

**As Passed by the Senate**

**126th General Assembly**

**Regular Session**

**2005-2006**

**Am. 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  
Senators Hottinger, Cates, Clancy, Spada, Armbruster, Austria**

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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:**

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| <b>Section 1.</b> 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  
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. 81

(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  
commerce and be administered by a superintendent of labor and  
worker safety. The superintendent of labor and worker safety shall  
exercise the powers and perform the duties delegated to the  
superintendent by the director under Chapters 4109., 4111., and  
4115., ~~and 4167.~~ of the Revised Code.

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

this state.

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In the case of a criminal records check under section 109.572 of the Revised Code, the department or division shall forward to the bureau of criminal identification and investigation the requisite form, fingerprint impressions, and fee described in division (C) of that section. When requested by the department or division in accordance with this section, the bureau of criminal identification and investigation shall request from the federal bureau of investigation any information it has with respect to the person who is the subject of the requested criminal records check and shall forward the requisite fingerprint impressions and information to the federal bureau of investigation for that criminal records check. After conducting a criminal records check or receiving the results of a criminal records check from the federal bureau of investigation, the bureau of criminal identification and investigation shall provide the results to the department or division.

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

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**Sec. 4121.12.** (A) There is hereby created the workers' compensation oversight commission consisting of nine members, of which members the governor shall appoint five with the advice and consent of the senate. Of the five members the governor appoints, two shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representative of employees, at least one of whom is

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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  
years, with each term ending on the same day of the same month as  
did the term that it succeeds. Each member shall hold office from  
the date of the member's appointment until the end of the term for  
which the member was appointed.

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

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

For the appointment of the member who is representative of  
employees who are members of an employee organization, both for



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  
designee is a member of the standing committee. Legislative  
members shall serve during the session of the general assembly to  
which they are elected and for as long as they are members of the  
general assembly. Legislative members shall serve in an advisory  
capacity to the commission and shall have no voting rights on  
matters coming before the commission. Membership on the commission  
by legislative members shall not be deemed as holding a public  
office.

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

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

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

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

(b) A member may receive no more than the annual eighteen

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. 364

(8) Perform all duties required under section 4121.125 of the 365  
Revised Code. 366

(G) As used in this section, "employee organization" means 367  
any labor or bona fide organization in which employees participate 368  
and which exists for the purpose, in whole or in part, of dealing 369  
with employers concerning grievances, labor disputes, wages, 370  
hours, terms and other conditions of employment. 371

**Sec. 4121.121.** (A) There is hereby created the bureau of 372  
workers' compensation, which shall be administered by the 373  
administrator of workers' compensation. A person appointed to the 374  
position of administrator shall possess significant management 375  
experience in effectively managing an organization or 376  
organizations of substantial size and complexity. The governor 377  
shall appoint the administrator as provided in section 121.03 of 378  
the Revised Code, and the administrator shall serve at the 379  
pleasure of the governor. The governor shall fix the 380  
administrator's salary on the basis of the administrator's 381  
experience and the administrator's responsibilities and duties 382  
under this chapter and Chapters 4123., 4127., ~~and~~ 4131., and 4167. 383  
of the Revised Code. The governor shall not appoint to the 384  
position of administrator any person who has, or whose spouse has, 385  
given a contribution to the campaign committee of the governor in 386  
an amount greater than one thousand dollars during the two-year 387  
period immediately preceding the date of the appointment of the 388  
administrator. 389

The administrator shall hold no other public office and shall 390  
devote full time to the duties of administrator. Before entering 391  
upon the duties of the office, the administrator shall take an 392

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

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

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

(2) Employ, direct, and supervise all employees required in  
connection with the performance of the duties assigned to the  
bureau by this chapter and Chapters 4123., 4127., ~~and 4131.~~ and  
4167. of the Revised Code, and may establish job classification  
plans and compensation for all employees of the bureau provided

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

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

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

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

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

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

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

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

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

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

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 586  
examiners for employees of the bureau; 587

(c) Audit fee bill payments; 588

(d) Implement a program to utilize, to the maximum extent 589  
possible, electronic data processing equipment for storage of 590  
information to facilitate authorizations of compensation payments 591  
for medical, hospital, drug, and nursing services; 592

(e) Perform other duties assigned to it by the administrator. 593

(17) Appoint, as the administrator determines necessary, 594  
panels to review and advise the administrator on disputes arising 595  
over a determination that a health care service or supply provided 596  
to a claimant is not covered under this chapter or Chapter 4123. 597  
of the Revised Code or is medically unnecessary. If an individual 598  
health care provider is involved in the dispute, the panel shall 599  
consist of individuals licensed pursuant to the same section of 600  
the Revised Code as such health care provider. 601

(18) Pursuant to section 4123.65 of the Revised Code, approve 602  
applications for the final settlement of claims for compensation 603  
or benefits under this chapter and Chapters 4123., 4127., and 604  
4131. of the Revised Code as the administrator determines 605  
appropriate, except in regard to the applications of self-insuring 606  
employers and their employees. 607

(19) Comply with section 3517.13 of the Revised Code, and 608  
except in regard to contracts entered into pursuant to the 609  
authority contained in section 4121.44 of the Revised Code, comply 610  
with the competitive bidding procedures set forth in the Revised 611  
Code for all contracts into which the administrator enters 612  
provided that those contracts fall within the type of contracts 613

and dollar amounts specified in the Revised Code for competitive 614  
bidding and further provided that those contracts are not 615  
otherwise specifically exempt from the competitive bidding 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 680  
amount of the expenditures and the purposes for which they have 681  
been made, and the results of the investigations and researches. 682  
The administrator shall include the administrative costs, 683  
salaries, and other expenses of the division of safety and hygiene 684  
as a part of the budget of the bureau of workers' compensation 685  
that is submitted to the director of budget and management and 686  
shall identify those expenditures separately from other bureau 687  
expenditures. 688

The superintendent shall be a competent person with at least 689  
five years' experience in industrial accident or disease 690  
prevention work. The superintendent and up to six positions in the 691  
division of safety and hygiene as the administrator, with the 692  
advice and consent of the oversight commission, designates are in 693  
the unclassified civil service of the state as long as the 694  
administrator, with the advice and consent of the oversight 695  
commission, determines the positions subordinate to the 696  
superintendent are primarily and distinctively administrative, 697  
managerial, or professional in character. All other full-time 698  
employees of the division of safety and hygiene are in the 699  
classified civil service of the state. 700

Sec. 4121.48. (A) The bureau of workers' compensation shall 701  
operate a long-term care loan fund program. The administrator of 702  
workers' compensation may adopt rules, employ personnel, and do 703  
all things necessary for that purpose. 704

(B) The administrator shall use the long-term care loan fund 705  
program to make loans without interest to employers that are 706  
nursing homes for the purpose of allowing those employers to 707  
purchase, improve, install, or erect sit-to-stand floor lifts, 708

ceiling lifts, other lifts, and fast electric beds, and to pay for 709  
the education and training of personnel, in order to implement a 710  
facility policy of no manual lifting of residents by employees. 711

The administrator, with the advice and consent of the 712  
workers' compensation oversight commission, may adopt rules 713  
establishing criteria for loan eligibility, maximum loan amounts, 714  
loan periods, default penalties, and any other terms the 715  
administrator considers necessary for a loan. 716

(C) There is hereby created in the state treasury the 717  
long-term care loan fund. The fund shall consist of money the 718  
administrator, with the advice and consent of the oversight 719  
commission, requests the director of budget and management to 720  
transfer from the safety and hygiene fund created in section 721  
4121.37 of the Revised Code. The fund shall be used solely for 722  
purposes identified in this section. All investment earnings of 723  
the fund shall be credited to the fund. All money the 724  
administrator receives for payment of a default penalty assessed 725  
or for repayment of any loan made pursuant to this section shall 726  
be credited to the safety and hygiene fund created under section 727  
4121.37 of the Revised Code. 728

(D) As used in this section, "nursing home" has the same 729  
meaning as in section 3721.01 of the Revised Code. 730

**Sec. 4123.511.** (A) Within seven days after receipt of any 731  
claim under this chapter, the bureau of workers' compensation 732  
shall notify the claimant and the employer of the claimant of the 733  
receipt of the claim and of the facts alleged therein. If the 734  
bureau receives from a person other than the claimant written or 735  
facsimile information or information communicated verbally over 736  
the telephone indicating that an injury or occupational disease 737  
has occurred or been contracted which may be compensable under 738  
this chapter, the bureau shall notify the employee and the 739



employer of the information. If the information is provided 740  
verbally over the telephone, the person providing the information 741  
shall provide written verification of the information to the 742  
bureau according to division (E) of section 4123.84 of the Revised 743  
Code. The receipt of the information in writing or facsimile, or 744  
if initially by telephone, the subsequent written verification, 745  
and the notice by the bureau shall be considered an application 746  
for compensation under section 4123.84 or 4123.85 of the Revised 747  
Code, provided that the conditions of division (E) of section 748  
4123.84 of the Revised Code apply to information provided verbally 749  
over the telephone. Upon receipt of a claim, the bureau shall 750  
advise the claimant of the claim number assigned and the 751  
claimant's right to representation in the processing of a claim or 752  
to elect no representation. If the bureau determines that a claim 753  
is determined to be a compensable lost-time claim, the bureau 754  
shall notify the claimant and the employer of the availability of 755  
rehabilitation services. No bureau or industrial commission 756  
employee shall directly or indirectly convey any information in 757  
derogation of this right. This section shall in no way abrogate 758  
the bureau's responsibility to aid and assist a claimant in the 759  
filing of a claim and to advise the claimant of the claimant's 760  
rights under the law. 761

