

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 268

Representative Henne

**Cosponsors: Representatives Butler, Romanchuk, Brenner, McColley, Becker,
Hood, Retherford, Seitz, Scherer, Thompson, Goodman, Kick**

A BILL

To amend sections 4123.35, 4123.351, 4123.352, and 1
4123.82 and to enact section 4123.354 of the 2
Revised Code to make changes to the Workers' 3
Compensation Law with respect to self-insuring 4
employers. 5

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

Section 1. That sections 4123.35, 4123.351, 4123.352, and 6
4123.82 be amended and section 4123.354 of the Revised Code be 7
enacted to read as follows: 8

Sec. 4123.35. (A) Except as provided in this section, and 9
until the policy year commencing July 1, 2015, every private 10
employer and every publicly owned utility shall pay semiannually 11
in the months of January and July into the state insurance fund 12
the amount of annual premium the administrator of workers' 13
compensation fixes for the employment or occupation of the 14
employer, the amount of which premium to be paid by each 15
employer to be determined by the classifications, rules, and 16
rates made and published by the administrator. The employer 17
shall pay semiannually a further sum of money into the state 18

insurance fund as may be ascertained to be due from the employer 19
by applying the rules of the administrator. 20

Except as otherwise provided in this section, for a policy 21
year commencing on or after July 1, 2015, every private employer 22
and every publicly owned utility shall pay annually in the month 23
of June immediately preceding the policy year into the state 24
insurance fund the amount of estimated annual premium the 25
administrator fixes for the employment or occupation of the 26
employer, the amount of which estimated premium to be paid by 27
each employer to be determined by the classifications, rules, 28
and rates made and published by the administrator. The employer 29
shall pay a further sum of money into the state insurance fund 30
as may be ascertained to be due from the employer by applying 31
the rules of the administrator. Upon receipt of the payroll 32
report required by division (B) of section 4123.26 of the 33
Revised Code, the administrator shall adjust the premium and 34
assessments charged to each employer for the difference between 35
estimated gross payrolls and actual gross payrolls, and any 36
balance due to the administrator shall be immediately paid by 37
the employer. Any balance due the employer shall be credited to 38
the employer's account. 39

For a policy year commencing on or after July 1, 2015, 40
each employer that is recognized by the administrator as a 41
professional employer organization shall pay monthly into the 42
state insurance fund the amount of premium the administrator 43
fixes for the employer for the prior month based on the actual 44
payroll of the employer reported pursuant to division (C) of 45
section 4123.26 of the Revised Code. 46

A receipt certifying that payment has been made shall be 47
issued to the employer by the bureau of workers' compensation. 48

The receipt is prima-facie evidence of the payment of the 49
premium. The administrator shall provide each employer written 50
proof of workers' compensation coverage as is required in 51
section 4123.83 of the Revised Code. Proper posting of the 52
notice constitutes the employer's compliance with the notice 53
requirement mandated in section 4123.83 of the Revised Code. 54

The bureau shall verify with the secretary of state the 55
existence of all corporations and organizations making 56
application for workers' compensation coverage and shall require 57
every such application to include the employer's federal 58
identification number. 59

A private employer who has contracted with a subcontractor 60
is liable for the unpaid premium due from any subcontractor with 61
respect to that part of the payroll of the subcontractor that is 62
for work performed pursuant to the contract with the employer. 63

Division (A) of this section providing for the payment of 64
premiums semiannually does not apply to any employer who was a 65
subscriber to the state insurance fund prior to January 1, 1914, 66
or, until July 1, 2015, who may first become a subscriber to the 67
fund in any month other than January or July. Instead, the 68
semiannual premiums shall be paid by those employers from time 69
to time upon the expiration of the respective periods for which 70
payments into the fund have been made by them. After July 1, 71
2015, an employer who first becomes a subscriber to the fund on 72
any day other than the first day of July shall pay premiums 73
according to rules adopted by the administrator, with the advice 74
and consent of the bureau of workers' compensation board of 75
directors, for the remainder of the policy year for which the 76
coverage is effective. 77

The administrator, with the advice and consent of the 78

board, shall adopt rules to permit employers to make periodic 79
payments of the premium and assessment due under this division. 80
The rules shall include provisions for the assessment of 81
interest charges, where appropriate, and for the assessment of 82
penalties when an employer fails to make timely premium 83
payments. The administrator, in the rules the administrator 84
adopts, may set an administrative fee for these periodic 85
payments. An employer who timely pays the amounts due under this 86
division is entitled to all of the benefits and protections of 87
this chapter. Upon receipt of payment, the bureau shall issue a 88
receipt to the employer certifying that payment has been made, 89
which receipt is prima-facie evidence of payment. Workers' 90
compensation coverage under this chapter continues uninterrupted 91
upon timely receipt of payment under this division. 92

Every public employer, except public employers that are 93
self-insuring employers under this section, shall comply with 94
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 95
regard to the contribution of moneys to the public insurance 96
fund. 97

(B) Employers who will abide by the rules of the 98
administrator and who may be of sufficient financial ability to 99
render certain the payment of compensation to injured employees 100
or the dependents of killed employees, and the furnishing of 101
medical, surgical, nursing, and hospital attention and services 102
and medicines, and funeral expenses, equal to or greater than is 103
provided for in sections 4123.52, 4123.55 to 4123.62, and 104
4123.64 to 4123.67 of the Revised Code, ~~and who do not desire to~~ 105
~~insure the payment thereof or indemnify themselves against loss~~ 106
~~sustained by the direct payment thereof,~~ upon a finding of such 107
facts by the administrator, may be granted the privilege to pay 108
individually compensation, and furnish medical, surgical, 109

nursing, and hospital services and attention and funeral 110
expenses directly to injured employees or the dependents of 111
killed employees, thereby being granted status as a self- 112
insuring employer. The administrator may charge employers who 113
apply for the status as a self-insuring employer a reasonable 114
application fee to cover the bureau's costs in connection with 115
processing and making a determination with respect to an 116
application. 117

All employers granted status as self-insuring employers 118
shall demonstrate sufficient financial and administrative 119
ability to assure that all obligations under this section are 120
promptly met. The administrator shall deny the privilege where 121
the employer is unable to demonstrate the employer's ability to 122
promptly meet all the obligations imposed on the employer by 123
this section. 124

(1) The administrator shall consider, but is not limited 125
to, the following factors, where applicable, in determining the 126
employer's ability to meet all of the obligations imposed on the 127
employer by this section: 128

