

**As Introduced**

**125th General Assembly  
Regular Session  
2003-2004**

**H. B. No. 91**

**Representative Young**

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**A BILL**

To amend sections 2305.24, 2305.25, 4121.121, 1  
4123.01, 4123.31, 4123.342, and 4123.80 and to 2  
enact sections 4121.021 and 4123.15 of the Revised 3  
Code to make appropriations for the Bureau of 4  
Workers' Compensation for the biennium beginning 5  
July 1, 2003, and ending June 30, 2005, to 6  
authorize and provide conditions that govern the 7  
operation of Bureau and Industrial Commission 8  
programs, and to authorize an exemption from 9  
participation in the workers' compensation 10  
insurance program for certain employers and 11  
employees based upon religious tenets or beliefs. 12

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

**Section 1.** That sections 2305.24, 2305.25, 4121.121, 4123.01, 13  
4123.31, 4123.342, and 4123.80 be amended and sections 4121.021 14  
and 4123.15 of the Revised Code be enacted to read as follows: 15

**Sec. 2305.24.** Any information, data, reports, or records made 16  
available to a quality assurance committee or utilization 17  
committee of a hospital or long-term care facility or of any 18  
not-for-profit health care corporation that is a member of the 19  
hospital or long-term care facility or of which the hospital or 20

long-term care facility is a member ~~shall be~~ are confidential and 21  
shall be used by the committee and the committee members only in 22  
the exercise of the proper functions of the committee. Any 23  
information, data, reports, or records made available to a 24  
utilization committee of a state or local medical society composed 25  
of doctors of medicine or doctors of osteopathic medicine ~~shall be~~ 26  
are confidential and shall be used by the committee and the 27  
committee members only in the exercise of the proper functions of 28  
the committee. A right of action similar to that a patient may 29  
have against an attending physician for misuse of information, 30  
data, reports, or records arising out of the physician-patient 31  
relationship shall accrue against a member of a quality assurance 32  
committee or utilization committee for misuse of any information, 33  
data, reports, or records furnished to the committee by an 34  
attending physician. No physician, institution, hospital, or 35  
long-term care facility furnishing information, data, reports, or 36  
records to a committee with respect to any patient examined or 37  
treated by the physician or confined in the institution, hospital, 38  
or long-term care facility shall, by reason of the furnishing, be 39  
deemed liable in damages to any person, or be held to answer for 40  
betrayal of a professional confidence within the meaning and 41  
intent of section 4731.22 of the Revised Code. Information, data, 42  
or reports furnished to a utilization committee of a state or 43  
local medical society shall contain no name of any person involved 44  
therein. 45

Any information, data, reports, or records made available to 46  
a quality assurance committee of the bureau of workers' 47  
compensation responsible for reviewing the professional 48  
qualifications and the performance of providers conducting medical 49  
examinations or file reviews for the bureau are confidential and 50  
shall be used by the committee and the committee members only in 51  
the exercise of the proper functions of the committee. 52

As used in this section, "utilization committee" is the 53  
committee established to administer a utilization review plan of a 54  
hospital, of a not-for-profit health care corporation which is a 55  
member of the hospital or of which the hospital is a member, or of 56  
a skilled nursing facility as provided in the "Health Insurance 57  
for the Aged Act," 79 Stat. 313 (1965), 42 U.S.C. 1395x(k). 58

**Sec. 2305.25.** As used in this section and sections 2305.251 59  
to 2305.253 of the Revised Code: 60

(A)(1) "Health care entity" means an entity, whether acting 61  
on its own behalf or on behalf of or in affiliation with other 62  
health care entities, that conducts as part of its regular 63  
business activities professional credentialing or quality review 64  
activities involving the competence of, professional conduct of, 65  
or quality of care provided by health care providers, including 66  
both individuals who provide health care and entities that provide 67  
health care. 68

(2) "Health care entity" includes any entity described in 69  
division (A)(1) of this section, regardless of whether it is a 70  
government entity; for-profit or nonprofit corporation; limited 71  
liability company; partnership; professional corporation; state or 72  
local society composed of physicians, dentists, optometrists, 73  
psychologists, or pharmacists; or other health care organization. 74

(B) "Health insuring corporation" means an entity that holds 75  
a certificate of authority under Chapter 1751. of the Revised 76  
Code. "Health insuring corporation" includes wholly owned 77  
subsidiaries of a health insuring corporation. 78

(C) "Hospital" means either of the following: 79

(1) An institution that has been registered or licensed by 80  
the department of health as a hospital; 81

(2) An entity, other than an insurance company authorized to 82

do business in this state, that owns, controls, or is affiliated 83  
with an institution that has been registered or licensed by the 84  
department of health as a hospital. 85

(D) "Incident report or risk management report" means a 86  
report of an incident involving injury or potential injury to a 87  
patient as a result of patient care provided by health care 88  
providers, including both individuals who provide health care and 89  
entities that provide health care, that is prepared by or for the 90  
use of a peer review committee of a health care entity and is 91  
within the scope of the functions of that committee. 92

(E)(1) "Peer review committee" means a utilization review 93  
committee, quality assessment committee, performance improvement 94  
committee, tissue committee, credentialing committee, or other 95  
committee that does either of the following: 96

(a) Conducts professional credentialing or quality review 97  
activities involving the competence of, professional conduct of, 98  
or quality of care provided by health care providers, including 99  
both individuals who provide health care and entities that provide 100  
health care; 101

(b) Conducts any other attendant hearing process initiated as 102  
a result of a peer review committee's recommendations or actions. 103

(2) "Peer review committee" includes all of the following: 104

(a) A peer review committee of a hospital or long-term care 105  
facility or a peer review committee of a nonprofit health care 106  
corporation that is a member of the hospital or long-term care 107  
facility or of which the hospital or facility is a member; 108

(b) A peer review committee of a community mental health 109  
center; 110

(c) A board or committee of a hospital, a long-term care 111  
facility, or other health care entity when reviewing professional 112

qualifications or activities of health care providers, including 113  
both individuals who provide health care and entities that provide 114  
health care; 115

(d) A peer review committee, professional standards review 116  
committee, or arbitration committee of a state or local society 117  
composed of members who are in active practice as physicians, 118  
dentists, optometrists, psychologists, or pharmacists; 119

(e) A peer review committee of a health insuring corporation 120  
that has at least a two-thirds majority of member physicians in 121  
active practice and that conducts professional credentialing and 122  
quality review activities involving the competence or professional 123  
conduct of health care providers that adversely affects or could 124  
adversely affect the health or welfare of any patient; 125

