

As Passed by the House

**126th General Assembly
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H. B. No. 67

**Representatives Schaffer, Beatty, Flowers, Hartnett, Miller, Strahorn, Barrett,
Buehrer, Calvert, Cassell, Chandler, Daniels, Distel, Domenick, C. Evans,
D. Evans, Fende, Gibbs, Hughes, Kearns, Mason, McGregor, Otterman, Seitz,
Setzer, Webster, Williams**

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A B I L L

To amend sections 121.08, 4121.12, 4121.121, 4121.37, 1
4123.511, 4167.02, 4167.06, 4167.07, 4167.08, 2
4167.09, 4167.10, 4167.11, 4167.12, 4167.14, 3
4167.15, 4167.16, 4167.17, 4167.19, and 4167.27, 4
to enact section 4121.48, and to repeal section 5
4167.18 of the Revised Code to transfer the Public 6
Employees Risk Reduction Program and the 7
Occupational Safety and Health Act On-site 8
Consultation Program from the Department of 9
Commerce to the Bureau of Workers' Compensation, 10
to make appropriations for the Bureau of Workers' 11
Compensation for the biennium beginning July 1, 12
2005, and ending June 30, 2007, and to provide 13
authorization and conditions for the operation of 14
the Bureau's programs. 15

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

Section 1. That sections 121.08, 4121.12, 4121.121, 4121.37, 16
4123.511, 4167.02, 4167.06, 4167.07, 4167.08, 4167.09, 4167.10, 17
4167.11, 4167.12, 4167.14, 4167.15, 4167.16, 4167.17, 4167.19, and 18

4167.27 be amended and section 4121.48 of the Revised Code be 19
enacted to read as follows: 20

Sec. 121.08. (A) There is hereby created in the department of 21
commerce the position of deputy director of administration. This 22
officer shall be appointed by the director of commerce, serve 23
under the director's direction, supervision, and control, perform 24
the duties the director prescribes, and hold office during the 25
director's pleasure. The director of commerce may designate an 26
assistant director of commerce to serve as the deputy director of 27
administration. The deputy director of administration shall 28
perform the duties prescribed by the director of commerce in 29
supervising the activities of the division of administration of 30
the department of commerce. 31

(B) Except as provided in section 121.07 of the Revised Code, 32
the department of commerce shall have all powers and perform all 33
duties vested in the deputy director of administration, the state 34
fire marshal, the superintendent of financial institutions, the 35
superintendent of real estate and professional licensing, the 36
superintendent of liquor control, the superintendent of the 37
division of industrial compliance, the superintendent of labor and 38
worker safety, and the commissioner of securities, and shall have 39
all powers and perform all duties vested by law in all officers, 40
deputies, and employees of those offices. Except as provided in 41
section 121.07 of the Revised Code, wherever powers are conferred 42
or duties imposed upon any of those officers, the powers and 43
duties shall be construed as vested in the department of commerce. 44

(C)(1) There is hereby created in the department of commerce 45
a division of financial institutions, which shall have all powers 46
and perform all duties vested by law in the superintendent of 47
financial institutions. Wherever powers are conferred or duties 48
imposed upon the superintendent of financial institutions, those 49

powers and duties shall be construed as vested in the division of
financial institutions. The division of financial institutions
shall be administered by a superintendent of financial
institutions.

(2) All provisions of law governing the superintendent of
financial institutions shall apply to and govern the
superintendent of financial institutions provided for in this
section; all authority vested by law in the superintendent of
financial institutions with respect to the management of the
division of financial institutions shall be construed as vested in
the superintendent of financial institutions created by this
section with respect to the division of financial institutions
provided for in this section; and all rights, privileges, and
emoluments conferred by law upon the superintendent of financial
institutions shall be construed as conferred upon the
superintendent of financial institutions as head of the division
of financial institutions. The director of commerce shall not
transfer from the division of financial institutions any of the
functions specified in division (C)(2) of this section.

(D) There is hereby created in the department of commerce a
division of liquor control, which shall have all powers and
perform all duties vested by law in the superintendent of liquor
control. Wherever powers are conferred or duties are imposed upon
the superintendent of liquor control, those powers and duties
shall be construed as vested in the division of liquor control.
The division of liquor control shall be administered by a
superintendent of liquor control.

(E) The director of commerce shall not be interested,
directly or indirectly, in any firm or corporation which is a
dealer in securities as defined in sections 1707.01 and 1707.14 of
the Revised Code, or in any firm or corporation licensed under
sections 1321.01 to 1321.19 of the Revised Code.

(F) The director of commerce shall not have any official 82
connection with a savings and loan association, a savings bank, a 83
bank, a bank holding company, a savings and loan association 84
holding company, a consumer finance company, or a credit union 85
that is under the supervision of the division of financial 86
institutions, or a subsidiary of any of the preceding entities, or 87
be interested in the business thereof. 88

(G) There is hereby created in the state treasury the 89
division of administration fund. The fund shall receive 90
assessments on the operating funds of the department of commerce 91
in accordance with procedures prescribed by the director of 92
commerce and approved by the director of budget and management. 93
All operating expenses of the division of administration shall be 94
paid from the division of administration fund. 95

(H) There is hereby created in the department of commerce a 96
division of real estate and professional licensing, which shall be 97
under the control and supervision of the director of commerce. The 98
division of real estate and professional licensing shall be 99
administered by a superintendent of real estate and professional 100
licensing. The superintendent of real estate and professional 101
licensing shall exercise the powers and perform the functions and 102
duties delegated to the superintendent under Chapters 4735., 103
4763., and 4767. of the Revised Code. 104

(I) There is hereby created in the department of commerce a 105
division of labor and worker safety, which shall have all powers 106
and perform all duties vested by law in the superintendent of 107
labor and worker safety. Wherever powers are conferred or duties 108
imposed upon the superintendent of labor and worker safety, those 109
powers and duties shall be construed as vested in the division of 110
labor and worker safety. The division of labor and worker safety 111
shall be under the control and supervision of the director of 112
commerce and be administered by a superintendent of labor and 113

worker safety. The superintendent of labor and worker safety shall 114
exercise the powers and perform the duties delegated to the 115
superintendent by the director under Chapters 4109., 4111., and 116
4115., ~~and 4167.~~ of the Revised Code. 117

(J) The department of commerce or a division of the 118
department created by the Revised Code that is acting with 119
authorization on the department's behalf may request from the 120
bureau of criminal identification and investigation pursuant to 121
section 109.572 of the Revised Code, or coordinate with 122
appropriate federal, state, and local government agencies to 123
accomplish, criminal records checks for the persons whose 124
identities are required to be disclosed by an applicant for the 125
issuance or transfer of a permit, license, or certification issued 126
or transferred by the department or division. At or before the 127
time of making a request for a criminal records check, the 128
department or division may require any person whose identity is 129
required to be disclosed by an applicant for the issuance or 130
transfer of such a license, permit, or certification to submit to 131
the department or division valid fingerprint impressions in a 132
format and by any media or means acceptable to the bureau of 133
criminal identification and investigation and, when applicable, 134
the federal bureau of investigation. The department or division 135
may cause the bureau of criminal identification and investigation 136
to conduct a criminal records check through the federal bureau of 137
investigation only if the person for whom the criminal records 138
check would be conducted resides or works outside of this state or 139
has resided or worked outside of this state during the preceding 140
five years, or if a criminal records check conducted by the bureau 141
of criminal identification and investigation within this state 142
indicates that the person may have a criminal record outside of 143
this state. 144

In the case of a criminal records check under section 109.572 145

of the Revised Code, the department or division shall forward to 146
the bureau of criminal identification and investigation the 147
requisite form, fingerprint impressions, and fee described in 148
division (C) of that section. When requested by the department or 149
division in accordance with this section, the bureau of criminal 150
identification and investigation shall request from the federal 151
bureau of investigation any information it has with respect to the 152
person who is the subject of the requested criminal records check 153
and shall forward the requisite fingerprint impressions and 154
information to the federal bureau of investigation for that 155
criminal records check. After conducting a criminal records check 156
or receiving the results of a criminal records check from the 157
federal bureau of investigation, the bureau of criminal 158
identification and investigation shall provide the results to the 159
department or division. 160

The department or division may require any person about whom 161
a criminal records check is requested to pay to the department or 162
division the amount necessary to cover the fee charged to the 163
department or division by the bureau of criminal identification 164
and investigation under division (C)(3) of section 109.572 of the 165
Revised Code, including, when applicable, any fee for a criminal 166
records check conducted by the federal bureau of investigation. 167

Sec. 4121.12. (A) There is hereby created the workers' 168
compensation oversight commission consisting of nine members, of 169
which members the governor shall appoint five with the advice and 170
consent of the senate. Of the five members the governor appoints, 171
two shall be individuals who, on account of their previous 172
vocation, employment, or affiliations, can be classed as 173
representative of employees, at least one of whom is 174
representative of employees who are members of an employee 175
organization; two shall be individuals who, on account of their 176

previous vocation, employment, or affiliations, can be classed as 177
representative of employers, one of whom represents self-insuring 178
employers and one of whom has experience as an employer in 179
compliance with section 4123.35 of the Revised Code other than a 180
self-insuring employer, and one of those two representatives also 181
shall represent employers whose employees are not members of an 182
employee organization; and one shall represent the public and also 183
be an individual who, on account of the individual's previous 184
vocation, employment, or affiliations, cannot be classed as either 185
predominantly representative of employees or of employers. The 186
governor shall select the chairperson of the commission who shall 187
serve as chairperson at the pleasure of the governor. No more than 188
three members appointed by the governor shall belong to or be 189
affiliated with the same political party. 190

Each of these five members shall have at least three years' 191
experience in the field of insurance, finance, workers' 192
compensation, law, accounting, actuarial, personnel, investments, 193
or data processing, or in the management of an organization whose 194
size is commensurate with that of the bureau of workers' 195
compensation. At least one of these five members shall be an 196
attorney licensed under Chapter 4705. of the Revised Code to 197
practice law in this state. 198

(B) Of the initial appointments made to the commission, the 199
governor shall appoint one member who represents employees to a 200
term ending one year after September 1, 1995, one member who 201
represents employers to a term ending two years after September 1, 202
1995, the member who represents the public to a term ending three 203
years after September 1, 1995, one member who represents employees 204
to a term ending four years after September 1, 1995, and one 205
member who represents employers to a term ending five years after 206
September 1, 1995. Thereafter, terms of office shall be for five 207
years, with each term ending on the same day of the same month as 208

did the term that it succeeds. Each member shall hold office from 209
the date of the member's appointment until the end of the term for 210
which the member was appointed. 211

The governor shall not appoint any person to more than two 212
full terms of office on the commission. This restriction does not 213
prevent the governor from appointing a person to fill a vacancy 214
caused by the death, resignation, or removal of a commission 215
member and also appointing that person twice to full terms on the 216
commission, or from appointing a person previously appointed to 217
fill less than a full term twice to full terms on the commission. 218
Any member appointed to fill a vacancy occurring prior to the 219
expiration date of the term for which the member's predecessor was 220
appointed shall hold office as a member for the remainder of that 221
term. A member shall continue in office subsequent to the 222
expiration date of the member's term until a successor takes 223
office or until a period of sixty days has elapsed, whichever 224
occurs first. 225

(C) In making appointments to the commission, the governor 226
shall select the members from the list of names submitted by the 227
workers' compensation oversight commission nominating committee 228
pursuant to this division. Within fourteen days after the governor 229
calls the initial meeting of the nominating committee pursuant to 230
division (C) of section 4121.123 of the Revised Code, the 231
nominating committee shall submit to the governor, for the initial 232
appointments, a list containing four separate names for each of 233
the members on the commission. Within fourteen days after the 234
submission of the list, the governor shall appoint individuals 235
from the list. 236

For the appointment of the member who is representative of 237
employees who are members of an employee organization, both for 238
initial appointments and for the filling of vacancies, the list of 239
four names submitted by the nominating committee shall be 240

comprised of four individuals who are members of the executive 241
committee of the largest statewide labor federation. 242

Thereafter, within sixty days after a vacancy occurring as a 243
result of the expiration of a term and within thirty days after 244
other vacancies occurring on the commission, the nominating 245
committee shall submit a list containing four names for each 246
vacancy. Within fourteen days after the submission of the list, 247
the governor shall appoint individuals from the list. With respect 248
to the filling of vacancies, the nominating committee shall 249
provide the governor with a list of four individuals who are, in 250
the judgment of the nominating committee, the most fully qualified 251
to accede to membership on the commission. The nominating 252
committee shall not include the name of an individual upon the 253
list for the filling of vacancies if the appointment of that 254
individual by the governor would result in more than three members 255
of the commission belonging to or being affiliated with the same 256
political party. The committee shall include on the list for the 257
filling of vacancies only the names of attorneys admitted to 258
practice law in this state if, to fulfill the requirement of 259
division (A) of section 4121.12 of the Revised Code, the vacancy 260
must be filled by an attorney. 261

