benefit payments 4450
involved. The employer or claimant may appeal the order pursuant 4451
to division (C) of this section within fourteen days after the 4452
date of the receipt of the order. The employer and claimant may 4453
waive, in writing, their rights to an appeal under this 4454
division. 4455

(2) Notwithstanding the time limitation specified in 4456
division (B)(1) of this section for the issuance of an order, if 4457
the employer certifies a claim for payment of compensation or 4458
benefits, or both, to a claimant, and the administrator has 4459
completed the investigation of the claim, the payment of 4460
benefits or compensation, or both, as is appropriate, shall 4461
commence upon the later of the date of the certification or 4462
completion of the investigation and issuance of the order by the 4463
administrator, provided that the administrator shall issue the 4464
order no later than the time limitation specified in division 4465
(B)(1) of this section. 4466

(3) If an appeal is made under division (B)(1) or (2) of 4467
this section, the administrator shall forward the claim file to 4468
the appropriate district hearing officer within seven days of 4469
the appeal. In contested claims other than state fund claims, 4470
the administrator shall forward the claim within seven days of 4471
the administrator's receipt of the claim to the industrial 4472
commission, which shall refer the claim to an appropriate 4473

district hearing officer for a hearing in accordance with 4474
division (C) of this section. 4475

(C) If an employer or claimant timely appeals the order of 4476
the administrator issued under division (B) of this section or 4477
in the case of other contested claims other than state fund 4478
claims, the commission shall refer the claim to an appropriate 4479
district hearing officer according to rules the commission 4480
adopts under section 4121.36 of the Revised Code. The district 4481
hearing officer shall notify the parties and their respective 4482
representatives of the time and place of the hearing. 4483

The district hearing officer shall hold a hearing on a 4484
disputed issue or claim within forty-five days after the filing 4485
of the appeal under this division and issue a decision within 4486
seven days after holding the hearing. The district hearing 4487
officer shall notify the parties and their respective 4488
representatives in writing of the order. Any party may appeal an 4489
order issued under this division pursuant to division (D) of 4490
this section within fourteen days after receipt of the order 4491
under this division. 4492

(D) Upon the timely filing of an appeal of the order of 4493
the district hearing officer issued under division (C) of this 4494
section, the commission shall refer the claim file to an 4495
appropriate staff hearing officer according to its rules adopted 4496
under section 4121.36 of the Revised Code. The staff hearing 4497
officer shall hold a hearing within forty-five days after the 4498
filing of an appeal under this division and issue a decision 4499
within seven days after holding the hearing under this division. 4500
The staff hearing officer shall notify the parties and their 4501
respective representatives in writing of the staff hearing 4502
officer's order. Any party may appeal an order issued under this 4503

division pursuant to division (E) of this section within 4504
fourteen days after receipt of the order under this division. 4505

(E) Upon the filing of a timely appeal of the order of the 4506
staff hearing officer issued under division (D) of this section, 4507
the commission or a designated staff hearing officer, on behalf 4508
of the commission, shall determine whether the commission will 4509
hear the appeal. If the commission or the designated staff 4510
hearing officer decides to hear the appeal, the commission or 4511
the designated staff hearing officer shall notify the parties 4512
and their respective representatives in writing of the time and 4513
place of the hearing. The commission shall hold the hearing 4514
within forty-five days after the filing of the notice of appeal 4515
and, within seven days after the conclusion of the hearing, the 4516
commission shall issue its order affirming, modifying, or 4517
reversing the order issued under division (D) of this section. 4518
The commission shall notify the parties and their respective 4519
representatives in writing of the order. If the commission or 4520
the designated staff hearing officer determines not to hear the 4521
appeal, within fourteen days after the expiration of the period 4522
in which an appeal of the order of the staff hearing officer may 4523
be filed as provided in division (D) of this section, the 4524
commission or the designated staff hearing officer shall issue 4525
an order to that effect and notify the parties and their 4526
respective representatives in writing of that order. 4527

Except as otherwise provided in this chapter and Chapters 4528
4121., 4127., and 4131. of the Revised Code, any party may 4529
appeal an order issued under this division to the court pursuant 4530
to section 4123.512 of the Revised Code within sixty days after 4531
receipt of the order, subject to the limitations contained in 4532
that section. 4533

(F) Every notice of an appeal from an order issued under 4534
divisions (B), (C), (D), and (E) of this section shall state the 4535
names of the claimant and employer, the workers' compensation 4536
insurer, if applicable, the number of the claim, the date of the 4537
decision appealed from, and the fact that the appellant appeals 4538
therefrom. 4539

(G) All of the following apply to the proceedings under 4540
divisions (C), (D), and (E) of this section: 4541

(1) The parties shall proceed promptly and without 4542
continuances except for good cause; 4543

(2) The parties, in good faith, shall engage in the free 4544
exchange of information relevant to the claim prior to the 4545
conduct of a hearing according to the rules the commission 4546
adopts under section 4121.36 of the Revised Code; 4547

(3) The administrator is a party and may appear and 4548
participate at all administrative proceedings on behalf of the 4549
state insurance fund. However, in cases in which the employer is 4550
represented, the administrator shall neither present arguments 4551
nor introduce testimony that is cumulative to that presented or 4552
introduced by the employer or the employer's representative. The 4553
administrator may file an appeal under this section on behalf of 4554
the state insurance fund; however, except in cases arising under 4555
section 4123.343 of the Revised Code, the administrator only may 4556
appeal questions of law or issues of fraud when the employer 4557
appears in person or by representative. 4558

(H) Except as provided in section 4121.63 of the Revised 4559
Code and division (K) of this section, payments of compensation 4560
to a claimant or on behalf of a claimant as a result of any 4561
order issued under this chapter shall commence upon the earlier 4562

of the following: 4563

(1) Fourteen days after the date the administrator issues 4564
an order under division (B) of this section, unless that order 4565
is appealed; 4566

(2) The date when the employer has waived the right to 4567
appeal a decision issued under division (B) of this section; 4568

(3) If no appeal of an order has been filed under this 4569
section or to a court under section 4123.512 of the Revised 4570
Code, the expiration of the time limitations for the filing of 4571
an appeal of an order; 4572

(4) The date of receipt by the employer of an order of a 4573
district hearing officer, a staff hearing officer, or the 4574
industrial commission issued under division (C), (D), or (E) of 4575
this section. 4576

(I) Except as otherwise provided in division (B) of 4577
section 4123.66 of the Revised Code, payments of medical 4578
benefits payable under this chapter or Chapter 4121., 4127., or 4579
4131. of the Revised Code shall commence upon the earlier of the 4580
following: 4581

(1) The date of the issuance of the staff hearing 4582
officer's order under division (D) of this section; 4583

(2) The date of the final administrative or judicial 4584
determination. 4585

(J) The administrator shall charge the compensation 4586
payments made in accordance with division (H) of this section or 4587
medical benefits payments made in accordance with division (I) 4588
of this section to an employer's experience immediately after 4589
the employer has exhausted the employer's administrative appeals 4590

as provided in this section or has waived the employer's right 4591
to an administrative appeal under division (B) of this section, 4592
subject to the adjustment specified in division (H) of section 4593
4123.512 of the Revised Code. 4594

(K) Upon the final administrative or judicial 4595
determination under this section or section 4123.512 of the 4596
Revised Code of an appeal of an order to pay compensation, if a 4597
claimant is found to have received compensation pursuant to a 4598
prior order which is reversed upon subsequent appeal, the 4599
claimant's employer, if a self-insuring employer, the workers' 4600
compensation insurer, if the claimant's employer is a privately 4601
insured employer, or the bureau, shall withhold from any amount 4602
to which the claimant becomes entitled pursuant to any claim, 4603
past, present, or future, under Chapter 4121., 4123., 4127., or 4604
4131. of the Revised Code, the amount of previously paid 4605
compensation to the claimant which, due to reversal upon appeal, 4606
the claimant is not entitled, pursuant to the following 4607
criteria: 4608

(1) No withholding for the first twelve weeks of temporary 4609
total disability compensation pursuant to section 4123.56 of the 4610
Revised Code shall be made; 4611

(2) Forty per cent of all awards of compensation paid 4612
pursuant to sections 4123.56 and 4123.57 of the Revised Code, 4613
until the amount overpaid is refunded; 4614

(3) Twenty-five per cent of any compensation paid pursuant 4615
to section 4123.58 of the Revised Code until the amount overpaid 4616
is refunded; 4617

(4) If, pursuant to an appeal under section 4123.512 of 4618
the Revised Code, the court of appeals or the supreme court 4619

reverses the allowance of the claim, then no amount of any 4620
compensation will be withheld. 4621

The administrator, workers' compensation insurers, and 4622
self-insuring employers, as appropriate, are subject to the 4623
repayment schedule of this division only with respect to an 4624
order to pay compensation that was properly paid under a 4625
previous order, but which is subsequently reversed upon an 4626
administrative or judicial appeal. The administrator, workers' 4627
compensation insurers, and self-insuring employers are not 4628
subject to, but may utilize, the repayment schedule of this 4629
division, or any other lawful means, to collect payment of 4630
compensation made to a person who was not entitled to the 4631
compensation due to fraud as determined by the administrator or 4632
the industrial commission. 4633

(L) If a staff hearing officer or the commission fails to 4634
issue a decision or the commission fails to refuse to hear an 4635
appeal within the time periods required by this section, 4636
payments to a claimant shall cease until the staff hearing 4637
officer or commission issues a decision or hears the appeal, 4638
unless the failure was due to the fault or neglect of the 4639
employer or the employer agrees that the payments should 4640
continue for a longer period of time. 4641

(M) Except as otherwise provided in this section or 4642
section 4123.522 of the Revised Code, no appeal is timely filed 4643
under this section unless the appeal is filed with the time 4644
limits set forth in this section. 4645

(N) No person who is not an employee of the bureau or 4646
commission or who is not by law given access to the contents of 4647
a claims file shall have a file in the person's possession. 4648

(O) Upon application of a party who resides in an area in 4649
which an emergency or disaster is declared, the industrial 4650
commission and hearing officers of the commission may waive the 4651
time frame within which claims and appeals of claims set forth 4652
in this section must be filed upon a finding that the applicant 4653
was unable to comply with a filing deadline due to an emergency 4654
or a disaster. 4655

As used in this division: 4656

(1) "Emergency" means any occasion or instance for which 4657
the governor of Ohio or the president of the United States 4658
publicly declares an emergency and orders state or federal 4659
assistance to save lives and protect property, the public health 4660
and safety, or to lessen or avert the threat of a catastrophe. 4661

(2) "Disaster" means any natural catastrophe or fire, 4662
flood, or explosion, regardless of the cause, that causes damage 4663
of sufficient magnitude that the governor of Ohio or the 4664
president of the United States, through a public declaration, 4665
orders state or federal assistance to alleviate damage, loss, 4666
hardship, or suffering that results from the occurrence. 4667

Sec. 4123.512. (A) The claimant or the employer may appeal 4668
an order of the industrial commission made under division (E) of 4669
section 4123.511 of the Revised Code in any injury or 4670
occupational disease case, other than a decision as to the 4671
extent of disability to the court of common pleas of the county 4672
in which the injury was inflicted or in which the contract of 4673
employment was made if the injury occurred outside the state, or 4674
in which the contract of employment was made if the exposure 4675
occurred outside the state. If no common pleas court has 4676
jurisdiction for the purposes of an appeal by the use of the 4677
jurisdictional requirements described in this division, the 4678

appellant may use the venue provisions in the Rules of Civil Procedure to vest jurisdiction in a court. If the claim is for an occupational disease, the appeal shall be to the court of common pleas of the county in which the exposure which caused the disease occurred. Like appeal may be taken from an order of a staff hearing officer made under division (D) of section 4123.511 of the Revised Code from which the commission has refused to hear an appeal. The appellant shall file the notice of appeal with a court of common pleas within sixty days after the date of the receipt of the order appealed from or the date of receipt of the order of the commission refusing to hear an appeal of a staff hearing officer's decision under division (D) of section 4123.511 of the Revised Code. The filing of the notice of the appeal with the court is the only act required to perfect the appeal.