(f) A peer review committee of a health insuring corporation 126  
that has at least a two-thirds majority of member physicians in 127  
active practice and that conducts professional credentialing and 128  
quality review activities involving the competence or professional 129  
conduct of a health care facility that has contracted with the 130  
health insuring corporation to provide health care services to 131  
enrollees, which conduct adversely affects, or could adversely 132  
affect, the health or welfare of any patient; 133

(g) A peer review committee of a sickness and accident 134  
insurer that has at least a two-thirds majority of physicians in 135  
active practice and that conducts professional credentialing and 136  
quality review activities involving the competence or professional 137  
conduct of health care providers that adversely affects or could 138  
adversely affect the health or welfare of any patient; 139

(h) A peer review committee of a sickness and accident 140  
insurer that has at least a two-thirds majority of physicians in 141  
active practice and that conducts professional credentialing and 142  
quality review activities involving the competence or professional 143

conduct of a health care facility that has contracted with the 144  
insurer to provide health care services to insureds, which conduct 145  
adversely affects, or could adversely affect, the health or 146  
welfare of any patient; 147

(i) A peer review committee of any insurer authorized under 148  
Title XXXIX of the Revised Code to do the business of medical 149  
professional liability insurance in this state that conducts 150  
professional quality review activities involving the competence or 151  
professional conduct of health care providers that adversely 152  
affects or could affect the health or welfare of any patient; 153

(j) A peer review committee of the bureau of workers' 154  
compensation responsible for reviewing the professional 155  
qualifications and the performance of providers conducting medical 156  
examinations or file reviews for the bureau; 157

(k) Any other peer review committee of a health care entity. 158

(F) "Physician" means an individual authorized to practice 159  
medicine and surgery, osteopathic medicine and surgery, or 160  
podiatric medicine and surgery. 161

(G) "Sickness and accident insurer" means an entity 162  
authorized under Title XXXIX of the Revised Code to do the 163  
business of sickness and accident insurance in this state. 164

(H) "Tort action" means a civil action for damages for 165  
injury, death, or loss to a patient of a health care entity. "Tort 166  
action" includes a product liability claim but does not include a 167  
civil action for a breach of contract or another agreement between 168  
persons. 169

Sec. 4121.021. The industrial commission operating fund is 170  
hereby created in the state treasury. The fund shall consist of 171  
all moneys transferred to the fund pursuant to division (C) of 172  
section 4123.342 of the Revised Code. Revenues credited to the 173  
fund shall be used for those costs solely attributable to the 174  
activities of the commission. 175

**Sec. 4121.121.** (A) There is hereby created the bureau of 176  
workers' compensation, which shall be administered by the 177  
administrator of workers' compensation. A person appointed to the 178  
position of administrator shall possess significant management 179  
experience in effectively managing an organization or 180  
organizations of substantial size and complexity. The governor 181  
shall appoint the administrator as provided in section 121.03 of 182  
the Revised Code, and the administrator shall serve at the 183  
pleasure of the governor. The governor shall fix the 184  
administrator's salary on the basis of the administrator's 185  
experience and the administrator's responsibilities and duties 186  
under this chapter and Chapters 4123., 4127., and 4131. of the 187  
Revised Code. The governor shall not appoint to the position of 188  
administrator any person who has, or whose spouse has, given a 189  
contribution to the campaign committee of the governor in an 190  
amount greater than one thousand dollars during the two-year 191  
period immediately preceding the date of the appointment of the 192  
administrator. 193

The administrator shall hold no other public office and shall 194  
devote full time to the duties of administrator. Before entering 195  
upon the duties of the office, the administrator shall take an 196  
oath of office as required by sections 3.22 and 3.23 of the 197  
Revised Code, and shall file in the office of the secretary of 198  
state, a bond signed by the administrator and by surety approved 199  
by the governor, for the sum of fifty thousand dollars payable to 200

the state, conditioned upon the faithful performance of the 201  
administrator's duties. 202

(B) The administrator is responsible for the management of 203  
the bureau of workers' compensation and for the discharge of all 204  
administrative duties imposed upon the administrator in this 205  
chapter and Chapters 4123., 4127., and 4131. of the Revised Code, 206  
and in the discharge thereof shall do all of the following: 207

(1) Establish the overall administrative policy of the bureau 208  
for the purposes of this chapter and Chapters 4123., 4127., and 209  
4131. of the Revised Code, and perform all acts and exercise all 210  
authorities and powers, discretionary and otherwise that are 211  
required of or vested in the bureau or any of its employees in 212  
this chapter and Chapters 4123., 4127., and 4131. of the Revised 213  
Code, except the acts and the exercise of authority and power that 214  
is required of and vested in the oversight commission or the 215  
industrial commission pursuant to those chapters. The treasurer of 216  
state shall honor all warrants signed by the administrator, or by 217  
one or more of the administrator's employees, authorized by the 218  
administrator in writing, or bearing the facsimile signature of 219  
the administrator or such employee under sections 4123.42 and 220  
4123.44 of the Revised Code. 221

(2) Employ, direct, and supervise all employees required in 222  
connection with the performance of the duties assigned to the 223  
bureau by this chapter and Chapters 4123., 4127., and 4131. of the 224  
Revised Code, and may establish job classification plans and 225  
compensation for all employees of the bureau provided that this 226  
grant of authority shall not be construed as affecting any 227  
employee for whom the state employment relations board has 228  
established an appropriate bargaining unit under section 4117.06 229  
of the Revised Code. All positions of employment in the bureau are 230  
in the classified civil service except those employees the 231  
administrator may appoint to serve at the administrator's pleasure 232

in the unclassified civil service pursuant to section 124.11 of 233  
the Revised Code. The administrator shall fix the salaries of 234  
employees the administrator appoints to serve at the 235  
administrator's pleasure, including the chief operating officer, 236  
staff physicians, and other senior management personnel of the 237  
bureau and shall establish the compensation of staff attorneys of 238  
the bureau's legal section and their immediate supervisors, and 239  
take whatever steps are necessary to provide adequate compensation 240  
for other staff attorneys. 241

