

As Passed by the Senate

**128th General Assembly
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Sub. H. B. No. 15

Representative Sykes

**Cosponsors: Representatives Dodd, Bolon, Boyd, DeBose, Domenick, Dyer,
Foley, Harris, Koziura, Letson, Luckie, Mallory, Moran, Stewart, Szollosi,
Ujvagi, Weddington, Williams, B., Williams, S., Yates, Yuko
Senators Buehrer, Faber, Gibbs, Grendell, Niehaus, Harris**

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A B I L L

To amend sections 121.52, 4121.12, 4121.125, 4121.62, 1
4121.70, 4121.75, 4123.29, 4123.34, 4123.35, and 2
4123.82 of the Revised Code and to amend Section 3
512.45 of Am. Sub. H.B. 100 of the 127th General 4
Assembly to create the Deputy Inspector General 5
for the Bureau of Workers' Compensation and 6
Industrial Commission Fund; to create the 7
Competitive Workers' Compensation Task Force; to 8
make other changes to the Workers' Compensation 9
Law; to make appropriations for the Bureau of 10
Workers' Compensation and for the Workers' 11
Compensation Council for the biennium beginning 12
July 1, 2009, and ending June 30, 2011; and to 13
provide authorization and conditions for the 14
operation of the Bureau's and the Council's 15
programs. 16

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

Section 101. That sections 121.52, 4121.12, 4121.125, 17

4121.62, 4121.70, 4121.75, 4123.29, and 4123.34, 4123.35, and 18
4123.82 of the Revised Code be amended to read as follows: 19

Sec. 121.52. There is hereby created in the office of the 20
inspector general the office of deputy inspector general for the 21
bureau of workers' compensation and industrial commission. The 22
inspector general shall appoint the deputy inspector general, and 23
the deputy inspector general shall serve at the pleasure of the 24
inspector general. A person employed as the deputy inspector 25
general shall have the same qualifications as those specified in 26
section 121.49 of the Revised Code for the inspector general. The 27
inspector general shall provide professional and clerical 28
assistance to the deputy inspector general. 29

The deputy inspector general for the bureau of workers' 30
compensation and the industrial commission shall investigate 31
wrongful acts or omissions that have been committed by or are 32
being committed by officers or employees of the bureau of workers' 33
compensation and the industrial commission. The deputy inspector 34
general has the same powers and duties regarding matters 35
concerning the bureau and the commission as those specified in 36
sections 121.42, 121.43, and 121.45 of the Revised Code for the 37
inspector general. Complaints may be filed with the deputy 38
inspector general in the same manner as prescribed for complaints 39
filed with the inspector general under section 121.46 of the 40
Revised Code. All investigations conducted and reports issued by 41
the deputy inspector general are subject to section 121.44 of the 42
Revised Code. 43

There is hereby created in the state treasury the deputy 44
inspector general for the bureau of workers' compensation and 45
industrial commission fund, which shall consist of moneys 46
deposited into it that the inspector general receives from the 47
administrator of workers' compensation and receives from the 48

industrial commission in accordance with this section. The 49
inspector general shall use the fund to pay the costs incurred by 50
the deputy inspector general in performing the duties of the 51
deputy inspector general as required under this section. 52

The members of the industrial commission, bureau of workers' 53
compensation board of directors, workers' compensation audit 54
committee, workers' compensation actuarial committee, and workers' 55
compensation investment committee, and the administrator of 56
~~workers' compensation~~, and employees of the industrial commission 57
and the bureau shall cooperate with and provide assistance to the 58
deputy inspector general in the performance of any investigation 59
conducted by the deputy inspector general. In particular, those 60
persons shall make their premises, equipment, personnel, books, 61
records, and papers readily available to the deputy inspector 62
general. In the course of an investigation, the deputy inspector 63
general may question any person employed by the industrial 64
commission or the administrator and any person transacting 65
business with the industrial commission, the board, the audit 66
committee, the actuarial committee, the investment committee, the 67
administrator, or the bureau and may inspect and copy any books, 68
records, or papers in the possession of those persons or entities, 69
taking care to preserve the confidentiality of information 70
contained in responses to questions or the books, records, or 71
papers that are made confidential by law. 72

In performing any investigation, the deputy inspector general 73
shall avoid interfering with the ongoing operations of the 74
entities being investigated, except insofar as is reasonably 75
necessary to successfully complete the investigation. 76

At the conclusion of an investigation conducted by the deputy 77
inspector general for the bureau of workers' compensation and 78
industrial commission, the deputy inspector general shall deliver 79
to the board, the administrator, the industrial commission, and 80

the governor any case for which remedial action is necessary. The 81
deputy inspector general shall maintain a public record of the 82
activities of the office of the deputy inspector general to the 83
extent permitted under this section, ensuring that the rights of 84
the parties involved in each case are protected. The inspector 85
general shall include in the annual report required under section 86
121.48 of the Revised Code a summary of the activities of the 87
deputy inspector general during the previous year. 88

No person shall disclose any information that is designated 89
as confidential in accordance with section 121.44 of the Revised 90
Code or any confidential information that is acquired in the 91
course of an investigation conducted under this section ~~121.53~~ of 92
~~the Revised Code~~ to any person who is not legally entitled to 93
disclosure of that information. 94

Sec. 4121.12. (A) There is hereby created the bureau of 95
workers' compensation board of directors consisting of eleven 96
members to be appointed by the governor with the advice and 97
consent of the senate. One member shall be an individual who, on 98
account of the individual's previous vocation, employment, or 99
affiliations, can be classed as a representative of employees; two 100
members shall be individuals who, on account of their previous 101
vocation, employment, or affiliations, can be classed as 102
representatives of employee organizations and at least one of 103
these two individuals shall be a member of the executive committee 104
of the largest statewide labor federation; three members shall be 105
individuals who, on account of their previous vocation, 106
employment, or affiliations, can be classed as representatives of 107
employers, one of whom represents self-insuring employers, one of 108
whom is a state fund employer who employs one hundred or more 109
employees, and one of whom is a state fund employer who employs 110
less than one hundred employees; two members shall be individuals 111
who, on account of their vocation, employment, or affiliations, 112

can be classed as investment and securities experts who have 113
direct experience in the management, analysis, supervision, or 114
investment of assets and are residents of this state; one member 115
who shall be a certified public accountant; one member who shall 116
be an actuary who is a member in good standing with the American 117
academy of actuaries or who is an associate or fellow with the 118
society of actuaries; and one member shall represent the public 119
and also be an individual who, on account of the individual's 120
previous vocation, employment, or affiliations, cannot be classed 121
as either predominantly representative of employees or of 122
employers. The governor shall select the chairperson of the board 123
who shall serve as chairperson at the pleasure of the governor. 124

None of the members of the board, within one year immediately 125
preceding the member's appointment, shall have been employed by 126
the bureau of workers' compensation or by any person, partnership, 127
or corporation that has provided to the bureau services of a 128
financial or investment nature, including the management, 129
analysis, supervision, or investment of assets. 130

(B) Of the initial appointments made to the board, the 131
governor shall appoint the member who represents employees, one 132
member who represents employers, and the member who represents the 133
public to a term ending one year after ~~the effective date of this~~ 134
~~amendment~~ June 11, 2007; one member who represents employers, one 135
member who represents employee organizations, one member who is an 136
investment and securities expert, and the member who is a 137
certified public accountant to a term ending two years after ~~the~~ 138
~~effective date of this amendment~~ June 11, 2007; and one member who 139
represents employers, one member who represents employee 140
organizations, one member who is an investment and securities 141
expert, and the member who is an actuary to a term ending three 142
years after ~~the effective date of this amendment~~ June 11, 2007. 143
Thereafter, terms of office shall be for three years, with each 144

term ending on the same day of the same month as did the term that 145
it succeeds. Each member shall hold office from the date of the 146
member's appointment until the end of the term for which the 147
member was appointed. 148

Members may be reappointed. Any member appointed to fill a 149
vacancy occurring prior to the expiration date of the term for 150
which the member's predecessor was appointed shall hold office as 151
a member for the remainder of that term. A member shall continue 152
in office subsequent to the expiration date of the member's term 153
until a successor takes office or until a period of sixty days has 154
elapsed, whichever occurs first. 155

(C) In making appointments to the board, the governor shall 156
select the members from the list of names submitted by the 157
workers' compensation board of directors nominating committee 158
pursuant to this division. The nominating committee shall submit 159
to the governor a list containing four separate names for each of 160
the members on the board. Within fourteen days after the 161
submission of the list, the governor shall appoint individuals 162
from the list. 163