The administrator of workers' compensation shall assign all 762  
claims and investigations to the bureau service office from which 763  
investigation and determination may be made most expeditiously. 764

The bureau shall investigate the facts concerning an injury 765  
or occupational disease and ascertain such facts in whatever 766  
manner is most appropriate and may obtain statements of the 767  
employee, employer, attending physician, and witnesses in whatever 768  
manner is most appropriate. 769

The administrator of workers' compensation, with the advice 770  
and consent of the workers' compensation oversight commission, may 771

adopt rules that identify specified medical conditions that have a  
historical record of being allowed whenever included in a claim.  
The administrator may grant immediate allowance of any medical  
condition identified in those rules upon the filing of a claim  
involving that medical condition and may make immediate payment of  
medical bills for any medical condition identified in those rules  
that is included in a claim. If an employer contests the allowance  
of a claim involving any medical condition identified in those  
rules, and the claim is disallowed, payment for the medical  
condition included in that claim shall be charged to and paid from  
the surplus fund created under section 4123.34 of the Revised  
Code.

(B)(1) Except as provided in division (B)(2) of this section,  
in claims other than those in which the employer is a  
self-insuring employer, if the administrator determines under  
division (A) of this section that a claimant is or is not entitled  
to an award of compensation or benefits, the administrator shall  
issue an order no later than twenty-eight days after the sending  
of the notice under division (A) of this section, granting or  
denying the payment of the compensation or benefits, or both as is  
appropriate to the claimant. Notwithstanding the time limitation  
specified in this division for the issuance of an order, if a  
medical examination of the claimant is required by statute, the  
administrator promptly shall schedule the claimant for that  
examination and shall issue an order no later than twenty-eight  
days after receipt of the report of the examination. The  
administrator shall notify the claimant and the employer of the  
claimant and their respective representatives in writing of the  
nature of the order and the amounts of compensation and benefit  
payments involved. The employer or claimant may appeal the order  
pursuant to division (C) of this section within fourteen days  
after the date of the receipt of the order. The employer and

claimant may waive, in writing, their rights to an appeal under 804  
this division. 805

(2) Notwithstanding the time limitation specified in division 806  
(B)(1) of this section for the issuance of an order, if the 807  
employer certifies a claim for payment of compensation or 808  
benefits, or both, to a claimant, and the administrator has 809  
completed the investigation of the claim, the payment of benefits 810  
or compensation, or both, as is appropriate, shall commence upon 811  
the later of the date of the certification or completion of the 812  
investigation and issuance of the order by the administrator, 813  
provided that the administrator shall issue the order no later 814  
than the time limitation specified in division (B)(1) of this 815  
section. 816

(3) If an appeal is made under division (B)(1) or (2) of this 817  
section, the administrator shall forward the claim file to the 818  
appropriate district hearing officer within seven days of the 819  
appeal. In contested claims other than state fund claims, the 820  
administrator shall forward the claim within seven days of the 821  
administrator's receipt of the claim to the commission, which 822  
shall refer the claim to an appropriate district hearing officer 823  
for a hearing in accordance with division (C) of this section. 824

(C) If an employer or claimant timely appeals the order of 825  
the administrator issued under division (B) of this section or in 826  
the case of other contested claims other than state fund claims, 827  
the commission shall refer the claim to an appropriate district 828  
hearing officer according to rules the commission adopts under 829  
section 4121.36 of the Revised Code. The district hearing officer 830  
shall notify the parties and their respective representatives of 831  
the time and place of the hearing. 832

The district hearing officer shall hold a hearing on a 833  
disputed issue or claim within forty-five days after the filing of 834

the appeal under this division and issue a decision within seven 835  
days after holding the hearing. The district hearing officer shall 836  
notify the parties and their respective representatives in writing 837  
of the order. Any party may appeal an order issued under this 838  
division pursuant to division (D) of this section within fourteen 839  
days after receipt of the order under this division. 840

(D) Upon the timely filing of an appeal of the order of the 841  
district hearing officer issued under division (C) of this 842  
section, the commission shall refer the claim file to an 843  
appropriate staff hearing officer according to its rules adopted 844  
under section 4121.36 of the Revised Code. The staff hearing 845  
officer shall hold a hearing within forty-five days after the 846  
filing of an appeal under this division and issue a decision 847  
within seven days after holding the hearing under this division. 848  
The staff hearing officer shall notify the parties and their 849  
respective representatives in writing of the staff hearing 850  
officer's order. Any party may appeal an order issued under this 851  
division pursuant to division (E) of this section within fourteen 852  
days after receipt of the order under this division. 853

(E) Upon the filing of a timely appeal of the order of the 854  
staff hearing officer issued under division (D) of this section, 855  
the commission or a designated staff hearing officer, on behalf of 856  
the commission, shall determine whether the commission will hear 857  
the appeal. If the commission or the designated staff hearing 858  
officer decides to hear the appeal, the commission or the 859  
designated staff hearing officer shall notify the parties and 860  
their respective representatives in writing of the time and place 861  
of the hearing. The commission shall hold the hearing within 862  
forty-five days after the filing of the notice of appeal and, 863  
within seven days after the conclusion of the hearing, the 864  
commission shall issue its order affirming, modifying, or 865  
reversing the order issued under division (D) of this section. The 866

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.

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

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

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

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

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

(3) The administrator is a party and may appear and  
participate at all administrative proceedings on behalf of the  
state insurance fund. However, in cases in which the employer is  
represented, the administrator shall neither present arguments nor  
introduce testimony that is cumulative to that presented or

introduced by the employer or the employer's representative. The 898  
administrator may file an appeal under this section on behalf of 899  
the state insurance fund; however, except in cases arising under 900  
section 4123.343 of the Revised Code, the administrator only may 901  
appeal questions of law or issues of fraud when the employer 902  
appears in person or by representative. 903

(H) Except as provided in section 4121.63 of the Revised Code 904  
and division (J) of this section, payments of compensation to a 905  
claimant or on behalf of a claimant as a result of any order 906  
issued under this chapter shall commence upon the earlier of the 907  
following: 908

(1) Fourteen days after the date the administrator issues an 909  
order under division (B) of this section, unless that order is 910  
appealed; 911

(2) The date when the employer has waived the right to appeal 912  
a decision issued under division (B) of this section; 913

(3) If no appeal of an order has been filed under this 914  
section or to a court under section 4123.512 of the Revised Code, 915  
the expiration of the time limitations for the filing of an appeal 916  
of an order; 917

(4) The date of receipt by the employer of an order of a 918  
district hearing officer, a staff hearing officer, or the 919  
industrial commission issued under division (C), (D), or (E) of 920  
this section. 921

(I) No medical benefits payable under this chapter or Chapter 922  
4121., 4127., or 4131. of the Revised Code are payable until the 923  
earlier of the following: 924

(1) The date of the issuance of the staff hearing officer's 925  
order under division (D) of this section; 926

(2) The date of the final administrative or judicial 927

determination.

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

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

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

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

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

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The administrator and self-insuring employers, as  
appropriate, are subject to the repayment schedule of this  
division only with respect to an order to pay compensation that  
was properly paid under a previous order, but which is  
subsequently reversed upon an administrative or judicial appeal.  
The administrator and self-insuring employers are not subject to,

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but may utilize, the repayment schedule of this division, or any  
other lawful means, to collect payment of compensation made to a  
person who was not entitled to the compensation due to fraud as  
determined by the administrator or the industrial commission.