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

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

(B) The notice of appeal shall state the names of the

administrator of workers' compensation, the claimant, and the 4709
employer; the workers' compensation insurer, if applicable; the 4710
number of the claim; the date of the order appealed from; and 4711
the fact that the appellant appeals therefrom. 4712

The administrator, if the claim involves a state fund 4713
employer, a workers' compensation insurer, if the claim involves 4714
a privately insured employer, the claimant, and the employer 4715
shall be parties to the appeal and the court, upon the 4716
application of the commission, shall make the commission a 4717
party. The party filing ~~the~~ an appeal involving a state fund 4718
employer shall serve a copy of the notice of appeal on the 4719
administrator at the central office of the bureau of workers' 4720
compensation in Columbus. The administrator or workers' 4721
compensation insurer, as applicable, shall notify ~~the~~ an 4722
employer that if the employer fails to become an active party to 4723
the appeal, then the administrator or insurer may act on behalf 4724
of the employer and the results of the appeal could have an 4725
adverse effect upon the employer's premium rates. 4726

(C) The attorney general or one or more of the attorney 4727
general's assistants or special counsel designated by the 4728
attorney general shall represent the administrator and the 4729
commission. In the event the attorney general or the attorney 4730
general's designated assistants or special counsel are absent, 4731
the administrator or the commission shall select one or more of 4732
the attorneys in the employ of the administrator or the 4733
commission as the administrator's attorney or the commission's 4734
attorney in the appeal. Any attorney so employed shall continue 4735
the representation during the entire period of the appeal and in 4736
all hearings thereof except where the continued representation 4737
becomes impractical. 4738

(D) Upon receipt of notice of appeal, the clerk of courts 4739
shall provide notice to all parties who are appellees and to the 4740
commission. 4741

The claimant shall, within thirty days after the filing of 4742
the notice of appeal, file a petition containing a statement of 4743
facts in ordinary and concise language showing a cause of action 4744
to ~~participate~~receive compensation or benefits or to continue 4745
to ~~participate in the fund~~receive such compensation or benefits 4746
and setting forth the basis for the jurisdiction of the court 4747
over the action. Further pleadings shall be had in accordance 4748
with the Rules of Civil Procedure, provided that service of 4749
summons on such petition shall not be required and provided that 4750
the claimant may not dismiss the complaint without the 4751
employer's consent if the employer is the party that filed the 4752
notice of appeal to court pursuant to this section. The clerk of 4753
the court shall, upon receipt thereof, transmit by certified 4754
mail a copy thereof to each party named in the notice of appeal 4755
other than the claimant. Any party may file with the clerk prior 4756
to the trial of the action a deposition of any physician taken 4757
in accordance with the provisions of the Revised Code, which 4758
deposition may be read in the trial of the action even though 4759
the physician is a resident of or subject to service in the 4760
county in which the trial is had. The bureau of workers' 4761
compensation, for a claim involving a state fund or self- 4762
insuring employer, shall pay the cost of the stenographic 4763
deposition filed in court and of copies of the stenographic 4764
deposition for each party from the surplus fund and charge the 4765
costs thereof against the unsuccessful party if the claimant's 4766
right to ~~participate~~receive compensation or benefits or 4767
continue to ~~participate~~receive compensation or benefits is 4768
finally sustained or established in the appeal. A workers' 4769

compensation insurer, for a claim involving a privately insured 4770
employer for which the insurer provides coverage under Chapter 4771
3965. of the Revised Code, shall pay the cost of the 4772
stenographic deposition filed in court and of copies of the 4773
stenographic deposition for each party and charge the costs 4774
thereof against the unsuccessful party if the claimant's right 4775
to receive compensation or benefits or continue to receive 4776
compensation or benefits is finally sustained or established in 4777
the appeal. In the event the deposition is taken and filed, the 4778
physician whose deposition is taken is not required to respond 4779
to any subpoena issued in the trial of the action. The court, or 4780
the jury under the instructions of the court, if a jury is 4781
demanded, shall determine the right of the claimant to 4782
~~participate~~ receive compensation or benefits or to continue to 4783
~~participate in the fund~~ receive compensation or benefits upon 4784
the evidence adduced at the hearing of the action. 4785

(E) The court shall certify its decision to the commission 4786
and the certificate shall be entered in the records of the 4787
court. Appeals from the judgment are governed by the law 4788
applicable to the appeal of civil actions. 4789

(F) The cost of any legal proceedings authorized by this 4790
section, including an attorney's fee to the claimant's attorney 4791
to be fixed by the trial judge, based upon the effort expended, 4792
in the event the claimant's right to ~~participate~~ receive 4793
compensation or benefits or to continue to ~~participate in the~~ 4794
~~fund~~ receive compensation or benefits is established upon the 4795
final determination of an appeal, shall be taxed against the 4796
employer or the commission if the commission or the 4797
administrator rather than the employer contested the right of 4798
the claimant to ~~participate in the fund~~ receive compensation or 4799
benefits, or a workers' compensation insurer if the insurer 4800

rather than the employer contested the right of the claimant to 4801
receive compensation or benefits. The attorney's fee shall not 4802
exceed forty-two hundred dollars. 4803

(G) If the finding of the court or the verdict of the jury 4804
is in favor of the claimant's right to ~~participate in the~~ 4805
~~fund~~receive compensation or benefits, the commission and the 4806
administrator or workers' compensation insurer shall thereafter 4807
proceed in the matter of the claim as if the judgment were the 4808
decision of the commission, subject to the power of modification 4809
provided by section 4123.52 of the Revised Code. 4810

(H) (1) An appeal from an order issued under division (E) 4811
of section 4123.511 of the Revised Code or any action filed in 4812
court in a case in which an award of compensation or medical 4813
benefits has been made shall not stay the payment of 4814
compensation or medical benefits under the award, or payment for 4815
subsequent periods of total disability or medical benefits 4816
during the pendency of the appeal. If, in a final administrative 4817
or judicial action, it is determined that payments of 4818
compensation or benefits, or both, made to or on behalf of a 4819
claimant should not have been made, the amount thereof shall be 4820
charged to the surplus fund account under division (B) of 4821
section 4123.34 of the Revised Code if the employer is a state 4822
fund or self-insuring employer. If the employer is a privately 4823
insured employer, the amount shall be charged to the employer's 4824
workers' compensation insurer. In the event the employer is a 4825
state risk, the amount shall not be charged to the employer's 4826
experience, and the administrator shall adjust the employer's 4827
account accordingly. In the event the employer is a privately 4828
insured employer, the amount shall not be charged to the 4829
employer's experience, and the workers' compensation insurer 4830
shall adjust the employer's account accordingly. In the event 4831

the employer is a self-insuring employer, the self-insuring 4832
employer shall deduct the amount from the paid compensation the 4833
self-insuring employer reports to the ~~administrator~~ 4834
superintendent of insurance under division (L) of section 4835
4123.35-3971.10 of the Revised Code. In the event the employer 4836
is a privately insured employer, the privately insured employer 4837
shall deduct the amount from the paid compensation the privately 4838
insured employer reports to the administrator under division (D) 4839
of section 4123.351 of the Revised Code. If an employer is a 4840
state risk and has paid an assessment for a violation of a 4841
specific safety requirement, and, in a final administrative or 4842
judicial action, it is determined that the employer did not 4843
violate the specific safety requirement, the administrator shall 4844
reimburse the employer from the surplus fund account under 4845
division (B) of section 4123.34 of the Revised Code for the 4846
amount of the assessment the employer paid for the violation. 4847

(2) (a) Notwithstanding a final determination that payments 4848
of benefits made to or on behalf of a claimant should not have 4849
been made, the administrator, workers' compensation insurer, or 4850
self-insuring employer shall award payment of medical or 4851
vocational rehabilitation services submitted for payment after 4852
the date of the final determination if all of the following 4853
apply: 4854

(i) The services were approved and were rendered by the 4855
provider in good faith prior to the date of the final 4856
determination. 4857

(ii) The services were payable under division (I) of 4858
section 4123.511 of the Revised Code prior to the date of the 4859
final determination. 4860

(iii) The request for payment is submitted within the time 4861

limit set forth in section 4123.52 of the Revised Code. 4862

(b) Payments made under division (H) (1) of this section 4863
shall be charged to the surplus fund account under division (B) 4864
of section 4123.34 of the Revised Code or to the workers' 4865
compensation insurer, as applicable. If the employer of the 4866
employee who is the subject of a claim described in division (H) 4867
(2) (a) of this section is a state fund employer, the payments 4868
made under that division shall not be charged to the employer's 4869
experience. If that employer is a self-insuring employer, the 4870
self-insuring employer shall deduct the amount from the paid 4871
compensation the self-insuring employer reports to the 4872
~~administrator superintendent~~ under ~~division (L) of~~ section 4873
~~4123.35-3971.10~~ of the Revised Code. If the employer is a 4874
privately insured employer, the privately insured employer shall 4875
deduct the amount from the paid compensation the privately 4876
insured employer reports to the administrator under division (D) 4877
of section 4123.351 of the Revised Code. 4878

(c) Division (H) (2) of this section shall apply only to a 4879
claim under this chapter or Chapter 4121., 4127., or 4131. of 4880
the Revised Code arising on or after July 29, 2011. 4881