~~Within sixty~~ At least thirty days after ~~prior to~~ a vacancy 164
occurring as a result of the expiration of a term and within 165
thirty days after other vacancies occurring on the board, the 166
nominating committee shall submit an initial list containing four 167
names for each vacancy. Within fourteen days after the submission 168
of the initial list, the governor either shall appoint individuals 169
from that list or request the nominating committee to submit 170
another list of four names for each member the governor has not 171
appointed from the initial list, which list the nominating 172
committee shall submit to the governor within fourteen days after 173
the governor's request. The governor then shall appoint, within 174
seven days after the submission of the second list, one of the 175
individuals from either list to fill the vacancy for which the 176

governor has not made an appointment from the initial list. If the 177
governor appoints an individual to fill a vacancy occurring as a 178
result of the expiration of a term, the individual appointed shall 179
begin serving as a member of the board when the term for which the 180
individual's predecessor was appointed expires or immediately upon 181
appointment by the governor, whichever occurs later. With respect 182
to the filling of vacancies, the nominating committee shall 183
provide the governor with a list of four individuals who are, in 184
the judgment of the nominating committee, the most fully qualified 185
to accede to membership on the board. 186

In order for the name of an individual to be submitted to the 187
governor under this division, the nominating committee shall 188
approve the individual by an affirmative vote of a majority of its 189
members. 190
191

(D) All members of the board shall receive their reasonable 192
and necessary expenses pursuant to section 126.31 of the Revised 193
Code while engaged in the performance of their duties as members 194
and also shall receive an annual salary not to exceed sixty 195
thousand dollars in total, payable on the following basis: 196

(1) Except as provided in division (D)(2) of this section, a 197
member shall receive two thousand five hundred dollars during a 198
month in which the member attends one or more meetings of the 199
board and shall receive no payment during a month in which the 200
member attends no meeting of the board. 201

(2) A member may receive no more than thirty thousand dollars 202
per year to compensate the member for attending meetings of the 203
board, regardless of the number of meetings held by the board 204
during a year or the number of meetings in excess of twelve within 205
a year that the member attends. 206

(3) Except as provided in division (D)(4) of this section, if 207

a member serves on the workers' compensation audit committee, 208
workers' compensation actuarial committee, or the workers' 209
compensation investment committee, the member shall receive two 210
thousand five hundred dollars during a month in which the member 211
attends one or more meetings of the committee on which the member 212
serves and shall receive no payment during any month in which the 213
member attends no meeting of that committee. 214

(4) A member may receive no more than thirty thousand dollars 215
per year to compensate the member for attending meetings of any of 216
the committees specified in division (D)(3) of this section, 217
regardless of the number of meetings held by a committee during a 218
year or the number of committees on which a member serves. 219

The chairperson of the board shall set the meeting dates of 220
the board as necessary to perform the duties of the board under 221
this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of 222
the Revised Code. The board shall meet at least twelve times a 223
year. The administrator of workers' compensation shall provide 224
professional and clerical assistance to the board, as the board 225
considers appropriate. 226

(E) Before entering upon the duties of office, each appointed 227
member of the board shall take an oath of office as required by 228
sections 3.22 and 3.23 of the Revised Code and file in the office 229
of the secretary of state the bond required under section 4121.127 230
of the Revised Code. 231

(F) The board shall: 232

(1) Establish the overall administrative policy for the 233
bureau for the purposes of this chapter and Chapters 4123., 4125., 234
4127., 4131., and 4167. of the Revised Code; 235

(2) Review progress of the bureau in meeting its cost and 236
quality objectives and in complying with this chapter and Chapters 237
4123., 4125., 4127., 4131., and 4167. of the Revised Code; 238

(3) Submit an annual report to the president of the senate,	239
the speaker of the house of representatives, the governor, and the	240
workers' compensation council and include all of the following in	241
that report:	242
(a) An evaluation of the cost and quality objectives of the	243
bureau;	244
(b) A statement of the net assets available for the provision	245
of compensation and benefits under this chapter and Chapters	246
4123., 4127., and 4131. of the Revised Code as of the last day of	247
the fiscal year;	248
(c) A statement of any changes that occurred in the net	249
assets available, including employer premiums and net investment	250
income, for the provision of compensation and benefits and payment	251
of administrative expenses, between the first and last day of the	252
fiscal year immediately preceding the date of the report;	253
(d) The following information for each of the six consecutive	254
fiscal years occurring previous to the report:	255
(i) A schedule of the net assets available for compensation	256
and benefits;	257
(ii) The annual cost of the payment of compensation and	258
benefits;	259
(iii) Annual administrative expenses incurred;	260
(iv) Annual employer premiums allocated for the provision of	261
compensation and benefits.	262
(e) A description of any significant changes that occurred	263
during the six years for which the board provided the information	264
required under division (F)(3)(d) of this section that affect the	265
ability of the board to compare that information from year to	266
year.	267
(4) Review all independent financial audits of the bureau.	268

The administrator shall provide access to records of the bureau to facilitate the review required under this division.	269 270
(5) Study issues as requested by the administrator or the governor;	271 272
(6) Contract with all of the following:	273
(a) An independent actuarial firm to assist the board in making recommendations to the administrator regarding premium rates;	274 275 276
(b) An outside investment counsel to assist the workers' compensation investment committee in fulfilling its duties;	277 278
(c) An independent fiduciary counsel to assist the board in the performance of its duties.	279 280
(7) Approve the investment policy developed by the workers' compensation investment committee pursuant to section 4121.129 of the Revised Code if the policy satisfies the requirements specified in section 4123.442 of the Revised Code.	281 282 283 284
(8) Review and publish the investment policy no less than annually and make copies available to interested parties.	285 286
(9) Prohibit, on a prospective basis, any specific investment it finds to be contrary to the investment policy approved by the board.	287 288 289
(10) Vote to open each investment class and allow the administrator to invest in an investment class only if the board, by a majority vote, opens that class;	290 291 292
(11) After opening a class but prior to the administrator investing in that class, adopt rules establishing due diligence standards for employees of the bureau to follow when investing in that class and establish policies and procedures to review and monitor the performance and value of each investment class;	293 294 295 296 297
(12) Submit a report annually on the performance and value of	298

each investment class to the governor, the president and minority leader of the senate, ~~and~~ the speaker and minority leader of the house of representatives, and the workers' compensation council.

(13) Advise and consent on all of the following:

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

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

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

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

As used in this division, "public health care worker" and "exposure incident" have the same meanings as in section 4167.25 of the Revised Code.

(14) Perform all duties required under this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(15) Meet with the governor on an annual basis to discuss the administrator's performance of the duties specified in this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(16) Develop and participate in a bureau of workers'

compensation board of directors education program that consists of	329
all of the following:	330
(a) An orientation component for newly appointed members;	331
(b) A continuing education component for board members who have served for at least one year;	332 333
(c) A curriculum that includes education about each of the following topics:	334 335
(i) Board member duties and responsibilities;	336
(ii) Compensation and benefits paid pursuant to this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;	337 338
(iii) Ethics;	339
(iv) Governance processes and procedures;	340
(v) Actuarial soundness;	341
(vi) Investments;	342
(vii) Any other subject matter the board believes is reasonably related to the duties of a board member.	343 344
(17) Submit the program developed pursuant to division (F)(16) of this section to the workers' compensation council for approval;	345 346 347
(18) Hold all sessions, classes, and other events for the program developed pursuant to division (F)(16) of this section in this state.	348 349 350
(G) The board may do both of the following:	351
(1) Vote to close any investment class;	352
(2) Create any committees in addition to the workers' compensation audit committee, the workers' compensation actuarial committee, and the workers' compensation investment committee that the board determines are necessary to assist the board in	353 354 355 356

performing its duties. 357

(H) The office of a member of the board who is convicted of 358
or pleads guilty to a felony, a theft offense as defined in 359
section 2913.01 of the Revised Code, or a violation of section 360
102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 361
2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be 362
deemed vacant. The vacancy shall be filled in the same manner as 363
the original appointment. A person who has pleaded guilty to or 364
been convicted of an offense of that nature is ineligible to be a 365
member of the board. A member who receives a bill of indictment 366
for any of the offenses specified in this section shall be 367
automatically suspended from the board pending resolution of the 368
criminal matter. 369