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

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

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

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

As used in this division:

(1) "Emergency" means any occasion or instance for which the  
governor of Ohio or the president of the United States publicly  
declares an emergency and orders state or federal assistance to  
save lives and protect property, the public health and safety, or



to lessen or avert the threat of a catastrophe. 990

(2) "Disaster" means any natural catastrophe or fire, flood, 991  
or explosion, regardless of the cause, that causes damage of 992  
sufficient magnitude that the governor of Ohio or the president of 993  
the United States, through a public declaration, orders state or 994  
federal assistance to alleviate damage, loss, hardship, or 995  
suffering that results from the occurrence. 996

**Sec. 4167.02.** (A) ~~The director of commerce~~ administrator of 997  
worker's compensation shall operate and enforce the public 998  
employment risk reduction program created by this chapter. 999

~~(B) There is hereby created in the department of commerce the~~ 1000  
~~public employment risk reduction advisory commission consisting of~~ 1001  
~~sixteen members appointed by the director of commerce. Eight~~ 1002  
~~members of the commission shall be representatives of public~~ 1003  
~~employers, eight members shall be representatives of public~~ 1004  
~~employees, all of whom shall have expertise in the area of~~ 1005  
~~occupational safety and health issues.~~ 1006

~~In making appointments to the commission, the director shall~~ 1007  
~~select the members representing public employers from a list of~~ 1008  
~~six names submitted by the Ohio municipal league, six names~~ 1009  
~~submitted by the Ohio township association, six names submitted by~~ 1010  
~~the county commissioners association of Ohio, three names~~ 1011  
~~submitted by the inter university council of Ohio, and three names~~ 1012  
~~submitted by the Ohio school board association, provided that from~~ 1013  
~~the lists submitted, the director shall appoint two members from~~ 1014  
~~the names submitted by the Ohio municipal league, one of whom~~ 1015  
~~shall represent a larger municipal corporation and one of whom~~ 1016  
~~shall represent a smaller municipal corporation, two members from~~ 1017  
~~the names submitted by the Ohio township association, one of whom~~ 1018  
~~shall represent a larger township and one of whom shall represent~~ 1019  
~~a smaller township, two members from the names submitted by the~~ 1020

~~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  
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.~~

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~~(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.~~

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~~The director, after giving the member notice and an~~

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~~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 1084  
personnel of such agency, with or without reimbursement, and may 1085  
retain or contract with experts, consultants, and organizations 1086  
for services or personnel on such terms as the ~~director~~ 1087  
administrator determines appropriate. 1088

**Sec. 4167.06.** (A) A public employee acting in good faith has 1089  
the right to refuse to work under conditions that the public 1090  
employee reasonably believes present an imminent danger of death 1091  
or serious harm to the public employee, provided that such 1092  
conditions are not such as normally exist for or reasonably might 1093  
be expected to occur in the occupation of the public employee. A 1094  
public employer shall not discriminate against a public employee 1095  
for a good faith refusal to perform assigned tasks if the public 1096  
employee has requested that the public employer correct the 1097  
hazardous conditions but the conditions remain uncorrected, there 1098  
was insufficient time to eliminate the danger by resorting to the 1099  
enforcement methods provided in this chapter, and the danger was 1100  
one that a reasonable person under the circumstances then 1101  
confronting the public employee would conclude is an imminent 1102  
danger of death or serious physical harm to the public employee. A 1103  
public employee who has refused in good faith to perform assigned 1104  
tasks and who has not been reassigned to other tasks by the public 1105  
employer shall, in addition to retaining a right to continued 1106  
employment, receive full compensation for the tasks that would 1107  
have been performed. If the public employer reassigns the public 1108  
employee, the public employer shall pay the public employee's full 1109  
compensation as if the public employee were not reassigned. 1110

(B) A public employee who exercises the right to refuse to 1111  
work under division (A) of this section shall notify by a written 1112  
statement that is signed by the public employee, as soon as 1113  
practicable after exercising that right, the ~~director of commerce~~ 1114  
administrator of workers' compensation of the condition that 1115

presents an imminent danger of death or serious harm to the public 1116  
employee. Upon receipt of the notification, the ~~director~~ 1117  
administrator or the ~~director's~~ administrator's designee 1118  
immediately shall inspect the premises of the public employer. The 1119  
~~director~~ administrator and the ~~director's~~ administrator's designee 1120  
shall comply with section 4167.10 of the Revised Code in 1121  
conducting the inspection and investigation and in issuing orders 1122  
and citations. 1123

(C) A public employee who refuses to perform assigned tasks 1124  
under division (A) of this section and fails to meet all of the 1125  
conditions set forth in that division for the refusal is subject 1126  
to any disciplinary action provided by law or agreement between 1127  
the public employer and public employee for a refusal to work, 1128  
including, but not limited to, suspension, nonpayment of wages for 1129  
the duration of the refusal to work, and discharge. 1130

**Sec. 4167.07.** (A) The ~~public employment risk reduction~~ 1131  
~~advisory~~ administrator of workers' compensation, with the advice 1132  
and consent of the workers' compensation oversight commission, 1133  
shall adopt rules that establish employment risk reduction 1134  
standards. Except as provided in division (B) of this section, in 1135  
adopting these rules, the ~~commission~~ administrator shall do both 1136  
of the following: 1137

(1) By no later than July 1, 1994, adopt as a rule and an 1138  
Ohio employment risk reduction standard every federal occupational 1139  
safety and health standard then adopted by the United States 1140  
secretary of labor pursuant to the "Occupational Safety and Health 1141  
Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, as amended; 1142

(2) By no later than one hundred twenty days after the United 1143  
States secretary of labor adopts, modifies, or revokes any federal 1144  
occupational safety and health standard, by rule do one of the 1145  
following: 1146

(a) Adopt the federal occupational safety and health standard 1147  
as a rule and an Ohio employment risk reduction standard; 1148

(b) Amend the existing rule and Ohio employment risk 1149  
reduction standard to conform to the modification of the federal 1150  
occupational safety and health standard; 1151

(c) Rescind the existing rule and Ohio employment risk 1152  
reduction standard that corresponds to the federal occupational 1153  
safety and health standard the United States secretary of labor 1154  
revoked. 1155

(B) The administrator, with the advice and consent of the 1156  
workers' compensation oversight commission, may decline to adopt 1157  
any federal occupational safety and health standard as a rule and 1158  
an Ohio employment risk reduction standard or to modify or rescind 1159  
any existing rule and Ohio employment risk reduction standard to 1160  
conform to any federal occupational safety and health standard 1161  
modified or revoked by the United States secretary of labor or may 1162  
adopt as a rule and an Ohio employment risk reduction standard any 1163  
occupational safety and health standard that is not covered under 1164  
the federal law or that differs from one adopted or modified by 1165  
the United States secretary of labor, if the ~~commission~~ 1166  
administrator determines that existing rules and Ohio employment 1167  
risk reduction standards provide protection at least as effective 1168  
as that which would be provided by the existing, new, or modified 1169  
federal occupational safety and health standard or if ~~it~~ the 1170  
administrator determines that local conditions warrant a different 1171  
standard from that of the existing federal occupational safety and 1172  
health standard or from standards the United States secretary of 1173  
labor adopts, modifies, or revokes. 1174

(C) In adopting, modifying, or rescinding any rule or Ohio 1175  
employment risk reduction standard dealing with toxic materials or 1176  
harmful physical agents, the administrator, with the advice and 1177

consent of the workers' compensation oversight commission, shall 1178  
do all of the following: 1179

(1) Set the employment risk reduction standard to most 1180  
adequately assure, to the extent technologically feasible and on 1181  
the basis of the best available evidence, that no public employee 1182  
will suffer material impairment of health or functional capacity 1183  
as a result of the hazards dealt with by the rule or Ohio 1184  
employment risk reduction standard for the period of the public 1185  
employee's working life; 1186

(2) Base the development of these rules and Ohio employment 1187  
risk reduction standards on research, demonstrations, experiments, 1188  
and other information as is appropriate and upon the technological 1189  
feasibility of the rule and standard, using the latest available 1190  
scientific data in the field and the experience gained in the 1191  
workplace under this chapter and other health and safety laws, to 1192  
establish the highest degree of safety and health for the public 1193  
employee; 1194

(3) Whenever practicable, express the rule and Ohio 1195  
employment risk reduction standard in terms of objective criteria 1196  
and of the performance desired; 1197

(4) Prescribe the use of labels or other appropriate forms of 1198  
warning as are necessary to ensure that public employees are 1199  
apprised of all hazards to which they are exposed, relevant 1200  
symptoms and appropriate emergency treatment, and proper 1201  
conditions and precautions of safe use or exposure where 1202  
appropriate; 1203

(5) Prescribe suitable protective equipment and control 1204  
procedures to be used in connection with the hazards; 1205

(6) Provide for measuring or monitoring public employee 1206  
exposure in a manner necessary for the protection of the public 1207  
employees; 1208

(7) Where appropriate, prescribe the type and frequency of 1209  
medical examinations or other tests the public employer shall make 1210  
available, at the cost of the public employer, to the public 1211  
employees exposed to the hazards in order to determine any adverse 1212  
effect from the exposure. 1213

(D) In determining the priority for adopting rules and Ohio 1214  
employment risk reduction standards under this section, the 1215  
~~commission~~ administrator shall give due regard to the urgency of 1216  
need and recommendations of the department of health regarding 1217  
that need for mandatory employment risk reduction standards for 1218  
particular trades, crafts, occupations, services, and workplaces. 1219

(E)(1) Except for rules adopted under division (A) of this 1220  
section, the administrator, with the advice and consent of the 1221  
workers' compensation oversight commission, shall adopt all rules 1222  
under this section in accordance with Chapter 119. of the Revised 1223  
Code, provided that notwithstanding that chapter, the ~~commission~~ 1224  
administrator may delay the effective date of any rule or Ohio 1225  
employment risk reduction standard for the period the ~~commission~~ 1226  
administrator determines necessary to ensure that affected public 1227  
employers and public employees will be informed of the adoption, 1228  
modification, or rescission of the rule and Ohio employment risk 1229  
reduction standard and have the opportunity to familiarize 1230  
themselves with the specific requirements of the rule and 1231  
standard. In no case, however, shall the ~~commission~~ administrator 1232  
delay the effective date of a rule adopted pursuant to Chapter 1233  
119. of the Revised Code in excess of ninety days beyond the 1234  
otherwise required effective date. 1235