The administrator may appoint a person holding a certified 242  
position in the classified service to any state position in the 243  
unclassified service of the bureau of workers' compensation. A 244  
person so appointed shall retain the right to resume the position 245  
and status held by the person in the classified service 246  
immediately prior to the person's appointment in the unclassified 247  
service. If the position the person previously held has been 248  
filled or placed in the unclassified service, or is otherwise 249  
unavailable, the person shall be appointed to a position in the 250  
classified service within the bureau that the department of 251  
administrative services certifies is comparable in compensation to 252  
the position the person previously held. Reinstatement to a 253  
position in the classified service shall be to a position 254  
substantially equal to that held previously, as certified by the 255  
department of administrative services. Service in the position in 256  
the unclassified service shall be counted as service in the 257  
position in the classified service held by the person immediately 258  
prior to the person's appointment in the unclassified service. 259  
When a person is reinstated to a position in the classified 260  
service as provided in this section, the person is entitled to all 261  
rights, status, and benefits accruing to the position during the 262  
person's time of service in the position in the unclassified 263  
service. 264

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

(4) Provide offices, equipment, supplies, and other facilities for the bureau. ~~The administrator also shall provide suitable office space in the service offices for the district hearing officers, the staff hearing officers, and commission employees as requested by the commission.~~

(5) Prepare and submit to the oversight commission information the administrator considers pertinent or the oversight commission requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the oversight commission, for classifications of occupations or industries, for premium rates

and contributions, for the amount to be credited to the surplus 297  
fund, for rules and systems of rating, rate revisions, and merit 298  
rating. The administrator shall obtain, prepare, and submit any 299  
other information the oversight commission requires for the prompt 300  
and efficient discharge of its duties. 301

(6) Keep the accounts required by division (A) of section 302  
4123.34 of the Revised Code and all other accounts and records 303  
necessary to the collection, administration, and distribution of 304  
the workers' compensation funds and shall obtain the statistical 305  
and other information required by section 4123.19 of the Revised 306  
Code. 307

(7) Exercise the investment powers vested in the 308  
administrator by section 4123.44 of the Revised Code in accordance 309  
with the investment objectives, policies, and criteria established 310  
by the oversight commission pursuant to section 4121.12 of the 311  
Revised Code. The administrator shall not engage in any prohibited 312  
investment activity specified by the oversight commission pursuant 313  
to division (F)(6) of section 4121.12 of the Revised Code. All 314  
business shall be transacted, all funds invested, all warrants for 315  
money drawn and payments made, and all cash and securities and 316  
other property held, in the name of the bureau, or in the name of 317  
its nominee, provided that nominees are authorized by the 318  
administrator solely for the purpose of facilitating the transfer 319  
of securities, and restricted to the administrator and designated 320  
employees. 321

(8) Make contracts for and supervise the construction of any 322  
project or improvement or the construction or repair of buildings 323  
under the control of the bureau. 324

(9) Purchase supplies, materials, equipment, and services; 325  
make contracts for, operate, and superintend the telephone, other 326  
telecommunication, and computer services for the use of the 327  
bureau; and make contracts in connection with office reproduction, 328

forms management, printing, and other services. Notwithstanding 329  
sections 125.12 to 125.14 of the Revised Code, the administrator 330  
may transfer surplus computers and computer equipment directly to 331  
an accredited public school within the state. The computers and 332  
computer equipment may be repaired or refurbished prior to the 333  
transfer. 334

(10) Separately from the budget the industrial commission 335  
submits, prepare and submit to the director of budget and 336  
management a budget for each biennium. The budget submitted shall 337  
include estimates of the costs and necessary expenditures of the 338  
bureau in the discharge of any duty imposed by law ~~as well as the~~ 339  
~~costs of furnishing office space to the district hearing officers,~~ 340  
~~staff hearing officers, and commission employees under division~~ 341  
~~(D) of this section.~~ 342

(11) As promptly as possible in the course of efficient 343  
administration, decentralize and relocate such of the personnel 344  
and activities of the bureau as is appropriate to the end that the 345  
receipt, investigation, determination, and payment of claims may 346  
be undertaken at or near the place of injury or the residence of 347  
the claimant and for that purpose establish regional offices, in 348  
such places as the administrator considers proper, capable of 349  
discharging as many of the functions of the bureau as is 350  
practicable so as to promote prompt and efficient administration 351  
in the processing of claims. All active and inactive lost-time 352  
claims files shall be held at the service office responsible for 353  
the claim. A claimant, at the claimant's request, shall be 354  
provided with information by telephone as to the location of the 355  
file pertaining to claim. The administrator shall ensure that all 356  
service office employees report directly to the director for their 357  
service office. 358

(12) Provide a written binder on new coverage where the 359  
administrator considers it to be in the best interest of the risk. 360

The administrator, or any other person authorized by the 361  
administrator, shall grant the binder upon submission of a request 362  
for coverage by the employer. A binder is effective for a period 363  
of thirty days from date of issuance and is nonrenewable. Payroll 364  
reports and premium charges shall coincide with the effective date 365  
of the binder. 366

(13) Set standards for the reasonable and maximum handling 367  
time of claims payment functions, ensure, by rules, the impartial 368  
and prompt treatment of all claims and employer risk accounts, and 369  
establish a secure, accurate method of time stamping all incoming 370  
mail and documents hand delivered to bureau employees. 371

(14) Ensure that all employees of the bureau follow the 372  
orders and rules of the commission as such orders and rules relate 373  
to the commission's overall adjudicatory policy-making and 374  
management duties under this chapter and Chapters 4123., 4127., 375  
and 4131. of the Revised Code. 376

(15) Manage and operate a data processing system with a 377  
common data base for the use of both the bureau and the commission 378  
and, in consultation with the commission, using electronic data 379  
processing equipment, shall develop a claims tracking system that 380  
is sufficient to monitor the status of a claim at any time and 381  
that lists appeals that have been filed and orders or 382  
determinations that have been issued pursuant to section 4123.511 383  
or 4123.512 of the Revised Code, including the dates of such 384  
filings and issuances. 385

(16) Establish and maintain a medical section within the 386  
bureau. The medical section shall do all of the following: 387