(a) The employer has operated in this state for a minimum 129
of two years, provided that an employer who has purchased, 130
acquired, or otherwise succeeded to the operation of a business, 131
or any part thereof, situated in this state that has operated 132
for at least two years in this state, also shall qualify; 133

(b) Where the employer previously contributed to the state 134
insurance fund or is a successor employer as defined by bureau 135
rules, the amount of the buyout, as defined by bureau rules; 136

(c) The sufficiency of the employer's assets located in 137
this state to insure the employer's solvency in paying 138

compensation directly;	139
(d) The financial records, documents, and data, certified	140
by a certified public accountant, necessary to provide the	141
employer's full financial disclosure. The records, documents,	142
and data include, but are not limited to, balance sheets and	143
profit and loss history for the current year and previous four	144
years.	145
(e) The employer's organizational plan for the	146
administration of the workers' compensation law;	147
(f) The employer's proposed plan to inform employees of	148
the change from a state fund insurer to a self-insuring	149
employer, the procedures the employer will follow as a self-	150
insuring employer, and the employees' rights to compensation and	151
benefits; and	152
(g) The employer has either an account in a financial	153
institution in this state, or if the employer maintains an	154
account with a financial institution outside this state, ensures	155
that workers' compensation checks are drawn from the same	156
account as payroll checks or the employer clearly indicates that	157
payment will be honored by a financial institution in this	158
state.	159
The administrator may waive the requirements of division	160
(B) (1) (a) of this section and the requirement of division (B) (1)	161
(d) of this section that the financial records, documents, and	162
data be certified by a certified public accountant. The	163
administrator shall adopt rules establishing the criteria that	164
an employer shall meet in order for the administrator to waive	165
the requirements of divisions (B) (1) (a) and (d) of this section.	166
Such rules may require additional security of that employer	167

pursuant to division (E) of section 4123.351 or division (E) of 168
section 4123.354 of the Revised Code. 169

The administrator shall waive the requirement of division 170
(B)(1)(c) of this section if an employer holds a rating of B3 or 171
higher according to Moody's investors service, inc., or a 172
comparable rating by an independent rating agency similar to 173
Moody's investors service, inc. 174

The administrator shall not grant the status of self- 175
insuring employer to the state, except that the administrator 176
may grant the status of self-insuring employer to a state 177
institution of higher education, including its hospitals, that 178
meets the requirements of division (B)(2) of this section. 179

(2) When considering the application of a public employer, 180
except for a board of county commissioners described in division 181
(G) of section 4123.01 of the Revised Code, a board of a county 182
hospital, or a publicly owned utility, the administrator shall 183
verify that the public employer satisfies all of the following 184
requirements as the requirements apply to that public employer: 185

(a) For the two-year period preceding application under 186
this section, the public employer has maintained an unvoted debt 187
capacity equal to at least two times the amount of the current 188
annual premium established by the administrator under this 189
chapter for that public employer for the year immediately 190
preceding the year in which the public employer makes 191
application under this section. 192

(b) For each of the two fiscal years preceding application 193
under this section, the unreserved and undesignated year-end 194
fund balance in the public employer's general fund is equal to 195
at least five per cent of the public employer's general fund 196

revenues for the fiscal year computed in accordance with	197
generally accepted accounting principles.	198
(c) For the five-year period preceding application under	199
this section, the public employer, to the extent applicable, has	200
complied fully with the continuing disclosure requirements	201
established in rules adopted by the United States securities and	202
exchange commission under 17 C.F.R. 240.15c 2-12.	203
(d) For the five-year period preceding application under	204
this section, the public employer has not had its local	205
government fund distribution withheld on account of the public	206
employer being indebted or otherwise obligated to the state.	207
(e) For the five-year period preceding application under	208
this section, the public employer has not been under a fiscal	209
watch or fiscal emergency pursuant to section 118.023, 118.04,	210
or 3316.03 of the Revised Code.	211
(f) For the public employer's fiscal year preceding	212
application under this section, the public employer has obtained	213
an annual financial audit as required under section 117.10 of	214
the Revised Code, which has been released by the auditor of	215
state within seven months after the end of the public employer's	216
fiscal year.	217
(g) On the date of application, the public employer holds	218
a debt rating of Aa3 or higher according to Moody's investors	219
service, inc., or a comparable rating by an independent rating	220
agency similar to Moody's investors service, inc.	221
(h) The public employer agrees to generate an annual	222
accumulating book reserve in its financial statements reflecting	223
an actuarially generated reserve adequate to pay projected	224
claims under this chapter for the applicable period of time, as	225

determined by the administrator.	226
(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.	227 228 229 230 231 232
(j) Any additional criteria that the administrator adopts by rule pursuant to division (E) of this section.	233 234
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.	235 236 237 238 239 240 241 242 243 244
(C) A board of county commissioners described in division (G) of section 4123.01 of the Revised Code, as an employer, that will abide by the rules of the administrator and that may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and that does not desire to insure the payment thereof or indemnify itself against loss sustained by the direct	245 246 247 248 249 250 251 252 253 254 255

~~payment thereof~~, upon a finding of such facts by the 256
administrator, may be granted the privilege to pay individually 257
compensation, and furnish medical, surgical, nursing, and 258
hospital services and attention and funeral expenses directly to 259
injured employees or the dependents of killed employees, thereby 260
being granted status as a self-insuring employer. The 261
administrator may charge a board of county commissioners 262
described in division (G) of section 4123.01 of the Revised Code 263
that applies for the status as a self-insuring employer a 264
reasonable application fee to cover the bureau's costs in 265
connection with processing and making a determination with 266
respect to an application. All employers granted such status 267
shall demonstrate sufficient financial and administrative 268
ability to assure that all obligations under this section are 269
promptly met. The administrator shall deny the privilege where 270
the employer is unable to demonstrate the employer's ability to 271
promptly meet all the obligations imposed on the employer by 272
this section. The administrator shall consider, but is not 273
limited to, the following factors, where applicable, in 274
determining the employer's ability to meet all of the 275
obligations imposed on the board as an employer by this section: 276

(1) The board has operated in this state for a minimum of 277
two years; 278

(2) Where the board previously contributed to the state 279
insurance fund or is a successor employer as defined by bureau 280
rules, the amount of the buyout, as defined by bureau rules; 281