(2) In regard to the rules for which the ~~commission~~ 1236  
administrator does not have to comply with Chapter 119. of the 1237  
Revised Code, the ~~commission~~ administrator shall file two 1238  
certified copies of the rules and Ohio employment risk reduction 1239  
standards adopted with the secretary of state and the director of 1240



the legislative service commission. 1241

**Sec. 4167.08.** (A) In the event of an emergency or unusual 1242  
situation, the ~~director of commerce~~ administrator of workers' 1243  
compensation shall issue an emergency temporary Ohio employment 1244  
risk reduction standard to take immediate effect upon publication 1245  
in newspapers of general circulation in Cleveland, Columbus, 1246  
Cincinnati, and Toledo if the ~~director~~ administrator finds both of 1247  
the following: 1248

(1) Public employees are exposed to grave danger from 1249  
exposure to substances or agents determined to be toxic or 1250  
physically harmful or from new hazards; 1251

(2) The emergency temporary Ohio employment risk reduction 1252  
standard is necessary to protect employees from the danger. 1253

(B)(1) Except as provided in division (B)(2) of this section 1254  
an emergency temporary Ohio employment risk reduction standard 1255  
issued by the ~~director~~ administrator under division (A) of this 1256  
section shall be in effect no longer than fifteen days, unless the 1257  
commission approves the emergency temporary Ohio employment risk 1258  
reduction standard as issued by the ~~director~~ administrator, in 1259  
which case, the emergency temporary Ohio employment risk reduction 1260  
standard shall be in effect no longer than one hundred twenty days 1261  
after the date the ~~director~~ administrator issues it. 1262

(2) The ~~director~~ administrator may renew an emergency 1263  
temporary Ohio employment risk reduction standard that has been 1264  
approved by the ~~public employment risk reduction advisory workers'~~ 1265  
compensation oversight commission for an additional time period 1266  
not to exceed one hundred days if the ~~director~~ administrator finds 1267  
that the conditions identified in divisions (A)(1) and (2) of this 1268  
section continue to exist. 1269

On or before the expiration date of the emergency temporary 1270

Ohio employment risk reduction standard or renewal thereof, if the  
conditions identified in divisions (A)(1) and (2) of this section  
continue to exist, the administrator, with the advice and consent  
of the oversight commission, shall adopt a permanent Ohio  
employment risk reduction standard pursuant to section 4167.07 of  
the Revised Code as a rule to replace the emergency temporary Ohio  
employment risk reduction standard.

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

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

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

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

(4) A statement of when the public employer expects to be

able to comply fully with the Ohio employment risk reduction 1301  
standard and what steps the public employer has taken and will 1302  
take, with dates specified, to come into full compliance with the 1303  
standard; 1304

(5) A certification that the public employer has informed the 1305  
public employer's public employees of the application by giving a 1306  
copy of the application to the public employee representative, if 1307  
any, and by posting a statement giving a summary of the 1308  
application and specifying where a copy of the application may be 1309  
examined at the place or places where notices to public employees 1310  
are normally posted, and by any other appropriate means of public 1311  
employee notification. The public employer also shall inform the 1312  
public employer's public employees of their rights to a hearing 1313  
under section 4167.15 of the Revised Code. The certification also 1314  
shall contain a description of how public employees have been 1315  
informed of the application and of their rights to a hearing. 1316

(B) The ~~director~~ administrator shall issue an order providing 1317  
for a temporary variance if the public employer files an 1318  
application that meets the requirements of division (A) of this 1319  
section and establishes that all of the following pertaining to 1320  
the public employer are true: 1321

(1) The public employer is unable to comply with the Ohio 1322  
employment risk reduction standard or a provision of it by its 1323  
effective date because of the unavailability of professional or 1324  
technical personnel or of materials and equipment needed to come 1325  
into compliance with the Ohio employment risk reduction standard 1326  
or provision of it or because necessary construction or alteration 1327  
of facilities cannot be completed by the effective date of the 1328  
standard. 1329

(2) The public employer is taking all available steps to 1330  
safeguard the public employer's public employees against the 1331

hazards covered by the Ohio employment risk reduction standard. 1332

(3) The public employer has an effective program for coming 1333  
into compliance with the Ohio employment risk reduction standard 1334  
as quickly as practicable. 1335

(4) The granting of the variance will not create an imminent 1336  
danger of death or serious physical harm to public employees. 1337

(C)(1) If the ~~director~~ administrator issues an order 1338  
providing for a temporary variance under division (B) of this 1339  
section, the ~~director~~ administrator shall prescribe the practices, 1340  
means, methods, operations, and processes that the public employer 1341  
must adopt and use while the order is in effect and state in 1342  
detail the public employer's program for coming into compliance 1343  
with the Ohio employment risk reduction standard. The ~~director~~ 1344  
administrator may issue the order only after providing notice to 1345  
affected public employees and their public employee 1346  
representative, if any, and an opportunity for a hearing pursuant 1347  
to section 4167.15 of the Revised Code, provided that the ~~director~~ 1348  
administrator may issue one interim order granting a temporary 1349  
order to be effective until a decision on a hearing is made. 1350  
Except as provided in division (C)(2) of this section, no 1351  
temporary variance may be in effect for longer than the period 1352  
needed by the public employer to achieve compliance with the Ohio 1353  
employment risk reduction standard or one year, whichever is 1354  
shorter. 1355

(2) The ~~director~~ administrator may renew an order issued 1356  
under division (C) of this section up to two times provided that 1357  
the requirements of divisions (A), (B), and (C)(1) of this section 1358  
and section 4167.15 of the Revised Code are met and the public 1359  
employer files an application for renewal with the ~~director~~ 1360  
administrator at least ninety days prior to the expiration date of 1361  
the order. 1362

(D) Any public employer affected by an Ohio employment risk reduction standard or any provision of it proposed, adopted, or otherwise issued under section 4167.07 or 4167.08 of the Revised Code may apply to the ~~director~~ administrator for an order granting a variance from the standard or provision. The ~~director~~ 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' 1395  
compensation or the ~~director's~~ administrator's designee shall, as 1396  
provided in this section, inspect and investigate any plant, 1397  
facility, establishment, construction site, or any other area, 1398  
workplace, or environment where work is being performed by a 1399  
public employee of a public employer, and any place of employment 1400  
and all pertinent conditions, structures, machines, apparatus, 1401  
devices, equipment, and materials therein, and question privately 1402  
any public employer, administrator, department head, operator, 1403  
agent, or public employee. The authority to inspect and 1404  
investigate includes the taking of environmental samples, the 1405  
taking and obtaining of photographs related to the purposes of the 1406  
inspection or investigation, the examination of records required 1407  
to be kept under section 4167.11 of the Revised Code and other 1408  
documents and records relevant to the inspection and 1409  
investigation, the issuance of subpoenas, and the conducting of 1410  
tests and other studies reasonably calculated to serve the 1411  
purposes of implementing and enforcing this chapter. Except as 1412  
provided in this section, the ~~director~~ administrator or the 1413  
~~director's~~ administrator's designee shall conduct inspections and 1414  
investigations only pursuant to a request to do so by a public 1415  
employee or public employee representative, or the notification 1416  
the ~~director~~ administrator receives pursuant to division (B) of 1417  
section 4167.06 of the Revised Code and only if the ~~director~~ 1418  
administrator or the ~~director's~~ administrator's designee complies 1419  
with this section. The ~~director~~ administrator or the ~~director's~~ 1420  
administrator's designee shall conduct all requested or required 1421  
inspections within a reasonable amount of time following receipt 1422  
of the request or notification. 1423

(B)(1) Any public employee or public employee representative 1424  
who believes that a violation of an Ohio employment risk reduction 1425  
standard exists that threatens physical harm, or that an imminent 1426  
danger exists, may request an inspection by giving written notice 1427

to the ~~director~~ administrator or the ~~director's~~ administrator's 1428  
designee of the violation or danger. The notice shall set forth 1429  
with reasonable particularity the grounds for the notice, and 1430  
shall be signed by the public employee or public employee 1431  
representative. The names of individual public employees making 1432  
the notice or referred to therein shall not appear in the copy 1433  
provided to the public employer pursuant to division (B)(2) of 1434  
this section and shall be kept confidential. 1435