(I) For the purposes of division (G)(1) of section 121.22 of 370
the Revised Code, the meeting between the governor and the board 371
to review the administrator's performance as required under 372
division (F)(15) of this section shall be considered a meeting 373
regarding the employment of the administrator. 374

Sec. 4121.125. (A) The bureau of workers' compensation board 375
of directors, based upon recommendations of the workers' 376
compensation actuarial committee, may contract with one or more 377
outside actuarial firms and other professional persons, as the 378
board determines necessary, to assist the board in measuring the 379
performance of Ohio's workers' compensation system and in 380
comparing Ohio's workers' compensation system to other state and 381
private workers' compensation systems. The board, actuarial firm 382
or firms, and professional persons shall make such measurements 383
and comparisons using accepted insurance industry standards, 384
including, but not limited to, standards promulgated by the 385
National Council on Compensation Insurance. 386

(B) The board may contract with one or more outside firms to 387

conduct management and financial audits of the workers' 388
compensation system, including audits of the reserve fund 389
belonging to the state insurance fund, and to establish objective 390
quality management principles and methods by which to review the 391
performance of the workers' compensation system. 392

(C) The board shall do all of the following: 393

(1) Contract to have prepared annually by or under the 394
supervision of an actuary a report that meets the requirements 395
specified under division (E) of this section and that consists of 396
an actuarial valuation of the assets, liabilities, and funding 397
requirements of the state insurance fund and all other funds 398
specified in this chapter and Chapters 4123., 4127., and 4131. of 399
the Revised Code; 400

(2) Require that the actuary or person supervised by an 401
actuary referred to in division (C)(1) of this section complete 402
the valuation in accordance with the actuarial standards of 403
practice promulgated by the actuarial standards board of the 404
American academy of actuaries; 405

(3) Submit the report referred to in division (C)(1) of this 406
section to the workers' compensation council and the standing 407
committees of the house of representatives and the senate with 408
primary responsibility for workers' compensation legislation ~~not~~ 409
~~later than~~ on or before the first day of ~~September~~ November 410
following the year for which the valuation was made; 411

(4) Have an actuary or a person who provides actuarial 412
services under the supervision of an actuary, at such time as the 413
board determines, and at least once during the five-year period 414
that commences on ~~the effective date of this amendment~~ September 415
10, 2007, and once within each five-year period thereafter, 416
conduct an actuarial investigation of the experience of employers, 417
the mortality, service, and injury rate of employees, and the 418

payment of temporary total disability, permanent partial 419
disability, and permanent total disability under sections 4123.56 420
to 4123.58 of the Revised Code to update the actuarial assumptions 421
used in the report required by division (C)(1) of this section; 422
423

(5) Submit the report required under division (F) of this 424
section to the council and the standing committees of the house of 425
representatives and the senate with primary responsibility for 426
workers' compensation legislation not later than the first day of 427
November following the fifth year of the period that the report 428
covers; 429

(6) Have prepared by or under the supervision of an actuary 430
an actuarial analysis of any introduced legislation expected to 431
have a measurable financial impact on the workers' compensation 432
system; 433

(7) Submit the report required under division (G) of this 434
section to the legislative service commission, the standing 435
committees of the house of representatives and the senate with 436
primary responsibility for workers' compensation legislation, and 437
the council not later than sixty days after the date of 438
introduction of the legislation. 439

(D) The administrator of workers' compensation and the 440
industrial commission shall compile information and provide access 441
to records of the bureau and the industrial commission to the 442
board to the extent necessary for fulfillment of both of the 443
following requirements: 444

(1) Conduct of the measurements and comparisons described in 445
division (A) of this section; 446

(2) Conduct of the management and financial audits and 447
establishment of the principles and methods described in division 448
(B) of this section. 449

(E) The firm or person with whom the board contracts pursuant to division (C)(1) of this section shall prepare a report of the valuation and submit the report to the board. The firm or person shall include all of the following information in the report that is required under division (C)(1) of this section:

(1) A summary of the compensation and benefit provisions evaluated;

(2) A summary of the census data and financial information used in the valuation;

(3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation;

(4) A summary of findings that includes a statement of the actuarial accrued compensation and benefit liabilities and unfunded actuarial accrued compensation and benefit liabilities;

(5) A schedule showing the effect of any changes in the compensation and benefit provisions, actuarial assumptions, or cost methods since the previous annual actuarial valuation report was submitted to the board.

(F) The actuary or person whom the board designates to conduct an actuarial investigation under division (C)(4) of this section shall prepare a report of the actuarial investigation and shall submit the report to the board. The actuary or person shall prepare the report and make any recommended changes in actuarial assumptions in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary or person shall include all of the following information in the report:

(1) A summary of relevant decrement and economic assumption experience;

(2) Recommended changes in actuarial assumptions to be used

in subsequent actuarial valuations required by division (C)(1) of 480
this section; 481

(3) A measurement of the financial effect of the recommended 482
changes in actuarial assumptions. 483

(G) The actuary or person whom the board designates to 484
conduct the actuarial analysis under division (C)(6) of this 485
section shall prepare a report of the actuarial analysis and shall 486
submit that report to the board. The actuary or person shall 487
complete the analysis in accordance with the actuarial standards 488
of practice promulgated by the actuarial standards board of the 489
American academy of actuaries. The actuary or person shall include 490
all of the following information in the report: 491

(1) A summary of the statutory changes being evaluated; 492

(2) A description of or reference to the actuarial 493
assumptions and actuarial cost method used in the report; 494

(3) A description of the participant group or groups included 495
in the report; 496

(4) A statement of the financial impact of the legislation, 497
including the resulting increase, if any, in employer premiums, in 498
actuarial accrued liabilities, and, if an increase in actuarial 499
accrued liabilities is predicted, the per cent of premium increase 500
that would be required to amortize the increase in those 501
liabilities as a level per cent of employer premiums over a period 502
not to exceed thirty years. 503

(5) A statement of whether the employer premiums paid to the 504
bureau of workers' compensation after the proposed change is 505
enacted are expected to be sufficient to satisfy the funding 506
objectives established by the board. 507

(H) The board may, at any time, request an actuary to make 508
any studies or actuarial valuations to determine the adequacy of 509

the premium rates established by the administrator in accordance 510
with sections 4123.29 and 4123.34 of the Revised Code, and may 511
adjust those rates as recommended by the actuary. 512

(I) The board shall have an independent auditor, at least 513
once every ten years, conduct a fiduciary performance audit of the 514
investment program of the bureau of workers' compensation. That 515
audit shall include an audit of the investment policies approved 516
by the board and investment procedures of the bureau. The board 517
shall submit a copy of that audit to the auditor of state. 518

(J) The administrator, with the advice and consent of the 519
board, shall employ an internal auditor who shall report findings 520
directly to the board, workers' compensation audit committee, and 521
administrator, except that the internal auditor shall not report 522
findings directly to the administrator when those findings involve 523
malfeasance, misfeasance, or nonfeasance on the part of the 524
administrator. The board and the workers' compensation audit 525
committee may request and review internal audits conducted by the 526
internal auditor. 527

(K) The administrator shall pay the expenses incurred by the 528
board to effectively fulfill its duties and exercise its powers 529
under this section as the administrator pays other operating 530
expenses of the bureau. 531

Sec. 4121.62. (A) The authority granted to the administrator 532
of workers' compensation pursuant to sections 4121.61 to 4121.69 533
of the Revised Code includes the authority to do all of the 534
following: 535

(1) Contract with any public or private person for the 536
rendition of rehabilitation services; 537

(2) Take actions and utilize money in the state insurance 538
fund as necessary to obtain federal funds and assistance in the 539

maximum amounts and most advantageous proportions and terms 540
possible; 541

(3) Conduct rehabilitation educational programs for employers 542
and employees; 543

~~(4) Establish within the bureau of workers' compensation a 544
rehabilitation division under the supervision of a director of 545
rehabilitation appointed by and responsible to the administrator. 546~~

~~(B) The director of the division established is in the 547
unclassified civil service of the state. The appointing authority 548
may designate up to three positions at each facility under the 549
jurisdiction of the division, and up to six positions in the 550
division which are part of the director's immediate staff as being 551
in the unclassified service of the state as long as the 552
administrator determines that the positions are primarily and 553
distinctively administrative, managerial, or professional. All 554
other full time employees of the division are in the classified 555
civil service. 556~~

~~(C) The administrator shall establish fees for use of 557
services offered by the division of rehabilitation, including, 558
without limitation, the expense of providing rehabilitation 559
services, counseling, and training. The administrator shall adopt 560
rules, in accordance with Chapter 119. of the Revised Code, which 561
establish the specific services the division offers and the amount 562
of the fee for those services, which amount shall be based upon 563
the actual cost of the division providing the services to the 564
employer and employee. 565~~