(3) A self-insuring employer may elect to pay compensation 4882
and benefits under this section directly to an employee or an 4883
employee's dependents by filing an application with the bureau 4884
of workers' compensation not more than one hundred eighty days 4885
and not less than ninety days before the first day of the 4886
employer's next six-month coverage period. If the self-insuring 4887
employer timely files the application, the application is 4888
effective on the first day of the employer's next six-month 4889
coverage period, provided that the administrator shall compute 4890
the employer's assessment for the surplus fund account due with 4891

respect to the period during which that application was filed 4892
without regard to the filing of the application. On and after 4893
the effective date of the employer's election, the self-insuring 4894
employer shall pay directly to an employee or to an employee's 4895
dependents compensation and benefits under this section 4896
regardless of the date of the injury or occupational disease, 4897
and the employer shall receive no money or credits from the 4898
surplus fund account on account of those payments and shall not 4899
be required to pay any amounts into the surplus fund account on 4900
account of this section. The election made under this division 4901
is irrevocable. 4902

(I) All actions and proceedings under this section which 4903
are the subject of an appeal to the court of common pleas or the 4904
court of appeals shall be preferred over all other civil actions 4905
except election causes, irrespective of position on the 4906
calendar. 4907

This section applies to all decisions of the commission or 4908
the administrator on November 2, 1959, and all claims filed 4909
thereafter are governed by sections 4123.511 and 4123.512 of the 4910
Revised Code. 4911

Any action pending in common pleas court or any other 4912
court on January 1, 1986, under this section is governed by 4913
former sections 4123.514, 4123.515, 4123.516, and 4123.519 and 4914
section 4123.522 of the Revised Code. 4915

Sec. 4123.54. (A) Except as otherwise provided in 4916
divisions (I) and (K) of this section, every employee, who is 4917
injured or who contracts an occupational disease, and the 4918
dependents of each employee who is killed, or dies as the result 4919
of an occupational disease contracted in the course of 4920
employment, wherever such injury has occurred or occupational 4921

disease has been contracted, provided the same were not: 4922

(1) Purposely self-inflicted; or 4923

(2) Caused by the employee being intoxicated or under the 4924
influence of a controlled substance not prescribed by a 4925
physician where the intoxication or being under the influence of 4926
the controlled substance not prescribed by a physician was the 4927
proximate cause of the injury, is entitled to receive, either 4928
directly from the employee's self-insuring employer as provided 4929
in section 4123.35 of the Revised Code, from the workers' 4930
compensation insurer from whom the employee's employer has 4931
obtained coverage under this chapter, or from the state 4932
insurance fund, the compensation for loss sustained on account 4933
of the injury, occupational disease, or death, and the medical, 4934
nurse, and hospital services and medicines, and the amount of 4935
funeral expenses in case of death, as are provided by this 4936
chapter. 4937

(B) For the purpose of this section, provided that an 4938
employer has posted written notice to employees that the results 4939
of, or the employee's refusal to submit to, any chemical test 4940
described under this division may affect the employee's 4941
eligibility for compensation and benefits pursuant to this 4942
chapter and Chapter 4121. of the Revised Code, there is a 4943
rebuttable presumption that an employee is intoxicated or under 4944
the influence of a controlled substance not prescribed by the 4945
employee's physician and that being intoxicated or under the 4946
influence of a controlled substance not prescribed by the 4947
employee's physician is the proximate cause of an injury under 4948
either of the following conditions: 4949

(1) When any one or more of the following is true: 4950

(a) The employee, through a qualifying chemical test 4951
administered within eight hours of an injury, is determined to 4952
have an alcohol concentration level equal to or in excess of the 4953
levels established in divisions (A) (1) (b) to (i) of section 4954
4511.19 of the Revised Code; 4955

(b) The employee, through a qualifying chemical test 4956
administered within thirty-two hours of an injury, is determined 4957
to have one of the following controlled substances not 4958
prescribed by the employee's physician in the employee's system 4959
that tests above the following levels in an enzyme multiplied 4960
immunoassay technique screening test and above the levels 4961
established in division (B) (1) (c) of this section in a gas 4962
chromatography mass spectrometry test: 4963

(i) For amphetamines, one thousand nanograms per 4964
milliliter of urine; 4965

(ii) For cannabinoids, fifty nanograms per milliliter of 4966
urine; 4967

(iii) For cocaine, including crack cocaine, three hundred 4968
nanograms per milliliter of urine; 4969

(iv) For opiates, two thousand nanograms per milliliter of 4970
urine; 4971

(v) For phencyclidine, twenty-five nanograms per 4972
milliliter of urine. 4973

(c) The employee, through a qualifying chemical test 4974
administered within thirty-two hours of an injury, is determined 4975
to have one of the following controlled substances not 4976
prescribed by the employee's physician in the employee's system 4977
that tests above the following levels by a gas chromatography 4978
mass spectrometry test: 4979

(i) For amphetamines, five hundred nanograms per milliliter of urine;	4980 4981
(ii) For cannabinoids, fifteen nanograms per milliliter of urine;	4982 4983
(iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine;	4984 4985
(iv) For opiates, two thousand nanograms per milliliter of urine;	4986 4987
(v) For phencyclidine, twenty-five nanograms per milliliter of urine.	4988 4989
(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.	4990 4991 4992 4993 4994 4995
(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.	4996 4997 4998 4999 5000 5001
(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:	5002 5003 5004 5005
(a) When the employee's employer had reasonable cause to suspect that the employee may be intoxicated or under the	5006 5007

influence of a controlled substance not prescribed by the 5008
employee's physician; 5009

(b) At the request of a police officer pursuant to section 5010
4511.191 of the Revised Code, and not at the request of the 5011
employee's employer; 5012

(c) At the request of a licensed physician who is not 5013
employed by the employee's employer, and not at the request of 5014
the employee's employer. 5015

(2) As used in division (C) (1) (a) of this section, 5016
"reasonable cause" means, but is not limited to, evidence that 5017
an employee is or was using alcohol or a controlled substance 5018
drawn from specific, objective facts and reasonable inferences 5019
drawn from these facts in light of experience and training. 5020
These facts and inferences may be based on, but are not limited 5021
to, any of the following: 5022

(a) Observable phenomena, such as direct observation of 5023
use, possession, or distribution of alcohol or a controlled 5024
substance, or of the physical symptoms of being under the 5025
influence of alcohol or a controlled substance, such as but not 5026
limited to slurred speech, dilated pupils, odor of alcohol or a 5027
controlled substance, changes in affect, or dynamic mood swings; 5028

(b) A pattern of abnormal conduct, erratic or aberrant 5029
behavior, or deteriorating work performance such as frequent 5030
absenteeism, excessive tardiness, or recurrent accidents, that 5031
appears to be related to the use of alcohol or a controlled 5032
substance, and does not appear to be attributable to other 5033
factors; 5034

(c) The identification of an employee as the focus of a 5035
criminal investigation into unauthorized possession, use, or 5036

trafficking of a controlled substance; 5037

(d) A report of use of alcohol or a controlled substance 5038
provided by a reliable and credible source; 5039

(e) Repeated or flagrant violations of the safety or work 5040
rules of the employee's employer, that are determined by the 5041
employee's supervisor to pose a substantial risk of physical 5042
injury or property damage and that appear to be related to the 5043
use of alcohol or a controlled substance and that do not appear 5044
attributable to other factors. 5045

(D) Nothing in this section shall be construed to affect 5046
the rights of an employer to test employees for alcohol or 5047
controlled substance abuse. 5048

(E) For the purpose of this section, laboratories 5049
certified by the United States department of health and human 5050
services or laboratories that meet or exceed the standards of 5051
that department for laboratory certification shall be used for 5052
processing the test results of a qualifying chemical test. 5053

(F) The written notice required by division (B) of this 5054
section shall be the same size or larger than the proof of 5055
workers' compensation coverage furnished by the bureau of 5056
workers' compensation and shall be posted by the employer in the 5057
same location as the proof of workers' compensation coverage or 5058
the certificate of self-insurance. 5059

(G) If a condition that pre-existed an injury is 5060
substantially aggravated by the injury, and that substantial 5061
aggravation is documented by objective diagnostic findings, 5062
objective clinical findings, or objective test results, no 5063
compensation or benefits are payable because of the pre-existing 5064
condition once that condition has returned to a level that would 5065

have existed without the injury. 5066

(H) (1) Whenever, with respect to an employee of an 5067
employer who is subject to and has complied with this chapter, 5068
there is possibility of conflict with respect to the application 5069
of workers' compensation laws because the contract of employment 5070
is entered into and all or some portion of the work is or is to 5071
be performed in a state or states other than Ohio, the employer 5072
and the employee may agree to be bound by the laws of this state 5073
or by the laws of some other state in which all or some portion 5074
of the work of the employee is to be performed. The agreement 5075
shall be in writing and shall be filed with the bureau of 5076
workers' compensation within ten days after it is executed and 5077
shall remain in force until terminated or modified by agreement 5078
of the parties similarly filed. If the agreement is to be bound 5079
by the laws of this state and the employer has complied with 5080
this chapter, then the employee is entitled to compensation and 5081
benefits regardless of where the injury occurs or the disease is 5082
contracted and the rights of the employee and the employee's 5083
dependents under the laws of this state are the exclusive remedy 5084
against the employer on account of injury, disease, or death in 5085
the course of and arising out of the employee's employment. If 5086
the agreement is to be bound by the laws of another state and 5087
the employer has complied with the laws of that state, the 5088
rights of the employee and the employee's dependents under the 5089
laws of that state are the exclusive remedy against the employer 5090
on account of injury, disease, or death in the course of and 5091
arising out of the employee's employment without regard to the 5092
place where the injury was sustained or the disease contracted. 5093
If an employer and an employee enter into an agreement under 5094
this division, the fact that the employer and the employee 5095
entered into that agreement shall not be construed to change the 5096

status of an employee whose continued employment is subject to 5097
the will of the employer or the employee, unless the agreement 5098
contains a provision that expressly changes that status. 5099

(2) If an employee or the employee's dependents receive an 5100
award of compensation or benefits under this chapter or Chapter 5101
4121., 4127., or 4131. of the Revised Code for the same injury, 5102
occupational disease, or death for which the employee or the 5103
employee's dependents previously pursued or otherwise elected to 5104
accept workers' compensation benefits and received a decision on 5105
the merits as defined in section 4123.542 of the Revised Code 5106
under the laws of another state or recovered damages under the 5107
laws of another state, the claim shall be disallowed and the 5108
administrator, any workers' compensation insurer, or any self- 5109
insuring employer, by any lawful means, may collect from the 5110
employee or the employee's dependents any of the following: 5111

~~(i)~~(a) The amount of compensation or benefits paid to or 5112
on behalf of the employee or the employee's dependents by the 5113
administrator, a workers' compensation insurer, or a self- 5114
insuring employer pursuant to this chapter or Chapter 4121., 5115
4127., or 4131. of the Revised Code for that award; 5116

~~(ii)~~(b) Any interest, attorney's fees, and costs the 5117
administrator, the workers' compensation insurer, or the self- 5118
insuring employer incurs in collecting that payment. 5119