(2) If, upon receipt of a notification pursuant to division 1436  
(B)(1) of this section, the ~~director~~ administrator determines that 1437  
there are no reasonable grounds to believe that a violation or 1438  
danger exists, the ~~director~~ administrator shall inform the public 1439  
employee or public employee representative in writing of the 1440  
determination. If, upon receipt of a notification, the ~~director~~ 1441  
administrator determines that there are reasonable grounds to 1442  
believe that a violation or danger exists, the ~~director~~ 1443  
administrator shall, within one week, excluding Saturdays, 1444  
Sundays, and any legal holiday as defined in section 1.14 of the 1445  
Revised Code, after receipt of the notification, notify the public 1446  
employer, by certified mail, return receipt requested, of the 1447  
alleged violation or danger. The notice provided to the public 1448  
employer or the public employer's agent shall contain a copy of 1449  
the notice provided to the ~~director~~ administrator by the public 1450  
employee or the public employee representative under division 1451  
(B)(1) of this section and shall inform the public employer of the 1452  
alleged violation or danger and that the ~~director~~ administrator or 1453  
the ~~director's~~ administrator's designee will investigate and 1454  
inspect the public employer's workplace as provided in this 1455  
section. The public employer must respond to the ~~director~~ 1456  
administrator, in a method determined by the ~~director~~ 1457  
administrator, concerning the alleged violation or danger, within 1458  
thirty days after receipt of the notice. If the public employer 1459

does not correct the violation or danger within the thirty-day 1460  
period or if the public employer fails to respond within that time 1461  
period, the ~~director~~ administrator or the ~~director's~~ 1462  
administrator's designee shall investigate and inspect the public 1463  
employer's workplace as provided in this section. The ~~director~~ 1464  
administrator or the ~~director's~~ administrator's designee shall not 1465  
conduct any inspection prior to the end of the thirty-day period 1466  
unless requested or permitted by the public employer. The ~~director~~ 1467  
administrator may, at any time upon the request of the public 1468  
employer, inspect and investigate any violation or danger alleged 1469  
to exist at the public employer's place of employment. 1470

(3) The authority of the ~~director~~ administrator or the 1471  
~~director's~~ administrator's designee to investigate and inspect a 1472  
premises pursuant to a public employee or public employee 1473  
representative notification is not limited to the alleged 1474  
violation or danger contained in the notification. The ~~director~~ 1475  
administrator or the ~~director's~~ administrator's designee may 1476  
investigate and inspect any other area of the premises where there 1477  
is reason to believe that a violation or danger exists. In 1478  
addition, if the ~~director~~ administrator or the ~~director's~~ 1479  
administrator's designee detects any obvious or apparent violation 1480  
at any temporary place of employment while en route to the 1481  
premises to be inspected or investigated, and that violation 1482  
presents a substantial probability that the condition or practice 1483  
could result in death or serious physical harm, the ~~director~~ 1484  
administrator or the ~~director's~~ administrator's designee may use 1485  
any of the enforcement mechanisms provided in this section to 1486  
correct or remove the condition or practice. 1487

(4) If, during an inspection or investigation, the ~~director~~ 1488  
administrator or the ~~director's~~ administrator's designee finds any 1489  
condition or practice in any place of employment that presents a 1490  
substantial probability that the condition or practice could 1491



result in death or serious physical harm, after notifying the 1492  
employer of the ~~director's~~ administrator's intent to issue an 1493  
order, the ~~director~~ administrator shall issue an order, or the 1494  
~~director's~~ administrator's designee shall issue an order after 1495  
consultation either by telephone or in person with the ~~director~~ 1496  
administrator and upon the recommendation of the ~~director~~ 1497  
administrator, which prohibits the employment of any public 1498  
employee or any continuing operation or process under such 1499  
condition or practice until necessary steps are taken to correct 1500  
or remove the condition or practice. The order shall not be 1501  
effective for more than fifteen days, unless a court of competent 1502  
jurisdiction otherwise orders as provided in section 4167.14 of 1503  
the Revised Code. 1504

(C) In making any inspections or investigations under this 1505  
chapter, the ~~director~~ administrator or the ~~director's~~ 1506  
administrator's designee may administer oaths and require, by 1507  
subpoena, the attendance and testimony of witnesses and the 1508  
production of evidence under oath. Witnesses shall receive the 1509  
same fees and mileage provided for witnesses in civil cases in the 1510  
court of common pleas. In the case of contumacy, failure, or 1511  
refusal of any person to comply with an order or any subpoena 1512  
lawfully issued, or upon the refusal of any witness to testify to 1513  
any matter regarding which the witness may lawfully be 1514  
interrogated, a judge of the court of common pleas of any county 1515  
in this state, on the application of the ~~director~~ administrator or 1516  
the ~~director's~~ administrator's designee, shall issue an order 1517  
requiring the person to appear and to produce evidence if, as, and 1518  
when so ordered, and to give testimony relating to the matter 1519  
under investigation or in question. The court may punish any 1520  
failure to obey the order of the court as a contempt thereof. 1521

(D) If, upon inspection or investigation, the ~~director~~ 1522  
administrator or the ~~director's~~ administrator's designee believes 1523

that a public employer has violated any requirement of this 1524  
chapter or any rule, Ohio employment risk reduction standard, or 1525  
order adopted or issued pursuant thereto, the ~~director~~ 1526  
administrator or the ~~director's~~ administrator's designee shall, 1527  
with reasonable promptness, issue a citation to the public 1528  
employer. The citation shall be in writing and describe with 1529  
particularity the nature of the alleged violation, including a 1530  
reference to the provision of law, Ohio employment risk reduction 1531  
standard, rule, or order alleged to have been violated. In 1532  
addition, the citation shall fix a time for the abatement of the 1533  
violation, as provided in division (H) of this section. The 1534  
~~director~~ administrator may prescribe procedures for the issuance 1535  
of a notice with respect to minor violations and for enforcement 1536  
of minor violations that have no direct or immediate relationship 1537  
to safety or health. 1538

(E) Upon receipt of any citation under this section, the 1539  
public employer shall immediately post the citation, or a copy 1540  
thereof, at or near each place an alleged violation referred to in 1541  
the citation occurred. 1542

(F) The ~~director~~ administrator may not issue a citation under 1543  
this section after the expiration of six months following the 1544  
final occurrence of any violation. 1545

(G) If the ~~director~~ administrator issues a citation pursuant 1546  
to this section, the ~~director~~ administrator shall mail the 1547  
citation to the public employer by certified mail, return receipt 1548  
requested. The public employer has fourteen days after receipt of 1549  
the citation within which to notify the ~~director~~ administrator 1550  
that the employer wishes to contest the citation. If the employer 1551  
notifies the ~~director~~ administrator within the fourteen days that 1552  
the employer wishes to contest the citation, or if within fourteen 1553  
days after the issuance of a citation a public employee or public 1554  
employee representative files notice that the time period fixed in 1555

the citation for the abatement of the violation is unreasonable, 1556  
the ~~director~~ administrator shall hold an adjudication hearing in 1557  
accordance with Chapter 119. of the Revised Code. 1558

(H) In establishing the time limits in which a public 1559  
employer must abate a violation under this section, the ~~director~~ 1560  
administrator shall consider the costs to the public employer, the 1561  
size and financial resources of the public employer, the severity 1562  
of the violation, the technological feasibility of the public 1563  
employer's ability to comply with requirements of the citation, 1564  
the possible present and future detriment to the health and safety 1565  
of any public employee for failure of the public employer to 1566  
comply with requirements of the citation, and such other factors 1567  
as the ~~director~~ administrator determines appropriate. The ~~director~~ 1568  
administrator may, after considering the above factors, permit the 1569  
public employer to comply with the citation over a period of up to 1570  
two years and may extend that period an additional one year, as 1571  
the ~~director~~ administrator determines appropriate. 1572

(I) Any public employer may request the ~~director~~ 1573  
administrator to conduct an employment risk reduction inspection 1574  
of the public employer's place of employment. The ~~director~~ 1575  
administrator or the ~~director's~~ administrator's designee shall 1576  
conduct the inspection within a reasonable amount of time 1577  
following the request. Neither the ~~director~~ administrator nor any 1578  
other person may use any information obtained from the inspection 1579  
for a period not to exceed three years in any proceeding for a 1580  
violation of this chapter or any rule or order issued thereunder 1581  
nor in any other action in any court in this state. 1582

**Sec. 4167.11.** (A) In order to further the purposes of this 1583  
chapter, the ~~director of commerce~~ administrator of workers' 1584  
compensation shall develop and maintain, for public employers and 1585  
public employees, an effective program of collection, compilation, 1586

and analysis of employment risk reduction statistics. 1587

(B) To implement and maintain division (A) of this section, 1588  
the ~~public employment risk reduction advisory~~ administrator, with 1589  
the advice and consent of the workers' compensation oversight 1590  
commission, shall adopt rules in accordance with Chapter 119. of 1591  
the Revised Code that extend to all of the following: 1592

(1) Requiring each public employer to make, keep, and 1593  
preserve, and make available to the ~~director~~ administrator, 1594  
reports and records regarding the public employer's activities, as 1595  
determined by the rule that are necessary or appropriate for the 1596  
enforcement of this chapter or for developing information 1597  
regarding the causes and prevention of occupational accidents and 1598  
illnesses. The rule shall prescribe which of these reports and 1599  
records shall or may be furnished to public employees and public 1600  
employee representatives. 1601