(3) The sufficiency of the board's assets located in this 282
state to insure the board's solvency in paying compensation 283
directly; 284

(4) The financial records, documents, and data, certified 285

by a certified public accountant, necessary to provide the 286
board's full financial disclosure. The records, documents, and 287
data include, but are not limited to, balance sheets and profit 288
and loss history for the current year and previous four years. 289

(5) The board's organizational plan for the administration 290
of the workers' compensation law; 291

(6) The board's proposed plan to inform employees of the 292
proposed self-insurance, the procedures the board will follow as 293
a self-insuring employer, and the employees' rights to 294
compensation and benefits; 295

(7) The board has either an account in a financial 296
institution in this state, or if the board maintains an account 297
with a financial institution outside this state, ensures that 298
workers' compensation checks are drawn from the same account as 299
payroll checks or the board clearly indicates that payment will 300
be honored by a financial institution in this state; 301

(8) The board shall provide the administrator a surety 302
bond in an amount equal to one hundred twenty-five per cent of 303
the projected losses as determined by the administrator. 304

(D) The administrator shall require a surety bond from all 305
self-insuring employers, issued pursuant to section 4123.351 or 306
4123.354 of the Revised Code, as applicable, that is sufficient 307
to compel, or secure to injured employees, or to the dependents 308
of employees killed, the payment of compensation and expenses, 309
which shall in no event be less than that paid or furnished out 310
of the state insurance fund in similar cases to injured 311
employees or to dependents of killed employees whose employers 312
contribute to the fund, except when an employee of the employer, 313
who has suffered the loss of a hand, arm, foot, leg, or eye 314

prior to the injury for which compensation is to be paid, and 315
thereafter suffers the loss of any other of the members as the 316
result of any injury sustained in the course of and arising out 317
of the employee's employment, the compensation to be paid by the 318
self-insuring employer is limited to the disability suffered in 319
the subsequent injury, additional compensation, if any, to be 320
paid by the bureau out of the surplus created by section 4123.34 321
of the Revised Code. 322

(E) In addition to the requirements of this section, the 323
administrator shall make and publish rules governing the manner 324
of making application and the nature and extent of the proof 325
required to justify a finding of fact by the administrator as to 326
granting the status of a self-insuring employer, which rules 327
shall be general in their application, one of which rules shall 328
provide that all self-insuring employers shall pay into the 329
state insurance fund such amounts as are required to be credited 330
to the surplus fund in division (B) of section 4123.34 of the 331
Revised Code. The administrator may adopt rules establishing 332
requirements in addition to the requirements described in 333
division (B)(2) of this section that a public employer shall 334
meet in order to qualify for self-insuring status. 335

Employers shall secure directly from the bureau central 336
offices application forms upon which the bureau shall stamp a 337
designating number. Prior to submission of an application, an 338
employer shall make available to the bureau, and the bureau 339
shall review, the information described in division (B)(1) of 340
this section, and public employers shall make available, and the 341
bureau shall review, the information necessary to verify whether 342
the public employer meets the requirements listed in division 343
(B)(2) of this section. An employer shall file the completed 344
application forms with an application fee, which shall cover the 345

costs of processing the application, as established by the 346
administrator, by rule, with the bureau at least ninety days 347
prior to the effective date of the employer's new status as a 348
self-insuring employer. The application form is not deemed 349
complete until all the required information is attached thereto. 350
The bureau shall only accept applications that contain the 351
required information. 352

(F) The bureau shall review completed applications within 353
a reasonable time. If the bureau determines to grant an employer 354
the status as a self-insuring employer, the bureau shall issue a 355
statement, containing its findings of fact, that is prepared by 356
the bureau and signed by the administrator. If the bureau 357
determines not to grant the status as a self-insuring employer, 358
the bureau shall notify the employer of the determination and 359
require the employer to continue to pay its full premium into 360
the state insurance fund. The administrator also shall adopt 361
rules establishing a minimum level of performance as a criterion 362
for granting and maintaining the status as a self-insuring 363
employer and fixing time limits beyond which failure of the 364
self-insuring employer to provide for the necessary medical 365
examinations and evaluations may not delay a decision on a 366
claim. 367

(G) The administrator shall adopt rules setting forth 368
procedures for auditing the program of self-insuring employers. 369
The bureau shall conduct the audit upon a random basis or 370
whenever the bureau has grounds for believing that a self- 371
insuring employer is not in full compliance with bureau rules or 372
this chapter. 373

The administrator shall monitor the programs conducted by 374
self-insuring employers, to ensure compliance with bureau 375

requirements and for that purpose, shall develop and issue to 376
self-insuring employers standardized forms for use by the self- 377
insuring employer in all aspects of the self-insuring employers' 378
direct compensation program and for reporting of information to 379
the bureau. 380

The bureau shall receive and transmit to the self-insuring 381
employer all complaints concerning any self-insuring employer. 382
In the case of a complaint against a self-insuring employer, the 383
administrator shall handle the complaint through the self- 384
insurance division of the bureau. The bureau shall maintain a 385
file by employer of all complaints received that relate to the 386
employer. The bureau shall evaluate each complaint and take 387
appropriate action. 388

The administrator shall adopt as a rule a prohibition 389
against any self-insuring employer from harassing, dismissing, 390
or otherwise disciplining any employee making a complaint, which 391
rule shall provide for a financial penalty to be levied by the 392
administrator payable by the offending self-insuring employer. 393

(H) For the purpose of making determinations as to whether 394
to grant status as a self-insuring employer, the administrator 395
may subscribe to and pay for a credit reporting service that 396
offers financial and other business information about individual 397
employers. The costs in connection with the bureau's 398
subscription or individual reports from the service about an 399
applicant may be included in the application fee charged 400
employers under this section. 401

(I) A self-insuring employer that returns to the state 402
insurance fund as a state fund employer shall provide the 403
administrator with medical costs and indemnity costs by claim, 404
and payroll by manual classification and year, and such other 405

information the administrator may require. The self-insuring 406
employer shall submit this information by dates and in a format 407
determined by the administrator. The administrator shall develop 408
a state fund experience modification factor for a self-insuring 409
employer that returns to the state insurance fund based in whole 410
or in part on the employer's self-insured experience and the 411
information submitted. 412

(J) On the first day of July of each year, the 413
administrator shall calculate separately each self-insuring 414
employer's assessments for the safety and hygiene fund, 415
administrative costs pursuant to section 4123.342 of the Revised 416
Code, and for the surplus fund under division (B) of section 417
4123.34 of the Revised Code, on the basis of the paid 418
compensation attributable to the individual self-insuring 419
employer according to the following calculation: 420