In order for the name of an individual to be submitted to the 262
governor under this division, the nominating committee shall 263
approve the individual by an affirmative vote of a majority of its 264
members. 265

(D) The remaining four members of the commission shall be the 266
chairperson and ranking minority member of the standing committees 267
of the house of representatives and of the senate to which 268
legislation concerning this chapter and Chapters 4123., 4127., and 269
4131. of the Revised Code normally are referred, or a designee of 270
the chairperson or ranking minority member, provided that the 271
designee is a member of the standing committee. Legislative 272

members shall serve during the session of the general assembly to 273
which they are elected and for as long as they are members of the 274
general assembly. Legislative members shall serve in an advisory 275
capacity to the commission and shall have no voting rights on 276
matters coming before the commission. Membership on the commission 277
by legislative members shall not be deemed as holding a public 278
office. 279

(E) All members of the commission shall receive their 280
reasonable and necessary expenses pursuant to section 126.31 of 281
the Revised Code while engaged in the performance of their duties 282
as members. Legislative members also shall receive fifty dollars 283
per meeting that they attend. Members appointed by the governor 284
also shall receive an annual salary as follows: 285

(1) On and before August 31, 1998, not to exceed six thousand 286
dollars payable at the rate of five hundred dollars per month. A 287
member shall receive the monthly five hundred dollar salary only 288
if the member has attended at least one meeting of the commission 289
during that month. A member may receive no more than the monthly 290
five hundred dollar salary regardless of the number of meetings 291
held by the commission during a month or the number of meetings in 292
excess of one within a month that the member attends. 293

(2) After August 31, 1998, not to exceed eighteen thousand 294
dollars payable on the following basis: 295

(a) Except as provided in division (E)(2)(b) of this section, 296
a member shall receive two thousand dollars during a month in 297
which the member attends one or more meetings of the commission 298
and shall receive no payment during a month in which the member 299
attends no meeting of the commission. 300

(b) A member may receive no more than the annual eighteen 301
thousand dollar salary regardless of the number of meetings held 302
by the commission during a year or the number of meetings in 303

excess of nine within a year that the member attends. 304

The chairperson of the commission shall set the meeting dates 305
of the commission as necessary to perform the duties of the 306
commission under this chapter and Chapters 4123., 4127., and 4131. 307
of the Revised Code. The commission shall meet at least nine times 308
during the period commencing on the first day of September and 309
ending on the thirty-first day of August of the following year. 310
The administrator of workers' compensation shall provide 311
professional and clerical assistance to the commission, as the 312
commission considers appropriate. 313

(F) The commission shall: 314

(1) Review progress of the bureau in meeting its cost and 315
quality objectives and in complying with this chapter and Chapters 316
4123., 4127., and 4131. of the Revised Code; 317

(2) Issue an annual report on the cost and quality objectives 318
of the bureau to the president of the senate, the speaker of the 319
house of representatives, and the governor; 320

(3) Review all independent financial audits of the bureau. 321
The administrator shall provide access to records of the bureau to 322
facilitate the review required under this division. 323

(4) Study issues as requested by the administrator or the 324
governor; 325

(5) Contract with an independent actuarial firm to assist the 326
commission in making recommendations to the administrator 327
regarding premium rates; 328

(6) Establish objectives, policies, and criteria for the 329
administration of the investment program that include asset 330
allocation targets and ranges, risk factors, asset class 331
benchmarks, time horizons, total return objectives, and 332
performance evaluation guidelines, and monitor the administrator's 333

progress in implementing the objectives, policies, and criteria on 334
a quarterly basis. The commission shall publish the objectives, 335
policies, and criteria no less than annually and shall make copies 336
available to interested parties. The commission shall prohibit, on 337
a prospective basis, specific investment activity it finds to be 338
contrary to its investment objectives, policies, and criteria. 339

The investment policy in existence on March 7, 1997, shall 340
continue until the commission approves objectives, policies, and 341
criteria for the administration of the investment program pursuant 342
to this section. 343

(7) Advise and consent on all of the following: 344

(a) Administrative rules the administrator submits to it 345
pursuant to division (B)(5) of section 4121.121 of the Revised 346
Code for the classification of occupations or industries, for 347
premium rates and contributions, for the amount to be credited to 348
the surplus fund, for rules and systems of rating, rate revisions, 349
and merit rating; 350

(b) The overall policy of the bureau of workers' compensation 351
as set by the administrator; 352

(c) The duties and authority conferred upon the administrator 353
pursuant to section 4121.37 of the Revised Code; 354

(d) Rules the administrator adopts for the health partnership 355
program and the qualified health plan system, as provided in 356
sections 4121.44, 4121.441, and 4121.442 of the Revised Code; 357

(e) Rules the administrator submits to it pursuant to Chapter 358
4167. of the Revised Code regarding the public employment risk 359
reduction program and the protection of public health care workers 360
from exposure incidents. 361

As used in this division, "public health care worker" and 362
"exposure incident" have the same meanings as in section 4167.25 363

of the Revised Code.

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(8) Perform all duties required under section 4121.125 of the Revised Code.

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(G) As used in this section, "employee organization" means any labor or bona fide organization in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, hours, terms and other conditions of employment.

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Sec. 4121.121. (A) There is hereby created the bureau of workers' compensation, which shall be administered by the administrator of workers' compensation. A person appointed to the position of administrator shall possess significant management experience in effectively managing an organization or organizations of substantial size and complexity. The governor shall appoint the administrator as provided in section 121.03 of the Revised Code, and the administrator shall serve at the pleasure of the governor. The governor shall fix the administrator's salary on the basis of the administrator's experience and the administrator's responsibilities and duties under this chapter and Chapters 4123., 4127., ~~and 4131.~~, and 4167. of the Revised Code. The governor shall not appoint to the position of administrator any person who has, or whose spouse has, given a contribution to the campaign committee of the governor in an amount greater than one thousand dollars during the two-year period immediately preceding the date of the appointment of the administrator.

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The administrator shall hold no other public office and shall devote full time to the duties of administrator. Before entering upon the duties of the office, the administrator shall take an oath of office as required by sections 3.22 and 3.23 of the Revised Code, and shall file in the office of the secretary of

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state, a bond signed by the administrator and by surety approved 395
by the governor, for the sum of fifty thousand dollars payable to 396
the state, conditioned upon the faithful performance of the 397
administrator's duties. 398

(B) The administrator is responsible for the management of 399
the bureau of workers' compensation and for the discharge of all 400
administrative duties imposed upon the administrator in this 401
chapter and Chapters 4123., 4127., ~~and~~ 4131., and 4167. of the 402
Revised Code, and in the discharge thereof shall do all of the 403
following: 404

(1) Establish the overall administrative policy of the bureau 405
for the purposes of this chapter and Chapters 4123., 4127., ~~and~~ 406
4131., and 4167. of the Revised Code, and perform all acts and 407
exercise all authorities and powers, discretionary and otherwise 408
that are required of or vested in the bureau or any of its 409
employees in this chapter and Chapters 4123., 4127., ~~and~~ 4131., 410
and 4167. of the Revised Code, except the acts and the exercise of 411
authority and power that is required of and vested in the 412
oversight commission or the industrial commission pursuant to 413
those chapters. The treasurer of state shall honor all warrants 414
signed by the administrator, or by one or more of the 415
administrator's employees, authorized by the administrator in 416
writing, or bearing the facsimile signature of the administrator 417
or such employee under sections 4123.42 and 4123.44 of the Revised 418
Code. 419

(2) Employ, direct, and supervise all employees required in 420
connection with the performance of the duties assigned to the 421
bureau by this chapter and Chapters 4123., 4127., ~~and~~ 4131., and 422
4167. of the Revised Code, and may establish job classification 423
plans and compensation for all employees of the bureau provided 424
that this grant of authority shall not be construed as affecting 425
any employee for whom the state employment relations board has 426

established an appropriate bargaining unit under section 4117.06 427
of the Revised Code. All positions of employment in the bureau are 428
in the classified civil service except those employees the 429
administrator may appoint to serve at the administrator's pleasure 430
in the unclassified civil service pursuant to section 124.11 of 431
the Revised Code. The administrator shall fix the salaries of 432
employees the administrator appoints to serve at the 433
administrator's pleasure, including the chief operating officer, 434
staff physicians, and other senior management personnel of the 435
bureau and shall establish the compensation of staff attorneys of 436
the bureau's legal section and their immediate supervisors, and 437
take whatever steps are necessary to provide adequate compensation 438
for other staff attorneys. 439

The administrator may appoint a person holding a certified 440
position in the classified service to any state position in the 441
unclassified service of the bureau of workers' compensation. A 442
person so appointed shall retain the right to resume the position 443
and status held by the person in the classified service 444
immediately prior to the person's appointment in the unclassified 445
service. If the position the person previously held has been 446
filled or placed in the unclassified service, or is otherwise 447
unavailable, the person shall be appointed to a position in the 448
classified service within the bureau that the department of 449
administrative services certifies is comparable in compensation to 450
the position the person previously held. Reinstatement to a 451
position in the classified service shall be to a position 452
substantially equal to that held previously, as certified by the 453
department of administrative services. Service in the position in 454
the unclassified service shall be counted as service in the 455
position in the classified service held by the person immediately 456
prior to the person's appointment in the unclassified service. 457
When a person is reinstated to a position in the classified 458
service as provided in this section, the person is entitled to all 459

rights, status, and benefits accruing to the position during the 460
person's time of service in the position in the unclassified 461
service. 462

(3) Reorganize the work of the bureau, its sections, 463
departments, and offices to the extent necessary to achieve the 464
most efficient performance of its functions and to that end may 465
establish, change, or abolish positions and assign and reassign 466
duties and responsibilities of every employee of the bureau. All 467
persons employed by the commission in positions that, after 468
November 3, 1989, are supervised and directed by the administrator 469
under this section are transferred to the bureau in their 470
respective classifications but subject to reassignment and 471
reclassification of position and compensation as the administrator 472
determines to be in the interest of efficient administration. The 473
civil service status of any person employed by the commission is 474
not affected by this section. Personnel employed by the bureau or 475
the commission who are subject to Chapter 4117. of the Revised 476
Code shall retain all of their rights and benefits conferred 477
pursuant to that chapter as it presently exists or is hereafter 478
amended and nothing in this chapter or Chapter 4123. of the 479
Revised Code shall be construed as eliminating or interfering with 480
Chapter 4117. of the Revised Code or the rights and benefits 481
conferred under that chapter to public employees or to any 482
bargaining unit. 483

(4) Provide offices, equipment, supplies, and other 484
facilities for the bureau. 485

(5) Prepare and submit to the oversight commission 486
information the administrator considers pertinent or the oversight 487
commission requires, together with the administrator's 488
recommendations, in the form of administrative rules, for the 489
advice and consent of the oversight commission, for 490
classifications of occupations or industries, for premium rates 491

and contributions, for the amount to be credited to the surplus 492
fund, for rules and systems of rating, rate revisions, and merit 493
rating. The administrator shall obtain, prepare, and submit any 494
other information the oversight commission requires for the prompt 495
and efficient discharge of its duties. 496

(6) Keep the accounts required by division (A) of section 497
4123.34 of the Revised Code and all other accounts and records 498
necessary to the collection, administration, and distribution of 499
the workers' compensation funds and shall obtain the statistical 500
and other information required by section 4123.19 of the Revised 501
Code. 502

(7) Exercise the investment powers vested in the 503
administrator by section 4123.44 of the Revised Code in accordance 504
with the investment objectives, policies, and criteria established 505
by the oversight commission pursuant to section 4121.12 of the 506
Revised Code. The administrator shall not engage in any prohibited 507
investment activity specified by the oversight commission pursuant 508
to division (F)(6) of section 4121.12 of the Revised Code. All 509
business shall be transacted, all funds invested, all warrants for 510
money drawn and payments made, and all cash and securities and 511
other property held, in the name of the bureau, or in the name of 512
its nominee, provided that nominees are authorized by the 513
administrator solely for the purpose of facilitating the transfer 514
of securities, and restricted to the administrator and designated 515
employees. 516

(8) Make contracts for and supervise the construction of any 517
project or improvement or the construction or repair of buildings 518
under the control of the bureau. 519

(9) Purchase supplies, materials, equipment, and services; 520
make contracts for, operate, and superintend the telephone, other 521
telecommunication, and computer services for the use of the 522

bureau; and make contracts in connection with office reproduction, 523
forms management, printing, and other services. Notwithstanding 524
sections 125.12 to 125.14 of the Revised Code, the administrator 525
may transfer surplus computers and computer equipment directly to 526
an accredited public school within the state. The computers and 527
computer equipment may be repaired or refurbished prior to the 528
transfer. 529

(10) Separately from the budget the industrial commission 530
submits, prepare and submit to the director of budget and 531
management a budget for each biennium. The budget submitted shall 532
include estimates of the costs and necessary expenditures of the 533
bureau in the discharge of any duty imposed by law. 534