(2) Requiring every public employer, through posting of 1602  
notices or other appropriate means, to keep their public employees 1603  
informed of public employees' rights and obligations under this 1604  
chapter, including the provisions of applicable Ohio employment 1605  
risk reduction standards; 1606

(3) Requiring public employers to maintain accurate records 1607  
of public employee exposure to potentially toxic materials, 1608  
carcinogenic materials, and harmful physical agents that are 1609  
required to be monitored or measured under rules adopted under the 1610  
guidelines of division (C) of section 4167.07 of the Revised Code. 1611  
The rule shall provide public employees or public employee 1612  
representatives an opportunity to observe the monitoring or 1613  
measuring, and to have access on request to the records thereof, 1614  
and may provide public employees or public employee 1615  
representatives an opportunity to participate in and to undertake 1616  
their own monitoring or measuring. The rules also shall permit 1617  
each current or former public employee to have access to the 1618

records that indicate their own exposure to toxic materials, 1619  
carcinogenic materials, or harmful agents. 1620

(C) The ~~director~~ administrator shall obtain any information 1621  
under division (B) of this section with a minimum burden upon the 1622  
public employer and shall, to the maximum extent feasible, reduce 1623  
unnecessary duplication of efforts in obtaining the information. 1624

**Sec. 4167.12.** All information reported to or otherwise 1625  
obtained by the ~~director of commerce~~ administrator of workers' 1626  
compensation or the ~~director's~~ administrator's designee in 1627  
connection with any investigation, inspection, or proceeding under 1628  
this chapter that reveals a trade secret of any person is 1629  
confidential, except that the information may be disclosed to 1630  
other agents or authorized representatives of the ~~director~~ 1631  
administrator concerned with fulfilling the requirements of this 1632  
chapter, or when relevant, to any proceeding under this chapter. 1633  
In any proceeding, the ~~director~~ administrator or the court shall 1634  
issue orders as appropriate to protect the confidentiality of 1635  
trade secrets. 1636

**Sec. 4167.14.** (A) Any court of common pleas has jurisdiction, 1637  
upon petition of the ~~director of commerce~~ administrator of 1638  
workers' compensation, to restrain any conditions or practices in 1639  
any places of employment that present a danger that could 1640  
reasonably be expected to cause death or serious harm or 1641  
contribute significantly to occupationally related illness 1642  
immediately or before the imminence of the danger can be 1643  
eliminated through the enforcement procedures provided in this 1644  
chapter. Any order issued under this section may require that 1645  
steps be taken as necessary to avoid, correct, or remove the 1646  
imminent danger and prohibit the employment or presence of any 1647  
individual in locations or under conditions where the imminent 1648

danger exists, except individuals whose presence is necessary to 1649  
avoid, correct, or remove the imminent danger. 1650

(B) Upon the filing of a petition under division (A) of this 1651  
section, the court of common pleas may grant injunctive relief or 1652  
a temporary restraining order pending the outcome of an 1653  
enforcement proceeding pursuant to this chapter, except that no 1654  
temporary restraining order issued without notice is effective for 1655  
a period longer than five calendar days. 1656

(C) If the ~~director~~ administrator or the ~~director's~~ 1657  
administrator's designee responsible for inspections determines 1658  
that the imminent danger as described in division (A) of this 1659  
section is such that immediate action is necessary, and further 1660  
determines that there is not sufficient time in light of the 1661  
nature, severity, and imminence of the danger to seek and obtain a 1662  
temporary restraining order or injunction, the ~~director~~ 1663  
administrator or the ~~director's~~ administrator's designee 1664  
immediately shall file a petition with the court under division 1665  
(A) of this section and issue an order requiring action to be 1666  
taken as is necessary to avoid, correct, or remove the imminent 1667  
danger. 1668

The ~~public employment risk reduction advisory administrator,~~ 1669  
~~with the advice and consent of the workers' compensation oversight~~ 1670  
~~commission,~~ shall adopt rules, in accordance with Chapter 119. of 1671  
the Revised Code, to permit a public employer expeditious informal 1672  
reconsideration of any order issued by the ~~director~~ administrator 1673  
under this division. Unless the ~~director~~ administrator reverses an 1674  
order pursuant to the informal reconsideration, the order remains 1675  
in effect pending the court's determination under this section. If 1676  
the ~~director~~ administrator modifies an order pursuant to the 1677  
informal reconsideration, the ~~director~~ administrator shall provide 1678  
the court with whom the ~~director~~ administrator filed the petition 1679  
under this section with a copy of the modified order. The modified 1680

order remains in effect pending the court's determination under 1681  
this section. 1682

**Sec. 4167.15.** Any public employer, public employee, or public 1683  
employee representative affected by an order, rule, or Ohio 1684  
employment risk reduction standard proposed, adopted, or otherwise 1685  
issued pursuant to this chapter, may request, within fourteen days 1686  
after the proposal, adoption, or issuance of the order, rule, or 1687  
standard, a hearing from the ~~director of commerce~~ administrator of 1688  
workers' compensation. The ~~director~~ administrator, within fourteen 1689  
days after receipt of a request for a hearing, shall appoint a 1690  
hearing officer to make a determination as to the request. The 1691  
hearing officer, within fourteen days after the hearing officer's 1692  
appointment, shall hold a hearing in accordance with Chapter 119. 1693  
of the Revised Code and, within fourteen days after the hearing, 1694  
render a decision. A public employer, public employee, or public 1695  
employee representative may appeal the decision of the hearing 1696  
officer to the ~~director~~ administrator, provided that the appeal is 1697  
made within thirty days after the hearing officer issues the 1698  
decision. The decision of the hearing officer is final unless 1699  
appealed to the ~~director~~ administrator within the time period set 1700  
in this section or unless the ~~director~~ administrator, on the 1701  
~~director's~~ administrator's own motion, modifies or reverses the 1702  
decision within that time period. If a party fails to appeal the 1703  
decision of the hearing officer, the decision of the hearing 1704  
officer is not, for purposes of section 4167.16 of the Revised 1705  
Code, a final order of the ~~director~~ administrator and is not 1706  
appealable to court as provided in section 4167.16 of the Revised 1707  
Code, except that if the party fails to appeal the decision of the 1708  
hearing officer, and the ~~director~~ administrator modifies or 1709  
reverses the decision under this section, the decision of the 1710  
~~director~~ administrator is appealable to court pursuant to section 1711  
4167.16 of the Revised Code. 1712

Sec. 4167.16. (A) Any party who is adversely affected by a 1713  
final order of the ~~director of commerce~~ administrator of workers' 1714  
compensation issued pursuant to division (G) of section 4167.10 or 1715  
section 4167.15 of the Revised Code, and who has exhausted all 1716  
administrative appeals from such order may appeal the order, 1717  
within thirty days after the issuance of a final order, to the 1718  
court of common pleas of Franklin county or to the court of common 1719  
pleas of the county in which the alleged violation occurred. If 1720  
the court finds an undue hardship to the appellant will result 1721  
from the enforcement of the order pending determination of the 1722  
appeal, the court may grant a suspension of the order and fix the 1723  
terms thereof. 1724

(B)(1) The court shall conduct a hearing on the appeal filed 1725  
under division (A) of this section and shall give preference to 1726  
all proceedings under this section over all other civil cases, 1727  
irrespective of the position of the proceedings on the calendar of 1728  
the court. The hearing shall proceed as in the case of a civil 1729  
action, and the court shall determine the rights of the parties in 1730  
accordance with the laws applicable to the action. 1731

(2) The court shall affirm the order of the ~~director~~ 1732  
administrator if it finds, upon consideration of the record as a 1733  
whole, and additional evidence as the court has admitted, that the 1734  
order is supported by reliable, probative, and substantial 1735  
evidence and is in accordance with law. In absence of that 1736  
finding, the court shall reverse, vacate, or modify the order or 1737  
make such other ruling as is supported by reliable, probative, and 1738  
substantial evidence and is in accordance with law. The judgment 1739  
of the court is final and conclusive, unless reversed, vacated, or 1740  
modified on appeal. Any party may appeal as provided in Chapter 1741  
2505. of the Revised Code. 1742

(C) No person who has failed to exhaust all of the 1743



administrative appeals provided in this chapter may file an appeal 1744  
of a final order of the ~~director~~ administrator under division (A) 1745  
of this section. 1746

**Sec. 4167.17.** (A) If a public employer, public employee, or 1747  
public employee representative willfully fails to comply with any 1748  
final order of the ~~director of commerce~~ administrator of workers' 1749  
compensation issued pursuant to this chapter, the ~~director~~ 1750  
administrator may apply to the court of common pleas of Franklin 1751  
county or the court of common pleas of the county in which the 1752  
violation occurred, for an injunction, restraining order, or any 1753  
other appropriate relief compelling the public employer, public 1754  
employee, or public employee representative to comply with such 1755  
order. The court shall order such relief as it considers 1756  
appropriate and shall, in addition, impose a civil penalty of not 1757  
more than five hundred dollars per day per violation and not to 1758  
exceed a total of ten thousand dollars per violation. 1759