(1) The total assessment against all self-insuring 421
employers as a class for each fund and for the administrative 422
costs for the year that the assessment is being made, as 423
determined by the administrator, divided by the total amount of 424
paid compensation for the previous calendar year attributable to 425
all amenable self-insuring employers; 426

(2) Multiply the quotient in division (J)(1) of this 427
section by the total amount of paid compensation for the 428
previous calendar year that is attributable to the individual 429
self-insuring employer for whom the assessment is being 430
determined. Each self-insuring employer shall pay the assessment 431
that results from this calculation, unless the assessment 432
resulting from this calculation falls below a minimum 433
assessment, which minimum assessment the administrator shall 434
determine on the first day of July of each year with the advice 435

and consent of the bureau of workers' compensation board of 436
directors, in which event, the self-insuring employer shall pay 437
the minimum assessment. 438

In determining the total amount due for the total 439
assessment against all self-insuring employers as a class for 440
each fund and the administrative assessment, the administrator 441
shall reduce proportionately the total for each fund and 442
assessment by the amount of money in the self-insurance 443
assessment fund as of the date of the computation of the 444
assessment. 445

The administrator shall calculate the assessment for the 446
portion of the surplus fund under division (B) of section 447
4123.34 of the Revised Code that is used for reimbursement to a 448
self-insuring employer under division (H) of section 4123.512 of 449
the Revised Code in the same manner as set forth in divisions 450
(J) (1) and (2) of this section except that the administrator 451
shall calculate the total assessment for this portion of the 452
surplus fund only on the basis of those self-insuring employers 453
that retain participation in reimbursement to the self-insuring 454
employer under division (H) of section 4123.512 of the Revised 455
Code and the individual self-insuring employer's proportion of 456
paid compensation shall be calculated only for those self- 457
insuring employers who retain participation in reimbursement to 458
the self-insuring employer under division (H) of section 459
4123.512 of the Revised Code. 460

An employer who no longer is a self-insuring employer in 461
this state or who no longer is operating in this state, shall 462
continue to pay assessments for administrative costs and for the 463
surplus fund under division (B) of section 4123.34 of the 464
Revised Code based upon paid compensation attributable to claims 465

that occurred while the employer was a self-insuring employer 466
within this state. 467

(K) There is hereby created in the state treasury the 468
self-insurance assessment fund. All investment earnings of the 469
fund shall be deposited in the fund. The administrator shall use 470
the money in the self-insurance assessment fund only for 471
administrative costs as specified in section 4123.341 of the 472
Revised Code. 473

(L) Every self-insuring employer shall certify, in 474
affidavit form subject to the penalty for perjury, to the bureau 475
the amount of the self-insuring employer's paid compensation for 476
the previous calendar year. In reporting paid compensation paid 477
for the previous year, a self-insuring employer shall exclude 478
from the total amount of paid compensation any reimbursement the 479
self-insuring employer receives in the previous calendar year 480
from the surplus fund pursuant to section 4123.512 of the 481
Revised Code for any paid compensation. The self-insuring 482
employer also shall exclude from the paid compensation reported 483
any amount recovered under section 4123.931 of the Revised Code 484
and any amount that is determined not to have been payable to or 485
on behalf of a claimant in any final administrative or judicial 486
proceeding. The self-insuring employer shall exclude such 487
amounts from the paid compensation reported in the reporting 488
period subsequent to the date the determination is made. The 489
administrator shall adopt rules, in accordance with Chapter 119. 490
of the Revised Code, that provide for all of the following: 491

(1) Establishing the date by which self-insuring employers 492
must submit such information and the amount of the assessments 493
provided for in division (J) of this section for employers who 494
have been granted self-insuring status within the last calendar 495

year;	496
(2) If an employer fails to pay the assessment when due,	497
the administrator may add a late fee penalty of not more than	498
five hundred dollars to the assessment plus an additional	499
penalty amount as follows:	500
(a) For an assessment from sixty-one to ninety days past	501
due, the prime interest rate, multiplied by the assessment due;	502
(b) For an assessment from ninety-one to one hundred	503
twenty days past due, the prime interest rate plus two per cent,	504
multiplied by the assessment due;	505
(c) For an assessment from one hundred twenty-one to one	506
hundred fifty days past due, the prime interest rate plus four	507
per cent, multiplied by the assessment due;	508
(d) For an assessment from one hundred fifty-one to one	509
hundred eighty days past due, the prime interest rate plus six	510
per cent, multiplied by the assessment due;	511
(e) For an assessment from one hundred eighty-one to two	512
hundred ten days past due, the prime interest rate plus eight	513
per cent, multiplied by the assessment due;	514
(f) For each additional thirty-day period or portion	515
thereof that an assessment remains past due after it has	516
remained past due for more than two hundred ten days, the prime	517
interest rate plus eight per cent, multiplied by the assessment	518
due.	519
(3) An employer may appeal a late fee penalty and penalty	520
assessment to the administrator.	521
For purposes of division (L)(2) of this section, "prime	522
interest rate" means the average bank prime rate, and the	523

administrator shall determine the prime interest rate in the 524
same manner as a county auditor determines the average bank 525
prime rate under section 929.02 of the Revised Code. 526

The administrator shall include any assessment and 527
penalties that remain unpaid for previous assessment periods in 528
the calculation and collection of any assessments due under this 529
division or division (J) of this section. 530

(M) As used in this section, "paid compensation" means all 531
amounts paid by a self-insuring employer for living maintenance 532
benefits, all amounts for compensation paid pursuant to sections 533
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, 534
and 4123.64 of the Revised Code, all amounts paid as wages in 535
lieu of such compensation, all amounts paid in lieu of such 536
compensation under a nonoccupational accident and sickness 537
program fully funded by the self-insuring employer, and all 538
amounts paid by a self-insuring employer for a violation of a 539
specific safety standard pursuant to Section 35 of Article II, 540
Ohio Constitution and section 4121.47 of the Revised Code. 541

(N) Should any section of this chapter or Chapter 4121. of 542
the Revised Code providing for self-insuring employers' 543
assessments based upon compensation paid be declared 544
unconstitutional by a final decision of any court, then that 545
section of the Revised Code declared unconstitutional shall 546
revert back to the section in existence prior to November 3, 547
1989, providing for assessments based upon payroll. 548