(3) If an employee or the employee's dependents receive an 5120
award of compensation or benefits under this chapter or Chapter 5121
4121., 4127., or 4131. of the Revised Code and subsequently 5122
pursue or otherwise elect to accept workers' compensation 5123
benefits or damages under the laws of another state for the same 5124
injury, occupational disease, or death the claim under this 5125
chapter or Chapter 4121., 4127., or 4131. of the Revised Code 5126

shall be disallowed. The administrator, a workers' compensation insurer, or a self-insuring employer, by any lawful means, may collect from the employee or the employee's dependents or other-states' insurer any of the following:

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

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

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

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

insuring employer reports to the ~~administrator~~ superintendent of 5157
insurance under ~~division (L)~~ of section ~~4123.35~~ 3971.10 of the 5158
Revised Code. If the employee's employer is a privately insured 5159
employer, the privately insured employer shall deduct the amount 5160
of compensation or benefits the privately insured employer 5161
collects pursuant to this division from the paid compensation 5162
the privately insured employer reports to the administrator 5163
under division (D) of section 4123.351 of the Revised Code. 5164

(5) If an employee is a resident of a state other than 5165
this state and is insured under the workers' compensation law or 5166
similar laws of a state other than this state, the employee and 5167
the employee's dependents are not entitled to receive 5168
compensation or benefits under this chapter, on account of 5169
injury, disease, or death arising out of or in the course of 5170
employment while temporarily within this state, and the rights 5171
of the employee and the employee's dependents under the laws of 5172
the other state are the exclusive remedy against the employer on 5173
account of the injury, disease, or death. 5174

(6) An employee, or the dependent of an employee, who 5175
elects to receive compensation and benefits under this chapter 5176
or Chapter 4121., 4127., or 4131. of the Revised Code for a 5177
claim may not receive compensation and benefits under the 5178
workers' compensation laws of any state other than this state 5179
for that same claim. For each claim submitted by or on behalf of 5180
an employee, the administrator, the workers' compensation 5181
insurer from whom the employee's employer has obtained coverage 5182
under this chapter, or, if the employee is employed by a self- 5183
insuring employer, the self-insuring employer, shall request the 5184
employee or the employee's dependent to sign an election that 5185
affirms the employee's or employee's dependent's acceptance of 5186
electing to receive compensation and benefits under this chapter 5187

or Chapter 4121., 4127., or 4131. of the Revised Code for that 5188
claim that also affirmatively waives and releases the employee's 5189
or the employee's dependent's right to file for and receive 5190
compensation and benefits under the laws of any state other than 5191
this state for that claim. The employee or employee's dependent 5192
shall sign the election form within twenty-eight days after the 5193
administrator, workers' compensation insurer, or self-insuring 5194
employer submits the request or the administrator, workers' 5195
compensation insurer, or self-insuring employer shall dismiss 5196
that claim. 5197

In the event a workers' compensation claim has been filed 5198
in another jurisdiction on behalf of an employee or the 5199
dependents of an employee, and the employee or dependents 5200
subsequently elect to receive compensation, benefits, or both 5201
under this chapter or Chapter 4121., 4127., or 4131. of the 5202
Revised Code, the employee or dependent shall withdraw or refuse 5203
acceptance of the workers' compensation claim filed in the other 5204
jurisdiction in order to pursue compensation or benefits under 5205
the laws of this state. If the employee or dependents were 5206
awarded workers' compensation benefits or had recovered damages 5207
under the laws of the other state, any compensation and benefits 5208
awarded under this chapter or ~~Chapters~~ Chapter 4121., 4127., or 5209
4131. of the Revised Code shall be paid only to the extent to 5210
which those payments exceed the amounts paid under the laws of 5211
the other state. If the employee or dependent fails to withdraw 5212
or to refuse acceptance of the workers' compensation claim in 5213
the other jurisdiction within twenty-eight days after a request 5214
made by the administrator, a workers' compensation insurer, or a 5215
self-insuring employer, the administrator, workers' compensation 5216
insurer, or self-insuring employer shall dismiss the employee's 5217
or employee's dependents' claim made in this state. 5218

(I) If an employee who is covered under the federal 5219
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 5220
33 U.S.C. 901 et seq., is injured or contracts an occupational 5221
disease or dies as a result of an injury or occupational 5222
disease, and if that employee's or that employee's dependents' 5223
claim for compensation or benefits for that injury, occupational 5224
disease, or death is subject to the jurisdiction of that act, 5225
the employee or the employee's dependents are not entitled to 5226
apply for and shall not receive compensation or benefits under 5227
this chapter and Chapter 4121. of the Revised Code. The rights 5228
of such an employee and the employee's dependents under the 5229
federal "Longshore and Harbor Workers' Compensation Act," 98 5230
Stat. 1639, 33 U.S.C. 901 et seq., are the exclusive remedy 5231
against the employer for that injury, occupational disease, or 5232
death. 5233

(J) Compensation or benefits are not payable to a claimant 5234
during the period of confinement of the claimant in any state or 5235
federal correctional institution, or in any county jail in lieu 5236
of incarceration in a state or federal correctional institution, 5237
whether in this or any other state for conviction of violation 5238
of any state or federal criminal law. 5239

(K) An employer, upon the approval of the administrator, 5240
may provide for workers' compensation coverage for the 5241
employer's employees who are professional athletes and coaches 5242
by submitting to the administrator proof of coverage under a 5243
league policy issued under the laws of another state under 5244
either of the following circumstances: 5245

(1) The employer administers the payroll and workers' 5246
compensation insurance for a professional sports team subject to 5247
a collective bargaining agreement, and the collective bargaining 5248

agreement provides for the uniform administration of workers' 5249
compensation benefits and compensation for professional 5250
athletes. 5251

(2) The employer is a professional sports league, or is a 5252
member team of a professional sports league, and all of the 5253
following apply: 5254

(a) The professional sports league operates as a single 5255
entity, whereby all of the players and coaches of the sports 5256
league are employees of the sports league and not of the 5257
individual member teams. 5258

(b) The professional sports league at all times maintains 5259
workers' compensation insurance that provides coverage for the 5260
players and coaches of the sports league. 5261

(c) Each individual member team of the professional sports 5262
league, pursuant to the organizational or operating documents of 5263
the sports league, is obligated to the sports league to pay to 5264
the sports league any workers' compensation claims that are not 5265
covered by the workers' compensation insurance maintained by the 5266
sports league. 5267

If the administrator approves the employer's proof of 5268
coverage submitted under division (K) of this section, a 5269
professional athlete or coach who is an employee of the employer 5270
and the dependents of the professional athlete or coach are not 5271
entitled to apply for and shall not receive compensation or 5272
benefits under this chapter and Chapter 4121. of the Revised 5273
Code. The rights of such an athlete or coach and the dependents 5274
of such an athlete or coach under the laws of the state where 5275
the policy was issued are the exclusive remedy against the 5276
employer for the athlete or coach if the athlete or coach 5277

suffers an injury or contracts an occupational disease in the 5278
course of employment, or for the dependents of the athlete or 5279
the coach if the athlete or coach is killed as a result of an 5280
injury or dies as a result of an occupational disease, 5281
regardless of the location where the injury was suffered or the 5282
occupational disease was contracted. 5283

Sec. 4123.63. If a person in active service in the armed 5284
forces of the United States at any time during a period of war 5285
as defined in the "Veterans' Pension and Readjustment Assistance 5286
Act of 1967," 81 Stat. 181, 38 U.S.C.A. 101 or the period 5287
beginning May 1, 1940, and ending December 7, 1941, sustained an 5288
injury or suffered a disease while in such service, and if the 5289
person is thereafter injured or suffers an occupational disease 5290
in the course of and arising out of ~~his~~ employment in this 5291
state, and the industrial commission or the bureau of workers' 5292
compensation awards compensation therefor, it shall determine 5293
what part, if any, of the compensation is attributable to the 5294
injury or disease which the person sustained or suffered while 5295
in the service and what part of the compensation is attributable 5296
to the injury or occupational disease sustained or suffered in 5297
the course of and arising out of ~~his~~ employment in this state. 5298
That part of the compensation attributable to the injury or 5299
disease sustained or suffered while in the service shall be paid 5300
out of the statutory surplus of the state insurance fund created 5301
under section 4123.34 of the Revised Code, and shall not be 5302
merit rated or otherwise treated as part of the accident or 5303
occupational disease experience of the employer of the employee. 5304
That part of the compensation attributable to the injury or 5305
occupational disease sustained or suffered in the course of and 5306
arising out of ~~his~~ employment in this state shall be merit rated 5307
and treated as part of the accident or occupational disease 5308

experience of the employer of the employee, and shall be paid 5309
out of the state insurance fund, unless the employer is a self- 5310
insuring employer ~~as provided for in section 4123.35 of the~~ 5311
~~Revised Code,~~ in which case payment shall be made by the self- 5312
insuring employer. In such case the administrator of workers' 5313
compensation may order the employer to pay the employee the full 5314
amount of compensation awarded the employee by the commission or 5315
the bureau, and in such event it shall order the employer 5316
reimbursed out of the statutory surplus of the state insurance 5317
fund for that part of the compensation paid which the commission 5318
or bureau determines to be attributable to the injury or disease 5319
sustained or suffered in the service. Nothing in this section is 5320
applicable in connection with any award of compensation made by 5321
the commission or bureau to an employee of an employer who has 5322
neither contributed to the state insurance fund nor ~~elected to~~ 5323
~~pay compensation directly under section 4123.35 of the Revised~~ 5324
~~Code been granted status as a self-insuring employer.~~ 5325

The records of any agency of the United States authorized 5326
to keep or preserve the records of service of persons in active 5327
service in the armed forces of the United States at any time 5328
during a period of war as defined in the "Veterans' Pension and 5329
Readjustment Assistance Act of 1967," 81 Stat. 181, 38 U.S.C.A. 5330
101 or the period beginning May 1, 1940, and ending December 7, 5331
1941, or to determine the fact of injury or disease of the 5332
person sustained or suffered while in service, when made 5333
available to the commission and the bureau in such manner and 5334
form as it deems proper, shall be deemed by the commission and 5335
the bureau to establish prima facie the facts of the service and 5336
the fact as to whether or not the person sustained or suffered 5337
an injury or disease while in the service, and if so, the nature 5338
thereof, and the prima-facie establishment may be deemed by the 5339

commission and the bureau to be overcome only upon clear and 5340
convincing evidence to the contrary. 5341

The administrator may accept and credit to the statutory 5342
surplus of the state insurance fund any sum of money that may at 5343
any time be contributed to or made available to the state by the 5344
United States under any act of congress, or otherwise, to which 5345
the state is, or may become, entitled by reason of any payments 5346
made to employees out of the statutory surplus in accordance 5347
with this chapter. 5348