(B) The ~~director~~ administrator shall not seek to enforce this 1760  
chapter, or any Ohio employment risk reduction standard, rule, or 1761  
order adopted or issued pursuant thereto, in any manner that 1762  
derogates from the immunity offered to a public employer by 1763  
variances obtained under this chapter, or by variations, 1764  
tolerance, or exemption allowed a public employer for reasons of 1765  
national defense by the United States secretary of labor pursuant 1766  
to section 16 of the "Occupational Safety and Health Act of 1970," 1767  
84 Stat. 1590, 29 U.S.C.A. 651, as amended. 1768

**Sec. 4167.19.** (A) A public employer, other than a state 1769  
agency, may apply to the ~~director of commerce~~ administrator of 1770  
workers' compensation for an order exempting the public employer 1771  
from compliance with this chapter, except as provided in division 1772  
(K) of this section, if the public employer satisfies both of the 1773

following criteria: 1774

(1) The public employer is a member of a group that qualifies 1775  
for a group rating plan pursuant to division (A)(4) of section 1776  
4123.29 of the Revised Code or the public employer's premium rate 1777  
is at least fifty per cent less than the base rate for its 1778  
workers' compensation premiums; 1779

(2) The public employer establishes and maintains a safety 1780  
committee with both public employees and representatives of the 1781  
public employer as members if the public employer does not qualify 1782  
for a group rating plan. A public employer that employs five or 1783  
fewer public employees need not have a safety committee. 1784

(B) The application shall be on a form prescribed by the 1785  
~~director~~ administrator and shall be transmitted to the ~~director~~ 1786  
administrator by certified mail, return receipt requested. The 1787  
application shall contain a certification of all of the following: 1788

(1) The public employer has adopted an ordinance or 1789  
resolution requesting an exemption from this chapter; 1790

(2) At least ten working days prior to passage of an 1791  
ordinance or resolution described in division (B)(1) of this 1792  
section, the public employer has informed its public employees of 1793  
the application by giving a copy of the application to the public 1794  
employee representative, if any; 1795

(3) The public employer has informed its public employees by 1796  
posting a statement for thirty consecutive days giving a summary 1797  
of the application and specifying where a copy of the application 1798  
may be examined at the place or places where notices to public 1799  
employees are normally posted, and by any other appropriate means 1800  
of public employee notification; 1801

(4) The public employer has informed its public employees of 1802  
their rights to a hearing under section 4167.15 of the Revised 1803  
Code. 1804

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

(C) Except as provided in this section, the ~~director~~  
administrator shall issue an order providing for an exemption if  
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.

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

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

Within thirty days after receipt of the plan from the public

employer, the ~~director~~ administrator may approve or disapprove the  
plan as submitted. If the ~~director~~ administrator approves the plan  
as submitted, the ~~director~~ administrator shall grant the public  
employer an exemption from this chapter, except as provided in  
division (K) of this section.

If the ~~director~~ administrator disapproves the plan, the  
~~director~~ administrator shall return it and the reasons for its  
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~~ 1867  
administrator under division (F)(2) of this section. 1868

(G) The ~~director~~ administrator shall inspect a public 1869  
employer's place of employment immediately after either of the 1870  
following occur: 1871

(1) A public employee of the public employer is killed due to 1872  
an incident that is related to the public employee's employment; 1873

(2) Three or more public employees of the public employer are 1874  
hospitalized due to an incident that is related to the public 1875  
employees' employment. 1876

After reviewing the inspection report, the ~~director~~ 1877  
administrator may require the public employer to submit to the 1878  
~~director~~ administrator, within a reasonable amount of time as 1879  
determined by the ~~director~~ administrator, a plan that describes 1880  
how the public employer intends to remedy any conditions described 1881  
in the report that the ~~director~~ administrator determines need to 1882  
be remedied. 1883

Nothing in this division constitutes the granting of a new 1884  
exemption for purposes of determining the seven-year expiration 1885  
date pursuant to division (H) of this section. 1886

(H) Except as provided in division (F) of this section, an 1887  
exemption granted pursuant to this section expires seven years 1888  
after the date of its issuance. A public employer may apply for a 1889  
subsequent exemption in the same manner provided in this section 1890  
for the grant of an original exemption. 1891

(I) Each public employer granted an exemption under this 1892  
section may request the superintendent of the division of safety 1893  
and hygiene in the bureau of workers' compensation to conduct a 1894  
safety inspection of the public employer's place of employment any 1895  
time during the exemption period. Based on this inspection, the 1896  
superintendent shall note any hazards or unsafe conditions and 1897

recommend abatement of these hazards and unsafe conditions. The 1898  
superintendent shall provide a copy of the report of the 1899  
inspection conducted pursuant to this division and any resulting 1900  
recommendations to the public employer. The ~~director~~ administrator 1901  
shall not cite the public employer for a violation of this chapter 1902  
due to a hazardous or unsafe condition identified by the 1903  
superintendent pursuant to this inspection. 1904

(J) Notwithstanding any other provision of this chapter, a 1905  
public employer who meets the requirements of division (A) of this 1906  
section and files an application that meets the requirements of 1907  
division (B) of this section is not subject to this chapter, 1908  
except section 4167.06 of the Revised Code and division (G) of 1909  
this section, after the date on which the public employer meets 1910  
the requirements of division (A) of this section and files an 1911  
application that meets the requirements of division (B) of this 1912  
section until the ~~director~~ administrator determines whether to 1913  
grant the exemption under this section. 1914

(K) Nothing in this section limits, or shall be construed as 1915  
limiting, a public employee's rights as provided in section 1916  
4167.06 of the Revised Code. Nothing in this section limits, or 1917  
shall be construed as limiting, a public employer's right to adopt 1918  
reasonable safety rules and require a public employee's compliance 1919  
with those rules. 1920

A public employer who is granted an exemption under this 1921  
section shall not be exempt from divisions (G), (H), and (I) of 1922  
this section. 1923

**Sec. 4167.27.** (A) The ~~public employment risk reduction~~ 1924  
~~advisory commission~~ administrator of workers' compensation shall 1925  
adopt a rule and Ohio employment risk reduction standard for the 1926  
prevention of exposure incidents. The initial rule and standard 1927  
shall be adopted not later than one hundred eighty days after 1928

|  |                                     |             |    |                |      |
|--|-------------------------------------|-------------|----|----------------|------|
| October 5, 2000.   |                                     |             |    |                | 1929 |
| (B) The <del>commission</del> <u>administrator</u> shall provide advice to |                                     |             |    |                | 1930 |
| public employers with regard to their implementation of the                |                                     |             |    |                | 1931 |
| requirements established by the rule and standard adopted under            |                                     |             |    |                | 1932 |
| this section and the requirements of section 4167.28 of the                |                                     |             |    |                | 1933 |
| Revised Code.  |                                     |             |    |                | 1934 |
| <b>Section 2.</b> That existing sections 121.08, 4121.12, 4121.121,        |                                     |             |    |                | 1935 |
| 4121.37, 4123.511, 4167.02, 4167.06, 4167.07, 4167.08, 4167.09,            |                                     |             |    |                | 1936 |
| 4167.10, 4167.11, 4167.12, 4167.14, 4167.15, 4167.16, 4167.17,             |                                     |             |    |                | 1937 |
| 4167.19, and 4167.27 and section 4167.18 of the Revised Code are           |                                     |             |    |                | 1938 |
| hereby repealed.   |                                     |             |    |                | 1939 |
| <b>Section 3.</b> All items in this section are hereby appropriated        |                                     |             |    |                | 1940 |
| out of any moneys in the state treasury to the credit of the               |                                     |             |    |                | 1941 |
| designated fund. For all appropriations made in this act, those in         |                                     |             |    |                | 1942 |
| the first column are for fiscal year 2006, and those in the second         |                                     |             |    |                | 1943 |
| column are for fiscal year 2007.   |                                     |             |    |                | 1944 |
| FND AI   | AI TITLE                            |             |    | Appropriations | 1945 |
|  | BWC BUREAU OF WORKERS' COMPENSATION |             |    |                | 1946 |
| Workers' Compensation Fund Group   |                                     |             |    |                | 1947 |
| 023 855-401 William Green Lease  | \$                                  | 19,736,600  | \$ | 20,125,900     | 1948 |
| Payments to OBA  |                                     |             |    |                |      |
| 023 855-407 Claims, Risk & Medical   | \$                                  | 140,052,037 | \$ | 140,052,037    | 1949 |
| Management   |                                     |             |    |                |      |
| 023 855-408 Fraud Prevention   | \$                                  | 11,713,797  | \$ | 11,713,797     | 1950 |
| 023 855-409 Administrative   | \$                                  | 119,246,553 | \$ | 119,246,553    | 1951 |
| Services   |                                     |             |    |                |      |
| 023 855-410 Attorney General   | \$                                  | 4,314,644   | \$ | 4,314,644      | 1952 |
| Payments   |                                     |             |    |                |      |
| 822 855-606 Coal Workers' Fund   | \$                                  | 91,894      | \$ | 91,894         | 1953 |
| 823 855-608 Marine Industry  | \$                                  | 53,952      | \$ | 53,952         | 1954 |