(O) The administrator may grant a self-insuring employer 549
the privilege to self-insure a construction project entered into 550
by the self-insuring employer that is scheduled for completion 551
within six years after the date the project begins, and the 552
total cost of which is estimated to exceed one hundred million 553

dollars or, for employers described in division (R) of this 554
section, if the construction project is estimated to exceed 555
twenty-five million dollars. The administrator may waive such 556
cost and time criteria and grant a self-insuring employer the 557
privilege to self-insure a construction project regardless of 558
the time needed to complete the construction project and 559
provided that the cost of the construction project is estimated 560
to exceed fifty million dollars. A self-insuring employer who 561
desires to self-insure a construction project shall submit to 562
the administrator an application listing the dates the 563
construction project is scheduled to begin and end, the 564
estimated cost of the construction project, the contractors and 565
subcontractors whose employees are to be self-insured by the 566
self-insuring employer, the provisions of a safety program that 567
is specifically designed for the construction project, and a 568
statement as to whether a collective bargaining agreement 569
governing the rights, duties, and obligations of each of the 570
parties to the agreement with respect to the construction 571
project exists between the self-insuring employer and a labor 572
organization. 573

A self-insuring employer may apply to self-insure the 574
employees of either of the following: 575

(1) All contractors and subcontractors who perform labor 576
or work or provide materials for the construction project; 577

(2) All contractors and, at the administrator's 578
discretion, a substantial number of all the subcontractors who 579
perform labor or work or provide materials for the construction 580
project. 581

Upon approval of the application, the administrator shall 582
mail a certificate granting the privilege to self-insure the 583

construction project to the self-insuring employer. The 584
certificate shall contain the name of the self-insuring employer 585
and the name, address, and telephone number of the self-insuring 586
employer's representatives who are responsible for administering 587
workers' compensation claims for the construction project. The 588
self-insuring employer shall post the certificate in a 589
conspicuous place at the site of the construction project. 590

The administrator shall maintain a record of the 591
contractors and subcontractors whose employees are covered under 592
the certificate issued to the self-insured employer. A self- 593
insuring employer immediately shall notify the administrator 594
when any contractor or subcontractor is added or eliminated from 595
inclusion under the certificate. 596

Upon approval of the application, the self-insuring 597
employer is responsible for the administration and payment of 598
all claims under this chapter and Chapter 4121. of the Revised 599
Code for the employees of the contractor and subcontractors 600
covered under the certificate who receive injuries or are killed 601
in the course of and arising out of employment on the 602
construction project, or who contract an occupational disease in 603
the course of employment on the construction project. For 604
purposes of this chapter and Chapter 4121. of the Revised Code, 605
a claim that is administered and paid in accordance with this 606
division is considered a claim against the self-insuring 607
employer listed in the certificate. A contractor or 608
subcontractor included under the certificate shall report to the 609
self-insuring employer listed in the certificate, all claims 610
that arise under this chapter and Chapter 4121. of the Revised 611
Code in connection with the construction project for which the 612
certificate is issued. 613

A self-insuring employer who complies with this division 614
is entitled to the protections provided under this chapter and 615
Chapter 4121. of the Revised Code with respect to the employees 616
of the contractors and subcontractors covered under a 617
certificate issued under this division for death or injuries 618
that arise out of, or death, injuries, or occupational diseases 619
that arise in the course of, those employees' employment on that 620
construction project, as if the employees were employees of the 621
self-insuring employer, provided that the self-insuring employer 622
also complies with this section. No employee of the contractors 623
and subcontractors covered under a certificate issued under this 624
division shall be considered the employee of the self-insuring 625
employer listed in that certificate for any purposes other than 626
this chapter and Chapter 4121. of the Revised Code. Nothing in 627
this division gives a self-insuring employer authority to 628
control the means, manner, or method of employment of the 629
employees of the contractors and subcontractors covered under a 630
certificate issued under this division. 631

The contractors and subcontractors included under a 632
certificate issued under this division are entitled to the 633
protections provided under this chapter and Chapter 4121. of the 634
Revised Code with respect to the contractor's or subcontractor's 635
employees who are employed on the construction project which is 636
the subject of the certificate, for death or injuries that arise 637
out of, or death, injuries, or occupational diseases that arise 638
in the course of, those employees' employment on that 639
construction project. 640

The contractors and subcontractors included under a 641
certificate issued under this division shall identify in their 642
payroll records the employees who are considered the employees 643
of the self-insuring employer listed in that certificate for 644

purposes of this chapter and Chapter 4121. of the Revised Code, 645
and the amount that those employees earned for employment on the 646
construction project that is the subject of that certificate. 647
Notwithstanding any provision to the contrary under this chapter 648
and Chapter 4121. of the Revised Code, the administrator shall 649
exclude the payroll that is reported for employees who are 650
considered the employees of the self-insuring employer listed in 651
that certificate, and that the employees earned for employment 652
on the construction project that is the subject of that 653
certificate, when determining those contractors' or 654
subcontractors' premiums or assessments required under this 655
chapter and Chapter 4121. of the Revised Code. A self-insuring 656
employer issued a certificate under this division shall include 657
in the amount of paid compensation it reports pursuant to 658
division (L) of this section, the amount of paid compensation 659
the self-insuring employer paid pursuant to this division for 660
the previous calendar year. 661

Nothing in this division shall be construed as altering 662
the rights of employees under this chapter and Chapter 4121. of 663
the Revised Code as those rights existed prior to September 17, 664
1996. Nothing in this division shall be construed as altering 665
the rights devolved under sections 2305.31 and 4123.82 of the 666
Revised Code as those rights existed prior to September 17, 667
1996. 668

As used in this division, "privilege to self-insure a 669
construction project" means privilege to pay individually 670
compensation, and to furnish medical, surgical, nursing, and 671
hospital services and attention and funeral expenses directly to 672
injured employees or the dependents of killed employees. 673

(P) A self-insuring employer whose application is granted 674

under division (O) of this section shall designate a safety professional to be responsible for the administration and enforcement of the safety program that is specifically designed for the construction project that is the subject of the application.