Sec. 4123.65. (A) A state fund employer or the employee of 5349
such an employer may file an application with the administrator 5350
of workers' compensation for approval of a final settlement of a 5351
claim under this chapter. The application shall include the 5352
settlement agreement, and except as otherwise specified in this 5353
division, be signed by the claimant and employer, and clearly 5354
set forth the circumstances by reason of which the proposed 5355
settlement is deemed desirable and that the parties agree to the 5356
terms of the settlement agreement. A claimant may file an 5357
application without an employer's signature in the following 5358
situations: 5359

(1) The employer is no longer doing business in Ohio; 5360

(2) The claim no longer is in the employer's industrial 5361
accident or occupational disease experience as provided in 5362
division (B) of section 4123.34 of the Revised Code and the 5363
claimant no longer is employed with that employer; 5364

(3) The employer has failed to comply with section 4123.35 5365
of the Revised Code. 5366

If a claimant files an application without an employer's 5367
signature, and the employer still is doing business in this 5368

state, the administrator shall send written notice of the 5369
application to the employer immediately upon receipt of the 5370
application. If the employer fails to respond to the notice 5371
within thirty days after the notice is sent, the application 5372
need not contain the employer's signature. 5373

If a state fund employer or an employee of such an 5374
employer has not filed an application for a final settlement 5375
under this division, the administrator may file an application 5376
on behalf of the employer or the employee, provided that the 5377
administrator gives notice of the filing to the employer and the 5378
employee and to the representative of record of the employer and 5379
of the employee immediately upon the filing. An application 5380
filed by the administrator shall contain all of the information 5381
and signatures required of an employer or an employee who files 5382
an application under this division. Every self-insuring employer 5383
that enters into a final settlement agreement with an employee 5384
shall mail, within seven days of executing the agreement, a copy 5385
of the agreement to the administrator and the employee's 5386
representative. The administrator shall place the agreement into 5387
the claimant's file. A workers' compensation insurer may address 5388
settlements in the workers' compensation insurer policy. If the 5389
insurer elects to do so, the workers' compensation insurer shall 5390
comply with division (D) of this section. 5391

(B) Except as provided in divisions (C) and (D) of this 5392
section, a settlement agreed to under this section is binding 5393
upon all parties thereto and as to items, injuries, and 5394
occupational diseases to which the settlement applies. 5395

(C) No settlement agreed to under division (A) of this 5396
section or agreed to by a self-insuring employer and the self- 5397
insuring employer's employee shall take effect until thirty days 5398

after the administrator approves the settlement for state fund 5399
employees and employers, or after the self-insuring employer and 5400
employee sign the final settlement agreement. During the thirty- 5401
day period, the employer, employee, or administrator, for state 5402
fund settlements, and the employer or employee, for self- 5403
insuring settlements, may withdraw consent to the settlement by 5404
an employer providing written notice to the employer's employee 5405
and the administrator or by an employee providing written notice 5406
to the employee's employer and the administrator, or by the 5407
administrator providing written notice to the state fund 5408
employer and employee. If an employee dies during the thirty-day 5409
waiting period following the approval of a settlement, the 5410
settlement can be voided by any party for good cause shown. 5411

(D) At the time of agreement to any final settlement 5412
agreement under division (A) of this section, any final 5413
settlement agreement involving a workers' compensation insurer, 5414
or agreement between a self-insuring employer and the self- 5415
insuring employer's employee, the administrator, for state fund 5416
settlements, the workers' compensation insurer, for settlements 5417
involving the insurer, and the self-insuring employer, for self- 5418
insuring settlements, immediately shall send a copy of the 5419
agreement to the industrial commission who shall assign the 5420
matter to a staff hearing officer. The staff hearing officer 5421
shall determine, within the time limitations specified in 5422
division (C) of this section, whether the settlement agreement 5423
is or is not a gross miscarriage of justice. If the staff 5424
hearing officer determines within that time period that the 5425
settlement agreement is clearly unfair, the staff hearing 5426
officer shall issue an order disapproving the settlement 5427
agreement. If the staff hearing officer determines that the 5428
settlement agreement is not clearly unfair or fails to act 5429

within those time limits, the settlement agreement is approved. 5430

(E) A settlement entered into under this section may 5431
pertain to one or more claims of a claimant, or one or more 5432
parts of a claim, or the compensation or benefits pertaining to 5433
either, or any combination thereof, provided that nothing in 5434
this section shall be interpreted to require a claimant to enter 5435
into a settlement agreement for every claim that has been filed 5436
with the bureau of workers' compensation by that claimant under 5437
Chapter 4121., 4123., 4127., or 4131. of the Revised Code. 5438

(F) A settlement entered into under this section is not 5439
appealable under section 4123.511 or 4123.512 of the Revised 5440
Code. 5441

Sec. 4123.74. Employers who comply with section 4123.35 of 5442
the Revised Code shall not be liable to respond in damages at 5443
common law or by statute for any injury, or occupational 5444
disease, or bodily condition, received or contracted by any 5445
employee in the course of or arising out of ~~his~~ employment, or 5446
for any death resulting from such injury, occupational disease, 5447
or bodily condition occurring during the period covered by such 5448
premium so paid into the state insurance fund or to a workers' 5449
compensation insurer, or during the interval the employer is a 5450
self-insuring employer, whether or not such injury, occupational 5451
disease, bodily condition, or death is compensable under this 5452
chapter. 5453

Sec. 4123.75. Any employee whose employer has failed to 5454
comply with section 4123.35 of the Revised Code, who has been 5455
injured or has suffered an occupational disease in the course of 5456
~~his~~ the employee's employment, which was not purposely self- 5457
inflicted, or ~~his~~ the employee's dependents in case death has 5458
ensued, may file ~~his~~ the employee's application with the 5459

industrial commission or the bureau of workers' compensation for 5460
compensation and the administrator of workers' compensation 5461
shall determine the application for compensation in like manner 5462
as in other claims and shall make an award to the claimant as ~~he~~ 5463
the claimant would be entitled to receive if the employer had 5464
complied with section 4123.35 of the Revised Code. Payment of 5465
the claim shall be made promptly from the statutory surplus 5466
fund. Payment shall not bar any action under section 4123.77 of 5467
the Revised Code. If a recovery is made in an action under 5468
section 4123.77 of the Revised Code any funds paid from the 5469
state insurance fund under this section shall be repaid by the 5470
claimant. The administrator shall institute proceedings to 5471
recover from the employer any moneys paid from the surplus fund 5472
and to secure the employer's payment of the award. The employer 5473
shall pay the award in the manner and amount fixed thereby or 5474
shall furnish to the bureau a bond, in an amount and with 5475
sureties as the bureau requires, to pay the employee the award 5476
in the manner and amount fixed thereby. 5477

An order of the administrator issued under this section is 5478
appealable pursuant to ~~section~~ sections 4123.511 and 4123.512 of 5479
the Revised Code. In the event payments are made to a claimant 5480
which should not have been made under the final decision in the 5481
appeal of the claim, the amount of the payments shall be charged 5482
to the surplus fund created under division (B) of section 5483
4123.34 of the Revised Code. In the event recovery is made from 5484
the noncomplying employer, the sums that are recovered shall be 5485
paid into the surplus fund. 5486

If the employer fails to pay the compensation to the 5487
person entitled thereto, or fails to furnish the bond, within a 5488
period of ten days after notification of the award, the award 5489
constitutes a liquidated claim for damages against the employer 5490

in the amount ascertained and fixed by the administrator or 5491
commission, and the administrator shall certify the same to the 5492
attorney general who shall forthwith institute a civil action 5493
against the employer in the name of the state for the collection 5494
of the award. In the action it is sufficient for the plaintiff 5495
to set forth a copy of the record of proceedings of the 5496
commission or bureau relative to the claims certified by the 5497
administrator to the attorney general and to state that there is 5498
due to plaintiff on account of the finding and award of the 5499
commission or bureau a specified sum which plaintiff claims with 5500
interest. A certified copy of the record of proceedings in the 5501
claim shall be attached to the complaint and constitutes prima- 5502
facie evidence of the truth of the facts therein contained. 5503
Further proceedings shall be as provided in the Rules of Civil 5504
Procedure. As soon as the issues are made up in any such case, 5505
it shall be placed at the head of the trial docket and shall be 5506
first in order for trial. The cause of action provided in this 5507
section and the cause of action provided by section 4123.37 of 5508
the Revised Code may be joined in one action against an 5509
employer, and the amount of any premium paid or recovered from 5510
the employer for the period not exceeding six months during 5511
which the injury or disease, or injury or disease resulting in 5512
death, occurred shall be credited against the amount of any 5513
judgment for compensation recovered pursuant to this section. 5514
The amount recovered in the action from the employer shall be 5515
paid into the surplus fund created under division (B) of section 5516
4123.34 of the Revised Code up to the amount paid out of the 5517
surplus fund and the balance into the state insurance fund. Any 5518
employee of a privately insured or self-insuring employer, in 5519
the event of the failure of ~~his~~ the employee's employer to 5520
maintain coverage through a workers' compensation insurer or to 5521
pay the compensation or furnish the medical, surgical, nursing, 5522

and hospital services and attention or funeral expenses, as 5523
applicable, may file ~~his~~ the employee's application with the 5524
commission or the bureau for the purpose of having the amount of 5525
the compensation and the medical, surgical, nursing, and 5526
hospital services and attention or funeral expenses determined; 5527
and thereupon like proceedings shall be had before the bureau 5528
and with like effect as provided in this section. 5529

The administrator shall adopt and publish rules governing 5530
the procedure before the bureau and commission provided in this 5531
section and shall prescribe the form of notices and the manner 5532
of serving the same in all claims for compensation arising under 5533
this section. Any suit, action, proceeding, or award brought or 5534
made against any employer under this section may be compromised 5535
by the administrator, or the suit, action, or proceeding may be 5536
prosecuted to final judgment as in the administrator's 5537
discretion may best subserve the interests of the state 5538
insurance fund. 5539

A final judgment against the employer recovered in the 5540
manner provided in this section entitles the claimant to the 5541
compensation provided in this chapter for the injury, 5542
occupational disease, or death and the compensation shall be 5543
paid from the surplus fund created by section 4123.34 of the 5544
Revised Code, and any sum recovered on account of the judgment 5545
shall be paid to the bureau and credited to the fund the 5546
administrator designates. 5547

Sec. 4123.79. (A) Any interested party may enjoin the 5548
further operation of an employer subject to this chapter who has 5549
failed to pay the employer's premium to the workers' 5550
compensation fund as prescribed in this chapter. The procedure 5551
to obtain an injunction is governed by Chapter 2727. of the 5552

Revised Code and the right to such relief is in addition to the 5553
rights described in section 2727.02 of the Revised Code. 5554