(11) As promptly as possible in the course of efficient 535
administration, decentralize and relocate such of the personnel 536
and activities of the bureau as is appropriate to the end that the 537
receipt, investigation, determination, and payment of claims may 538
be undertaken at or near the place of injury or the residence of 539
the claimant and for that purpose establish regional offices, in 540
such places as the administrator considers proper, capable of 541
discharging as many of the functions of the bureau as is 542
practicable so as to promote prompt and efficient administration 543
in the processing of claims. All active and inactive lost-time 544
claims files shall be held at the service office responsible for 545
the claim. A claimant, at the claimant's request, shall be 546
provided with information by telephone as to the location of the 547
file pertaining to the claimant's claim. The administrator shall 548
ensure that all service office employees report directly to the 549
director for their service office. 550

(12) Provide a written binder on new coverage where the 551
administrator considers it to be in the best interest of the risk. 552
The administrator, or any other person authorized by the 553
administrator, shall grant the binder upon submission of a request 554

for coverage by the employer. A binder is effective for a period 555
of thirty days from date of issuance and is nonrenewable. Payroll 556
reports and premium charges shall coincide with the effective date 557
of the binder. 558

(13) Set standards for the reasonable and maximum handling 559
time of claims payment functions, ensure, by rules, the impartial 560
and prompt treatment of all claims and employer risk accounts, and 561
establish a secure, accurate method of time stamping all incoming 562
mail and documents hand delivered to bureau employees. 563

(14) Ensure that all employees of the bureau follow the 564
orders and rules of the commission as such orders and rules relate 565
to the commission's overall adjudicatory policy-making and 566
management duties under this chapter and Chapters 4123., 4127., 567
and 4131. of the Revised Code. 568

(15) Manage and operate a data processing system with a 569
common data base for the use of both the bureau and the commission 570
and, in consultation with the commission, using electronic data 571
processing equipment, shall develop a claims tracking system that 572
is sufficient to monitor the status of a claim at any time and 573
that lists appeals that have been filed and orders or 574
determinations that have been issued pursuant to section 4123.511 575
or 4123.512 of the Revised Code, including the dates of such 576
filings and issuances. 577

(16) Establish and maintain a medical section within the 578
bureau. The medical section shall do all of the following: 579

(a) Assist the administrator in establishing standard medical 580
fees, approving medical procedures, and determining eligibility 581
and reasonableness of the compensation payments for medical, 582
hospital, and nursing services, and in establishing guidelines for 583
payment policies which recognize usual, customary, and reasonable 584
methods of payment for covered services; 585

(b) Provide a resource to respond to questions from claims examiners for employees of the bureau;	586 587
(c) Audit fee bill payments;	588
(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;	589 590 591 592
(e) Perform other duties assigned to it by the administrator.	593
(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.	594 595 596 597 598 599 600 601
(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.	602 603 604 605 606 607
(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 bidding and further provided that those contracts are not otherwise specifically exempt from the competitive bidding	608 609 610 611 612 613 614 615 616

procedures contained in the Revised Code. 617

(20) Adopt, with the advice and consent of the oversight 618
commission, rules for the operation of the bureau. 619

(21) Prepare and submit to the oversight commission 620
information the administrator considers pertinent or the oversight 621
commission requires, together with the administrator's 622
recommendations, in the form of administrative rules, for the 623
advice and consent of the oversight commission, for the health 624
partnership program and the qualified health plan system, as 625
provided in sections 4121.44, 4121.441, and 4121.442 of the 626
Revised Code. 627

(C) The administrator, with the advice and consent of the 628
senate, shall appoint a chief operating officer who has 629
significant experience in the field of workers' compensation 630
insurance or other similar insurance industry experience if the 631
administrator does not possess such experience. The chief 632
operating officer shall not commence the chief operating officer's 633
duties until after the senate consents to the chief operating 634
officer's appointment. The chief operating officer shall serve in 635
the unclassified civil service of the state. 636

Sec. 4121.37. The administrator of workers' compensation 637
having, by virtue of Section 35 of Article II, Ohio Constitution, 638
the expenditure of the fund therein created for the investigation 639
and prevention of industrial accidents and diseases, shall, with 640
the advice and consent of the workers' compensation oversight 641
commission, in the exercise of the administrator's authority and 642
in the performance of the administrator's duty, employ a 643
superintendent and the necessary experts, engineers, 644
investigators, clerks, and stenographers for the efficient 645
operation of a division of safety and hygiene of the bureau of 646
workers' compensation, which is hereby created. 647

The administrator of workers' compensation, with the advice 648
and consent of the oversight commission, shall pay into the safety 649
and hygiene fund, which is hereby created in the state treasury, 650
the portion of the contributions paid by employers, calculated as 651
though all employers paid premiums based upon payroll, not to 652
exceed one per cent thereof in any year, as is necessary for the 653
payment of the salary of the superintendent of the division of 654
safety and hygiene and the compensation of the other employees of 655
the division of safety and hygiene, ~~and~~ the expenses of 656
investigations and researches for the prevention of industrial 657
accidents and diseases, and for operating the long-term care loan 658
fund program established under section 4121.48 of the Revised 659
Code. All investment earnings of the fund shall be credited to the 660
fund. The administrator has the same powers to invest any of the 661
funds belonging to the fund as are delegated to the administrator 662
under section 4123.44 of the Revised Code with respect to the 663
state insurance fund. The superintendent, under the direction of 664
the administrator, with the advice and consent of the oversight 665
commission, shall conduct investigations and researches for the 666
prevention of industrial accidents and diseases, conduct loss 667
prevention programs and courses for employers, establish and 668
administrate cooperative programs with employers for the purchase 669
of individual safety equipment for employees, and print and 670
distribute information as may be of benefit to employers and 671
employees. The administrator shall pay from the safety and hygiene 672
fund the salary of the superintendent of the division of safety 673
and hygiene, the compensation of the other employees of the 674
division of safety and hygiene, the expenses necessary or 675
incidental to investigations and researches for the prevention of 676
industrial accidents and diseases, and the cost of printing and 677
distributing such information. 678

The superintendent, under the direction of the administrator, 679

shall prepare an annual report, addressed to the governor, on the
amount of the expenditures and the purposes for which they have
been made, and the results of the investigations and researches.
The administrator shall include the administrative costs,
salaries, and other expenses of the division of safety and hygiene
as a part of the budget of the bureau of workers' compensation
that is submitted to the director of budget and management and
shall identify those expenditures separately from other bureau
expenditures.

The superintendent shall be a competent person with at least
five years' experience in industrial accident or disease
prevention work. The superintendent and up to six positions in the
division of safety and hygiene as the administrator, with the
advice and consent of the oversight commission, designates are in
the unclassified civil service of the state as long as the
administrator, with the advice and consent of the oversight
commission, determines the positions subordinate to the
superintendent are primarily and distinctively administrative,
managerial, or professional in character. All other full-time
employees of the division of safety and hygiene are in the
classified civil service of the state.

Sec. 4121.48. (A) The bureau of workers' compensation shall
operate a long-term care loan fund program. The administrator of
workers' compensation may adopt rules, employ personnel, and do
all things necessary for that purpose.

(B) The administrator shall use the long-term care loan fund
program to make loans without interest to employers that are
nursing homes for the purpose of allowing those employers to
purchase, improve, install, or erect sit-to-stand floor lifts,
ceiling lifts, other lifts, and fast electric beds, and to pay for
the education and training of personnel, in order to implement a

facility policy of no manual lifting by employees of residents by 711
employees. 712

The administrator, with the advice and consent of the 713
workers' compensation oversight commission, may adopt rules 714
establishing criteria for loan eligibility, maximum loan amounts, 715
loan periods, default penalties, and any other terms the 716
administrator considers necessary for a loan. 717

(C) There is hereby created in the state treasury the 718
long-term care loan fund. The fund shall consist of money the 719
administrator, with the advice and consent of the oversight 720
commission, requests the director of budget and management to 721
transfer from the safety and hygiene fund created in section 722
4121.37 of the Revised Code. The fund shall be used solely for 723
purposes identified in this section. All investment earnings of 724
the fund shall be credited to the fund. 725

(D) As used in this section, "nursing home" has the same 726
meaning as in section 3721.01 of the Revised Code. 727

Sec. 4123.511. (A) Within seven days after receipt of any 728
claim under this chapter, the bureau of workers' compensation 729
shall notify the claimant and the employer of the claimant of the 730
receipt of the claim and of the facts alleged therein. If the 731
bureau receives from a person other than the claimant written or 732
facsimile information or information communicated verbally over 733
the telephone indicating that an injury or occupational disease 734
has occurred or been contracted which may be compensable under 735
this chapter, the bureau shall notify the employee and the 736
employer of the information. If the information is provided 737
verbally over the telephone, the person providing the information 738
shall provide written verification of the information to the 739
bureau according to division (E) of section 4123.84 of the Revised 740
Code. The receipt of the information in writing or facsimile, or 741

if initially by telephone, the subsequent written verification, 742
and the notice by the bureau shall be considered an application 743
for compensation under section 4123.84 or 4123.85 of the Revised 744
Code, provided that the conditions of division (E) of section 745
4123.84 of the Revised Code apply to information provided verbally 746
over the telephone. Upon receipt of a claim, the bureau shall 747
advise the claimant of the claim number assigned and the 748
claimant's right to representation in the processing of a claim or 749
to elect no representation. If the bureau determines that a claim 750
is determined to be a compensable lost-time claim, the bureau 751
shall notify the claimant and the employer of the availability of 752
rehabilitation services. No bureau or industrial commission 753
employee shall directly or indirectly convey any information in 754
derogation of this right. This section shall in no way abrogate 755
the bureau's responsibility to aid and assist a claimant in the 756
filing of a claim and to advise the claimant of the claimant's 757
rights under the law. 758

The administrator of workers' compensation shall assign all 759
claims and investigations to the bureau service office from which 760
investigation and determination may be made most expeditiously. 761

The bureau shall investigate the facts concerning an injury 762
or occupational disease and ascertain such facts in whatever 763
manner is most appropriate and may obtain statements of the 764
employee, employer, attending physician, and witnesses in whatever 765
manner is most appropriate. 766

The administrator of workers' compensation, with the advice 767
and consent of the workers' compensation oversight commission, may 768
adopt rules that identify specified medical conditions that have a 769
historical record of being allowed whenever included in a claim. 770
The administrator may grant immediate allowance of any medical 771
condition identified in those rules upon the filing of a claim 772
involving that medical condition and may make immediate payment of 773

medical bills for any medical condition identified in those rules 774
that is included in a claim. If an employer contests the allowance 775
of a claim involving any medical condition identified in those 776
rules, and the claim is disallowed, payment for the medical 777
condition included in that claim shall be charged to and paid from 778
the surplus fund created under section 4123.34 of the Revised 779
Code. 780

(B)(1) Except as provided in division (B)(2) of this section, 781
in claims other than those in which the employer is a 782
self-insuring employer, if the administrator determines under 783
division (A) of this section that a claimant is or is not entitled 784
to an award of compensation or benefits, the administrator shall 785
issue an order no later than twenty-eight days after the sending 786
of the notice under division (A) of this section, granting or 787
denying the payment of the compensation or benefits, or both as is 788
appropriate to the claimant. Notwithstanding the time limitation 789
specified in this division for the issuance of an order, if a 790
medical examination of the claimant is required by statute, the 791
administrator promptly shall schedule the claimant for that 792
examination and shall issue an order no later than twenty-eight 793
days after receipt of the report of the examination. The 794
administrator shall notify the claimant and the employer of the 795
claimant and their respective representatives in writing of the 796
nature of the order and the amounts of compensation and benefit 797
payments involved. The employer or claimant may appeal the order 798
pursuant to division (C) of this section within fourteen days 799
after the date of the receipt of the order. The employer and 800
claimant may waive, in writing, their rights to an appeal under 801
this division. 802

(2) Notwithstanding the time limitation specified in division 803
(B)(1) of this section for the issuance of an order, if the 804
employer certifies a claim for payment of compensation or 805

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

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

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

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

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

(E) Upon the filing of a timely appeal of the order of the staff hearing officer issued under division (D) of this section, the commission or a designated staff hearing officer, on behalf of the commission, shall determine whether the commission will hear the appeal. If the commission or the designated staff hearing officer decides to hear the appeal, the commission or the designated staff hearing officer shall notify the parties and their respective representatives in writing of the time and place of the hearing. The commission shall hold the hearing within forty-five days after the filing of the notice of appeal and, within seven days after the conclusion of the hearing, the commission shall issue its order affirming, modifying, or reversing the order issued under division (D) of this section. The commission shall notify the parties and their respective representatives in writing of the order. If the commission or the designated staff hearing officer determines not to hear the appeal, within fourteen days after the filing of the notice of appeal, the commission or the designated staff hearing officer shall issue an order to that effect and notify the parties and

their respective representatives in writing of that order. 870

Except as otherwise provided in this chapter and Chapters 871
4121., 4127., and 4131. of the Revised Code, any party may appeal 872
an order issued under this division to the court pursuant to 873
section 4123.512 of the Revised Code within sixty days after 874
receipt of the order, subject to the limitations contained in that 875
section. 876