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

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

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

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

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

(Q) The administrator may consider all of the following when deciding whether to grant a self-insuring employer the

privilege to self-insure a construction project as provided	704
under division (O) of this section:	705
(1) Whether the self-insuring employer has an	706
organizational plan for the administration of the workers'	707
compensation law;	708
(2) Whether the safety program that is specifically	709
designed for the construction project provides for the safety of	710
employees employed on the construction project, is applicable to	711
all contractors and subcontractors who perform labor or work or	712
provide materials for the construction project, and has as a	713
component, a safety training program that complies with	714
standards adopted pursuant to the "Occupational Safety and	715
Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and	716
provides for continuing management and employee involvement;	717
(3) Whether granting the privilege to self-insure the	718
construction project will reduce the costs of the construction	719
project;	720
(4) Whether the self-insuring employer has employed an	721
ombudsperson as required under division (P) of this section;	722
(5) Whether the self-insuring employer has sufficient	723
surety to secure the payment of claims for which the self-	724
insuring employer would be responsible pursuant to the granting	725
of the privilege to self-insure a construction project under	726
division (O) of this section.	727
(R) As used in divisions (O), (P), and (Q), "self-insuring	728
employer" includes the following employers, whether or not they	729
have been granted the status of being a self-insuring employer	730
under division (B) of this section:	731
(1) A state institution of higher education;	732

(2) A school district;	733
(3) A county school financing district;	734
(4) An educational service center;	735
(5) A community school established under Chapter 3314. of the Revised Code;	736 737
(6) A municipal power agency as defined in section 3734.058 of the Revised Code.	738 739
(S) As used in this section:	740
(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;	741 742 743
(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.	744 745 746 747 748 749 750 751
Sec. 4123.351. (A) The administrator of workers' compensation shall require every self-insuring employer <u>who is</u> <u>not required to pay contributions to the self-insuring</u> <u>employers' guaranty B fund pursuant to section 4123.354 of the</u> <u>Revised Code</u> , including any self-insuring employer that is indemnified by a captive insurance company granted a certificate of authority under Chapter 3964. of the Revised Code, to pay a contribution, calculated under this section, to the self- insuring employers' guaranty fund established pursuant to this	752 753 754 755 756 757 758 759 760

section. The fund shall provide for payment of compensation and 761
benefits to employees of the self-insuring employer in order to 762
cover any default in payment by that employer. 763

(B) The bureau of workers' compensation shall operate the 764
self-insuring employers' guaranty fund for self-insuring 765
employers who are required to pay contributions to the fund 766
under this section. The administrator annually shall establish 767
the contributions due from self-insuring employers who are 768
required to pay contributions to the fund for the fund at rates 769
as low as possible but such as will assure sufficient moneys to 770
guarantee the payment of any claims against the fund. The 771
bureau's operation of the fund is not subject to sections 772
3929.10 to 3929.18 of the Revised Code or to regulation by the 773
superintendent of insurance. 774

(C) If a self-insuring employer who is required to pay 775
contributions to the fund defaults, the bureau shall recover the 776
amounts paid as a result of the default from the self-insuring 777
employers' guaranty fund. If a self-insuring employer who is 778
required to pay contributions to the fund defaults and is in 779
compliance with this section for the payment of contributions to 780
the fund, such self-insuring employer is entitled to the 781
immunity conferred by section 4123.74 of the Revised Code for 782
any claim arising during any period the employer is in 783
compliance with this section. 784

(D) (1) There is hereby established a self-insuring 785
employers' guaranty fund, which shall be in the custody of the 786
treasurer of state and which shall be separate from the other 787
funds established and administered pursuant to this chapter. The 788
fund shall consist of contributions and other payments made by 789
self-insuring employers under this section. All investment 790

earnings of the fund shall be credited to the fund. The bureau 791
shall make disbursements from the fund pursuant to this section. 792

(2) The administrator has the same powers to invest any of 793
the surplus or reserve belonging to the fund as are delegated to 794
the administrator under section 4123.44 of the Revised Code with 795
respect to the state insurance fund. The administrator shall 796
apply interest earned solely to the reduction of assessments for 797
contributions from self-insuring employers under this section 798
and to the payments required due to defaults under this section. 799

(3) If the bureau of workers' compensation board of 800
directors determines that reinsurance of the risks of the fund 801
is necessary to assure solvency of the fund, the board may: 802

(a) Enter into contracts for the purchase of reinsurance 803
coverage of the risks of the fund with any company or agency 804
authorized by law to issue contracts of reinsurance; 805

(b) Require the administrator to pay the cost of 806
reinsurance from the fund; 807

(c) Include the costs of reinsurance as a liability and 808
estimated liability of the fund. 809

(E) The administrator, with the advice and consent of the 810
board, may adopt rules pursuant to Chapter 119. of the Revised 811
Code for the implementation of this section, including a rule, 812
notwithstanding division (C) of this section, requiring self- 813
insuring employers to provide security in addition to the 814
contribution to the self-insuring employers' guaranty fund 815
required by this section. The additional security required by 816
the rule, as the administrator determines appropriate, shall be 817
sufficient and adequate to provide for financial assurance to 818
meet the obligations of self-insuring employers under this 819

chapter and Chapter 4121. of the Revised Code. 820

(F) The purchase of coverage under this section by self- 821
insuring employers is valid notwithstanding the prohibitions 822
contained in division (A) of section 4123.82 of the Revised Code 823
and is in addition to the indemnity contracts that self-insuring 824
employers may purchase pursuant to division (B) of section 825
4123.82 of the Revised Code. 826

(G) The administrator, on behalf of the self-insuring 827
employers' guaranty fund, has the rights of reimbursement and 828
subrogation and shall collect from a defaulting self-insuring 829
employer or other liable person all amounts the administrator 830
has paid or reasonably expects to pay from the fund on account 831
of the defaulting self-insuring employer. 832

(H) The assessments for contributions, the administration 833
of the self-insuring employers' guaranty fund, the investment of 834
the money in the fund, and the payment of liabilities incurred 835
by the fund do not create any liability upon the state. 836

Except for a gross abuse of discretion, neither the board, 837
nor the individual members thereof, nor the administrator shall 838
incur any obligation or liability respecting the assessments for 839
contributions, the administration of the self-insuring 840
employers' guaranty fund, the investment of the fund, or the 841
payment of liabilities therefrom. 842

Sec. 4123.352. (A) There is hereby created the self- 843
insuring employers evaluation board consisting of three members. 844
The member of the industrial commission representing the public 845
shall be a member of the self-insuring employers evaluation 846
board and shall serve, ex officio, as ~~chairman~~ chairperson. The 847
governor shall appoint the remaining two members with the advice 848

and consent of the senate. One member shall be a member of the 849
Ohio self-insurance association and one member shall be a 850
representative of labor. Not more than two of the three members 851
of the board may be of the same political party. 852