(a) Assist the administrator in establishing standard medical 388  
fees, approving medical procedures, and determining eligibility 389  
and reasonableness of the compensation payments for medical, 390  
hospital, and nursing services, and in establishing guidelines for 391

payment policies which recognize usual, customary, and reasonable methods of payment for covered services;	392 393
(b) Provide a resource to respond to questions from claims examiners for employees of the bureau;	394 395
(c) Audit fee bill payments;	396
(d) Implement a program to utilize, to the maximum extent possible, electronic data processing equipment for storage of information to facilitate authorizations of compensation payments for medical, hospital, drug, and nursing services;	397 398 399 400
(e) Perform other duties assigned to it by the administrator.	401
(17) Appoint, as the administrator determines necessary, panels to review and advise the administrator on disputes arising over a determination that a health care service or supply provided to a claimant is not covered under this chapter or Chapter 4123. of the Revised Code or is medically unnecessary. If an individual health care provider is involved in the dispute, the panel shall consist of individuals licensed pursuant to the same section of the Revised Code as such health care provider.	402 403 404 405 406 407 408 409
(18) Pursuant to section 4123.65 of the Revised Code, approve applications for the final settlement of claims for compensation or benefits under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as the administrator determines appropriate, except in regard to the applications of self-insuring employers and their employees.	410 411 412 413 414 415
(19) Comply with section 3517.13 of the Revised Code, and except in regard to contracts entered into pursuant to the authority contained in section 4121.44 of the Revised Code, comply with the competitive bidding procedures set forth in the Revised Code for all contracts into which the administrator enters provided that those contracts fall within the type of contracts and dollar amounts specified in the Revised Code for competitive	416 417 418 419 420 421 422

bidding and further provided that those contracts are not 423  
otherwise specifically exempt from the competitive bidding 424  
procedures contained in the Revised Code. 425

(20) Adopt, with the advice and consent of the oversight 426  
commission, rules for the operation of the bureau. 427

(21) Prepare and submit to the oversight commission 428  
information the administrator considers pertinent or the oversight 429  
commission requires, together with the administrator's 430  
recommendations, in the form of administrative rules, for the 431  
advice and consent of the oversight commission, for the health 432  
partnership program and the qualified health plan system, as 433  
provided in sections 4121.44, 4121.441, and 4121.442 of the 434  
Revised Code. 435

(C) The administrator, with the advice and consent of the 436  
senate, shall appoint a chief operating officer who has 437  
significant experience in the field of workers' compensation 438  
insurance or other similar insurance industry experience if the 439  
administrator does not possess such experience. The chief 440  
operating officer shall not commence the chief operating officer's 441  
duties until after the senate consents to the chief operating 442  
officer's appointment. The chief operating officer shall serve in 443  
the unclassified civil service of the state. 444

**Sec. 4123.01.** As used in this chapter: 445

(A)(1) "Employee" means: 446

(a) Every person in the service of the state, or of any 447  
county, municipal corporation, township, or school district 448  
therein, including regular members of lawfully constituted police 449  
and fire departments of municipal corporations and townships, 450  
whether paid or volunteer, and wherever serving within the state 451  
or on temporary assignment outside thereof, and executive officers 452

of boards of education, under any appointment or contract of hire, 453  
express or implied, oral or written, including any elected 454  
official of the state, or of any county, municipal corporation, or 455  
township, or members of boards of education. 456

As used in division (A)(1)(a) of this section, the term 457  
"employee" includes the following persons when responding to an 458  
inherently dangerous situation that calls for an immediate 459  
response on the part of the person, regardless of whether the 460  
person is within the limits of the jurisdiction of the person's 461  
regular employment or voluntary service when responding, on the 462  
condition that the person responds to the situation as the person 463  
otherwise would if the person were on duty in the person's 464  
jurisdiction: 465

(i) Off-duty peace officers. As used in division (A)(1)(a)(i) 466  
of this section, "peace officer" has the same meaning as in 467  
section 2935.01 of the Revised Code. 468

(ii) Off-duty firefighters, whether paid or volunteer, of a 469  
lawfully constituted fire department. 470

(iii) Off-duty first responders, emergency medical 471  
technicians-basic, emergency medical technicians-intermediate, or 472  
emergency medical technicians-paramedic, whether paid or 473  
volunteer, of an ambulance service organization or emergency 474  
medical service organization pursuant to Chapter 4765. of the 475  
Revised Code. 476

(b) Every person in the service of any person, firm, or 477  
private corporation, including any public service corporation, 478  
that (i) employs one or more persons regularly in the same 479  
business or in or about the same establishment under any contract 480  
of hire, express or implied, oral or written, including aliens and 481  
minors, household workers who earn one hundred sixty dollars or 482  
more in cash in any calendar quarter from a single household and 483

casual workers who earn one hundred sixty dollars or more in cash 484  
in any calendar quarter from a single employer, or (ii) is bound 485  
by any such contract of hire or by any other written contract, to 486  
pay into the state insurance fund the premiums provided by this 487  
chapter. 488

(c) Every person who performs labor or provides services 489  
pursuant to a construction contract, as defined in section 4123.79 490  
of the Revised Code, if at least ten of the following criteria 491  
apply: 492

(i) The person is required to comply with instructions from 493  
the other contracting party regarding the manner or method of 494  
performing services; 495

(ii) The person is required by the other contracting party to 496  
have particular training; 497

(iii) The person's services are integrated into the regular 498  
functioning of the other contracting party; 499

(iv) The person is required to perform the work personally; 500

(v) The person is hired, supervised, or paid by the other 501  
contracting party; 502

(vi) A continuing relationship exists between the person and 503  
the other contracting party that contemplates continuing or 504  
recurring work even if the work is not full time; 505

(vii) The person's hours of work are established by the other 506  
contracting party; 507

(viii) The person is required to devote full time to the 508  
business of the other contracting party; 509

(ix) The person is required to perform the work on the 510  
premises of the other contracting party; 511

(x) The person is required to follow the order of work set by 512  
the other contracting party; 513

(xi) The person is required to make oral or written reports	514
of progress to the other contracting party;	515
(xii) The person is paid for services on a regular basis such	516
as hourly, weekly, or monthly;	517
(xiii) The person's expenses are paid for by the other	518
contracting party;	519
(xiv) The person's tools and materials are furnished by the	520
other contracting party;	521
(xv) The person is provided with the facilities used to	522
perform services;	523
(xvi) The person does not realize a profit or suffer a loss	524
as a result of the services provided;	525
(xvii) The person is not performing services for a number of	526
employers at the same time;	527
(xviii) The person does not make the same services available	528
to the general public;	529
(xix) The other contracting party has a right to discharge	530
the person;	531
(xx) The person has the right to end the relationship with	532
the other contracting party without incurring liability pursuant	533
to an employment contract or agreement.	534
Every person in the service of any independent contractor or	535
subcontractor who has failed to pay into the state insurance fund	536
the amount of premium determined and fixed by the administrator of	537
workers' compensation for the person's employment or occupation or	538
if a self-insuring employer has failed to pay compensation and	539
benefits directly to the employer's injured and to the dependents	540
of the employer's killed employees as required by section 4123.35	541
of the Revised Code, shall be considered as the employee of the	542
person who has entered into a contract, whether written or verbal,	543

with such independent contractor unless such employees or their 544  
legal representatives or beneficiaries elect, after injury or 545  
death, to regard such independent contractor as the employer. 546