(B) (1) No construction contractor or subcontractor who, on 5555
the date of entering into a construction contract has not been 5556
in compliance with section 4123.35 of the Revised Code for a 5557
minimum of nine consecutive months, may bring an action to 5558
enforce rights arising from that construction contract. 5559

(2) Nothing in this section shall require the surety of a 5560
contractor or subcontractor described in division (B) (1) of this 5561
section to make payment of any workers' compensation obligation 5562
of that contractor or subcontractor or affect the surety's 5563
rights in the event that the contractor or subcontractor is in 5564
default or is declared by an obligee to be in default of its 5565
contractual obligations. 5566

(C) As used in this section: 5567

(1) "Interested party" means any of the following: 5568

(a) An employer who is in compliance with section 4123.35 5569
of the Revised Code and who is not a privately insured or self- 5570
insuring employer; 5571

(b) The attorney general; 5572

(c) The administrator of workers' compensation. 5573

(2) "Construction contract" means any oral or written 5574
agreement involving any activity in connection with the 5575
erection, alteration, repair, replacement, renovation, 5576
installation, or demolition of any building, structure, highway, 5577
or bridge. 5578

Sec. 4123.80. No agreement by an employee to waive an 5579
employee's rights to compensation under this chapter is valid, 5580

except that: 5581

(A) An employee who is blind may waive the compensation 5582
that may become due to the employee for injury or disability in 5583
cases where the injury or disability may be directly caused by 5584
or due to the employee's blindness. The administrator of 5585
workers' compensation, with the advice and consent of the bureau 5586
of workers' compensation board of directors, may adopt and 5587
enforce rules governing the employment of such persons and the 5588
inspection of their places of employment. 5589

(B) An employee may waive the employee's rights to 5590
compensation or benefits as authorized pursuant to division (C) 5591
(3) of section 4123.01 or section 4123.15 of the Revised Code. 5592

No agreement by an employee to pay any portion of the 5593
premium paid by the employee's employer into the state insurance 5594
fund or to a workers' compensation insurer is valid. 5595

Sec. 4123.81. No employer shall deduct any portion of the 5596
premium paid by such employer into the state insurance fund or 5597
to a workers' compensation insurer from the wages or salary of 5598
any employee entitled to the benefits of sections 4123.01 to 5599
4123.94, inclusive, of the Revised Code. 5600

Sec. 4123.82. (A) All contracts and agreements are void 5601
which undertake to indemnify or insure an employer against loss 5602
or liability for the payment of compensation to workers or their 5603
dependents for death, injury, or occupational disease occasioned 5604
in the course of the workers' employment, or which provide that 5605
the insurer shall pay the compensation, or which indemnify the 5606
employer against damages when the injury, disease, or death 5607
arises from the failure to comply with any lawful requirement 5608
for the protection of the lives, health, and safety of 5609

employees, or when the same is occasioned by the willful act of 5610
the employer or any of the employer's officers or agents, or by 5611
which it is agreed that the insurer shall pay any such damages. 5612
No license or authority to enter into any such agreements or 5613
issue any such policies of insurance shall be granted or issued 5614
by any public authority in this state. Any corporation organized 5615
or admitted under the laws of this state to transact liability 5616
insurance as defined in section 3929.01 of the Revised Code may 5617
by amendment of its articles of incorporation or by original 5618
articles of incorporation, provide therein for the authority and 5619
purpose to make insurance in states, territories, districts, and 5620
counties, other than the state of Ohio, and in the state of Ohio 5621
in respect of contracts permitted by division (B) of this 5622
section, indemnifying employers against loss or liability for 5623
payment of compensation to workers and employees and their 5624
dependents for death, injury, or occupational disease occasioned 5625
in the course of the employment and to insure and indemnify 5626
employers against loss, expense, and liability by risk of bodily 5627
injury or death by accident, disability, sickness, or disease 5628
suffered by workers and employees for which the employer may be 5629
liable or has assumed liability. 5630

(B) Notwithstanding division (A) of this section: 5631

(1) No contract because of that division is void which 5632
undertakes to indemnify ~~a~~ either of the following: 5633

(a) A self-insuring employer with at least one thousand 5634
employees against all or part of such employer's loss arising 5635
out of the employer's liability under this chapter; 5636

(b) A self-insuring employer against all or part of such 5637
employer's loss in excess of at least fifty thousand dollars 5638
from any one disaster or event arising out of the employer's 5639

liability under this chapter, ~~but~~. Except with respect to 5640
policies written pursuant to section 4123.351 of the Revised 5641
Code, no insurance corporation shall, directly or indirectly, 5642
represent an employer in the settlement, adjudication, 5643
determination, allowance, or payment of claims. The 5644
superintendent of insurance shall enforce this prohibition by 5645
such disciplinary orders directed against the offending 5646
insurance corporation as the superintendent of insurance deems 5647
appropriate in the circumstances and the administrator of 5648
workers' compensation shall enforce this prohibition by such 5649
disciplinary orders directed against the offending employer as 5650
the administrator deems appropriate in the circumstances, which 5651
orders may include revocation of the insurance corporation's 5652
right to enter into indemnity contracts and revocation of the 5653
employer's status as a self-insuring employer. 5654

(2) The administrator may enter into a contract of 5655
indemnity with any such employer upon such terms, payment of 5656
such premium, and for such amount and form of indemnity as the 5657
administrator determines and the bureau of workers' compensation 5658
board of directors may procure reinsurance of the liability of 5659
the public and private funds under this chapter, or any part of 5660
the liability in respect of either or both of the funds, upon 5661
such terms and premiums or other payments from the fund or funds 5662
as the administrator deems prudent in the maintenance of a 5663
solvent fund or funds from year to year. ~~When making the finding~~ 5664
~~of fact which the administrator is required by section 4123.35~~ 5665
~~of the Revised Code to make with respect to the financial~~ 5666
~~ability of an employer, no contract of indemnity, or the ability~~ 5667
~~of the employer to procure such a contract, shall be considered~~ 5668
~~as increasing the financial ability of the employer.~~ 5669

(C) Nothing in this section shall be construed to prohibit 5670

the administrator or an other-states' insurer from providing to 5671
employers in this state other-states' coverage or limited other- 5672
states' coverage in accordance with section 4123.292 of the 5673
Revised Code. 5674

(D) Notwithstanding any other section of the Revised Code, 5675
but subject to division (A) of this section, the superintendent 5676
of insurance shall have the sole authority to regulate any 5677
insurance products, except for the bureau of workers' 5678
compensation and those products offered by the bureau, that 5679
indemnify or insure employers against workers' compensation 5680
losses in this state or that are sold to employers in this 5681
state. 5682

Sec. 4123.83. Each employer paying premiums into the state 5683
insurance fund ~~or electing directly to pay compensation to the~~ 5684
~~employer's injured employees or the dependents of the employer's~~ 5685
~~killed employees as provided in section 4123.35 of the Revised~~ 5686
~~Code, each self-insuring employer, and each privately insured~~ 5687
employer shall post conspicuously in the employer's place or 5688
places of employment notices, which shall be furnished at least 5689
annually by the bureau of workers' compensation. The notice 5690
shall state that it is proof of workers' compensation coverage, 5691
or that the employer has complied with section 4123.35 of the 5692
Revised Code and has been authorized by the ~~administrator of~~ 5693
~~workers' compensation superintendent of insurance~~ directly to 5694
compensate employees or dependents, and the date of the 5695
authorization. The notice shall indicate that coverage is 5696
contingent on continued payment of premiums and assessments due. 5697
The notice, when posted, constitutes sufficient notice to the 5698
employer's employees of the fact that the employer carries 5699
workers' compensation coverage or that the employer has complied 5700
with the elective provisions of section 4123.35 of the Revised 5701

Code.	5702
Sec. 4123.84. (A) In all cases of injury or death, claims	5703
for compensation or benefits for the specific part or parts of	5704
the body injured shall be forever barred unless, within two	5705
years after the injury or death:	5706
(1) Written or facsimile notice of the specific part or	5707
parts of the body claimed to have been injured has been made to	5708
<u>the workers' compensation insurer from whom an employer has</u>	5709
<u>obtained coverage under this chapter,</u> the industrial commission,	5710
or the bureau of workers' compensation;	5711
(2) The employer, with knowledge of a claimed compensable	5712
injury or occupational disease, has paid wages in lieu of	5713
compensation for total disability;	5714
(3) In the event the employer is a self-insuring employer,	5715
one of the following has occurred:	5716
(a) Written or facsimile notice of the specific part or	5717
parts of the body claimed to have been injured has been given to	5718
the commission or bureau or the employer has furnished treatment	5719
by a licensed physician in the employ of an employer, provided,	5720
however, that the furnishing of such treatment shall not	5721
constitute a recognition of a claim as compensable, but shall do	5722
no more than satisfy the requirements of this section;	5723
(b) Compensation or benefits have been paid or furnished	5724
equal to or greater than is provided for in sections 4123.52,	5725
4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code.	5726
(4) Written or facsimile notice of death has been given to	5727
<u>the workers' compensation insurer from whom an employer has</u>	5728
<u>obtained coverage under this chapter,</u> commission, or bureau.	5729

(B) The bureau shall provide printed notices quoting in 5730
full division (A) of this section, and every self-insuring 5731
employer shall post and maintain at all times one or more of the 5732
notices in conspicuous places in the workshop or places of 5733
employment. 5734

(C) The commission has continuing jurisdiction as set 5735
forth in section 4123.52 of the Revised Code over a claim which 5736
meets the requirement of this section, including jurisdiction to 5737
award compensation or benefits for loss or impairment of bodily 5738
functions developing in a part or parts of the body not 5739
specified pursuant to division (A) (1) of this section, if the 5740
commission finds that the loss or impairment of bodily functions 5741
was due to and a result of or a residual of the injury to one of 5742
the parts of the body set forth in the written notice filed 5743
pursuant to division (A) (1) of this section. 5744

(D) Any claim pending before the administrator, the 5745
commission, or a court on December 11, 1967, in which the remedy 5746
is affected by this section is governed by this section. 5747

(E) Notwithstanding the requirement that the notice 5748
required to be given to the workers' compensation insurer, 5749
bureau, commission, or employer under this section is to be in 5750
writing or facsimile, the bureau or workers' compensation 5751
insurer may accept, assign a claim number, and process a claim 5752
when notice is provided verbally over the telephone. Immediately 5753
upon receipt of notice provided verbally over the telephone, the 5754
bureau or workers' compensation insurer shall send a written or 5755
facsimile notice to the employer of the bureau's or insurer's 5756
receipt of the verbal notice. Within fifteen days after receipt 5757
of the bureau's or insurer's written or facsimile notice, the 5758
employer may in writing or facsimile either verify or not verify 5759

the verbal notice. If the bureau or workers' compensation 5760
insurer does not receive the written or facsimile notification 5761
from the employer or receives a written or facsimile 5762
notification verifying the verbal notice within such time 5763
period, the claim is validly filed and such verbal notice tolls 5764
the statute of limitations in regard to the claim filed and is 5765
considered to meet the requirements of written or facsimile 5766
notice required by this section. 5767

(F) As used in division (A) (3) (b) of this section, 5768
"benefits" means payments by a self-insuring employer to, or on 5769
behalf of, an employee for a hospital bill, a medical bill to a 5770
licensed physician or hospital, or an orthopedic or prosthetic 5771
device. 5772

Sec. 4123.85. In all cases of occupational disease, or 5773
death resulting from occupational disease, claims for 5774
compensation or benefits are forever barred unless, within two 5775
years after the disability due to the disease began, or within 5776
such longer period as does not exceed six months after diagnosis 5777
of the occupational disease by a licensed physician or within 5778
two years after death occurs, application is made to the 5779
industrial commission or the bureau of workers' compensation, 5780
the workers' compensation insurer if the employer is a privately 5781
insured employer, or to the employer if ~~he~~ the employer is a 5782
self-insuring employer. 5783

Sec. 4123.93. As used in sections 4123.93 and 4123.931 of 5784
the Revised Code: 5785

(A) "Claimant" means a person who is eligible to receive 5786
compensation, medical benefits, or death benefits under this 5787
chapter or Chapter 4121., 4127., or 4131. of the Revised Code. 5788

(B) "Statutory subrogee" means the administrator of workers' compensation, a workers' compensation insurer, a self-insuring employer, or an employer that contracts for the direct payment of medical services pursuant to division (P) of section 4121.44 of the Revised Code.