~~(D) Nothing in sections 4121.61 to 4121.69 of the Revised 566
Code shall be interpreted to grant authority to the administrator 567
to require a claimant to utilize a public provider of 568
rehabilitation services, counseling, or training. 569~~

Sec. 4121.70. (A) There is hereby created the 570
labor-management government advisory council consisting of ~~twelve~~ 571
fourteen members appointed as follows: 572

(1) The governor, with the advice and consent of the senate, 573
shall appoint three members who, by training and vocation, are 574
representative of labor and three members who, by training and 575
vocation, are representative of employers. 576

(2) Ex officio, the chairpersons of the standing committees 577
of the house of representatives and the senate to which 578
legislation concerned with workers' compensation is customarily 579
referred. A chairperson may designate the vice-chairperson of the 580
committee to serve instead. 581

(3) One person who by training and vocation represents labor 582
and one person who by training and vocation represents employers 583
of differing political parties appointed by the speaker of the 584
house of representatives. 585

(4) One person who by training and vocation represents labor 586
and one person who by training and vocation represents employers 587
of differing political parties appointed by the president of the 588
senate. 589

(5) One person who by training and vocation represents 590
nonprofit vocational rehabilitation services providers that 591
deliver services to injured workers, appointed by the speaker of 592
the house of representatives; 593

(6) One person who by training and vocation represents 594
nonprofit vocational rehabilitation services providers that 595
deliver services to injured workers, appointed by the president of 596
the senate. 597

(B) Members appointed by the governor shall serve for a term 598
of six years with each term ending on the same day of the year in 599

which the member was first appointed, except that each member 600
shall serve for a period of sixty additional days at the end of 601
the member's term or until the member's successor is appointed and 602
qualifies, whichever date occurs first. Of the members first 603
appointed to the council by the governor, one member each 604
representing labor and management shall serve an initial term of 605
two years, one member each representing labor and management shall 606
serve a term of four years, and the remaining two members shall 607
serve full six-year terms. The members initially appointed by the 608
speaker of the house of representatives and the president of the 609
senate shall serve a term of six years. Thereafter, members shall 610
be appointed to and serve full six-year terms. Members are 611
eligible for reappointment to any number of additional terms. 612

Legislative members shall serve a term that coincides with 613
the two-year legislative session in which they are first appointed 614
with each term ending on the thirty-first day of December of the 615
even-numbered year. Legislative members are eligible for 616
reappointment. 617

Vacancies on the council shall be filled in the same manner 618
as the original appointment. All members of the council shall 619
serve without additional compensation but shall be reimbursed by 620
the bureau of workers' compensation for actual and necessary 621
expenses. 622

The council shall advise the bureau of workers' compensation 623
board of directors and the administrator of workers' compensation 624
on the quality and effectiveness of rehabilitation services and 625
make recommendations pertaining to the bureau's rehabilitation 626
program, including the operation of that program. 627

~~The labor management government advisory council shall 628
recommend to the administrator three candidates for the position 629
of director of rehabilitation. The candidates shall be chosen for 630
their ability and background in the field of rehabilitation. The 631~~

~~administrator shall select a director from the list of candidates.~~ 632

Sec. 4121.75. (A) There is hereby created in the legislative 633
branch of government the workers' compensation council, which is 634
created for the purpose of reviewing the soundness of the workers' 635
compensation system and legislation involving or affecting the 636
workers' compensation system. The council shall not be involved in 637
the daily operations and oversight of the bureau of workers' 638
compensation or the industrial commission. Members of the council 639
shall be appointed as follows: 640

(1) Three members of the senate, appointed by the president 642
of the senate, not more than two of whom may be members of the 643
same political party; 644

(2) Three members of the house of representatives, appointed 645
by the speaker of the house of representatives, not more than two 646
of whom may be members of the same political party; 647

~~(3) Five members jointly appointed by the president of the 648
senate and the speaker of the house of representatives, not more 649
than three of whom shall be members of the same political party,~~ 650
~~one of whom~~ One member, appointed by the speaker of the house of 651
representatives, who shall represent employers who employ one 652
hundred or more employees, ~~one of whom;~~ 653

(4) One member, appointed by the president of the senate, 654
shall represent employers who employ less than one hundred 655
employees, ~~one of whom;~~ 656

(5) One member, appointed by the speaker of the house of 657
representatives, who shall represent employees, ~~one of whom;~~ 658

(6) One member, appointed by the president of the senate, who 659
shall represent injured workers, ~~and one of whom;~~ 660

(7) One member, who shall represent the public and also be an 661

individual who, on account of the individual's previous vocation, 662
employment, or affiliations, cannot be classed as either 663
predominantly representative of employees or of employers and who 664
the speaker of the house of representatives and the president of 665
the senate, shall alternate in the appointment of for a term. Of 666
these 667

(8) Of the five members appointed in divisions (A)(3), (4), 668
(5), (6), and (7) of this section, at least one shall be a person 669
with investment expertise. 670

(B) The council also shall consist of the chairperson of the 671
industrial commission and the administrator of workers' 672
compensation, who shall be nonvoting ex officio members of the 673
council. 674

(C) The president of the senate and the speaker of the house 675
of representatives shall make the initial appointments required 676
under divisions (A)(1) and (2) of this section not later than 677
thirty days after September 10, 2007. The members of the council 678
who are appointed from the membership of the senate and the house 679
of representatives shall serve during their terms as members of 680
the general assembly. Notwithstanding the adjournment of the 681
general assembly of which the member is a member or the expiration 682
of the member's term as a member of such general assembly, a 683
member shall continue in office subsequent to the expiration date 684
of the member's term on the council until the member's successor 685
takes office or until a period of sixty days has elapsed, 686
whichever occurs first. 687

(D) The president of the senate and the speaker of the house 688
of representatives shall make the initial appointments required 689
under division (A)(3) of this section not later than ninety days 690
after September 10, 2007. Of these initial appointments to the 691
council, one member shall be appointed for a term ending one year 692
after September 10, 2007, two members shall be appointed for terms 693

ending two years after September 10, 2007, and two members shall 694
be appointed for terms ending three years after September 10, 695
2007. Thereafter, terms shall be for three years, except for the 696
term of the member appointed under division (A)(7) of this section 697
who shall serve a term of two years, with each term ending on the 698
same day of the same month as did the term that it succeeds. Each 699
member appointed under ~~division~~ divisions (A)(3), (4), (5), (6), 700
and (7) of this section shall hold office from the date of 701
appointment until the end of the term for which the appointment 702
was made. Members may be reappointed. Any member appointed 703
pursuant to ~~division~~ divisions (A)(3), (4), (5), (6), and (7) of 704
this section to fill a vacancy occurring prior to the expiration 705
of the term for which the member's predecessor was appointed shall 706
hold office for the remainder of that term. Each member appointed 707
pursuant to ~~division~~ divisions (A)(3), (4), (5), (6), and (7) of 708
this section shall continue in office subsequent to the expiration 709
date of the member's term until the member's successor takes 710
office ~~or until a period of sixty days has elapsed, whichever~~ 711
~~occurs first.~~ 712

(E) Vacancies shall be filled in the manner prescribed for 713
original appointments. 714

Sec. 4123.29. (A) The administrator of workers' compensation, 715
subject to the approval of the bureau of workers' compensation 716
board of directors, shall do all of the following: 717

(1) Classify occupations or industries with respect to their 718
degree of hazard and determine the risks of the different classes 719
according to the categories the national council on compensation 720
insurance establishes that are applicable to employers in this 721
state; 722

(2)(a) Fix the rates of premium of the risks of the classes 723
based upon the total payroll in each of the classes of occupation 724

or industry sufficiently large to provide a fund for the 725
compensation provided for in this chapter and to maintain a state 726
insurance fund from year to year. The administrator shall set the 727
rates at a level that assures the solvency of the fund. Where the 728
payroll cannot be obtained or, in the opinion of the 729
administrator, is not an adequate measure for determining the 730
premium to be paid for the degree of hazard, the administrator may 731
determine the rates of premium upon such other basis, consistent 732
with insurance principles, as is equitable in view of the degree 733
of hazard, and whenever in this chapter reference is made to 734
payroll or expenditure of wages with reference to fixing premiums, 735
the reference shall be construed to have been made also to such 736
other basis for fixing the rates of premium as the administrator 737
may determine under this section. 738