(2) "Employee" does not mean: 547

(a) A duly ordained, commissioned, or licensed minister or 548  
assistant or associate minister of a church in the exercise of 549  
ministry; ~~or~~ 550

(b) Any officer of a family farm corporation; or 551

(c) An individual who otherwise is an employee of an employer 552  
but who signs the waiver and affidavit specified in section 553  
4123.15 of the Revised Code on the condition that the 554  
administrator has granted a waiver and exception to the 555  
individual's employer under section 4123.15 of the Revised Code. 556

Any employer may elect to include as an "employee" within 557  
this chapter, any person excluded from the definition of 558  
"employee" pursuant to division (A)(2) of this section. If an 559  
employer is a partnership, sole proprietorship, or family farm 560  
corporation, such employer may elect to include as an "employee" 561  
within this chapter, any member of such partnership, the owner of 562  
the sole proprietorship, or the officers of the family farm 563  
corporation. In the event of an election, the employer shall serve 564  
upon the bureau of workers' compensation written notice naming the 565  
persons to be covered, include such employee's remuneration for 566  
premium purposes in all future payroll reports, and no person 567  
excluded from the definition of "employee" pursuant to division 568  
(A)(2) of this section, proprietor, or partner shall be deemed an 569  
employee within this division until the employer has served such 570  
notice. 571

For informational purposes only, the bureau shall prescribe 572  
such language as it considers appropriate, on such of its forms as 573  
it considers appropriate, to advise employers of their right to 574

elect to include as an "employee" within this chapter a sole 575  
proprietor, any member of a partnership, the officers of a family 576  
farm corporation, or a person excluded from the definition of 577  
"employee" under division (A)(2)(a) of this section, that they 578  
should check any health and disability insurance policy, or other 579  
form of health and disability plan or contract, presently covering 580  
them, or the purchase of which they may be considering, to 581  
determine whether such policy, plan, or contract excludes benefits 582  
for illness or injury that they might have elected to have covered 583  
by workers' compensation. 584

(B) "Employer" means: 585

(1) The state, including state hospitals, each county, 586  
municipal corporation, township, school district, and hospital 587  
owned by a political subdivision or subdivisions other than the 588  
state; 589

(2) Every person, firm, and private corporation, including 590  
any public service corporation, that (a) has in service one or 591  
more employees regularly in the same business or in or about the 592  
same establishment under any contract of hire, express or implied, 593  
oral or written, or (b) is bound by any such contract of hire or 594  
by any other written contract, to pay into the insurance fund the 595  
premiums provided by this chapter. 596

All such employers are subject to this chapter. Any member of 597  
a firm or association, who regularly performs manual labor in or 598  
about a mine, factory, or other establishment, including a 599  
household establishment, shall be considered an employee in 600  
determining whether such person, firm, or private corporation, or 601  
public service corporation, has in its service, one or more 602  
employees and the employer shall report the income derived from 603  
such labor to the bureau as part of the payroll of such employer, 604  
and such member shall thereupon be entitled to all the benefits of 605  
an employee. 606

(C) "Injury" includes any injury, whether caused by external 607  
accidental means or accidental in character and result, received 608  
in the course of, and arising out of, the injured employee's 609  
employment. "Injury" does not include: 610

(1) Psychiatric conditions except where the conditions have 611  
arisen from an injury or occupational disease; 612

(2) Injury or disability caused primarily by the natural 613  
deterioration of tissue, an organ, or part of the body; 614

(3) Injury or disability incurred in voluntary participation 615  
in an employer-sponsored recreation or fitness activity if the 616  
employee signs a waiver of the employee's right to compensation or 617  
benefits under this chapter prior to engaging in the recreation or 618  
fitness activity. 619

(D) "Child" includes a posthumous child and a child legally 620  
adopted prior to the injury. 621

(E) "Family farm corporation" means a corporation founded for 622  
the purpose of farming agricultural land in which the majority of 623  
the voting stock is held by and the majority of the stockholders 624  
are persons or the spouse of persons related to each other within 625  
the fourth degree of kinship, according to the rules of the civil 626  
law, and at least one of the related persons is residing on or 627  
actively operating the farm, and none of whose stockholders are a 628  
corporation. A family farm corporation does not cease to qualify 629  
under this division where, by reason of any devise, bequest, or 630  
the operation of the laws of descent or distribution, the 631  
ownership of shares of voting stock is transferred to another 632  
person, as long as that person is within the degree of kinship 633  
stipulated in this division. 634

(F) "Occupational disease" means a disease contracted in the 635  
course of employment, which by its causes and the characteristics 636  
of its manifestation or the condition of the employment results in 637

a hazard which distinguishes the employment in character from 638  
employment generally, and the employment creates a risk of 639  
contracting the disease in greater degree and in a different 640  
manner from the public in general. 641

(G) "Self-insuring employer" means an employer who is granted 642  
the privilege of paying compensation and benefits directly under 643  
section 4123.35 of the Revised Code, including a board of county 644  
commissioners for the sole purpose of constructing a sports 645  
facility as defined in section 307.696 of the Revised Code, 646  
provided that the electors of the county in which the sports 647  
facility is to be built have approved construction of a sports 648  
facility by ballot election no later than November 6, 1997. 649

(H) "Public employer" means an employer as defined in 650  
division (B)(1) of this section. 651

Sec. 4123.15. (A) An employer who is a member of a recognized religious sect or division of a recognized religious sect and who is an adherent of established tenets or teachings of that sect or division by reason of which the employer is conscientiously opposed to benefits to employers and employees from any public or private insurance that makes payment in the event of death, disability, impairment, old age, or retirement or makes payments toward the cost of, or provides services in connection with the payment for, medical services, including the benefits from any insurance system established by the "Social Security Act," 42 U.S.C.A. 301, et seq., may apply to the administrator of workers' compensation to be excepted from payment of premiums and other charges assessed under this chapter and Chapter 4121. of the Revised Code with respect to, or if the employer is a self-insuring employer, from payment of direct compensation and benefits to and assessments required by this chapter and Chapter 4121. of the Revised Code on account of, an individual employee who meets the requirements of this section. The employer shall make an application on forms provided by the bureau of workers' compensation which forms may be those used by or similar to those used by the United States internal revenue service for the purpose of granting an exemption from payment of social security taxes under 26 U.S.C.A. 1402(g) of the Internal Revenue Code, and shall include a written waiver signed by the individual employee to be excepted from all the benefits and compensation provided in this chapter and Chapter 4121. of the Revised Code.