Of the two members originally appointed by the governor 853
pursuant to this section, one shall serve an initial term of two 854
years and one an initial term of four years. Thereafter, terms 855
of office of the two members are for four years, each term 856
ending on the same date as the original date of appointment. Any 857
member appointed to fill a vacancy occurring prior to the 858
expiration of the term for which ~~his~~ the member's predecessor 859
was appointed shall hold office for the remainder of such term. 860
Any member shall continue in office subsequent to the expiration 861
date of ~~his~~ the member's term until ~~his~~ the member's successor 862
takes office, or until a period of sixty days has elapsed, 863
whichever occurs first. A vacancy in an unexpired term shall be 864
filled in the same manner as the original appointment. The 865
governor may remove any member pursuant to section 3.05 of the 866
Revised Code. 867

The board member who also is a member of the commission 868
shall receive no additional compensation but shall be reimbursed 869
for actual and necessary expenses in the performance of ~~his~~ the 870
board member's duties. The two remaining members of the board 871
shall receive per diem compensation fixed pursuant to division 872
(J) of section 124.15 of the Revised Code and actual and 873
necessary expenses incurred in the performance of their duties. 874

For administrative purposes, the board is a part of the 875
bureau of workers' compensation, and the bureau shall furnish 876
the board with necessary office space, staff, and supplies. The 877
board shall meet as required by the administrator of workers' 878

compensation. 879

(B) In addition to the grounds listed in section 4123.35 880
of the Revised Code pertaining to criteria for being granted the 881
status as a self-insuring employer, the grounds upon which the 882
administrator may revoke or refuse to renew the status includes 883
failure to comply with any rules or orders of the administrator 884
~~or, failure to pay contributions to the self-insuring~~ 885
~~employers' applicable guaranty fund established by in accordance~~ 886
with section 4123.351 or 4123.354 of the Revised Code, continued 887
failure to file medical reports bearing upon the injury of the 888
claimant, and failure to pay compensation or benefits in 889
accordance with law in a timely manner. A deficiency in any of 890
the grounds listed in this division is sufficient to justify the 891
administrator's revocation or refusal to renew the employer's 892
status as a self-insuring employer. The administrator need not 893
revoke or refuse to renew an employer's status as a self- 894
insuring employer if adequate corrective action is taken by the 895
employer pursuant to division (C) of this section. 896

(C) The administrator shall refer to the board all 897
complaints or allegations of misconduct against a self-insuring 898
employer or questions as to whether a self-insuring employer 899
continues to meet minimum standards. The board shall investigate 900
and may order the employer to take corrective action in 901
accordance with the schedule the board fixes. The board's 902
determination in this regard need not be made by formal hearing 903
but shall be issued in written form and contain the signature of 904
at least two board members. If the board determines, after a 905
hearing conducted pursuant to Chapter 119. of the Revised Code 906
and the rules of the bureau, that the employer has failed to 907
correct the deficiencies within the time fixed by the board or 908
is otherwise in violation of this chapter, the board shall 909

recommend to the administrator revocation of an employer's 910
status as a self-insuring employer or such other penalty which 911
may include, but is not limited to, probation, or a civil 912
penalty not to exceed ten thousand dollars for each failure. A 913
board recommendation to revoke an employer's status as a self- 914
insuring employer shall be by unanimous vote. A recommendation 915
for any other penalty shall be by majority vote. Where the board 916
makes recommendations to the administrator for disciplining a 917
self-insuring employer, the administrator promptly and fully 918
shall implement the recommendations. 919

Sec. 4123.354. (A) The administrator of workers' 920
compensation shall require every employer who is a self-insuring 921
employer as a result of a waiver of the requirement of division 922
(B) (1) (c) of section 4123.35 of the Revised Code to pay a 923
contribution, calculated under this section, to the self- 924
insuring employers' guaranty B fund pursuant to this section. 925
The fund shall provide for payment of compensation and benefits 926
to employees of the self-insuring employer in order to cover any 927
default in payment by that employer. 928

(B) The bureau of workers' compensation shall operate the 929
self-insuring employers' guaranty B fund for self-insuring 930
employers who are required to pay contributions to the fund 931
under this section. The administrator annually shall establish 932
the contributions due from self-insuring employers who are 933
required to pay contributions to the fund at rates as low as 934
possible but such that will assure sufficient moneys to 935
guarantee the payment of any claims against the fund. The 936
bureau's operation of the fund is not subject to sections 937
3929.10 to 3929.18 of the Revised Code or to regulation by the 938
superintendent of insurance. 939

(C) If a self-insuring employer who is required to pay 940
contributions to the self-insuring employers' guaranty B fund 941
defaults, the bureau shall recover the amounts paid as a result 942
of the default from the fund. If a self-insuring employer who is 943
required to pay contributions to the fund defaults and is in 944
compliance with this section for the payment of contributions to 945
the fund, such self-insuring employer is entitled to the 946
immunity conferred by section 4123.74 of the Revised Code for 947
any claim arising during any period the employer is in 948
compliance with this section. 949

(D) (1) There is hereby established a self-insuring 950
employers' guaranty B fund, which shall be in the custody of the 951
treasurer of state but shall not be a part of the state 952
treasury, and which shall be separate from the other funds 953
established and administered pursuant to this chapter. The fund 954
shall consist of contributions and other payments made by self- 955
insuring employers under this section. All investment earnings 956
of the fund shall be credited to the fund. The bureau shall make 957
disbursements from the fund pursuant to this section. 958

(2) The administrator has the same powers to invest any of 959
the surplus or reserve belonging to the fund as are delegated to 960
the administrator under section 4123.44 of the Revised Code with 961
respect to the state insurance fund. The administrator shall 962
apply interest earned solely to the reduction of assessments for 963
contributions from self-insuring employers under this section 964
and to the payments required due to defaults under this section. 965

(3) If the bureau of workers' compensation board of 966
directors determines that reinsurance of the risks of the fund 967
is necessary to assure solvency of the fund, the board may: 968

(a) Enter into contracts for the purchase of reinsurance 969

coverage of the risks of the fund with any company or agency 970
authorized by law to issue contracts of reinsurance; 971

(b) Require the administrator to pay the cost of 972
reinsurance from the fund; 973