(F) Every notice of an appeal from an order issued under 877
divisions (B), (C), (D), and (E) of this section shall state the 878
names of the claimant and employer, the number of the claim, the 879
date of the decision appealed from, and the fact that the 880
appellant appeals therefrom. 881

(G) All of the following apply to the proceedings under 882
divisions (C), (D), and (E) of this section: 883

(1) The parties shall proceed promptly and without 884
continuances except for good cause; 885

(2) The parties, in good faith, shall engage in the free 886
exchange of information relevant to the claim prior to the conduct 887
of a hearing according to the rules the commission adopts under 888
section 4121.36 of the Revised Code; 889

(3) The administrator is a party and may appear and 890
participate at all administrative proceedings on behalf of the 891
state insurance fund. However, in cases in which the employer is 892
represented, the administrator shall neither present arguments nor 893
introduce testimony that is cumulative to that presented or 894
introduced by the employer or the employer's representative. The 895
administrator may file an appeal under this section on behalf of 896
the state insurance fund; however, except in cases arising under 897
section 4123.343 of the Revised Code, the administrator only may 898
appeal questions of law or issues of fraud when the employer 899
appears in person or by representative. 900

(H) Except as provided in section 4121.63 of the Revised Code 901
and division (J) of this section, payments of compensation to a 902
claimant or on behalf of a claimant as a result of any order 903
issued under this chapter shall commence upon the earlier of the 904
following: 905

(1) Fourteen days after the date the administrator issues an 906
order under division (B) of this section, unless that order is 907
appealed; 908

(2) The date when the employer has waived the right to appeal 909
a decision issued under division (B) of this section; 910

(3) If no appeal of an order has been filed under this 911
section or to a court under section 4123.512 of the Revised Code, 912
the expiration of the time limitations for the filing of an appeal 913
of an order; 914

(4) The date of receipt by the employer of an order of a 915
district hearing officer, a staff hearing officer, or the 916
industrial commission issued under division (C), (D), or (E) of 917
this section. 918

(I) No medical benefits payable under this chapter or Chapter 919
4121., 4127., or 4131. of the Revised Code are payable until the 920
earlier of the following: 921

(1) The date of the issuance of the staff hearing officer's 922
order under division (D) of this section; 923

(2) The date of the final administrative or judicial 924
determination. 925

(J) Upon the final administrative or judicial determination 926
under this section or section 4123.512 of the Revised Code of an 927
appeal of an order to pay compensation, if a claimant is found to 928
have received compensation pursuant to a prior order which is 929
reversed upon subsequent appeal, the claimant's employer, if a 930

self-insuring employer, or the bureau, shall withhold from any 931
amount to which the claimant becomes entitled pursuant to any 932
claim, past, present, or future, under Chapter 4121., 4123., 933
4127., or 4131. of the Revised Code, the amount of previously paid 934
compensation to the claimant which, due to reversal upon appeal, 935
the claimant is not entitled, pursuant to the following criteria: 936

(1) No withholding for the first twelve weeks of temporary 937
total disability compensation pursuant to section 4123.56 of the 938
Revised Code shall be made; 939

(2) Forty per cent of all awards of compensation paid 940
pursuant to sections 4123.56 and 4123.57 of the Revised Code, 941
until the amount overpaid is refunded; 942

(3) Twenty-five per cent of any compensation paid pursuant to 943
section 4123.58 of the Revised Code until the amount overpaid is 944
refunded; 945

(4) If, pursuant to an appeal under section 4123.512 of the 946
Revised Code, the court of appeals or the supreme court reverses 947
the allowance of the claim, then no amount of any compensation 948
will be withheld. 949

The administrator and self-insuring employers, as 950
appropriate, are subject to the repayment schedule of this 951
division only with respect to an order to pay compensation that 952
was properly paid under a previous order, but which is 953
subsequently reversed upon an administrative or judicial appeal. 954
The administrator and self-insuring employers are not subject to, 955
but may utilize, the repayment schedule of this division, or any 956
other lawful means, to collect payment of compensation made to a 957
person who was not entitled to the compensation due to fraud as 958
determined by the administrator or the industrial commission. 959

(K) If a staff hearing officer or the commission fails to 960
issue a decision or the commission fails to refuse to hear an 961

appeal within the time periods required by this section, payments 962
to a claimant shall cease until the staff hearing officer or 963
commission issues a decision or hears the appeal, unless the 964
failure was due to the fault or neglect of the employer or the 965
employer agrees that the payments should continue for a longer 966
period of time. 967

(L) Except as otherwise provided in this section or section 968
4123.522 of the Revised Code, no appeal is timely filed under this 969
section unless the appeal is filed with the time limits set forth 970
in this section. 971

(M) No person who is not an employee of the bureau or 972
commission or who is not by law given access to the contents of a 973
claims file shall have a file in the person's possession. 974

(N) Upon application of a party who resides in an area in 975
which an emergency or disaster is declared, the industrial 976
commission and hearing officers of the commission may waive the 977
time frame within which claims and appeals of claims set forth in 978
this section must be filed upon a finding that the applicant was 979
unable to comply with a filing deadline due to an emergency or a 980
disaster. 981

As used in this division: 982

(1) "Emergency" means any occasion or instance for which the 983
governor of Ohio or the president of the United States publicly 984
declares an emergency and orders state or federal assistance to 985
save lives and protect property, the public health and safety, or 986
to lessen or avert the threat of a catastrophe. 987

(2) "Disaster" means any natural catastrophe or fire, flood, 988
or explosion, regardless of the cause, that causes damage of 989
sufficient magnitude that the governor of Ohio or the president of 990
the United States, through a public declaration, orders state or 991
federal assistance to alleviate damage, loss, hardship, or 992

suffering that results from the occurrence.

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Sec. 4167.02. (A) ~~The director of commerce~~ administrator of
worker's compensation shall operate and enforce the public
employment risk reduction program created by this chapter.

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(B) ~~There is hereby created in the department of commerce the~~
~~public employment risk reduction advisory commission consisting of~~
~~sixteen members appointed by the director of commerce. Eight~~
~~members of the commission shall be representatives of public~~
~~employers, eight members shall be representatives of public~~
~~employees, all of whom shall have expertise in the area of~~
~~occupational safety and health issues.~~

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~~In making appointments to the commission, the director shall~~
~~select the members representing public employers from a list of~~
~~six names submitted by the Ohio municipal league, six names~~
~~submitted by the Ohio township association, six names submitted by~~
~~the county commissioners association of Ohio, three names~~
~~submitted by the inter-university council of Ohio, and three names~~
~~submitted by the Ohio school board association, provided that from~~
~~the lists submitted, the director shall appoint two members from~~
~~the names submitted by the Ohio municipal league, one of whom~~
~~shall represent a larger municipal corporation and one of whom~~
~~shall represent a smaller municipal corporation, two members from~~
~~the names submitted by the Ohio township association, one of whom~~
~~shall represent a larger township and one of whom shall represent~~
~~a smaller township, two members from the names submitted by the~~
~~county commissioners association of Ohio, one of whom shall~~
~~represent a larger county and one of whom shall represent a~~
~~smaller county, one member from the names submitted by the~~
~~inter-university council of Ohio, and one member from the names~~
~~submitted by the Ohio school board association.~~

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~~A member appointed to represent public employers must~~

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~~represent a jurisdiction that is subject to this chapter and a member appointed to represent public employees must represent public employees who are subject to this chapter. No more than eight members, at any time, may be of the same political party.~~

~~(C) The director shall make the initial appointments to the commission within ninety days after April 20, 1993. Of the initial appointments, the director shall appoint two public employer and two public employee members to serve for a term ending two years after the appointment date, two public employer and two public employee members to serve for a term ending three years after the appointment date, two public employer and two public employee members to serve for a term ending four years after the appointment date, and two public employer, and two public employee members to serve a term ending five years after the appointment date. Thereafter, terms of office are for five years ending on the fifth anniversary of the appointment date. Each member shall serve subsequent to the expiration of the member's term until the member's successor is appointed and qualified or until a period of sixty days has elapsed, whichever occurs first. Before entering upon the duties of office, each member shall take and subscribe to and file with the secretary of state the constitutional oath of office. The director shall fill all vacancies in the manner prescribed for regular appointments to the commission but such appointments are limited to the unexpired terms. Members are eligible for reappointment to the commission.~~

~~The director, after giving the member notice and an opportunity for a hearing, may remove a member for misfeasance, malfeasance, or nonfeasance. Three or more absences by a member from commission meetings that are not excused by the commission constitute nonfeasance. If the director removes a member, the director promptly shall fill the vacancy created in accordance with the requirements of this section.~~

~~(D) Annually, upon the appointment and qualification of the members appointed in that year, the commission shall organize by selecting among its members a chairperson and such other officers as the commission considers appropriate. Each member shall receive actual and necessary expenses incurred in the performance of the member's official duties as a commission member.~~

~~(E) The commission shall meet at the call of the chairperson or upon the written request of at least seven members of the commission. A majority of the members of the commission constitutes a quorum to conduct the business of the commission.~~

~~(F) The commission administrator shall do all of the following:~~

(1) Adopt rules, with the advice and consent of the workers' compensation oversight commission and in accordance with Chapter 119. of the Revised Code, for the administration and enforcement of this chapter, including rules covering standards the ~~director~~ administrator shall follow in issuing an emergency temporary Ohio employment risk reduction standard under section 4167.08 of the Revised Code and a temporary variance and a variance from an Ohio employment risk reduction standard or part thereof under section 4167.09 of the Revised Code;

(2) Do all things necessary and appropriate for the administration and enforcement of this chapter.

~~(G)~~(C) In carrying out the responsibilities of this chapter, the ~~director~~ administrator may use, with the consent of any federal, state, or local agency, the services, facilities, and personnel of such agency, with or without reimbursement, and may retain or contract with experts, consultants, and organizations for services or personnel on such terms as the ~~director~~ administrator determines appropriate.

Sec. 4167.06. (A) A public employee acting in good faith has 1086
the right to refuse to work under conditions that the public 1087
employee reasonably believes present an imminent danger of death 1088
or serious harm to the public employee, provided that such 1089
conditions are not such as normally exist for or reasonably might 1090
be expected to occur in the occupation of the public employee. A 1091
public employer shall not discriminate against a public employee 1092
for a good faith refusal to perform assigned tasks if the public 1093
employee has requested that the public employer correct the 1094
hazardous conditions but the conditions remain uncorrected, there 1095
was insufficient time to eliminate the danger by resorting to the 1096
enforcement methods provided in this chapter, and the danger was 1097
one that a reasonable person under the circumstances then 1098
confronting the public employee would conclude is an imminent 1099
danger of death or serious physical harm to the public employee. A 1100
public employee who has refused in good faith to perform assigned 1101
tasks and who has not been reassigned to other tasks by the public 1102
employer shall, in addition to retaining a right to continued 1103
employment, receive full compensation for the tasks that would 1104
have been performed. If the public employer reassigns the public 1105
employee, the public employer shall pay the public employee's full 1106
compensation as if the public employee were not reassigned. 1107

(B) A public employee who exercises the right to refuse to 1108
work under division (A) of this section shall notify by a written 1109
statement that is signed by the public employee, as soon as 1110
practicable after exercising that right, the ~~director of commerce~~ 1111
administrator of workers' compensation of the condition that 1112
presents an imminent danger of death or serious harm to the public 1113
employee. Upon receipt of the notification, the ~~director~~ 1114
administrator or the ~~director's~~ administrator's designee 1115
immediately shall inspect the premises of the public employer. The 1116
~~director administrator~~ and the ~~director's~~ administrator's designee 1117

shall comply with section 4167.10 of the Revised Code in 1118
conducting the inspection and investigation and in issuing orders 1119
and citations. 1120

(C) A public employee who refuses to perform assigned tasks 1121
under division (A) of this section and fails to meet all of the 1122
conditions set forth in that division for the refusal is subject 1123
to any disciplinary action provided by law or agreement between 1124
the public employer and public employee for a refusal to work, 1125
including, but not limited to, suspension, nonpayment of wages for 1126
the duration of the refusal to work, and discharge. 1127

Sec. 4167.07. (A) The ~~public employment risk reduction~~ 1128
~~advisory administrator of workers' compensation, with the advice~~ 1129
~~and consent of the workers' compensation oversight commission,~~ 1130
shall adopt rules that establish employment risk reduction 1131
standards. Except as provided in division (B) of this section, in 1132
adopting these rules, the ~~commission administrator~~ shall do both 1133
of the following: 1134

(1) By no later than July 1, 1994, adopt as a rule and an 1135
Ohio employment risk reduction standard every federal occupational 1136
safety and health standard then adopted by the United States 1137
secretary of labor pursuant to the "Occupational Safety and Health 1138
Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, as amended; 1139