The application also shall include affidavits signed by the 678  
employer and the individual employee that the employer and the 679  
individual employee are members of a recognized religious sect or 680  
division of a recognized religious sect and are adherents of 681  
established tenets or teaching of that sect or division by reason 682  
of which the employer and the individual employee are 683  
conscientiously opposed to benefits to employers and employees 684  
received from any public or private insurance that makes payments 685  
in the event of death, disability, impairment, old age, or 686  
retirement or makes payments toward the cost of, or provides 687  
services in connection with the payment for, medical services, 688  
including the benefits from any insurance system established by 689  
the "Social Security Act," 42 U.S.C.A. 301, et seq. If the 690  
individual is a minor, the guardian of the minor shall complete 691  
the waiver and affidavit required by this division. 692

(B) The administrator shall grant the waiver and exception to 693  
the employer for a particular individual employee if the 694  
administrator finds that the employer and the individual employee 695  
are members of a sect or division having the established tenets or 696  
teachings described in division (A) of this section, that it is 697  
the practice, and has been for a substantial number of years, for 698  
members of the sect or division of the sect to make provision for 699  
their dependent members which, in the administrator's judgment, is 700  
reasonable in view of their general level of hiring, and that the 701  
sect or division of the sect has been in existence at all times 702  
since December 31, 1950. 703

(C) A waiver and exception under division (B) of this section 704  
is effective on the date the administrator grants the waiver and 705  
exception. An employer who complies with this chapter and the 706  
employer's other employees, with respect to an individual employee 707  
for whom the administrator grants the waiver and exception, are 708  
entitled, as to that individual employee and as to all injuries 709  
and occupational diseases of the individual employee that occurred 710  
prior to the effective date of the waiver and exception, to the 711  
protections of sections 4123.74 and 4123.741 of the Revised Code. 712  
On and after the effective date of the waiver and exception, the 713  
employer is not liable for the payment of any premiums or other 714  
charges assessed under this chapter or Chapter 4121. of the 715  
Revised Code, or if the individual is a self-insuring employer, 716  
the employer is not liable for the payment of any compensation or 717  
benefits directly or other charges assessed under this chapter or 718  
Chapter 4121. of the Revised Code in regard to that individual 719  
employee, and is considered a complying employer under those 720  
chapters, and the employer and the employer's other employees are 721  
entitled to the protections of sections 4123.74 and 4123.741 of 722  
the Revised Code, as to that individual employee, and as to 723  
injuries and occupational diseases of that individual employee 724  
that occur on and after the effective date of the waiver and 725  
exception. 726

(D) A waiver and exception granted in regard to a specific 727  
employer and individual employee are valid for all future years 728  
unless the administrator determines that the employer, individual 729  
employee, or sect or division ceases to meet the requirements of 730  
this section. If the administrator makes this determination, the 731  
employer is liable for the payment of premiums and other charges 732  
assessed under this chapter and Chapter 4121. of the Revised Code, 733  
or if the employer is a self-insuring employer, the employer is 734  
liable for the payment of compensation and benefits directly and 735  
other charges assessed under those chapters, in regard to the 736  
individual employee for all injuries and occupational diseases of 737  
that individual that occur on and after the date of the 738  
administrator's determination, and the individual employee is 739  
entitled to all of the benefits and compensation provided in those 740  
chapters for an injury or occupational disease that occurs on or 741  
after the date of the administrator's determination. 742

**Sec. 4123.31.** The moneys in the state treasury for the use of 743  
the bureau of workers' compensation and the industrial commission 744  
shall be known as the workers' compensation fund ~~and~~ group. The 745  
moneys from each fund shall be disbursed respectively pursuant to 746  
vouchers approved by the administrator of workers' compensation or 747  
the administrator's designee, or by the chairperson of the 748  
commission or the chairperson's designee. 749

The bureau and the commission shall provide for the custody, 750  
safekeeping, and deposit of all moneys, checks, and drafts 751  
received by ~~it~~ the bureau or commission or any ~~of its~~ employees or 752  
agents prior to paying the moneys, checks, and drafts to the 753  
treasurer of state as provided by section 113.08 of the Revised 754  
Code. 755

**Sec. 4123.342.** (A) The administrator of workers' compensation 756

shall allocate among counties and taxing districts therein as a 757  
class, the state and its instrumentalities as a class, private 758  
employers who are insured under the private fund as a class, and 759  
self-insuring employers as a class their fair shares of the 760  
administrative costs which are to be borne by such employers under 761  
division (D) of section 4123.341 of the Revised Code, separately 762  
allocating to each class those costs solely attributable to the 763  
activities of the industrial commission, and those costs solely 764  
attributable to the activities of the workers' compensation 765  
oversight commission, and the bureau of workers' compensation in 766  
respect of the class, allocating to any combination of classes 767  
those costs attributable to the activities of the industrial 768  
commission, oversight commission, or bureau in respect of the 769  
classes, and allocating to all four classes those costs 770  
attributable to the activities of the industrial commission, 771  
oversight commission, and bureau in respect of all classes. The 772  
administrator shall separately calculate each employer's 773  
assessment in the class, except self-insuring employers, on the 774  
basis of the following three factors: payroll, paid compensation, 775  
and paid medical costs of the employer for those costs solely 776  
attributable to the activities of the oversight commission and the 777  
bureau. The administrator shall separately calculate each 778  
employer's assessment in the class, except self-insuring 779  
employers, on the basis of the following three factors: payroll, 780  
paid compensation, and paid medical costs of the employer for 781  
those costs solely attributable to the activities of the 782  
industrial commission. The administrator shall separately 783  
calculate each self-insuring employer's assessment in accordance 784  
with section 4123.35 of the Revised Code for those costs solely 785  
attributable to the activities of the oversight commission and the 786  
bureau. The administrator shall separately calculate each 787  
self-insuring employer's assessment in accordance with section 788

4123.35 of the Revised Code for those costs solely attributable to 789  
the activities of the industrial commission. In a timely manner, 790  
the industrial commission shall provide to the administrator, the 791  
information necessary for the administrator to allocate and 792  
calculate, with the approval of the chairperson of the industrial 793  
commission, for each class of employer as described in this 794  
division, the costs solely attributable to the activities of the 795  
industrial commission. 796