|     |         |                                    |    |             |    |             |      |
|-----|---------|------------------------------------|----|-------------|----|-------------|------|
| 825 | 855-605 | Disabled Workers                   | \$ | 693,764     | \$ | 693,764     | 1955 |
|     |         | Relief Fund                        |    |             |    |             |      |
| 826 | 855-609 | Safety & Hygiene                   | \$ | 20,130,820  | \$ | 20,130,820  | 1956 |
|     |         | Operating                          |    |             |    |             |      |
| 826 | 855-610 | Safety Grants Program              | \$ | 4,000,000   | \$ | 4,000,000   | 1957 |
|     |         | TOTAL WCF Workers' Compensation    |    |             |    |             | 1958 |
|     |         | Fund Group                         | \$ | 320,034,061 | \$ | 320,423,361 | 1959 |
|     |         | Federal Special Revenue Fund Group |    |             |    |             | 1960 |
| 349 | 855-601 | OSHA Enforcement                   | \$ | 1,527,750   | \$ | 1,604,140   | 1961 |
|     |         | TOTAL FED Federal Special Revenue  | \$ | 1,527,750   | \$ | 1,604,140   | 1962 |
|     |         | Fund Group                         |    |             |    |             |      |
|     |         | TOTAL ALL BUDGET FUND GROUPS       | \$ | 321,561,811 | \$ | 322,027,501 | 1963 |

WILLIAM GREEN LEASE PAYMENTS 1964

The foregoing appropriation item 855-401, William Green Lease 1965  
Payments to OBA, shall be used for lease payments to the Ohio 1966  
Building Authority, and these appropriations shall be used to meet 1967  
all payments at the times they are required to be made during the 1968  
period from July 1, 2005, to June 30, 2007, by the Bureau of 1969  
Workers' Compensation to the Ohio Building Authority pursuant to 1970  
leases and agreements made under Chapter 152. of the Revised Code 1971  
and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. 1972  
Of the amounts received in Fund 023, appropriation item 855-401, 1973  
up to \$39,862,500 shall be restricted for lease rental payments to 1974  
the Ohio Building Authority. If it is determined that additional 1975  
appropriations are necessary for such purpose, such amounts are 1976  
hereby appropriated. 1977

Notwithstanding any other provision of law to the contrary, 1978  
all tenants of the William Green Building not funded by the 1979  
Workers' Compensation Fund (Fund 023) shall pay their fair share 1980  
of the costs of lease payments to the Workers' Compensation Fund 1981  
(Fund 023) by intrastate transfer voucher. 1982



WORKERS' COMPENSATION FRAUD UNIT 1983

The Workers' Compensation Section Fund (Fund 195) shall 1984  
receive payments from the Bureau of Workers' Compensation at the 1985  
beginning of each quarter of each fiscal year to fund expenses of 1986  
the Workers' Compensation Fraud Unit of the Attorney General's 1987  
Office. Of the foregoing appropriation item 855-410, Attorney 1988  
General Payments, \$773,151 in fiscal year 2006 and \$773,151 in 1989  
fiscal year 2007 shall be used to provide these payments. 1990

SAFETY AND HYGIENE 1991

Notwithstanding section 4121.37 of the Revised Code, the 1992  
Administrator of Workers' Compensation shall transfer moneys from 1993  
the State Insurance Fund so that appropriation item 855-609, 1994  
Safety and Hygiene Operating, is provided \$20,130,820 in fiscal 1995  
year 2006 and \$20,130,820 in fiscal year 2007. 1996

LONG-TERM CARE LOAN FUND 1997

Upon the request of the Administrator of the Bureau of 1998  
Workers' Compensation and with the advice and consent of the 1999  
Bureau of Workers' Compensation Oversight Commission, the Director 2000  
of Budget and Management shall transfer cash in the amounts 2001  
requested from the Safety and Hygiene Operating Fund (Fund 826) to 2002  
the Long-Term Care Loan Fund (Fund 829) created in section 4121.48 2003  
of the Revised Code. The amounts transferred are hereby 2004  
appropriated. 2005

OSHA ON-SITE CONSULTATION PROGRAM 2006

The Bureau of Workers' Compensation may designate a portion 2007  
of appropriation item 855-609, Safety and Hygiene Operating, to be 2008  
used to match federal funding for the federal Occupational Safety 2009  
and Health Administration's (OSHA) on-site consultation program. 2010

VOCATIONAL REHABILITATION 2011

The Bureau of Workers' Compensation and the Rehabilitation 2012

Services Commission shall enter into an interagency agreement for  
the provision of vocational rehabilitation services and staff to  
mutually eligible clients. The bureau shall provide \$587,774 in  
fiscal year 2006 and \$605,407 in fiscal year 2007 from the State  
Insurance Fund to fund vocational rehabilitation services and  
staff in accordance with the interagency agreement.

FUND BALANCE

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

OSHA ENFORCEMENT FUND TRANSFER

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

**Section 4.** (A) Notwithstanding any provision of law to the  
contrary, the Director of Budget and Management is authorized to

take the actions described under this section. The Director of 2043  
Budget and Management may make any transfers of cash balances 2044  
between funds made necessary by the administrative reorganization, 2045  
program transfers, creation of new funds, and the consolidation of 2046  
funds that are authorized by this act. At the request of the 2047  
Office of Budget and Management, the administering agency head 2048  
shall certify to the Director of Budget and Management the amount 2049  
or an estimate of the amount of the cash balance to be transferred 2050  
to the receiving fund. The Director may transfer the amount or the 2051  
estimate of the amount when needed to make payments. Not more than 2052  
thirty days after certifying an estimated amount, the 2053  
administering agency head shall certify the final amount to the 2054  
Director. The Director shall then transfer the difference between 2055  
any estimated amount previously transferred and the certified 2056  
final amount. 2057

(B) On July 1, 2005: 2058

(1) The functions of the Department of Commerce, Division of 2059  
Labor and Worker Safety, conducted pursuant to Chapter 4167. of 2060  
the Revised Code, and all agreements with the federal Occupational 2061  
Safety and Health Administration's (OSHA) on-site consultation 2062  
program, are transferred to the Bureau of Workers' Compensation, 2063  
together with all assets, liabilities, capital spending authority, 2064  
equipment, and records, regardless of their form or medium, that 2065  
relate to those functions and agreements. The Bureau of Workers' 2066  
Compensation assumes these functions. 2067

(2) Business commenced but not completed pursuant to Chapter 2068  
4167. of the Revised Code by the Director or the Department of 2069  
Commerce, Division of Labor and Worker Safety, and any agreements 2070  
with OSHA's on-site consultation program that are in effect, shall 2071  
be completed by the Administrator or the Bureau of Workers' 2072  
Compensation in the same manner, and with the same effect, as if 2073  
completed by the Director or the Department of Commerce, Division 2074

of Labor and Worker Safety. 2075

(3) All of the rules, orders, and determinations enacted or 2076  
adopted by the Department of Commerce, Division of Labor and 2077  
Worker Safety, that relate to the transfer of functions required 2078  
by this section shall continue in effect as rules, orders, and 2079  
determinations of the Bureau of Workers' Compensation until 2080  
modified or rescinded by the Bureau of Workers' Compensation. If 2081  
necessary to ensure the integrity of the numbering of the 2082  
Administrative Code, the Director of the Legislative Service 2083  
Commission shall renumber the rules of the Department of Commerce, 2084  
Division of Labor and Worker Safety, enacted or adopted pursuant 2085  
to Chapter 4167. of the Revised Code to reflect their transfer to 2086  
the Bureau of Workers' Compensation. 2087

(4) Subject to the layoff provisions of sections 124.321 to 2088  
124.328 of the Revised Code, all employees of the Department of 2089  
Commerce, Division of Labor and Worker Safety, who perform 2090  
functions pursuant to Chapter 4167. of the Revised Code or to 2091  
agreements with the federal Occupational Safety and Health 2092  
Administration related to OSHA's on-site consultation program, are 2093  
hereby transferred to the Bureau of Workers' Compensation. The 2094  
vehicles and equipment assigned to these employees are also 2095  
transferred to the Bureau of Workers' Compensation. 2096

(C) No validation, cure, right, privilege, remedy, 2097  
obligation, or liability is lost or impaired by reason of the 2098  
transfer of functions required by this section, and all shall be 2099  
administered by the Bureau of Workers' Compensation. 2100

(D) No action or proceeding pending as of the effective date 2101  
of this section is affected by the transfer of functions required 2102  
by this section, and shall be recognized, prosecuted, or defended 2103  
in the name of the Administrator of Workers' Compensation. In all 2104  
such actions, the Administrator or the Bureau of Workers' 2105

Compensation, upon application to the court, shall be substituted  
as a party.

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

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

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

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

|   |      |
|---|------|
| Section 8. An item that composes the whole or part of an          | 2136 |
| uncodified section contained in this act has no effect after June | 2137 |
| 30, 2007, unless the context clearly indicates otherwise.         | 2138 |