(2) By no later than one hundred twenty days after the United 1140
States secretary of labor adopts, modifies, or revokes any federal 1141
occupational safety and health standard, by rule do one of the 1142
following: 1143

(a) Adopt the federal occupational safety and health standard 1144
as a rule and an Ohio employment risk reduction standard; 1145

(b) Amend the existing rule and Ohio employment risk 1146
reduction standard to conform to the modification of the federal 1147

occupational safety and health standard; 1148

(c) Rescind the existing rule and Ohio employment risk 1149
reduction standard that corresponds to the federal occupational 1150
safety and health standard the United States secretary of labor 1151
revoked. 1152

(B) The administrator, with the advice and consent of the 1153
workers' compensation oversight commission, may decline to adopt 1154
any federal occupational safety and health standard as a rule and 1155
an Ohio employment risk reduction standard or to modify or rescind 1156
any existing rule and Ohio employment risk reduction standard to 1157
conform to any federal occupational safety and health standard 1158
modified or revoked by the United States secretary of labor or may 1159
adopt as a rule and an Ohio employment risk reduction standard any 1160
occupational safety and health standard that is not covered under 1161
the federal law or that differs from one adopted or modified by 1162
the United States secretary of labor, if the ~~commission~~ 1163
administrator determines that existing rules and Ohio employment 1164
risk reduction standards provide protection at least as effective 1165
as that which would be provided by the existing, new, or modified 1166
federal occupational safety and health standard or if ~~it~~ the 1167
administrator determines that local conditions warrant a different 1168
standard from that of the existing federal occupational safety and 1169
health standard or from standards the United States secretary of 1170
labor adopts, modifies, or revokes. 1171

(C) In adopting, modifying, or rescinding any rule or Ohio 1172
employment risk reduction standard dealing with toxic materials or 1173
harmful physical agents, the administrator, with the advice and 1174
consent of the workers' compensation oversight commission, shall 1175
do all of the following: 1176

(1) Set the employment risk reduction standard to most 1177
adequately assure, to the extent technologically feasible and on 1178

the basis of the best available evidence, that no public employee 1179
will suffer material impairment of health or functional capacity 1180
as a result of the hazards dealt with by the rule or Ohio 1181
employment risk reduction standard for the period of the public 1182
employee's working life; 1183

(2) Base the development of these rules and Ohio employment 1184
risk reduction standards on research, demonstrations, experiments, 1185
and other information as is appropriate and upon the technological 1186
feasibility of the rule and standard, using the latest available 1187
scientific data in the field and the experience gained in the 1188
workplace under this chapter and other health and safety laws, to 1189
establish the highest degree of safety and health for the public 1190
employee; 1191

(3) Whenever practicable, express the rule and Ohio 1192
employment risk reduction standard in terms of objective criteria 1193
and of the performance desired; 1194

(4) Prescribe the use of labels or other appropriate forms of 1195
warning as are necessary to ensure that public employees are 1196
apprised of all hazards to which they are exposed, relevant 1197
symptoms and appropriate emergency treatment, and proper 1198
conditions and precautions of safe use or exposure where 1199
appropriate; 1200

(5) Prescribe suitable protective equipment and control 1201
procedures to be used in connection with the hazards; 1202

(6) Provide for measuring or monitoring public employee 1203
exposure in a manner necessary for the protection of the public 1204
employees; 1205

(7) Where appropriate, prescribe the type and frequency of 1206
medical examinations or other tests the public employer shall make 1207
available, at the cost of the public employer, to the public 1208
employees exposed to the hazards in order to determine any adverse 1209

effect from the exposure. 1210

(D) In determining the priority for adopting rules and Ohio 1211
employment risk reduction standards under this section, the 1212
~~commission~~ administrator shall give due regard to the urgency of 1213
need and recommendations of the department of health regarding 1214
that need for mandatory employment risk reduction standards for 1215
particular trades, crafts, occupations, services, and workplaces. 1216

(E)(1) Except for rules adopted under division (A) of this 1217
section, the administrator, with the advice and consent of the 1218
workers' compensation oversight commission, shall adopt all rules 1219
under this section in accordance with Chapter 119. of the Revised 1220
Code, provided that notwithstanding that chapter, the ~~commission~~ 1221
administrator may delay the effective date of any rule or Ohio 1222
employment risk reduction standard for the period the ~~commission~~ 1223
administrator determines necessary to ensure that affected public 1224
employers and public employees will be informed of the adoption, 1225
modification, or rescission of the rule and Ohio employment risk 1226
reduction standard and have the opportunity to familiarize 1227
themselves with the specific requirements of the rule and 1228
standard. In no case, however, shall the ~~commission~~ administrator 1229
delay the effective date of a rule adopted pursuant to Chapter 1230
119. of the Revised Code in excess of ninety days beyond the 1231
otherwise required effective date. 1232

(2) In regard to the rules for which the ~~commission~~ 1233
administrator does not have to comply with Chapter 119. of the 1234
Revised Code, the ~~commission~~ administrator shall file two 1235
certified copies of the rules and Ohio employment risk reduction 1236
standards adopted with the secretary of state and the director of 1237
the legislative service commission. 1238

Sec. 4167.08. (A) In the event of an emergency or unusual 1239
situation, the ~~director of commerce~~ administrator of workers' 1240

compensation shall issue an emergency temporary Ohio employment 1241
risk reduction standard to take immediate effect upon publication 1242
in newspapers of general circulation in Cleveland, Columbus, 1243
Cincinnati, and Toledo if the ~~director~~ administrator finds both of 1244
the following: 1245

(1) Public employees are exposed to grave danger from 1246
exposure to substances or agents determined to be toxic or 1247
physically harmful or from new hazards; 1248

(2) The emergency temporary Ohio employment risk reduction 1249
standard is necessary to protect employees from the danger. 1250

(B)(1) Except as provided in division (B)(2) of this section 1251
an emergency temporary Ohio employment risk reduction standard 1252
issued by the ~~director~~ administrator under division (A) of this 1253
section shall be in effect no longer than fifteen days, unless the 1254
commission approves the emergency temporary Ohio employment risk 1255
reduction standard as issued by the ~~director~~ administrator, in 1256
which case, the emergency temporary Ohio employment risk reduction 1257
standard shall be in effect no longer than one hundred twenty days 1258
after the date the ~~director~~ administrator issues it. 1259

(2) The ~~director~~ administrator may renew an emergency 1260
temporary Ohio employment risk reduction standard that has been 1261
approved by the ~~public employment risk reduction advisory workers'~~ 1262
compensation oversight commission for an additional time period 1263
not to exceed one hundred days if the ~~director~~ administrator finds 1264
that the conditions identified in divisions (A)(1) and (2) of this 1265
section continue to exist. 1266

On or before the expiration date of the emergency temporary 1267
Ohio employment risk reduction standard or renewal thereof, if the 1268
conditions identified in divisions (A)(1) and (2) of this section 1269
continue to exist, the administrator, with the advice and consent 1270
of the oversight commission, shall adopt a permanent Ohio 1271

employment risk reduction standard pursuant to section 4167.07 of 1272
the Revised Code as a rule to replace the emergency temporary Ohio 1273
employment risk reduction standard. 1274

Sec. 4167.09. (A) Any public employer affected by a proposed 1275
rule or Ohio employment risk reduction standard or any provision 1276
of a standard proposed under section 4167.07 or 4167.08 of the 1277
Revised Code may apply to the ~~director of commerce~~ administrator 1278
of workers' compensation for an order granting a temporary 1279
variance from the standard or provision. The application for the 1280
order and any extension of the order shall contain a reasonable 1281
application fee, as determined by the ~~public employment risk~~ 1282
~~reduction advisory~~ workers' compensation oversight commission, and 1283
all of the following information: 1284

(1) A specification of the Ohio public employment risk 1285
reduction standard or provision of it from which the public 1286
employer seeks the temporary variance; 1287

(2) A representation by the public employer, supported by 1288
representations from qualified persons having firsthand knowledge 1289
of the facts represented, that the public employer is unable to 1290
comply with the Ohio employment risk reduction standard or 1291
provision of it and a detailed statement of the reasons for the 1292
inability to comply; 1293

(3) A statement of the steps that the public employer has 1294
taken and will take, with dates specified, to protect employees 1295
against the hazard covered by the standard; 1296

(4) A statement of when the public employer expects to be 1297
able to comply fully with the Ohio employment risk reduction 1298
standard and what steps the public employer has taken and will 1299
take, with dates specified, to come into full compliance with the 1300
standard; 1301

(5) A certification that the public employer has informed the public employer's public employees of the application by giving a copy of the application to the public employee representative, if any, and by posting a statement giving a summary of the application and specifying where a copy of the application may be examined at the place or places where notices to public employees are normally posted, and by any other appropriate means of public employee notification. The public employer also shall inform the public employer's public employees of their rights to a hearing under section 4167.15 of the Revised Code. The certification also shall contain a description of how public employees have been informed of the application and of their rights to a hearing.

(B) The ~~director~~ administrator shall issue an order providing for a temporary variance if the public employer files an application that meets the requirements of division (A) of this section and establishes that all of the following pertaining to the public employer are true:

(1) The public employer is unable to comply with the Ohio employment risk reduction standard or a provision of it by its effective date because of the unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the Ohio employment risk reduction standard or provision of it or because necessary construction or alteration of facilities cannot be completed by the effective date of the standard.

(2) The public employer is taking all available steps to safeguard the public employer's public employees against the hazards covered by the Ohio employment risk reduction standard.

(3) The public employer has an effective program for coming into compliance with the Ohio employment risk reduction standard as quickly as practicable.

(4) The granting of the variance will not create an imminent 1333
danger of death or serious physical harm to public employees. 1334

(C)(1) If the ~~director~~ administrator issues an order 1335
providing for a temporary variance under division (B) of this 1336
section, the ~~director~~ administrator shall prescribe the practices, 1337
means, methods, operations, and processes that the public employer 1338
must adopt and use while the order is in effect and state in 1339
detail the public employer's program for coming into compliance 1340
with the Ohio employment risk reduction standard. The ~~director~~ 1341
administrator may issue the order only after providing notice to 1342
affected public employees and their public employee 1343
representative, if any, and an opportunity for a hearing pursuant 1344
to section 4167.15 of the Revised Code, provided that the ~~director~~ 1345
administrator may issue one interim order granting a temporary 1346
order to be effective until a decision on a hearing is made. 1347
Except as provided in division (C)(2) of this section, no 1348
temporary variance may be in effect for longer than the period 1349
needed by the public employer to achieve compliance with the Ohio 1350
employment risk reduction standard or one year, whichever is 1351
shorter. 1352

(2) The ~~director~~ administrator may renew an order issued 1353
under division (C) of this section up to two times provided that 1354
the requirements of divisions (A), (B), and (C)(1) of this section 1355
and section 4167.15 of the Revised Code are met and the public 1356
employer files an application for renewal with the ~~director~~ 1357
administrator at least ninety days prior to the expiration date of 1358
the order. 1359

(D) Any public employer affected by an Ohio employment risk 1360
reduction standard or any provision of it proposed, adopted, or 1361
otherwise issued under section 4167.07 or 4167.08 of the Revised 1362
Code may apply to the ~~director~~ administrator for an order granting 1363
a variance from the standard or provision. The ~~director~~ 1364

administrator shall provide affected public employees and their public employee representative, if any, notice of the application and shall provide an opportunity for a hearing pursuant to section 4167.15 of the Revised Code. The ~~director~~ administrator shall issue the order granting the variance if the public employer files an application that meets the requirements of division (B) of this section, and after an opportunity for a hearing pursuant to section 4167.15 of the Revised Code, and if the public employer establishes to the satisfaction of the ~~director~~ administrator that the conditions, practices, means, methods, operations, or processes used or proposed to be used by the public employer will provide employment and places of employment to the public employer's public employees that are as safe and healthful as those that would prevail if the public employer complied with the Ohio employment risk reduction standard. The ~~director~~ administrator shall prescribe in the order granting the variance the conditions the public employer must maintain, and the practices, means, methods, operations, and processes the public employer must adopt and utilize in lieu of the Ohio employment risk reduction standard that would otherwise apply. The ~~director~~ administrator may modify or revoke the order upon application of the public employer, public employee, or public employee representative, or upon the ~~director's~~ administrator's own motion in the manner prescribed for the issuance of an order under this division at any time during six months after the date of issuance of the order.