(b) If an employer elects to obtain other-states' coverage 739
pursuant to section 4123.292 of the Revised Code through either 740
the administrator, if the administrator elects to offer such 741
coverage, or an other-states' insurer, calculate the employer's 742
premium for the state insurance fund in the same manner as 743
otherwise required under division (A) of this section and section 744
4123.34 of the Revised Code, except that when the administrator 745
determines the expenditure of wages, payroll, or both upon which 746
to base the employer's premium, the administrator shall use only 747
the expenditure of wages, payroll, or both attributable to the 748
labor performed and services provided by that employer's employees 749
when those employees performed labor and provided services in this 750
state only and to which the other-states' coverage does not apply. 751

(c) The administrator in setting or revising rates shall 753
furnish to employers an adequate explanation of the basis for the 754
rates set. 755

(3) Develop and make available to employers who are paying 756

premiums to the state insurance fund alternative premium plans. 757
Alternative premium plans shall include retrospective rating 758
plans. The administrator may make available plans under which an 759
advanced deposit may be applied against a specified deductible 760
amount per claim. 761

(4)(a) Offer to insure the obligations of employers under 762
this chapter under a plan that groups, for rating purposes, 763
employers, and pools the risk of the employers within the group 764
provided that the employers meet all of the following conditions: 765

(i) All of the employers within the group are members of an 766
organization that has been in existence for at least two years 767
prior to the date of application for group coverage; 768

(ii) The organization was formed for purposes other than that 769
of obtaining group workers' compensation under this division; 770

(iii) The employers' business in the organization is 771
substantially similar such that the risks which are grouped are 772
substantially homogeneous; 773

(iv) The group of employers consists of at least one hundred 774
members or the aggregate workers' compensation premiums of the 775
members, as determined by the administrator, are expected to 776
exceed one hundred fifty thousand dollars during the coverage 777
period; 778

(v) The formation and operation of the group program in the 779
organization will substantially improve accident prevention and 780
claims handling for the employers in the group; 781

(vi) Each employer seeking to enroll in a group for workers' 782
compensation coverage has an industrial insurance account in good 783
standing with the bureau of workers' compensation such that at the 784
time the agreement is processed no outstanding premiums, 785
penalties, or assessments are due from any of the employers. 786

(b) If an organization sponsors more than one employer group 787
to participate in group plans established under this section, that 788
organization may submit a single application that supplies all of 789
the information necessary for each group of employers that the 790
organization wishes to sponsor. 791

(c) In providing employer group plans under division (A)(4) 792
of this section, the administrator shall consider an employer 793
group as a single employing entity for purposes of group rating. 794
No employer may be a member of more than one group for the purpose 795
of obtaining workers' compensation coverage under this division. 796
797

(d) At the time the administrator revises premium rates 798
pursuant to this section and section 4123.34 of the Revised Code, 799
if the premium rate of an employer who participates in a group 800
plan established under this section changes from the rate 801
established for the previous year, the administrator, in addition 802
to sending the invoice with the rate revision to that employer, 803
shall send a copy of that invoice to the third-party administrator 804
that administers the group plan for that employer's group. 805

(e) In providing employer group plans under division (A)(4) 806
of this section, the administrator shall establish a program 807
designed to mitigate the impact of a significant claim that would 808
come into the experience of a private, state fund group-rated 809
employer for the first time and be a contributing factor in that 810
employer being excluded from a group-rated plan. The administrator 811
shall establish eligibility criteria and requirements that such 812
employers must satisfy in order to participate in this program. 813
For purposes of this program, the administrator shall establish a 814
discount on premium rates applicable to employers who qualify for 815
the program. 816

(f) Prior to charging the experience of an employer who 817
participates in a group plan established under this section for 818

any lump sum settlements or handicap reimbursement activities 819
under this chapter or Chapter 4121., 4127., or 4131. of the 820
Revised Code, the administrator shall provide a written notice to 821
the organization that sponsors the group plan in which the 822
employer participates and the third party administrator that 823
administers the group plan for the employer's group informing that 824
organization and third party administrator about the lump sum 825
settlement or the handicap reimbursement activities. 826

(g) In no event shall division (A)(4) of this section be 827
construed as granting to an employer status as a self-insuring 828
employer. 829

(h)(i) An employer that is merging operations with another 830
employer shall notify the administrator of workers' compensation 831
of the merger not more than thirty days after the merger takes 832
effect. 833

(ii) If the administrator receives a notice from one or more 834
employers of a merger of operations between those employers as 835
described in division (A)(4)(f)(i) of this section, and if any 836
employer involved in the merger participates in a group plan 837
established under this section, the administrator shall provide a 838
written notice to the organization that sponsors and the third 839
party administrator that administers the group plan in which an 840
employer who is involved in the merger participates informing that 841
organization and the third party administrator about the merger. 842

(iii) The administrator shall comply with the notice 844
requirements of division (A)(4)(f)(i) of this section relative to 845
every employer that participates in a group plan that is involved 846
in a merger about which the administrator receives a notice 847
described in that division. 848

~~(g)~~(i) The administrator shall develop classifications of 849

occupations or industries that are sufficiently distinct so as not 850
to group employers in classifications that unfairly represent the 851
risks of employment with the employer. 852

(5) Generally promote employer participation in the state 853
insurance fund through the regular dissemination of information to 854
all classes of employers describing the advantages and benefits of 855
opting to make premium payments to the fund. To that end, the 856
administrator shall regularly make employers aware of the various 857
workers' compensation premium packages developed and offered 858
pursuant to this section. 859

(6) Make available to every employer who is paying premiums 860
to the state insurance fund a program whereby the employer or the 861
employer's agent pays to the claimant or on behalf of the claimant 862
the first fifteen thousand dollars of a compensable workers' 863
compensation medical-only claim filed by that claimant that is 864
related to the same injury or occupational disease. No formal 865
application is required; however, an employer must elect to 866
participate by telephoning the bureau after July 1, 1995. Once an 867
employer has elected to participate in the program, the employer 868
will be responsible for all bills in all medical-only claims with 869
a date of injury the same or later than the election date, unless 870
the employer notifies the bureau within fourteen days of receipt 871
of the notification of a claim being filed that it does not wish 872
to pay the bills in that claim, or the employer notifies the 873
bureau that the fifteen thousand dollar maximum has been paid, or 874
the employer notifies the bureau of the last day of service on 875
which it will be responsible for the bills in a particular 876
medical-only claim. If an employer elects to enter the program, 877
the administrator shall not reimburse the employer for such 878
amounts paid and shall not charge the first fifteen thousand 879
dollars of any medical-only claim paid by an employer to the 880
employer's experience or otherwise use it in merit rating or 881

determining the risks of any employer for the purpose of payment 882
of premiums under this chapter. A certified health care provider 883
shall extend to an employer who participates in this program the 884
same rates for services rendered to an employee of that employer 885
as the provider bills the administrator for the same type of 886
medical claim processed by the bureau and shall not charge, 887
assess, or otherwise attempt to collect from an employee any 888
amount for covered services or supplies that is in excess of that 889
rate. If an employer elects to enter the program and the employer 890
fails to pay a bill for a medical-only claim included in the 891
program, the employer shall be liable for that bill and the 892
employee for whom the employer failed to pay the bill shall not be 893
liable for that bill. The administrator shall adopt rules to 894
implement and administer division (A)(6) of this section. Upon 895
written request from the bureau, the employer shall provide 896
documentation to the bureau of all medical-only bills that they 897
are paying directly. Such requests from the bureau may not be made 898
more frequently than on a semiannual basis. Failure to provide 899
such documentation to the bureau within thirty days of receipt of 900
the request may result in the employer's forfeiture of 901
participation in the program for such injury. The provisions of 902
this section shall not apply to claims in which an employer with 903
knowledge of a claimed compensable injury or occupational disease, 904
has paid wages in lieu of compensation or total disability. 905

(B) The administrator shall supply an employer, at the time 906
the employer institutes coverage under this chapter and first 907
selects a managed care organization under the health partnership 908
program, with a list of all groups participating in the group 909
rating program created pursuant to this section and a list of all 910
premium discount programs offered by the administrator pursuant to 911
this chapter. 912

(C) The administrator, with the advice and consent of the 913

board, by rule, may do both of the following: 914

(1) Grant an employer who makes the employer's semiannual 915
premium payment at least one month prior to the last day on which 916
the payment may be made without penalty, a discount as the 917
administrator fixes from time to time; 918