(B) The administrator shall divide the administrative cost 797  
assessments collected by the administrator into two administrative 798  
assessment accounts within the state insurance fund. One of the 799  
administrative assessment accounts shall consist of the 800  
administrative cost assessment collected by the administrator for 801  
the industrial commission. The other administrative assessment 802  
account shall consist of the administrative cost assessments 803  
collected by the administrator for the bureau and the workers' 804  
compensation oversight commission. The administrator may invest 805  
the administrative cost assessments in these accounts on behalf of 806  
the bureau and the industrial commission as authorized in section 807  
4123.44 of the Revised Code. In a timely manner, the administrator 808  
shall provide to the industrial commission the information and 809  
reports the commission deems necessary for the commission to 810  
monitor the receipts and the disbursements from the administrative 811  
assessment account for the industrial commission. 812

(C) The administrator or the administrator's designee shall transfer moneys as necessary from the administrative assessment account identified for the bureau and the workers' compensation oversight commission to the workers' compensation fund for the use of the bureau and the oversight commission. As necessary and upon the authorization of the industrial commission, the administrator or the administrator's designee shall transfer moneys from the administrative assessment account identified for the industrial commission to the industrial commission operating fund created under section 4121.021 of the Revised Code. To the extent that the moneys collected by the administrator in any fiscal biennium of the state equal the sum appropriated by the general assembly for administrative costs of the industrial commission, oversight commission, and bureau for the biennium, the moneys shall be paid into the workers' compensation fund and the industrial commission operating fund of the state and any remainder shall be retained in the state insurance fund and applied to reduce the amount collected during the next biennium. Sections 4123.41, 4123.35, and 4123.37 of the Revised Code apply to the collection of assessments from public and private employers respectively, except that for boards of county hospital trustees that are self-insuring employers, only those provisions applicable to the collection of assessments for private employers apply.

**Sec. 4123.80.** No agreement by an employee to waive ~~his~~ an employee's rights to compensation under this chapter is valid, except that:

(A) An employee who is blind may waive the compensation that may become due ~~him~~ to the employee for injury or disability in cases where the injury or disability may be directly caused by or due to ~~his~~ the employee's blindness. The administrator of workers' compensation, with the advice and consent of the workers'

compensation oversight commission, may adopt and enforce rules 844  
governing the employment of such persons and the inspection of 845  
their places of employment. 846

(B) An employee may waive ~~his~~ the employee's rights to 847  
compensation or benefits as authorized pursuant to division (C)(3) 848  
of section 4123.01 or section 4123.15 of the Revised Code. 849

No agreement by an employee to pay any portion of the premium 850  
paid by ~~his~~ the employee's employer into the state insurance fund 851  
is valid. 852

**Section 2.** That existing sections 2305.24, 2305.25, 4121.121, 853  
4123.01, 4123.31, 4123.342, and 4123.80 of the Revised Code are 854  
hereby repealed. 855

**Section 3.** All items in this section are hereby appropriated 856  
out of any moneys in the state treasury to the credit of the 857  
designated fund. For all appropriations made in this act, those in 858  
the first column are for fiscal year 2004, and those in the second 859  
column are for fiscal year 2005. 860

FND	AI	AI TITLE	Appropriations		
		BWC BUREAU OF WORKERS' COMPENSATION			862
		Workers' Compensation Fund Group			863
023	855-401	William Green Lease	\$ 18,734,613	\$ 19,239,613	864
		Payments to OBA			
023	855-407	Claims, Risk & Medical	\$ 141,539,537	\$ 141,539,537	865
		Management			
023	855-408	Fraud Prevention	\$ 11,713,797	\$ 11,713,797	866
023	855-409	Administrative	\$ 119,884,053	\$ 119,884,053	867
		Services			
023	855-410	Attorney General	\$ 4,314,644	\$ 4,314,644	868
		Payments			
822	855-606	Coal Workers' Fund	\$ 91,894	\$ 91,894	869

823	855-608	Marine Industry	\$	53,952	\$	53,952	870
825	855-605	Disabled Workers	\$	693,764	\$	693,764	871
		Relief Fund					
826	855-609	Safety & Hygiene	\$	20,130,820	\$	20,130,820	872
		Operating					
826	855-610	Safety Grants Program	\$	2,000,000	\$	2,000,000	873
TOTAL WCF Workers' Compensation							874
Fund Group			\$	319,157,074	\$	319,662,074	875
TOTAL ALL BUDGET FUND GROUPS			\$	319,157,074	\$	319,662,074	876

WILLIAM GREEN LEASE PAYMENTS 877

The foregoing appropriation item 855-401, William Green Lease 878  
Payments to OBA, shall be used for lease payments to the Ohio 879  
Building Authority, and these appropriations shall be used to meet 880  
all payments at the times they are required to be made during the 881  
period from July 1, 2004, to June 30, 2005, by the Bureau of 882  
Workers' Compensation to the Ohio Building Authority pursuant to 883  
leases and agreements made under Chapter 152. of the Revised Code 884  
and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. 885  
Of the amounts received in Fund 023, appropriation item 855-401, 886  
up to \$37,974,226 shall be restricted for lease rental payments to 887  
the Ohio Building Authority. If it is determined that additional 888  
appropriations are necessary for such purpose, such amounts are 889  
hereby appropriated. 890

Notwithstanding any other provision of law to the contrary, 891  
all tenants of the William Green Building not funded by the 892  
Workers' Compensation Fund (Fund 023) shall pay their fair share 893  
of the costs of lease payments to the Workers' Compensation Fund 894  
(Fund 023) by intrastate transfer voucher. 895

WORKERS' COMPENSATION FRAUD UNIT 896

The Workers' Compensation Section Fund (Fund 195) shall 897  
receive payments from the Bureau of Workers' Compensation at the 898

beginning of each quarter of each fiscal year to fund expenses of 899  
the Workers' Compensation Fraud Unit of the Attorney General's 900  
Office. Of the foregoing appropriation item 855-410, Attorney 901  
General Payments, \$773,151 in fiscal year 2004 and \$773,151 in 902  
fiscal year 2005 shall be used to provide these payments. 903

SAFETY AND HYGIENE 904

Notwithstanding section 4121.37 of the Revised Code, the 905  
Administrator of Workers' Compensation shall transfer moneys from 906  
the State Insurance Fund so that appropriation item 855-609, 907  
Safety and Hygiene Operating, is provided \$20,130,820 in fiscal 908  
year 2004 and \$20,130,820 in fiscal year 2005. 909