Sec. 4167.10. (A) In order to carry out the purposes of this chapter, the ~~director of commerce~~ administrator of workers' compensation or the ~~director's~~ administrator's designee shall, as provided in this section, inspect and investigate any plant, facility, establishment, construction site, or any other area, workplace, or environment where work is being performed by a

public employee of a public employer, and any place of employment 1397
and all pertinent conditions, structures, machines, apparatus, 1398
devices, equipment, and materials therein, and question privately 1399
any public employer, administrator, department head, operator, 1400
agent, or public employee. The authority to inspect and 1401
investigate includes the taking of environmental samples, the 1402
taking and obtaining of photographs related to the purposes of the 1403
inspection or investigation, the examination of records required 1404
to be kept under section 4167.11 of the Revised Code and other 1405
documents and records relevant to the inspection and 1406
investigation, the issuance of subpoenas, and the conducting of 1407
tests and other studies reasonably calculated to serve the 1408
purposes of implementing and enforcing this chapter. Except as 1409
provided in this section, the ~~director~~ administrator or the 1410
~~director's~~ administrator's designee shall conduct inspections and 1411
investigations only pursuant to a request to do so by a public 1412
employee or public employee representative, or the notification 1413
the ~~director~~ administrator receives pursuant to division (B) of 1414
section 4167.06 of the Revised Code and only if the ~~director~~ 1415
administrator or the ~~director's~~ administrator's designee complies 1416
with this section. The ~~director~~ administrator or the ~~director's~~ 1417
administrator's designee shall conduct all requested or required 1418
inspections within a reasonable amount of time following receipt 1419
of the request or notification. 1420

(B)(1) Any public employee or public employee representative 1421
who believes that a violation of an Ohio employment risk reduction 1422
standard exists that threatens physical harm, or that an imminent 1423
danger exists, may request an inspection by giving written notice 1424
to the ~~director~~ administrator or the ~~director's~~ administrator's 1425
designee of the violation or danger. The notice shall set forth 1426
with reasonable particularity the grounds for the notice, and 1427
shall be signed by the public employee or public employee 1428
representative. The names of individual public employees making 1429

the notice or referred to therein shall not appear in the copy 1430
provided to the public employer pursuant to division (B)(2) of 1431
this section and shall be kept confidential. 1432

(2) If, upon receipt of a notification pursuant to division 1433
(B)(1) of this section, the ~~director~~ administrator determines that 1434
there are no reasonable grounds to believe that a violation or 1435
danger exists, the ~~director~~ administrator shall inform the public 1436
employee or public employee representative in writing of the 1437
determination. If, upon receipt of a notification, the ~~director~~ 1438
administrator determines that there are reasonable grounds to 1439
believe that a violation or danger exists, the ~~director~~ 1440
administrator shall, within one week, excluding Saturdays, 1441
Sundays, and any legal holiday as defined in section 1.14 of the 1442
Revised Code, after receipt of the notification, notify the public 1443
employer, by certified mail, return receipt requested, of the 1444
alleged violation or danger. The notice provided to the public 1445
employer or the public employer's agent shall contain a copy of 1446
the notice provided to the ~~director~~ administrator by the public 1447
employee or the public employee representative under division 1448
(B)(1) of this section and shall inform the public employer of the 1449
alleged violation or danger and that the ~~director~~ administrator or 1450
the ~~director's~~ administrator's designee will investigate and 1451
inspect the public employer's workplace as provided in this 1452
section. The public employer must respond to the ~~director~~ 1453
administrator, in a method determined by the ~~director~~ 1454
administrator, concerning the alleged violation or danger, within 1455
thirty days after receipt of the notice. If the public employer 1456
does not correct the violation or danger within the thirty-day 1457
period or if the public employer fails to respond within that time 1458
period, the ~~director~~ administrator or the ~~director's~~ 1459
administrator's designee shall investigate and inspect the public 1460
employer's workplace as provided in this section. The ~~director~~ 1461
administrator or the ~~director's~~ administrator's designee shall not 1462

conduct any inspection prior to the end of the thirty-day period 1463
unless requested or permitted by the public employer. The ~~director~~ 1464
administrator may, at any time upon the request of the public 1465
employer, inspect and investigate any violation or danger alleged 1466
to exist at the public employer's place of employment. 1467

(3) The authority of the ~~director~~ administrator or the 1468
~~director's~~ administrator's designee to investigate and inspect a 1469
premises pursuant to a public employee or public employee 1470
representative notification is not limited to the alleged 1471
violation or danger contained in the notification. The ~~director~~ 1472
administrator or the ~~director's~~ administrator's designee may 1473
investigate and inspect any other area of the premises where there 1474
is reason to believe that a violation or danger exists. In 1475
addition, if the ~~director~~ administrator or the ~~director's~~ 1476
administrator's designee detects any obvious or apparent violation 1477
at any temporary place of employment while en route to the 1478
premises to be inspected or investigated, and that violation 1479
presents a substantial probability that the condition or practice 1480
could result in death or serious physical harm, the ~~director~~ 1481
administrator or the ~~director's~~ administrator's designee may use 1482
any of the enforcement mechanisms provided in this section to 1483
correct or remove the condition or practice. 1484

(4) If, during an inspection or investigation, the ~~director~~ 1485
administrator or the ~~director's~~ administrator's designee finds any 1486
condition or practice in any place of employment that presents a 1487
substantial probability that the condition or practice could 1488
result in death or serious physical harm, after notifying the 1489
employer of the ~~director's~~ administrator's intent to issue an 1490
order, the ~~director~~ administrator shall issue an order, or the 1491
~~director's~~ administrator's designee shall issue an order after 1492
consultation either by telephone or in person with the ~~director~~ 1493
administrator and upon the recommendation of the ~~director~~ 1494

administrator, which prohibits the employment of any public 1495
employee or any continuing operation or process under such 1496
condition or practice until necessary steps are taken to correct 1497
or remove the condition or practice. The order shall not be 1498
effective for more than fifteen days, unless a court of competent 1499
jurisdiction otherwise orders as provided in section 4167.14 of 1500
the Revised Code. 1501

(C) In making any inspections or investigations under this 1502
chapter, the ~~director~~ administrator or the ~~director's~~ 1503
administrator's designee may administer oaths and require, by 1504
subpoena, the attendance and testimony of witnesses and the 1505
production of evidence under oath. Witnesses shall receive the 1506
same fees and mileage provided for witnesses in civil cases in the 1507
court of common pleas. In the case of contumacy, failure, or 1508
refusal of any person to comply with an order or any subpoena 1509
lawfully issued, or upon the refusal of any witness to testify to 1510
any matter regarding which the witness may lawfully be 1511
interrogated, a judge of the court of common pleas of any county 1512
in this state, on the application of the ~~director~~ administrator or 1513
the ~~director's~~ administrator's designee, shall issue an order 1514
requiring the person to appear and to produce evidence if, as, and 1515
when so ordered, and to give testimony relating to the matter 1516
under investigation or in question. The court may punish any 1517
failure to obey the order of the court as a contempt thereof. 1518

(D) If, upon inspection or investigation, the ~~director~~ 1519
administrator or the ~~director's~~ administrator's designee believes 1520
that a public employer has violated any requirement of this 1521
chapter or any rule, Ohio employment risk reduction standard, or 1522
order adopted or issued pursuant thereto, the ~~director~~ 1523
administrator or the ~~director's~~ administrator's designee shall, 1524
with reasonable promptness, issue a citation to the public 1525
employer. The citation shall be in writing and describe with 1526

particularity the nature of the alleged violation, including a 1527
reference to the provision of law, Ohio employment risk reduction 1528
standard, rule, or order alleged to have been violated. In 1529
addition, the citation shall fix a time for the abatement of the 1530
violation, as provided in division (H) of this section. The 1531
~~director~~ administrator may prescribe procedures for the issuance 1532
of a notice with respect to minor violations and for enforcement 1533
of minor violations that have no direct or immediate relationship 1534
to safety or health. 1535

(E) Upon receipt of any citation under this section, the 1536
public employer shall immediately post the citation, or a copy 1537
thereof, at or near each place an alleged violation referred to in 1538
the citation occurred. 1539

(F) The ~~director~~ administrator may not issue a citation under 1540
this section after the expiration of six months following the 1541
final occurrence of any violation. 1542

(G) If the ~~director~~ administrator issues a citation pursuant 1543
to this section, the ~~director~~ administrator shall mail the 1544
citation to the public employer by certified mail, return receipt 1545
requested. The public employer has fourteen days after receipt of 1546
the citation within which to notify the ~~director~~ administrator 1547
that the employer wishes to contest the citation. If the employer 1548
notifies the ~~director~~ administrator within the fourteen days that 1549
the employer wishes to contest the citation, or if within fourteen 1550
days after the issuance of a citation a public employee or public 1551
employee representative files notice that the time period fixed in 1552
the citation for the abatement of the violation is unreasonable, 1553
the ~~director~~ administrator shall hold an adjudication hearing in 1554
accordance with Chapter 119. of the Revised Code. 1555

(H) In establishing the time limits in which a public 1556
employer must abate a violation under this section, the ~~director~~ 1557
administrator shall consider the costs to the public employer, the 1558

size and financial resources of the public employer, the severity 1559
of the violation, the technological feasibility of the public 1560
employer's ability to comply with requirements of the citation, 1561
the possible present and future detriment to the health and safety 1562
of any public employee for failure of the public employer to 1563
comply with requirements of the citation, and such other factors 1564
as the ~~director~~ administrator determines appropriate. The ~~director~~ 1565
administrator may, after considering the above factors, permit the 1566
public employer to comply with the citation over a period of up to 1567
two years and may extend that period an additional one year, as 1568
the ~~director~~ administrator determines appropriate. 1569

(I) Any public employer may request the ~~director~~ 1570
administrator to conduct an employment risk reduction inspection 1571
of the public employer's place of employment. The ~~director~~ 1572
administrator or the ~~director's~~ administrator's designee shall 1573
conduct the inspection within a reasonable amount of time 1574
following the request. Neither the ~~director~~ administrator nor any 1575
other person may use any information obtained from the inspection 1576
for a period not to exceed three years in any proceeding for a 1577
violation of this chapter or any rule or order issued thereunder 1578
nor in any other action in any court in this state. 1579

Sec. 4167.11. (A) In order to further the purposes of this 1580
chapter, the ~~director of commerce~~ administrator of workers' 1581
compensation shall develop and maintain, for public employers and 1582
public employees, an effective program of collection, compilation, 1583
and analysis of employment risk reduction statistics. 1584

(B) To implement and maintain division (A) of this section, 1585
the ~~public employment risk reduction advisory~~ administrator, with 1586
the advice and consent of the workers' compensation oversight 1587
commission, shall adopt rules in accordance with Chapter 119. of 1588
the Revised Code that extend to all of the following: 1589

(1) Requiring each public employer to make, keep, and 1590
preserve, and make available to the ~~director~~ administrator, 1591
reports and records regarding the public employer's activities, as 1592
determined by the rule that are necessary or appropriate for the 1593
enforcement of this chapter or for developing information 1594
regarding the causes and prevention of occupational accidents and 1595
illnesses. The rule shall prescribe which of these reports and 1596
records shall or may be furnished to public employees and public 1597
employee representatives. 1598

(2) Requiring every public employer, through posting of 1599
notices or other appropriate means, to keep their public employees 1600
informed of public employees' rights and obligations under this 1601
chapter, including the provisions of applicable Ohio employment 1602
risk reduction standards; 1603

(3) Requiring public employers to maintain accurate records 1604
of public employee exposure to potentially toxic materials, 1605
carcinogenic materials, and harmful physical agents that are 1606
required to be monitored or measured under rules adopted under the 1607
guidelines of division (C) of section 4167.07 of the Revised Code. 1608
The rule shall provide public employees or public employee 1609
representatives an opportunity to observe the monitoring or 1610
measuring, and to have access on request to the records thereof, 1611
and may provide public employees or public employee 1612
representatives an opportunity to participate in and to undertake 1613
their own monitoring or measuring. The rules also shall permit 1614
each current or former public employee to have access to the 1615
records that indicate their own exposure to toxic materials, 1616
carcinogenic materials, or harmful agents. 1617

(C) The ~~director~~ administrator shall obtain any information 1618
under division (B) of this section with a minimum burden upon the 1619
public employer and shall, to the maximum extent feasible, reduce 1620
unnecessary duplication of efforts in obtaining the information. 1621

Sec. 4167.12. All information reported to or otherwise 1622
obtained by the ~~director of commerce~~ administrator of workers' 1623
compensation or the ~~director's~~ administrator's designee in 1624
connection with any investigation, inspection, or proceeding under 1625
this chapter that reveals a trade secret of any person is 1626
confidential, except that the information may be disclosed to 1627
other agents or authorized representatives of the ~~director~~ 1628
administrator concerned with fulfilling the requirements of this 1629
chapter, or when relevant, to any proceeding under this chapter. 1630
In any proceeding, the ~~director~~ administrator or the court shall 1631
issue orders as appropriate to protect the confidentiality of 1632
trade secrets. 1633

Sec. 4167.14. (A) Any court of common pleas has jurisdiction, 1634
upon petition of the ~~director of commerce~~ administrator of 1635
workers' compensation, to restrain any conditions or practices in 1636
any places of employment that present a danger that could 1637
reasonably be expected to cause death or serious harm or 1638
contribute significantly to occupationally related illness 1639
immediately or before the imminence of the danger can be 1640
eliminated through the enforcement procedures provided in this 1641
chapter. Any order issued under this section may require that 1642
steps be taken as necessary to avoid, correct, or remove the 1643
imminent danger and prohibit the employment or presence of any 1644
individual in locations or under conditions where the imminent 1645
danger exists, except individuals whose presence is necessary to 1646
avoid, correct, or remove the imminent danger. 1647

(B) Upon the filing of a petition under division (A) of this 1648
section, the court of common pleas may grant injunctive relief or 1649
a temporary restraining order pending the outcome of an 1650
enforcement proceeding pursuant to this chapter, except that no 1651
temporary restraining order issued without notice is effective for 1652

a period longer than five calendar days.