(2) Levy a minimum annual administrative charge upon risks 919
where semiannual premium reports develop a charge less than the 920
administrator considers adequate to offset administrative costs of 921
processing. 922

(D) In adopting rules under this section and section 4123.34 923
of the Revised Code to establish or revise a program or 924
alternative premium plan offered by the administrator that affects 925
premium rates, the administrator shall adopt those rules not later 926
than the first day of September prior to the policy year in which 927
the program or alternative premium plan is to be in effect, except 928
for the premium year starting July 1, 2010, in which case the 929
rules shall be adopted not later than January 1, 2010. 930

931

Sec. 4123.34. It shall be the duty of the bureau of workers' 932
compensation board of directors and the administrator of workers' 933
compensation to safeguard and maintain the solvency of the state 934
insurance fund and all other funds specified in this chapter and 935
Chapters 4121., 4127., and 4131. of the Revised Code. The 936
administrator, in the exercise of the powers and discretion 937
conferred upon the administrator in section 4123.29 of the Revised 938
Code, shall fix and maintain, with the advice and consent of the 939
board, for each class of occupation or industry, the lowest 940
possible rates of premium consistent with the maintenance of a 941
solvent state insurance fund and the creation and maintenance of a 942
reasonable surplus, after the payment of legitimate claims for 943
injury, occupational disease, and death that the administrator 944

authorizes to be paid from the state insurance fund for the 945
benefit of injured, diseased, and the dependents of killed 946
employees. In establishing rates, the administrator shall take 947
into account the necessity of ensuring sufficient money is set 948
aside in the premium payment security fund to cover any defaults 949
in premium obligations. The administrator shall observe all of the 950
following requirements in fixing the rates of premium for the 951
risks of occupations or industries: 952

(A) The administrator shall keep an accurate account of the 953
money paid in premiums by each of the several classes of 954
occupations or industries, and the losses on account of injuries, 955
occupational disease, and death of employees thereof, and also 956
keep an account of the money received from each individual 957
employer and the amount of losses incurred against the state 958
insurance fund on account of injuries, occupational disease, and 959
death of the employees of the employer. 960

(B) ~~Ten per cent~~ A portion of the money paid into the state 961
insurance fund shall be set aside for the creation of a surplus 962
~~until the surplus amounts to the sum of one hundred thousand~~ 963
~~dollars, after which time, whenever necessary in the judgment of~~ 964
~~the administrator to guarantee a solvent~~ fund account within the 965
state insurance fund, ~~a sum not exceeding five per cent of all the~~ 966
~~money paid into the state insurance fund shall be credited to the~~ 967
~~surplus fund.~~ Any references in this chapter or in Chapter 4121., 968
4125., 4127., or 4131. of the Revised Code to the surplus fund, 969
the surplus created in this division, the statutory surplus fund, 970
or the statutory surplus of the state insurance fund are hereby 971
deemed to be references to the surplus fund account. The 972
administrator may transfer the portion of the state insurance fund 973
to the surplus fund account as the administrator determines is 974
necessary to satisfy the needs of the surplus fund account and to 975
guarantee the solvency of the state insurance fund and the surplus 976

fund account. In addition to all statutory authority under this 977
chapter and Chapter 4121. of the Revised Code, the administrator 978
has discretionary and contingency authority to make charges to the 979
surplus fund account. The administrator shall account for all 980
charges, whether statutory, discretionary, or contingency, that 981
the administrator may make to the surplus fund account. A revision 982
of basic rates shall be made annually on the first day of July. 983

984
Notwithstanding any provision of the law to the contrary, one 985
hundred eighty days after the effective date on which 986
self-insuring employers first may elect under division (D) of 987
section 4121.66 of the Revised Code to directly pay for 988
rehabilitation expenses, the administrator shall calculate the 989
deficit, if any, in the portion of the surplus fund account that 990
is used for reimbursement to self-insuring employers for all 991
expenses other than handicapped reimbursement under section 992
4123.343 of the Revised Code. The administrator, from time to 993
time, may determine whether the surplus fund account has such a 994
deficit and may assess all self-insuring employers who 995
participated in the portion of the surplus fund account during the 996
accrual of the deficit and who during that time period have not 997
made the election under division (D) of section 4121.66 of the 998
Revised Code the amount the administrator determines necessary to 999
reduce the deficit. 1000

Revisions of basic rates shall be in accordance with the 1001
oldest four of the last five calendar years of the combined 1002
accident and occupational disease experience of the administrator 1003
in the administration of this chapter, as shown by the accounts 1004
kept as provided in this section, excluding the experience of 1005
employers that are no longer active if the administrator 1006
determines that the inclusion of those employers would have a 1007
significant negative impact on the remainder of the employers in a 1008

particular manual classification; and the administrator shall 1009
adopt rules, with the advice and consent of the board, governing 1010
rate revisions, the object of which shall be to make an equitable 1011
distribution of losses among the several classes of occupation or 1012
industry, which rules shall be general in their application. 1013

(C) The administrator may apply that form of rating system 1014
that the administrator finds is best calculated to merit rate or 1015
individually rate the risk more equitably, predicated upon the 1016
basis of its individual industrial accident and occupational 1017
disease experience, and may encourage and stimulate accident 1018
prevention. The administrator shall develop fixed and equitable 1019
rules controlling the rating system, which rules shall conserve to 1020
each risk the basic principles of workers' compensation insurance. 1021

(D) The administrator, from the money paid into the state 1022
insurance fund, shall set aside into an account of the state 1023
insurance fund titled a premium payment security fund sufficient 1024
money to pay for any premiums due from an employer and uncollected 1025
that are in excess of the employer's premium security deposit. 1026

The fund shall be in the custody of the treasurer of state. 1027
All investment earnings of the fund shall be deposited in the 1028
fund. Disbursements from the fund shall be made by the bureau of 1029
workers' compensation upon order of the administrator to the state 1030
insurance fund. The use of the moneys held by the premium payment 1031
security fund is restricted to reimbursement to the state 1032
insurance fund of premiums due and uncollected in excess of an 1033
employer's premium security deposit. The moneys constituting the 1034
premium payment security fund shall be maintained without regard 1035
to or reliance upon any other fund. This section does not prevent 1036
the deposit or investment of the premium payment security fund 1037
with any other fund created by this chapter, but the premium 1038
payment security fund is separate and distinct for every other 1039
purpose and a strict accounting thereof shall be maintained. 1040

(E) The administrator may grant discounts on premium rates 1041
for employers who meet either of the following requirements: 1042

(1) Have not incurred a compensable injury for one year or 1043
more and who maintain an employee safety committee or similar 1044
organization or make periodic safety inspections of the workplace. 1045

(2) Successfully complete a loss prevention program 1046
prescribed by the superintendent of the division of safety and 1047
hygiene and conducted by the division or by any other person 1048
approved by the superintendent. 1049

(F)(1) In determining the premium rates for the construction 1050
industry the administrator shall calculate the employers' premiums 1051
based upon the actual remuneration construction industry employees 1052
receive from construction industry employers, provided that the 1053
amount of remuneration the administrator uses in calculating the 1054
premiums shall not exceed an average weekly wage equal to one 1055
hundred fifty per cent of the statewide average weekly wage as 1056
defined in division (C) of section 4123.62 of the Revised Code. 1057

(2) Division (F)(1) of this section shall not be construed as 1058
affecting the manner in which benefits to a claimant are awarded 1059
under this chapter. 1060

(3) As used in division (F) of this section, "construction 1061
industry" includes any activity performed in connection with the 1062
erection, alteration, repair, replacement, renovation, 1063
installation, or demolition of any building, structure, highway, 1064
or bridge. 1065

(G) Commencing with the bureau of workers' compensation 1066
policy year beginning on July 1, 2010, the administrator of 1067
workers' compensation shall offer a workplace safety program that 1068
is substantially similar to the workplace safety program offered 1069
by the bureau on the effective date of this section to all 1070
employers, whether or not the employers participate in a group as 1071

described in division (A)(4) of section 4123.29 of the Revised 1072
Code. The administrator shall provide any employer who 1073
participates in the workplace safety program a discount on the 1074
employer's premiums. 1075

(H) Commencing with the bureau of workers' compensation 1076
policy year beginning on July 1, 2010, the administrator of 1077
workers' compensation shall offer a drug free workplace program 1078
that is substantially similar to the drug free workplace program 1079
offered by the bureau on the effective date of this section to all 1080
employers, whether or not the employers participate in a group as 1081
described in division (A)(4) of section 4123.29 of the Revised 1082
Code. The administrator shall provide any employer who 1083
participates in the drug free workplace program a discount on the 1084
employer's premiums. 1085