(C) "Third party" means an individual, private insurer, public or private entity, or public or private program that is or may be liable to make payments to a person without regard to any statutory duty contained in this chapter or Chapter 4121., 4127., or 4131. of the Revised Code.

(D) "Subrogation interest" includes past, present, and estimated future payments of compensation, medical benefits, rehabilitation costs, or death benefits, and any other costs or expenses paid to or on behalf of the claimant by the statutory subrogee pursuant to this chapter or Chapter 4121., 4127., or 4131. of the Revised Code.

(E) "Net amount recovered" means the amount of any award, settlement, compromise, or recovery by a claimant against a third party, minus the attorney's fees, costs, or other expenses incurred by the claimant in securing the award, settlement, compromise, or recovery. "Net amount recovered" does not include any punitive damages that may be awarded by a judge or jury.

(F) "Uncompensated damages" means the claimant's demonstrated or proven damages minus the statutory subrogee's subrogation interest.

Sec. 4123.931. (A) The payment of compensation or benefits pursuant to this chapter or Chapter 4121., 4127., or 4131., of the Revised Code creates a right of recovery in favor of a statutory subrogee against a third party, and the statutory

subrogee is subrogated to the rights of a claimant against that 5818
third party. The net amount recovered is subject to a statutory 5819
subrogee's right of recovery. 5820

(B) If a claimant, statutory subrogee, and third party 5821
settle or attempt to settle a claimant's claim against a third 5822
party, the claimant shall receive an amount equal to the 5823
uncompensated damages divided by the sum of the subrogation 5824
interest plus the uncompensated damages, multiplied by the net 5825
amount recovered, and the statutory subrogee shall receive an 5826
amount equal to the subrogation interest divided by the sum of 5827
the subrogation interest plus the uncompensated damages, 5828
multiplied by the net amount recovered, except that the net 5829
amount recovered may instead be divided and paid on a more fair 5830
and reasonable basis that is agreed to by the claimant and 5831
statutory subrogee. If while attempting to settle, the claimant 5832
and statutory subrogee cannot agree to the allocation of the net 5833
amount recovered, the claimant and statutory subrogee may file a 5834
request with the administrator of workers' compensation for a 5835
conference to be conducted by a designee appointed by the 5836
administrator, or the claimant and statutory subrogee may agree 5837
to utilize any other binding or non-binding alternative dispute 5838
resolution process. 5839

The claimant and statutory subrogee shall pay equal shares 5840
of the fees and expenses of utilizing an alternative dispute 5841
resolution process, unless they agree to pay those fees and 5842
expenses in another manner. The administrator shall not assess 5843
any fees to a claimant or statutory subrogee for a conference 5844
conducted by the administrator's designee. 5845

(C) If a claimant and statutory subrogee request that a 5846
conference be conducted by the administrator's designee pursuant 5847

to division (B) of this section, both of the following apply: 5848

(1) The administrator's designee shall schedule a 5849
conference on or before sixty days after the date that the 5850
claimant and statutory subrogee filed a request for the 5851
conference. 5852

(2) The determination made by the administrator's designee 5853
is not subject to Chapter 119. of the Revised Code. 5854

(D) When a claimant's action against a third party 5855
proceeds to trial and damages are awarded, both of the following 5856
apply: 5857

(1) The claimant shall receive an amount equal to the 5858
uncompensated damages divided by the sum of the subrogation 5859
interest plus the uncompensated damages, multiplied by the net 5860
amount recovered, and the statutory subrogee shall receive an 5861
amount equal to the subrogation interest divided by the sum of 5862
the subrogation interest plus the uncompensated damages, 5863
multiplied by the net amount recovered. 5864

(2) The court in a nonjury action shall make findings of 5865
fact, and the jury in a jury action shall return a general 5866
verdict accompanied by answers to interrogatories that specify 5867
the following: 5868

(a) The total amount of the compensatory damages; 5869

(b) The portion of the compensatory damages specified 5870
pursuant to division (D) (2) (a) of this section that represents 5871
economic loss; 5872

(c) The portion of the compensatory damages specified 5873
pursuant to division (D) (2) (a) of this section that represents 5874
noneconomic loss. 5875

(E) (1) After a claimant and statutory subrogee know the net amount recovered, and after the means for dividing it has been determined under division (B) or (D) of this section, a claimant may establish an interest-bearing trust account for the full amount of the subrogation interest that represents estimated future payments of compensation, medical benefits, rehabilitation costs, or death benefits, reduced to present value, from which the claimant shall make reimbursement payments to the statutory subrogee for the future payments of compensation, medical benefits, rehabilitation costs, or death benefits. If the workers' compensation claim associated with the subrogation interest is settled, or if the claimant dies, or if any other circumstance occurs that would preclude any future payments of compensation, medical benefits, rehabilitation costs, and death benefits by the statutory subrogee, any amount remaining in the trust account after final reimbursement is paid to the statutory subrogee for all payments made by the statutory subrogee before the ending of future payments shall be paid to the claimant or the claimant's estate.

(2) A claimant may use interest that accrues on the trust account to pay the expenses of establishing and maintaining the trust account, and all remaining interest shall be credited to the trust account.

(3) If a claimant establishes a trust account, the statutory subrogee shall provide payment notices to the claimant on or before the thirtieth day of June and the thirty-first day of December every year listing the total amount that the statutory subrogee has paid for compensation, medical benefits, rehabilitation costs, or death benefits during the half of the year preceding the notice. The claimant shall make reimbursement payments to the statutory subrogee from the trust account on or

before the thirty-first day of July every year for a notice 5907
provided by the thirtieth day of June, and on or before the 5908
thirty-first day of January every year for a notice provided by 5909
the thirty-first day of December. The claimant's reimbursement 5910
payment shall be in an amount that equals the total amount 5911
listed on the notice the claimant receives from the statutory 5912
subrogee. 5913

(F) If a claimant does not establish a trust account as 5914
described in division (E) (1) of this section, the claimant shall 5915
pay to the statutory subrogee, on or before thirty days after 5916
receipt of funds from the third party, the full amount of the 5917
subrogation interest that represents estimated future payments 5918
of compensation, medical benefits, rehabilitation costs, or 5919
death benefits. 5920

(G) A claimant shall notify a statutory subrogee and the 5921
attorney general of the identity of all third parties against 5922
whom the claimant has or may have a right of recovery, except 5923
that when the statutory subrogee is a self-insuring employer or 5924
privately insured employer, the claimant need not notify the 5925
attorney general. No settlement, compromise, judgment, award, or 5926
other recovery in any action or claim by a claimant shall be 5927
final unless the claimant provides the statutory subrogee and, 5928
when required, the attorney general, with prior notice and a 5929
reasonable opportunity to assert its subrogation rights. If a 5930
statutory subrogee and, when required, the attorney general are 5931
not given that notice, or if a settlement or compromise excludes 5932
any amount paid by the statutory subrogee, the third party and 5933
the claimant shall be jointly and severally liable to pay the 5934
statutory subrogee the full amount of the subrogation interest. 5935

(H) The right of subrogation under this chapter is 5936

automatic, regardless of whether a statutory subrogee is joined 5937
as a party in an action by a claimant against a third party. A 5938
statutory subrogee may assert its subrogation rights through 5939
correspondence with the claimant and the third party or their 5940
legal representatives. A statutory subrogee may institute and 5941
pursue legal proceedings against a third party either by itself 5942
or in conjunction with a claimant. If a statutory subrogee 5943
institutes legal proceedings against a third party, the 5944
statutory subrogee shall provide notice of that fact to the 5945
claimant. If the statutory subrogee joins the claimant as a 5946
necessary party, or if the claimant elects to participate in the 5947
proceedings as a party, the claimant may present the claimant's 5948
case first if the matter proceeds to trial. If a claimant 5949
disputes the validity or amount of an asserted subrogation 5950
interest, the claimant shall join the statutory subrogee as a 5951
necessary party to the action against the third party. 5952

(I) The statutory subrogation right of recovery applies 5953
to, but is not limited to, all of the following: 5954

(1) Amounts recoverable from a claimant's insurer in 5955
connection with underinsured or uninsured motorist coverage, 5956
notwithstanding any limitation contained in Chapter 3937. of the 5957
Revised Code; 5958

(2) Amounts that a claimant would be entitled to recover 5959
from a political subdivision, notwithstanding any limitations 5960
contained in Chapter 2744. of the Revised Code; 5961

(3) Amounts recoverable from an intentional tort action. 5962

(J) If a claimant's claim against a third party is for 5963
wrongful death or the claim involves any minor beneficiaries, 5964
amounts allocated under this section are subject to the approval 5965

of probate court. 5966

(K) The administrator shall deposit any money collected 5967
under this section into the public fund or the private fund of 5968
the state insurance fund, as appropriate. If a self-insuring 5969
employer collects money under this section of the Revised Code, 5970
the self-insuring employer shall deduct the amount collected, in 5971
the year collected, from the amount of paid compensation the 5972
self-insured employer is required to report under section 5973
4123.35-3971.10 of the Revised Code. If a privately insured 5974
employer collects money under this section of the Revised Code, 5975
the privately insured employer shall deduct the amount 5976
collected, in the year collected, from the amount of paid 5977
compensation the privately insured employer is required to 5978
report under division (D) of section 4123.351 of the Revised 5979
Code. 5980