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(C) If the ~~director~~ administrator or the ~~director's~~ administrator's designee responsible for inspections determines that the imminent danger as described in division (A) of this section is such that immediate action is necessary, and further determines that there is not sufficient time in light of the nature, severity, and imminence of the danger to seek and obtain a temporary restraining order or injunction, the ~~director~~ administrator or the ~~director's~~ administrator's designee immediately shall file a petition with the court under division (A) of this section and issue an order requiring action to be taken as is necessary to avoid, correct, or remove the imminent danger.

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The ~~public employment risk reduction advisory administrator,~~ with the advice and consent of the workers' compensation oversight commission, shall adopt rules, in accordance with Chapter 119. of the Revised Code, to permit a public employer expeditious informal reconsideration of any order issued by the ~~director~~ administrator under this division. Unless the ~~director~~ administrator reverses an order pursuant to the informal reconsideration, the order remains in effect pending the court's determination under this section. If the ~~director~~ administrator modifies an order pursuant to the informal reconsideration, the ~~director~~ administrator shall provide the court with whom the ~~director~~ administrator filed the petition under this section with a copy of the modified order. The modified order remains in effect pending the court's determination under this section.

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Sec. 4167.15. Any public employer, public employee, or public employee representative affected by an order, rule, or Ohio employment risk reduction standard proposed, adopted, or otherwise issued pursuant to this chapter, may request, within fourteen days

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after the proposal, adoption, or issuance of the order, rule, or 1684
standard, a hearing from the ~~director of commerce~~ administrator of 1685
workers' compensation. The ~~director~~ administrator, within fourteen 1686
days after receipt of a request for a hearing, shall appoint a 1687
hearing officer to make a determination as to the request. The 1688
hearing officer, within fourteen days after the hearing officer's 1689
appointment, shall hold a hearing in accordance with Chapter 119. 1690
of the Revised Code and, within fourteen days after the hearing, 1691
render a decision. A public employer, public employee, or public 1692
employee representative may appeal the decision of the hearing 1693
officer to the ~~director~~ administrator, provided that the appeal is 1694
made within thirty days after the hearing officer issues the 1695
decision. The decision of the hearing officer is final unless 1696
appealed to the ~~director~~ administrator within the time period set 1697
in this section or unless the ~~director~~ administrator, on the 1698
~~director's~~ administrator's own motion, modifies or reverses the 1699
decision within that time period. If a party fails to appeal the 1700
decision of the hearing officer, the decision of the hearing 1701
officer is not, for purposes of section 4167.16 of the Revised 1702
Code, a final order of the ~~director~~ administrator and is not 1703
appealable to court as provided in section 4167.16 of the Revised 1704
Code, except that if the party fails to appeal the decision of the 1705
hearing officer, and the ~~director~~ administrator modifies or 1706
reverses the decision under this section, the decision of the 1707
~~director~~ administrator is appealable to court pursuant to section 1708
4167.16 of the Revised Code. 1709

Sec. 4167.16. (A) Any party who is adversely affected by a 1710
final order of the ~~director of commerce~~ administrator of workers' 1711
compensation issued pursuant to division (G) of section 4167.10 or 1712
section 4167.15 of the Revised Code, and who has exhausted all 1713
administrative appeals from such order may appeal the order, 1714
within thirty days after the issuance of a final order, to the 1715

court of common pleas of Franklin county or to the court of common 1716
pleas of the county in which the alleged violation occurred. If 1717
the court finds an undue hardship to the appellant will result 1718
from the enforcement of the order pending determination of the 1719
appeal, the court may grant a suspension of the order and fix the 1720
terms thereof. 1721

(B)(1) The court shall conduct a hearing on the appeal filed 1722
under division (A) of this section and shall give preference to 1723
all proceedings under this section over all other civil cases, 1724
irrespective of the position of the proceedings on the calendar of 1725
the court. The hearing shall proceed as in the case of a civil 1726
action, and the court shall determine the rights of the parties in 1727
accordance with the laws applicable to the action. 1728

(2) The court shall affirm the order of the ~~director~~ 1729
administrator if it finds, upon consideration of the record as a 1730
whole, and additional evidence as the court has admitted, that the 1731
order is supported by reliable, probative, and substantial 1732
evidence and is in accordance with law. In absence of that 1733
finding, the court shall reverse, vacate, or modify the order or 1734
make such other ruling as is supported by reliable, probative, and 1735
substantial evidence and is in accordance with law. The judgment 1736
of the court is final and conclusive, unless reversed, vacated, or 1737
modified on appeal. Any party may appeal as provided in Chapter 1738
2505. of the Revised Code. 1739

(C) No person who has failed to exhaust all of the 1740
administrative appeals provided in this chapter may file an appeal 1741
of a final order of the ~~director~~ administrator under division (A) 1742
of this section. 1743

Sec. 4167.17. (A) If a public employer, public employee, or 1744
public employee representative willfully fails to comply with any 1745
final order of the ~~director of commerce~~ administrator of workers' 1746

compensation issued pursuant to this chapter, the ~~director~~ 1747
administrator may apply to the court of common pleas of Franklin 1748
county or the court of common pleas of the county in which the 1749
violation occurred, for an injunction, restraining order, or any 1750
other appropriate relief compelling the public employer, public 1751
employee, or public employee representative to comply with such 1752
order. The court shall order such relief as it considers 1753
appropriate and shall, in addition, impose a civil penalty of not 1754
more than five hundred dollars per day per violation and not to 1755
exceed a total of ten thousand dollars per violation. 1756

(B) The ~~director~~ administrator shall not seek to enforce this 1757
chapter, or any Ohio employment risk reduction standard, rule, or 1758
order adopted or issued pursuant thereto, in any manner that 1759
derogates from the immunity offered to a public employer by 1760
variances obtained under this chapter, or by variations, 1761
tolerance, or exemption allowed a public employer for reasons of 1762
national defense by the United States secretary of labor pursuant 1763
to section 16 of the "Occupational Safety and Health Act of 1970," 1764
84 Stat. 1590, 29 U.S.C.A. 651, as amended. 1765

Sec. 4167.19. (A) A public employer, other than a state 1766
agency, may apply to the ~~director of commerce~~ administrator of 1767
workers' compensation for an order exempting the public employer 1768
from compliance with this chapter, except as provided in division 1769
(K) of this section, if the public employer satisfies both of the 1770
following criteria: 1771

(1) The public employer is a member of a group that qualifies 1772
for a group rating plan pursuant to division (A)(4) of section 1773
4123.29 of the Revised Code or the public employer's premium rate 1774
is at least fifty per cent less than the base rate for its 1775
workers' compensation premiums; 1776

(2) The public employer establishes and maintains a safety 1777

committee with both public employees and representatives of the 1778
public employer as members if the public employer does not qualify 1779
for a group rating plan. A public employer that employs five or 1780
fewer public employees need not have a safety committee. 1781

(B) The application shall be on a form prescribed by the 1782
~~director~~ administrator and shall be transmitted to the ~~director~~ 1783
administrator by certified mail, return receipt requested. The 1784
application shall contain a certification of all of the following: 1785

(1) The public employer has adopted an ordinance or 1786
resolution requesting an exemption from this chapter; 1787

(2) At least ten working days prior to passage of an 1788
ordinance or resolution described in division (B)(1) of this 1789
section, the public employer has informed its public employees of 1790
the application by giving a copy of the application to the public 1791
employee representative, if any; 1792

(3) The public employer has informed its public employees by 1793
posting a statement for thirty consecutive days giving a summary 1794
of the application and specifying where a copy of the application 1795
may be examined at the place or places where notices to public 1796
employees are normally posted, and by any other appropriate means 1797
of public employee notification; 1798

(4) The public employer has informed its public employees of 1799
their rights to a hearing under section 4167.15 of the Revised 1800
Code. 1801

The certification also shall contain a description of how 1802
public employees have been informed of the application and of 1803
their rights to a hearing. 1804

(C) Except as provided in this section, the ~~director~~ 1805
administrator shall issue an order providing for an exemption if 1806
the public employer meets the requirements of division (A) of this 1807

section and files an application that meets the requirements of 1808
division (B) of this section. 1809

(D) The ~~director~~ administrator shall not grant an exemption 1810
under division (C) of this section until after the superintendent 1811
of the division of safety and hygiene in the bureau of workers' 1812
compensation conducts an employment risk reduction inspection of 1813
the public employer's place of employment to determine the 1814
presence of any hazardous or unsafe conditions. The ~~director~~ 1815
administrator shall not cite the public employer for a violation 1816
of this chapter during this inspection. 1817

(E) The superintendent shall provide a copy of the report of 1818
the inspection conducted pursuant to division (D) of this section 1819
and any findings to the public employer. Within six months after 1820
receipt of the report, the public employer shall submit the report 1821
to the ~~director~~ administrator, if the public employer wishes to 1822
proceed with the exemption request. If the report does not contain 1823
a description of any hazardous or unsafe conditions, the ~~director~~ 1824
administrator shall grant the public employer an exemption from 1825
this chapter, except as provided in division (K) of this section. 1826
If the report contains a description of any hazardous or unsafe 1827
conditions, the public employer shall submit to the ~~director~~ 1828
administrator a plan that describes how it intends to remedy, 1829
within a one-year period of time, the hazardous or unsafe 1830
conditions. 1831

Within thirty days after receipt of the plan from the public 1832
employer, the ~~director~~ administrator may approve or disapprove the 1833
plan as submitted. If the ~~director~~ administrator approves the plan 1834
as submitted, the ~~director~~ administrator shall grant the public 1835
employer an exemption from this chapter, except as provided in 1836
division (K) of this section. 1837

If the ~~director~~ administrator disapproves the plan, the 1838
~~director~~ administrator shall return it and the reasons for its 1839

rejection to the public employer. The public employer may submit a
revised plan, which corrects the deficiencies for which the
original plan was rejected, within thirty days after receipt of
the disapproved plan from the ~~director~~ administrator. The ~~director~~
administrator has thirty days after receipt of the revised plan to
review it, and if it remedies the ~~director's~~ administrator's
objections, to approve it and grant the exemption. The public
employer shall be exempted from this chapter, except as provided
in division (K) of this section, if the ~~director~~ administrator
fails to act within the thirty-day period.

(F) Within ten working days after completing implementation
of the plan, the public employer shall certify to the ~~director~~
administrator, by certified mail, return receipt requested, that
the hazardous or unsafe conditions have been abated.

If a public employer fails to complete the plan within the
one-year period of time, the ~~director~~ administrator may do either
of the following:

(1) Terminate the exemption;

(2) Grant to the public employer a sixty-day extension to the
one-year period of time, provided that the ~~director~~ administrator
determines that the public employer is making significant progress
in completing implementation of the plan.

The ~~director~~ administrator shall terminate the exemption of a
public employer who does not complete implementation of the plan
within the sixty-day extension granted by the ~~director~~
administrator under division (F)(2) of this section.

(G) The ~~director~~ administrator shall inspect a public
employer's place of employment immediately after either of the
following occur:

(1) A public employee of the public employer is killed due to
an incident that is related to the public employee's employment;

(2) Three or more public employees of the public employer are hospitalized due to an incident that is related to the public employees' employment.

After reviewing the inspection report, the ~~director~~ administrator may require the public employer to submit to the ~~director~~ administrator, within a reasonable amount of time as determined by the ~~director~~ administrator, a plan that describes how the public employer intends to remedy any conditions described in the report that the ~~director~~ administrator determines need to be remedied.

Nothing in this division constitutes the granting of a new exemption for purposes of determining the seven-year expiration date pursuant to division (H) of this section.

(H) Except as provided in division (F) of this section, an exemption granted pursuant to this section expires seven years after the date of its issuance. A public employer may apply for a subsequent exemption in the same manner provided in this section for the grant of an original exemption.

(I) Each public employer granted an exemption under this section may request the superintendent of the division of safety and hygiene in the bureau of workers' compensation to conduct a safety inspection of the public employer's place of employment any time during the exemption period. Based on this inspection, the superintendent shall note any hazards or unsafe conditions and recommend abatement of these hazards and unsafe conditions. The superintendent shall provide a copy of the report of the inspection conducted pursuant to this division and any resulting recommendations to the public employer. The ~~director~~ administrator shall not cite the public employer for a violation of this chapter due to a hazardous or unsafe condition identified by the superintendent pursuant to this inspection.