(I) The administrator of workers' compensation shall not 1086
place a limit on the length of time that an employer may 1087
participate in the bureau of workers' compensation drug free 1088
workplace program. 1089

Sec. 4123.35. (A) Except as provided in this section, every 1090
employer mentioned in division (B)(2) of section 4123.01 of the 1091
Revised Code, and every publicly owned utility shall pay 1092
semiannually in the months of January and July into the state 1093
insurance fund the amount of annual premium the administrator of 1094
workers' compensation fixes for the employment or occupation of 1095
the employer, the amount of which premium to be paid by each 1096
employer to be determined by the classifications, rules, and rates 1097
made and published by the administrator. The employer shall pay 1098
semiannually a further sum of money into the state insurance fund 1099
as may be ascertained to be due from the employer by applying the 1100
rules of the administrator, and a receipt or certificate 1101
certifying that payment has been made, along with a written notice 1102

as is required in section 4123.54 of the Revised Code, shall be 1103
mailed immediately to the employer by the bureau of workers' 1104
compensation. The receipt or certificate is prima-facie evidence 1105
of the payment of the premium, and the proper posting of the 1106
notice constitutes the employer's compliance with the notice 1107
requirement mandated in section 4123.54 of the Revised Code. 1108

The bureau of workers' compensation shall verify with the 1109
secretary of state the existence of all corporations and 1110
organizations making application for workers' compensation 1111
coverage and shall require every such application to include the 1112
employer's federal identification number. 1113

An employer as defined in division (B)(2) of section 4123.01 1114
of the Revised Code who has contracted with a subcontractor is 1115
liable for the unpaid premium due from any subcontractor with 1116
respect to that part of the payroll of the subcontractor that is 1117
for work performed pursuant to the contract with the employer. 1118

Division (A) of this section providing for the payment of 1119
premiums semiannually does not apply to any employer who was a 1120
subscriber to the state insurance fund prior to January 1, 1914, 1121
or who may first become a subscriber to the fund in any month 1122
other than January or July. Instead, the semiannual premiums shall 1123
be paid by those employers from time to time upon the expiration 1124
of the respective periods for which payments into the fund have 1125
been made by them. 1126

The administrator shall adopt rules to permit employers to 1127
make periodic payments of the semiannual premium due under this 1128
division. The rules shall include provisions for the assessment of 1129
interest charges, where appropriate, and for the assessment of 1130
penalties when an employer fails to make timely premium payments. 1131
An employer who timely pays the amounts due under this division is 1132
entitled to all of the benefits and protections of this chapter. 1133
Upon receipt of payment, the bureau immediately shall mail a 1134

receipt or certificate to the employer certifying that payment has 1135
been made, which receipt is prima-facie evidence of payment. 1136
Workers' compensation coverage under this chapter continues 1137
uninterrupted upon timely receipt of payment under this division. 1138

Every public employer, except public employers that are 1139
self-insuring employers under this section, shall comply with 1140
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 1141
regard to the contribution of moneys to the public insurance fund. 1142

(B) Employers who will abide by the rules of the 1143
administrator and who may be of sufficient financial ability to 1144
render certain the payment of compensation to injured employees or 1145
the dependents of killed employees, and the furnishing of medical, 1146
surgical, nursing, and hospital attention and services and 1147
medicines, and funeral expenses, equal to or greater than is 1148
provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 1149
to 4123.67 of the Revised Code, and who do not desire to insure 1150
the payment thereof or indemnify themselves against loss sustained 1151
by the direct payment thereof, upon a finding of such facts by the 1152
administrator, may be granted the privilege to pay individually 1153
compensation, and furnish medical, surgical, nursing, and hospital 1154
services and attention and funeral expenses directly to injured 1155
employees or the dependents of killed employees, thereby being 1156
granted status as a self-insuring employer. The administrator may 1157
charge employers who apply for the status as a self-insuring 1158
employer a reasonable application fee to cover the bureau's costs 1159
in connection with processing and making a determination with 1160
respect to an application. 1161

All employers granted status as self-insuring employers shall 1162
demonstrate sufficient financial and administrative ability to 1163
assure that all obligations under this section are promptly met. 1164
The administrator shall deny the privilege where the employer is 1165
unable to demonstrate the employer's ability to promptly meet all 1166

the obligations imposed on the employer by this section. 1167

(1) The administrator shall consider, but is not limited to, 1168
the following factors, where applicable, in determining the 1169
employer's ability to meet all of the obligations imposed on the 1170
employer by this section: 1171

(a) The employer employs a minimum of five hundred employees 1172
in this state; 1173

(b) The employer has operated in this state for a minimum of 1174
two years, provided that an employer who has purchased, acquired, 1175
or otherwise succeeded to the operation of a business, or any part 1176
thereof, situated in this state that has operated for at least two 1177
years in this state, also shall qualify; 1178

(c) Where the employer previously contributed to the state 1179
insurance fund or is a successor employer as defined by bureau 1180
rules, the amount of the buyout, as defined by bureau rules; 1181

(d) The sufficiency of the employer's assets located in this 1182
state to insure the employer's solvency in paying compensation 1183
directly; 1184

(e) The financial records, documents, and data, certified by 1185
a certified public accountant, necessary to provide the employer's 1186
full financial disclosure. The records, documents, and data 1187
include, but are not limited to, balance sheets and profit and 1188
loss history for the current year and previous four years. 1189

(f) The employer's organizational plan for the administration 1190
of the workers' compensation law; 1191

(g) The employer's proposed plan to inform employees of the 1192
change from a state fund insurer to a self-insuring employer, the 1193
procedures the employer will follow as a self-insuring employer, 1194
and the employees' rights to compensation and benefits; and 1195

(h) The employer has either an account in a financial 1196

institution in this state, or if the employer maintains an account 1197
with a financial institution outside this state, ensures that 1198
workers' compensation checks are drawn from the same account as 1199
payroll checks or the employer clearly indicates that payment will 1200
be honored by a financial institution in this state. 1201

The administrator may waive the requirements of divisions 1202
(B)(1)(a) and (b) of this section and the requirement of division 1203
(B)(1)(e) of this section that the financial records, documents, 1204
and data be certified by a certified public accountant. The 1205
administrator shall adopt rules establishing the criteria that an 1206
employer shall meet in order for the administrator to waive the 1207
requirement of division (B)(1)(e) of this section. Such rules may 1208
require additional security of that employer pursuant to division 1209
(E) of section 4123.351 of the Revised Code. 1210

The administrator shall not grant the status of self-insuring 1211
employer to the state, except that the administrator may grant the 1212
status of self-insuring employer to a state institution of higher 1213
education, excluding its hospitals, that meets the requirements of 1214
division (B)(2) of this section. 1215

(2) When considering the application of a public employer, 1216
except for a board of county commissioners described in division 1217
(G) of section 4123.01 of the Revised Code, a board of a county 1218
hospital, or a publicly owned utility, the administrator shall 1219
verify that the public employer satisfies all of the following 1220
requirements as the requirements apply to that public employer: 1221

(a) For the two-year period preceding application under this 1222
section, the public employer has maintained an unvoted debt 1223
capacity equal to at least two times the amount of the current 1224
annual premium established by the administrator under this chapter 1225
for that public employer for the year immediately preceding the 1226
year in which the public employer makes application under this 1227
section. 1228

(b) For each of the two fiscal years preceding application 1229
under this section, the unreserved and undesignated year-end fund 1230
balance in the public employer's general fund is equal to at least 1231
five per cent of the public employer's general fund revenues for 1232
the fiscal year computed in accordance with generally accepted 1233
accounting principles. 1234

(c) For the five-year period preceding application under this 1235
section, the public employer, to the extent applicable, has 1236
complied fully with the continuing disclosure requirements 1237
established in rules adopted by the United States securities and 1238
exchange commission under 17 C.F.R. 240.15c 2-12. 1239

(d) For the five-year period preceding application under this 1240
section, the public employer has not had its local government fund 1241
distribution withheld on account of the public employer being 1242
indebted or otherwise obligated to the state. 1243

(e) For the five-year period preceding application under this 1244
section, the public employer has not been under a fiscal watch or 1245
fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 1246
of the Revised Code. 1247