BALANCES 910

Notwithstanding any provision of law to the contrary, the 911  
Director of Budget and Management shall make any transfers of cash 912  
balances between funds made necessary by the creation of new funds 913  
or the consolidation of funds as authorized by the General 914  
Assembly. Within the first five days after the effective date of 915  
this section, the head of the Industrial Commission shall certify 916  
to the Director of Budget and Management the amount of the cash 917  
balance to be transferred to the Industrial Commission Operating 918  
Fund (Fund 5W3). The Director of Budget and Management may 919  
transfer the amount. Within thirty days after the effective date 920  
of this section, the head of the Industrial Commission shall 921  
certify the final transfer amount to the Director of Budget and 922  
Management. The Director shall transfer the cash from the Workers' 923  
Compensation Fund (Fund 023) to the Industrial Commission 924  
Operating Fund (Fund 5W3). 925

To implement funding changes as described above pertaining to 926  
prior year encumbrance balances and commensurate appropriation 927  
authority, in fiscal year 2004 the Director of Budget and 928  
Management may cancel encumbrances outstanding on June 30, 2003, 929

and reestablish such prior year encumbrances or parts of 930  
encumbrances as needed in fiscal year 2004 in the appropriate fund 931  
or appropriation item as authorized in this act for the same 932  
purpose and to the same vendor. As determined by the director, the 933  
appropriation authority necessary to reestablish such prior year 934  
encumbrances in fiscal year 2004 in a different fund or 935  
appropriation item within an agency or between agencies is 936  
authorized. The director shall reduce each prior year's 937  
appropriation authority by the amount of the encumbrances canceled 938  
in their respective funds and appropriation items. 939

VOCATIONAL REHABILITATION 940

The Bureau of Workers' Compensation and the Rehabilitation 941  
Services Commission shall enter into an interagency agreement for 942  
the provision of vocational rehabilitation services and staff to 943  
mutually eligible clients. The bureau shall provide \$587,774 in 944  
fiscal year 2004 and \$605,407 in fiscal year 2005 from the State 945  
Insurance Fund to fund vocational rehabilitation services and 946  
staff in accordance with the interagency agreement. 947

FUND BALANCE 948

Any unencumbered cash balance in excess of \$45,000,000 in the 949  
Workers' Compensation Fund (Fund 023) on the thirtieth day of June 950  
of each fiscal year shall be used to reduce the administrative 951  
cost rate charged to employers to cover appropriations for Bureau 952  
of Workers' Compensation operations. 953

**Section 4.** On July 1, 2003, or as soon thereafter as 954  
possible, the Director of Budget and Management shall transfer an 955  
amount equal to the amount of existing encumbrances in Fund 023 956  
appropriation items 845-321, Operating Expenses, 845-402, Rent - 957  
William Green Building, and 845-410, Attorney General Payments, 958  
from Fund 023 to Fund 5W3 under the Ohio Industrial Commission. 959

On July 1, 2003, or as soon thereafter as possible, the 960  
Director of Budget and Management shall transfer the amount 961  
certified by the Ohio Industrial Commission from Fund 023 to Fund 962  
5W3. Any existing encumbrances in appropriation items 845-321, 963  
Operating Expenses, 845-402, Rent - William Green Building, and 964  
845-410, Attorney General Payments, under Fund 023 shall be 965  
canceled and re-established against appropriation items 845-321, 966  
Operating Expenses, 845-402, Rent - William Green Building, and 967  
845-410, Attorney General Payments, under Fund 5W3, respectively. 968  
The amounts of the re-established encumbrances are hereby 969  
appropriated. 970

**Section 5.** The Director of the Legislative Service Commission 971  
shall renumber the Bureau of Workers' Compensation safety and 972  
hygiene rules currently bearing Administrative Code division-level 973  
designation 4121:1 so that the rules bear instead division-level 974  
designation 4123:1. Thereafter, division-level designation 4123:1 975  
constitutes an official part of the official Administrative Code 976  
rule numbers of the Bureau of Workers' Compensation safety and 977  
hygiene rules, and a reference in a statute, rule, contract, or 978  
other document to a safety and hygiene rule bearing Administrative 979  
Code division-level designation 4121:1 is deemed to refer to the 980  
same rule as officially renumbered pursuant to this section. 981

**Section 6.** Law contained in the main operating appropriations 982  
act of the 125th General Assembly that applies generally to the 983  
appropriations made in that act also applies generally to the 984  
appropriations made in this act. 985

**Section 7.** Sections 2305.24, 2305.25, 4121.121, 4123.01, 986  
4123.31, 4123.342, and 4123.80 of the Revised Code as amended by 987  
this act and sections 4121.021 and 4123.15 of the Revised Code as 988  
enacted by this act are subject to the referendum. Therefore, 989

under Ohio Constitution, Article II, Section 1c and section 1.471 990  
of the Revised Code, the sections as amended or enacted take 991  
effect on the ninety-first day after this act is filed with the 992  
Secretary of State. If, however, a referendum petition is filed 993  
against such a section as amended or enacted, or against an item 994  
of which such a section is composed, the section as amended or 995  
enacted or item, unless rejected at the referendum, takes effect 996  
at the earliest time permitted by law. 997

**Section 8.** The uncodified sections of law contained in this 998  
act, and the items of law of which the uncodified sections of law 999  
contained in this act are composed, are not subject to the 1000  
referendum. Therefore, under Ohio Constitution, Article II, 1001  
Section 1d and section 1.471 of the Revised Code, the uncodified 1002  
sections of law contained in this act, and the items of law of 1003  
which the uncodified sections of law contained in this act are 1004  
composed, go into immediate effect when this act becomes law. 1005

**Section 9.** An item that composes the whole or part of an 1006  
uncodified section contained in this act has no effect after June 1007  
30, 2005, unless the context clearly indicates otherwise. 1008

**Section 10.** Section 4123.01 of the Revised Code is presented 1009  
in this act as a composite of the section as amended by both H.B. 1010  
675 and Am. Sub. S.B. 223 of the 124th General Assembly. The 1011  
General Assembly, applying the principle stated in division (B) of 1012  
section 1.52 of the Revised Code that amendments are to be 1013  
harmonized if reasonably capable of simultaneous operation, finds 1014  
that the composite is the resulting version of the section in 1015  
effect prior to the effective date of the section as presented in 1016  
this act. 1017

**Section 11.** If any item of law that constitutes the whole or 1018

part of a codified or uncodified section of law contained in this 1019  
act, or if any application of any item of law that constitutes the 1020  
whole or part of a codified or uncodified section of law contained 1021  
in this act, is held invalid, the invalidity does not affect other 1022  
times of law or applications of items of law that can be given 1023  
effect without the invalid item of law or application. To this 1024  
end, the items of law of which the codified and uncodified 1025  
sections of law contained in this act are composed, and their 1026  
applications, are independent and severable. 1027