(J) Notwithstanding any other provision of this chapter, a public employer who meets the requirements of division (A) of this section and files an application that meets the requirements of division (B) of this section is not subject to this chapter, except section 4167.06 of the Revised Code and division (G) of this section, after the date on which the public employer meets the requirements of division (A) of this section and files an application that meets the requirements of division (B) of this section until the ~~director~~ administrator determines whether to grant the exemption under this section.

(K) Nothing in this section limits, or shall be construed as limiting, a public employee's rights as provided in section 4167.06 of the Revised Code. Nothing in this section limits, or shall be construed as limiting, a public employer's right to adopt reasonable safety rules and require a public employee's compliance with those rules.

A public employer who is granted an exemption under this section shall not be exempt from divisions (G), (H), and (I) of this section.

Sec. 4167.27. (A) The ~~public employment risk reduction advisory commission~~ administrator of workers' compensation shall adopt a rule and Ohio employment risk reduction standard for the prevention of exposure incidents. The initial rule and standard shall be adopted not later than one hundred eighty days after October 5, 2000.

(B) The ~~commission~~ administrator shall provide advice to public employers with regard to their implementation of the requirements established by the rule and standard adopted under this section and the requirements of section 4167.28 of the Revised Code.

Section 2. That existing sections 121.08, 4121.12, 4121.121, 1932
4121.37, 4123.511, 4167.02, 4167.06, 4167.07, 4167.08, 4167.09, 1933
4167.10, 4167.11, 4167.12, 4167.14, 4167.15, 4167.16, 4167.17, 1934
4167.19, and 4167.27 and section 4167.18 of the Revised Code are 1935
hereby repealed. 1936

Section 3. All items in this section are hereby appropriated 1937
out of any moneys in the state treasury to the credit of the 1938
designated fund. For all appropriations made in this act, those in 1939
the first column are for fiscal year 2006, and those in the second 1940
column are for fiscal year 2007. 1941

FND	AI	AI TITLE	Appropriations		
		BWC BUREAU OF WORKERS' COMPENSATION			1943
		Workers' Compensation Fund Group			1944
023	855-401	William Green Lease	\$ 19,736,600	\$ 20,125,900	1945
		Payments to OBA			
023	855-407	Claims, Risk & Medical	\$ 140,052,037	\$ 140,052,037	1946
		Management			
023	855-408	Fraud Prevention	\$ 11,713,797	\$ 11,713,797	1947
023	855-409	Administrative	\$ 119,246,553	\$ 119,246,553	1948
		Services			
023	855-410	Attorney General	\$ 4,314,644	\$ 4,314,644	1949
		Payments			
822	855-606	Coal Workers' Fund	\$ 91,894	\$ 91,894	1950
823	855-608	Marine Industry	\$ 53,952	\$ 53,952	1951
825	855-605	Disabled Workers	\$ 693,764	\$ 693,764	1952
		Relief Fund			
826	855-609	Safety & Hygiene	\$ 20,130,820	\$ 20,130,820	1953
		Operating			
826	855-610	Safety Grants Program	\$ 4,000,000	\$ 4,000,000	1954
		TOTAL WCF Workers' Compensation			1955
		Fund Group	\$ 320,034,061	\$ 320,423,361	1956

Federal Special Revenue Fund Group				1957	
349 855-601 OSHA Enforcement	\$	1,527,750	\$	1,604,140	1958
TOTAL FED Federal Special Revenue	\$	1,527,750	\$	1,604,140	1959
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	321,561,811	\$	322,027,501	1960

WILLIAM GREEN LEASE PAYMENTS 1961

The foregoing appropriation item 855-401, William Green Lease 1962
Payments to OBA, shall be used for lease payments to the Ohio 1963
Building Authority, and these appropriations shall be used to meet 1964
all payments at the times they are required to be made during the 1965
period from July 1, 2005, to June 30, 2007, by the Bureau of 1966
Workers' Compensation to the Ohio Building Authority pursuant to 1967
leases and agreements made under Chapter 152. of the Revised Code 1968
and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. 1969
Of the amounts received in Fund 023, appropriation item 855-401, 1970
up to \$39,862,500 shall be restricted for lease rental payments to 1971
the Ohio Building Authority. If it is determined that additional 1972
appropriations are necessary for such purpose, such amounts are 1973
hereby appropriated. 1974

Notwithstanding any other provision of law to the contrary, 1975
all tenants of the William Green Building not funded by the 1976
Workers' Compensation Fund (Fund 023) shall pay their fair share 1977
of the costs of lease payments to the Workers' Compensation Fund 1978
(Fund 023) by intrastate transfer voucher. 1979

WORKERS' COMPENSATION FRAUD UNIT 1980

The Workers' Compensation Section Fund (Fund 195) shall 1981
receive payments from the Bureau of Workers' Compensation at the 1982
beginning of each quarter of each fiscal year to fund expenses of 1983
the Workers' Compensation Fraud Unit of the Attorney General's 1984
Office. Of the foregoing appropriation item 855-410, Attorney 1985
General Payments, \$773,151 in fiscal year 2006 and \$773,151 in 1986

fiscal year 2007 shall be used to provide these payments.	1987
SAFETY AND HYGIENE	1988
Notwithstanding section 4121.37 of the Revised Code, the	1989
Administrator of Workers' Compensation shall transfer moneys from	1990
the State Insurance Fund so that appropriation item 855-609,	1991
Safety and Hygiene Operating, is provided \$20,130,820 in fiscal	1992
year 2006 and \$20,130,820 in fiscal year 2007.	1993
LONG-TERM CARE LOAN FUND	1994
Upon the request of the Administrator of the Bureau of	1995
Workers' Compensation and with the advice and consent of the	1996
Bureau of Workers' Compensation Oversight Commission, the Director	1997
of Budget and Management shall transfer cash in the amounts	1998
requested from the Safety and Hygiene Operating Fund (Fund 826) to	1999
the Long-Term Care Loan Fund (Fund 829) created in section 4121.48	2000
of the Revised Code. The amounts transferred are hereby	2001
appropriated.	2002
OSHA ON-SITE CONSULTATION PROGRAM	2003
The Bureau of Workers' Compensation may designate a portion	2004
of appropriation item 855-609, Safety and Hygiene Operating, to be	2005
used to match federal funding for the federal Occupational Safety	2006
and Health Administration's (OSHA) on-site consultation program.	2007
VOCATIONAL REHABILITATION	2008
The Bureau of Workers' Compensation and the Rehabilitation	2009
Services Commission shall enter into an interagency agreement for	2010
the provision of vocational rehabilitation services and staff to	2011
mutually eligible clients. The bureau shall provide \$587,774 in	2012
fiscal year 2006 and \$605,407 in fiscal year 2007 from the State	2013
Insurance Fund to fund vocational rehabilitation services and	2014
staff in accordance with the interagency agreement.	2015
FUND BALANCE	2016

Any unencumbered cash balance in excess of \$45,000,000 in the 2017
Workers' Compensation Fund (Fund 023) on the thirtieth day of June 2018
of each fiscal year shall be used to reduce the administrative 2019
cost rate charged to employers to cover appropriations for Bureau 2020
of Workers' Compensation operations. 2021

OSHA ENFORCEMENT FUND TRANSFER 2022

On July 1, 2005, or as soon thereafter as possible, the 2023
Director of Budget and Management shall transfer the OSHA 2024
Enforcement Fund (Fund 349) from the Department of Commerce to the 2025
Bureau of Workers' Compensation. At the request of the Director of 2026
the Department of Commerce, the Director of Budget and Management 2027
may cancel encumbrances in this fund from appropriation item 2028
800-626, OSHA Enforcement, within the budget of the Department of 2029
Commerce, and reestablish those encumbrances or parts of those 2030
encumbrances in fiscal year 2006 for the same purpose and to the 2031
same vendor to appropriation item 855-601, OSHA Enforcement, 2032
within the budget of the Bureau of Workers' Compensation. As 2033
determined by the Director of Budget and Management, the 2034
appropriation authority necessary to reestablish encumbrances or 2035
parts of encumbrances in fiscal year 2006 for the Bureau of 2036
Workers' Compensation is hereby granted. 2037

Section 4. (A) Notwithstanding any provision of law to the 2038
contrary, the Director of Budget and Management is authorized to 2039
take the actions described under this section. The Director of 2040
Budget and Management may make any transfers of cash balances 2041
between funds made necessary by the administrative reorganization, 2042
program transfers, creation of new funds, and the consolidation of 2043
funds that are authorized by this act. At the request of the 2044
Office of Budget and Management, the administering agency head 2045
shall certify to the Director of Budget and Management the amount 2046
or an estimate of the amount of the cash balance to be transferred 2047

to the receiving fund. The Director may transfer the amount or the estimate of the amount when needed to make payments. Not more than thirty days after certifying an estimated amount, the administering agency head shall certify the final amount to the Director. The Director shall then transfer the difference between any estimated amount previously transferred and the certified final amount.

(B) On July 1, 2005:

(1) The functions of the Department of Commerce, Division of Labor and Worker Safety, conducted pursuant to Chapter 4167. of the Revised Code, and all agreements with the federal Occupational Safety and Health Administration's (OSHA) on-site consultation program, are transferred to the Bureau of Workers' Compensation, together with all assets, liabilities, capital spending authority, equipment, and records, regardless of their form or medium, that relate to those functions and agreements. The Bureau of Workers' Compensation assumes these functions.

(2) Business commenced but not completed pursuant to Chapter 4167. of the Revised Code by the Director or the Department of Commerce, Division of Labor and Worker Safety, and any agreements with OSHA's on-site consultation program that are in effect, shall be completed by the Administrator or the Bureau of Workers' Compensation in the same manner, and with the same effect, as if completed by the Director or the Department of Commerce, Division of Labor and Worker Safety.

(3) All of the rules, orders, and determinations enacted or adopted by the Department of Commerce, Division of Labor and Worker Safety, that relate to the transfer of functions required by this section shall continue in effect as rules, orders, and determinations of the Bureau of Workers' Compensation until modified or rescinded by the Bureau of Workers' Compensation. If necessary to ensure the integrity of the numbering of the

Administrative Code, the Director of the Legislative Service 2080
Commission shall renumber the rules of the Department of Commerce, 2081
Division of Labor and Worker Safety, enacted or adopted pursuant 2082
to Chapter 4167. of the Revised Code to reflect their transfer to 2083
the Bureau of Workers' Compensation. 2084

(4) Subject to the layoff provisions of sections 124.321 to 2085
124.328 of the Revised Code, all employees of the Department of 2086
Commerce, Division of Labor and Worker Safety, who perform 2087
functions pursuant to Chapter 4167. of the Revised Code or to 2088
agreements with the federal Occupational Safety and Health 2089
Administration related to OSHA's on-site consultation program, are 2090
hereby transferred to the Bureau of Workers' Compensation. The 2091
vehicles and equipment assigned to these employees are also 2092
transferred to the Bureau of Workers' Compensation. 2093

(C) No validation, cure, right, privilege, remedy, 2094
obligation, or liability is lost or impaired by reason of the 2095
transfer of functions required by this section, and all shall be 2096
administered by the Bureau of Workers' Compensation. 2097

(D) No action or proceeding pending as of the effective date 2098
of this section is affected by the transfer of functions required 2099
by this section, and shall be recognized, prosecuted, or defended 2100
in the name of the Administrator of Workers' Compensation. In all 2101
such actions, the Administrator or the Bureau of Workers' 2102
Compensation, upon application to the court, shall be substituted 2103
as a party. 2104

(E) Whenever the Director or the Department of Commerce, or 2105
the Superintendent or the Division of Labor and Worker Safety is 2106
referred to in any law, contract, or other document relating to 2107
the functions transferred under this section, the reference shall 2108
be deemed to refer to the Administrator or the Bureau of Workers' 2109
Compensation, whichever is appropriate. 2110

Section 5. Law contained in the main operating appropriations 2111
act of the 126th General Assembly that applies generally to the 2112
appropriations made in that act also applies generally to the 2113
appropriations made in this act. 2114

Section 6. If any item of law that constitutes the whole or 2115
part of a codified or uncodified section of law contained in this 2116
act, or if any application of any item of law that constitutes the 2117
whole or part of a codified or uncodified section of law contained 2118
in this act, is held invalid, the invalidity does not affect the 2119
other items of law or applications of items of law that can be 2120
given effect without the invalid item of law or application. To 2121
this end, the items of law of which the codified and uncodified 2122
sections of law contained in this act are composed, and their 2123
applications, are independent and severable. 2124

Section 7. The uncodified sections of law contained in this 2125
act, and the items of law of which the uncodified sections of law 2126
contained in this act are composed, are not subject to the 2127
referendum. Therefore, under Ohio Constitution, Article II, 2128
Section 1d and section 1.471 of the Revised Code, the uncodified 2129
sections of law contained in this act, and the items of law of 2130
which the uncodified sections of law contained in this act are 2131
composed, go into immediate effect when this act becomes law. 2132

Section 8. An item that composes the whole or part of an 2133
uncodified section contained in this act has no effect after June 2134
30, 2007, unless the context clearly indicates otherwise. 2135