(c) Include the costs of reinsurance as a liability and 974
estimated liability of the fund. 975

(E) The administrator, with the advice and consent of the 976
board, may adopt rules pursuant to Chapter 119. of the Revised 977
Code for the implementation of this section, including a rule 978
requiring self-insuring employers to provide security in 979
addition to the contribution to the self-insuring employers' 980
guaranty B fund required by this section. The additional 981
security required by the rule, as the administrator determines 982
appropriate, shall be sufficient and adequate to provide for 983
financial assurance to meet the obligations of self-insuring 984
employers under this chapter and Chapter 4121. of the Revised 985
Code. 986

(F) The purchase of coverage under this section by self- 987
insuring employers is valid notwithstanding the prohibitions 988
contained in division (A) of section 4123.82 of the Revised Code 989
and is in addition to the indemnity contracts that self-insuring 990
employers may purchase pursuant to division (B) of section 991
4123.82 of the Revised Code. 992

(G) The administrator, on behalf of the self-insuring 993
employers' guaranty B fund, has the rights of reimbursement and 994
subrogation and shall collect from a defaulting self-insuring 995
employer or other liable person all amounts the administrator 996
has paid or reasonably expects to pay from the fund on account 997
of the defaulting self-insuring employer. 998

(H) The assessments for contributions, the administration 999
of the self-insuring employers' guaranty B fund, the investment 1000
of the money in the fund, and the payment of liabilities 1001
incurred by the fund do not create any liability upon the state. 1002

Except for a gross abuse of discretion, neither the board, 1003
nor the individual members thereof, nor the administrator shall 1004
incur any obligation or liability respecting the assessments for 1005
contributions, the administration of the self-insuring 1006
employers' guaranty B fund, the investment of the fund, or the 1007
payment of liabilities therefrom. 1008

Sec. 4123.82. (A) All~~Except as otherwise provided in~~ 1009
division (B) of this section, all contracts and agreements are 1010
void which undertake to indemnify or insure an employer against 1011
loss or liability for the payment of compensation to workers or 1012
their dependents for death, injury, or occupational disease 1013
occasioned in the course of the workers' employment, or which 1014
provide that the insurer shall pay the compensation, or which 1015
indemnify the employer against damages when the injury, disease, 1016
or death arises from the failure to comply with any lawful 1017
requirement for the protection of the lives, health, and safety 1018
of employees, or when the same is occasioned by the willful act 1019
of the employer or any of the employer's officers or agents, or 1020
by which it is agreed that the insurer shall pay any such 1021
damages. No license or authority to enter into any such 1022
agreements or issue any such policies of insurance shall be 1023
granted or issued by any public authority in this state. Any 1024
corporation organized or admitted under the laws of this state 1025
to transact liability insurance as defined in section 3929.01 of 1026
the Revised Code may by amendment of its articles of 1027
incorporation or by original articles of incorporation, provide 1028
therein for the authority and purpose to make insurance in 1029

states, territories, districts, and counties, other than the 1030
state of Ohio, and in the state of Ohio in respect of contracts 1031
permitted by division (B) of this section, indemnifying 1032
employers against loss or liability for payment of compensation 1033
to workers and employees and their dependents for death, injury, 1034
or occupational disease occasioned in the course of the 1035
employment and to insure and indemnify employers against loss, 1036
expense, and liability by risk of bodily injury or death by 1037
accident, disability, sickness, or disease suffered by workers 1038
and employees for which the employer may be liable or has 1039
assumed liability. 1040

(B) ~~Notwithstanding division (A) of this section:~~ 1041

(1) ~~No contract because of that division is void which A 1042
self-insuring employer may enter into a contract with an insurer 1043
with an A.M. best financial strength rating of A or higher that 1044
undertakes to indemnify ~~a~~ the self-insuring employer against all 1045
or part of such employer's loss ~~in excess of at least fifty~~ 1046
~~thousand dollars from any one disaster or event~~ arising out of 1047
the employer's liability under this chapter, ~~but no insurance~~ 1048
~~corporation shall, directly or indirectly, represent an employer~~ 1049
~~in the settlement, adjudication, determination, allowance, or~~ 1050
~~payment of claims. The superintendent of insurance shall enforce~~ 1051
~~this prohibition by such disciplinary orders directed against~~ 1052
~~the offending insurance corporation as the superintendent of~~ 1053
~~insurance deems appropriate in the circumstances and the~~ 1054
~~administrator of workers' compensation shall enforce this~~ 1055
~~prohibition by such disciplinary orders directed against the~~ 1056
~~offending employer as the administrator deems appropriate in the~~ 1057
~~circumstances, which orders may include revocation of the~~ 1058
~~insurance corporation's right to enter into indemnity contracts~~ 1059
~~and revocation of the employer's status as a self insuring~~ 1060~~

employer. 1061

(2) The administrator may enter into a contract of 1062
indemnity with any such employer upon such terms, payment of 1063
such premium, and for such amount and form of indemnity as the 1064
administrator determines and the bureau of workers' compensation 1065
board of directors may procure reinsurance of the liability of 1066
the public and private funds under this chapter, or any part of 1067
the liability in respect of either or both of the funds, upon 1068
such terms and premiums or other payments from the fund or funds 1069
as the administrator deems prudent in the maintenance of a 1070
solvent fund or funds from year to year. ~~When making the finding~~ 1071
~~of fact which the administrator is required by section 4123.35~~ 1072
~~of the Revised Code to make with respect to the financial~~ 1073
~~ability of an employer, no contract of indemnity, or the ability~~ 1074
~~of the employer to procure such a contract, shall be considered~~ 1075
~~as increasing the financial ability of the employer.~~ 1076

(C) Nothing in this section shall be construed to prohibit 1077
the administrator or an other-states' insurer from providing to 1078
employers in this state other-states' coverage or limited other- 1079
states' coverage in accordance with section 4123.292 of the 1080
Revised Code. 1081

(D) Notwithstanding any other section of the Revised Code, 1082
but subject to division (A) of this section, the superintendent 1083
of insurance shall have the sole authority to regulate any 1084
insurance products, except for the bureau of workers' 1085
compensation and those products offered by the bureau, that 1086
indemnify or insure employers against workers' compensation 1087
losses in this state or that are sold to employers in this 1088
state. 1089

Section 2. That existing sections 4123.35, 4123.351, 1090

4123.352, and 4123.82 of the Revised Code are hereby repealed.

1091