Sec. 4125.05. (A) Not later than thirty days after the 5981
formation of a professional employer organization, a 5982
professional employer organization operating in this state shall 5983
register with the administrator of workers' compensation on 5984
forms provided by the administrator. Following initial 5985
registration, each professional employer organization shall 5986
register with the administrator annually on or before the 5987
thirty-first day of December. Commonly owned or controlled 5988
applicants may register as a professional employer organization 5989
reporting entity or register individually. Registration as a 5990
part of a professional employer organization reporting entity 5991
shall not disqualify an individual professional employer 5992
organization from participating in a group-rated plan under 5993
division (A) (4) of section 4123.29 of the Revised Code. 5994

(B) Initial registration and each annual registration 5995

renewal shall include all of the following: 5996

(1) A list of each of the professional employer 5997
organization's client employers current as of the date of 5998
registration for purposes of initial registration or current as 5999
of the date of annual registration renewal, or within fourteen 6000
days of adding or releasing a client, that includes the client 6001
employer's name, address, federal tax identification number, and 6002
bureau of workers' compensation risk number; 6003

(2) A fee as determined by the administrator; 6004

(3) The name or names under which the professional 6005
employer organization conducts business; 6006

(4) The address of the professional employer 6007
organization's principal place of business and the address of 6008
each office it maintains in this state; 6009

(5) The professional employer organization's taxpayer or 6010
employer identification number; 6011

(6) A list of each state in which the professional 6012
employer organization has operated in the preceding five years, 6013
and the name, corresponding with each state, under which the 6014
professional employer organization operated in each state, 6015
including any alternative names, names of predecessors, and if 6016
known, successor business entities; 6017

(7) The most recent financial statement prepared and 6018
audited pursuant to division (B) of section 4125.051 of the 6019
Revised Code; 6020

(8) If there is any deficit in the working capital 6021
required under division (A) of section 4125.051 of the Revised 6022
Code, a bond, irrevocable letter of credit, or securities with a 6023

minimum market value in an amount sufficient to cover the 6024
deficit in accordance with the requirements of that section; 6025

(9) An attestation of the accuracy of the data submissions 6026
from the chief executive officer of the professional employer 6027
organization. 6028

(C) Upon terms and for periods that the administrator 6029
considers appropriate, the administrator may issue a limited 6030
registration to a professional employer organization or 6031
professional employer organization reporting entity that 6032
provides all of the following items: 6033

(1) A properly executed request for limited registration 6034
on a form provided by the administrator; 6035

(2) All information and materials required for 6036
registration in divisions (B) (1) to (6) of this section; 6037

(3) Information and documentation necessary to show that 6038
the professional employer organization or professional employer 6039
organization reporting entity satisfies all of the following 6040
criteria: 6041

(a) It is domiciled outside of this state. 6042

(b) It is licensed or registered as a professional 6043
employer organization in another state. 6044

(c) It does not maintain an office in this state. 6045

(d) It does not participate in direct solicitations for 6046
client employers located or domiciled in this state. 6047

(e) It has fifty or fewer shared employees employed or 6048
domiciled in this state on any given day. 6049

(D) (1) The administrator, with the advice and consent of 6050

the bureau of workers' compensation board of directors, may 6051
adopt rules in accordance with Chapter 119. of the Revised Code 6052
to require, in addition to the requirement under division (B) (8) 6053
of this section, a professional employer organization to provide 6054
security in the form of a bond or letter of credit assignable to 6055
the Ohio bureau of workers' compensation not to exceed an amount 6056
equal to the premiums and assessments incurred for the most 6057
recent policy year, prior to any discounts or dividends, to meet 6058
the financial obligations of the professional employer 6059
organization pursuant to this chapter and Chapters 4121. and 6060
4123. of the Revised Code. 6061

(2) A professional employer organization may appeal the 6062
amount of the security required pursuant to rules adopted under 6063
division (D) (1) of this section in accordance with section 6064
4123.291 of the Revised Code. 6065

(3) A professional employer organization shall pay 6066
premiums and assessments for purposes of Chapters 4121. and 6067
4123. of the Revised Code on a monthly basis pursuant to 6068
division (A) of section 4123.35 of the Revised Code. 6069

(E) Notwithstanding division (D) of this section, a 6070
professional employer organization that qualifies for self- 6071
insurance or retrospective rating under section 4123.29 or 6072
~~4123.35~~ Chapter 3971. of the Revised Code shall abide by the 6073
financial disclosure and security requirements pursuant to those 6074
sections and the rules adopted under those sections in place of 6075
the requirements specified in division (D) of this section or 6076
specified in rules adopted pursuant to that division. 6077

(F) Except to the extent necessary for the administrator 6078
to administer the statutory duties of the administrator and for 6079
employees of the state to perform their official duties, all 6080

records, reports, client lists, and other information obtained 6081
from a professional employer organization and professional 6082
employer organization reporting entity under divisions (A), (B), 6083
and (C) of this section are confidential and shall be considered 6084
trade secrets and shall not be published or open to public 6085
inspection. 6086

(G) The list described in division (B)(1) of this section 6087
shall be considered a trade secret. 6088

(H) The administrator shall establish the fee described in 6089
division (B)(2) of this section in an amount that does not 6090
exceed the cost of the administration of the initial and renewal 6091
registration process. 6092

(I) A financial statement required under division (B)(7) 6093
of this section for initial registration shall be the most 6094
recent financial statement of the professional employer 6095
organization or professional employer organization reporting 6096
entity of which the professional employer organization is a 6097
member and shall not be older than thirteen months. For each 6098
registration renewal, the professional employer organization 6099
shall file the required financial statement within one hundred 6100
eighty days after the end of the professional employer 6101
organization's or professional employer organization reporting 6102
entity's fiscal year. A professional employer organization may 6103
apply to the administrator for an extension beyond that time if 6104
the professional employer organization provides the 6105
administrator with a letter from the professional employer 6106
organization's auditor stating the reason for delay and the 6107
anticipated completion date. 6108

(J) Multiple, unrelated professional employer 6109
organizations shall not combine together for purposes of 6110

obtaining workers' compensation coverage or for forming any type 6111
of self-insurance arrangement available under this chapter. 6112
Multiple, unrelated professional employer organization reporting 6113
entities shall not combine together for purposes of obtaining 6114
workers' compensation coverage or for forming any type of self- 6115
insurance arrangement available under this chapter. 6116

(K) The administrator shall maintain a list of 6117
professional employer organizations and professional employer 6118
organization reporting entities registered under this section 6119
that is readily available to the public by electronic or other 6120
means. 6121

Sec. 5119.332. No third-party payer shall directly or 6122
indirectly reimburse, nor shall any person be obligated to pay 6123
any hospital for psychiatric services for which a license is 6124
required under section 5119.33 of the Revised Code unless the 6125
hospital is licensed by the department of mental health and 6126
addiction services. 6127

As used in this section, "third-party payer" means a 6128
health insuring corporation licensed under Chapter 1751. of the 6129
Revised Code, an insurance company that issues sickness and 6130
accident insurance in conformity with Chapter 3923. of the 6131
Revised Code, a state-financed health insurance program under 6132
Chapter 3701., 4123., or 5101. of the Revised Code, a workers' 6133
compensation insurer as defined in section 4123.01 of the 6134
Revised Code, or any self-insurance plan. 6135

Section 2. That existing sections 9.315, 1561.04, 1561.31, 6136
1701.86, 1729.55, 2705.05, 2913.48, 3121.01, 3121.0311, 6137
3701.741, 3702.51, 3937.01, 3955.05, 3964.02, 4121.121, 4121.31, 6138
4121.44, 4121.50, 4121.61, 4121.65, 4121.66, 4123.01, 4123.026, 6139
4123.25, 4123.292, 4123.34, 4123.342, 4123.35, 4123.351, 6140

4123.352, 4123.38, 4123.411, 4123.412, 4123.416, 4123.46, 6141
4123.50, 4123.51, 4123.511, 4123.512, 4123.54, 4123.63, 4123.65, 6142
4123.74, 4123.75, 4123.79, 4123.80, 4123.81, 4123.82, 4123.83, 6143
4123.84, 4123.85, 4123.93, 4123.931, 4125.05, and 5119.332 and 6144
section 4123.353 of the Revised Code are hereby repealed. 6145

Section 3. Beginning on the effective date of this act: 6146

(A) The Self-Insuring Employers Evaluation Board and the 6147
division of self-insurance are transferred from the 6148
Administrator of Workers' Compensation to the Superintendent of 6149
the Department of Insurance; 6150

(B) The Superintendent and Department assume the 6151
functions, duties, and offices of the Self-Insuring Employers 6152
Evaluation Board and the division of self-insurance; 6153

(C) Business commenced but not completed pursuant to 6154
divisions (B) to (S) of section 4123.35 of the Revised Code or 6155
section 4123.352 of the Revised Code, as those sections existed 6156
immediately prior to the effective date of this section, by the 6157
Administrator and the Bureau shall be completed by the 6158
Superintendent or the Department in the same manner, and with 6159
the same effect, as if completed by the Administrator or Bureau. 6160

(D) All of the rules, orders, and determinations enacted 6161
or adopted by the Administrator or the Bureau that relate to the 6162
transfer of functions, duties, and offices required by this 6163
section shall continue in effect as rules, orders, and 6164
determinations of the Superintendent until modified or rescinded 6165
by the Superintendent. If necessary to ensure the integrity of 6166
the numbering of the Administrative Code, the Director of the 6167
Legislative Service Commission shall renumber the rules of the 6168
Administrator, enacted or adopted pursuant to divisions (B) to 6169

(S) of section 4123.35 of the Revised Code or section 4123.352 6170
of the Revised Code, as those sections existed immediately prior 6171
to the effective date of this section, to reflect their transfer 6172
to the Superintendent. 6173

(E) Subject to the layoff provisions of sections 124.321 6174
to 124.328 of the Revised Code, all employees of the 6175
Administrator, who perform functions in the self-insurance 6176
division of the Bureau, pursuant to section 4123.35 of the 6177
Revised Code, or who are staff of the self-insuring employers 6178
board under section 4123.352 of the Revised Code, as those 6179
sections existed immediately prior to the effective date of this 6180
section, are hereby transferred to the Department of Insurance. 6181
The vehicles and equipment assigned to these employees are also 6182
transferred to the Department. 6183

Section 4. As used in this section, "employer" and "self- 6184
insuring employer" have the same meanings as in section 4123.01 6185
of the Revised Code, as amended by this act. 6186

An election made by an employer to become a self-insuring 6187
employer pursuant to section 4123.35 of the Revised Code prior 6188
to the effective date of this act remains in effect regardless 6189
of any transfer of duties from the Administrator and Bureau of 6190
Workers' Compensation to the Superintendent and Department of 6191
Insurance required under this act. 6192