(f) For the public employer's fiscal year preceding 1248
application under this section, the public employer has obtained 1249
an annual financial audit as required under section 117.10 of the 1250
Revised Code, which has been released by the auditor of state 1251
within seven months after the end of the public employer's fiscal 1252
year. 1253

(g) On the date of application, the public employer holds a 1254
debt rating of Aa3 or higher according to Moody's investors 1255
service, inc., or a comparable rating by an independent rating 1256
agency similar to Moody's investors service, inc. 1257

(h) The public employer agrees to generate an annual 1258
accumulating book reserve in its financial statements reflecting 1259

an actuarially generated reserve adequate to pay projected claims 1260
under this chapter for the applicable period of time, as 1261
determined by the administrator. 1262

(i) For a public employer that is a hospital, the public 1263
employer shall submit audited financial statements showing the 1264
hospital's overall liquidity characteristics, and the 1265
administrator shall determine, on an individual basis, whether the 1266
public employer satisfies liquidity standards equivalent to the 1267
liquidity standards of other public employers. 1268

(j) Any additional criteria that the administrator adopts by 1269
rule pursuant to division (E) of this section. 1270

The administrator shall not approve the application of a 1271
public employer, except for a board of county commissioners 1272
described in division (G) of section 4123.01 of the Revised Code, 1273
a board of a county hospital, or publicly owned utility, who does 1274
not satisfy all of the requirements listed in division (B)(2) of 1275
this section. 1276

(C) A board of county commissioners described in division (G) 1277
of section 4123.01 of the Revised Code, as an employer, that will 1278
abide by the rules of the administrator and that may be of 1279
sufficient financial ability to render certain the payment of 1280
compensation to injured employees or the dependents of killed 1281
employees, and the furnishing of medical, surgical, nursing, and 1282
hospital attention and services and medicines, and funeral 1283
expenses, equal to or greater than is provided for in sections 1284
4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised 1285
Code, and that does not desire to insure the payment thereof or 1286
indemnify itself against loss sustained by the direct payment 1287
thereof, upon a finding of such facts by the administrator, may be 1288
granted the privilege to pay individually compensation, and 1289
furnish medical, surgical, nursing, and hospital services and 1290
attention and funeral expenses directly to injured employees or 1291

the dependents of killed employees, thereby being granted status 1292
as a self-insuring employer. The administrator may charge a board 1293
of county commissioners described in division (G) of section 1294
4123.01 of the Revised Code that applies for the status as a 1295
self-insuring employer a reasonable application fee to cover the 1296
bureau's costs in connection with processing and making a 1297
determination with respect to an application. All employers 1298
granted such status shall demonstrate sufficient financial and 1299
administrative ability to assure that all obligations under this 1300
section are promptly met. The administrator shall deny the 1301
privilege where the employer is unable to demonstrate the 1302
employer's ability to promptly meet all the obligations imposed on 1303
the employer by this section. The administrator shall consider, 1304
but is not limited to, the following factors, where applicable, in 1305
determining the employer's ability to meet all of the obligations 1306
imposed on the board as an employer by this section: 1307

(1) The board as an employer employs a minimum of five 1308
hundred employees in this state; 1309

(2) The board has operated in this state for a minimum of two 1310
years; 1311

(3) Where the board previously contributed to the state 1312
insurance fund or is a successor employer as defined by bureau 1313
rules, the amount of the buyout, as defined by bureau rules; 1314

(4) The sufficiency of the board's assets located in this 1315
state to insure the board's solvency in paying compensation 1316
directly; 1317

(5) The financial records, documents, and data, certified by 1318
a certified public accountant, necessary to provide the board's 1319
full financial disclosure. The records, documents, and data 1320
include, but are not limited to, balance sheets and profit and 1321
loss history for the current year and previous four years. 1322

(6) The board's organizational plan for the administration of 1323
the workers' compensation law; 1324

(7) The board's proposed plan to inform employees of the 1325
proposed self-insurance, the procedures the board will follow as a 1326
self-insuring employer, and the employees' rights to compensation 1327
and benefits; 1328

(8) The board has either an account in a financial 1329
institution in this state, or if the board maintains an account 1330
with a financial institution outside this state, ensures that 1331
workers' compensation checks are drawn from the same account as 1332
payroll checks or the board clearly indicates that payment will be 1333
honored by a financial institution in this state; 1334

(9) The board shall provide the administrator a surety bond 1335
in an amount equal to one hundred twenty-five per cent of the 1336
projected losses as determined by the administrator. 1337

(D) The administrator shall require a surety bond from all 1338
self-insuring employers, issued pursuant to section 4123.351 of 1339
the Revised Code, that is sufficient to compel, or secure to 1340
injured employees, or to the dependents of employees killed, the 1341
payment of compensation and expenses, which shall in no event be 1342
less than that paid or furnished out of the state insurance fund 1343
in similar cases to injured employees or to dependents of killed 1344
employees whose employers contribute to the fund, except when an 1345
employee of the employer, who has suffered the loss of a hand, 1346
arm, foot, leg, or eye prior to the injury for which compensation 1347
is to be paid, and thereafter suffers the loss of any other of the 1348
members as the result of any injury sustained in the course of and 1349
arising out of the employee's employment, the compensation to be 1350
paid by the self-insuring employer is limited to the disability 1351
suffered in the subsequent injury, additional compensation, if 1352
any, to be paid by the bureau out of the surplus created by 1353
section 4123.34 of the Revised Code. 1354

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

Employers shall secure directly from the bureau central offices application forms upon which the bureau shall stamp a designating number. Prior to submission of an application, an employer shall make available to the bureau, and the bureau shall review, the information described in division (B)(1) of this section, and public employers shall make available, and the bureau shall review, the information necessary to verify whether the public employer meets the requirements listed in division (B)(2) of this section. An employer shall file the completed application forms with an application fee, which shall cover the costs of processing the application, as established by the administrator, by rule, with the bureau at least ninety days prior to the effective date of the employer's new status as a self-insuring employer. The application form is not deemed complete until all the required information is attached thereto. The bureau shall only accept applications that contain the required information.

(F) The bureau shall review completed applications within a reasonable time. If the bureau determines to grant an employer the status as a self-insuring employer, the bureau shall issue a

statement, containing its findings of fact, that is prepared by 1387
the bureau and signed by the administrator. If the bureau 1388
determines not to grant the status as a self-insuring employer, 1389
the bureau shall notify the employer of the determination and 1390
require the employer to continue to pay its full premium into the 1391
state insurance fund. The administrator also shall adopt rules 1392
establishing a minimum level of performance as a criterion for 1393
granting and maintaining the status as a self-insuring employer 1394
and fixing time limits beyond which failure of the self-insuring 1395
employer to provide for the necessary medical examinations and 1396
evaluations may not delay a decision on a claim. 1397

(G) The administrator shall adopt rules setting forth 1398
procedures for auditing the program of self-insuring employers. 1399
The bureau shall conduct the audit upon a random basis or whenever 1400
the bureau has grounds for believing that a self-insuring employer 1401
is not in full compliance with bureau rules or this chapter. 1402

The administrator shall monitor the programs conducted by 1403
self-insuring employers, to ensure compliance with bureau 1404
requirements and for that purpose, shall develop and issue to 1405
self-insuring employers standardized forms for use by the 1406
self-insuring employer in all aspects of the self-insuring 1407
employers' direct compensation program and for reporting of 1408
information to the bureau. 1409

The bureau shall receive and transmit to the self-insuring 1410
employer all complaints concerning any self-insuring employer. In 1411
the case of a complaint against a self-insuring employer, the 1412
administrator shall handle the complaint through the 1413
self-insurance division of the bureau. The bureau shall maintain a 1414
file by employer of all complaints received that relate to the 1415
employer. The bureau shall evaluate each complaint and take 1416
appropriate action. 1417

The administrator shall adopt as a rule a prohibition against 1418

any self-insuring employer from harassing, dismissing, or 1419
otherwise disciplining any employee making a complaint, which rule 1420
shall provide for a financial penalty to be levied by the 1421
administrator payable by the offending self-insuring employer. 1422

(H) For the purpose of making determinations as to whether to 1423
grant status as a self-insuring employer, the administrator may 1424
subscribe to and pay for a credit reporting service that offers 1425
financial and other business information about individual 1426
employers. The costs in connection with the bureau's subscription 1427
or individual reports from the service about an applicant may be 1428
included in the application fee charged employers under this 1429
section. 1430

(I) The administrator, notwithstanding other provisions of 1431
this chapter, may permit a self-insuring employer to resume 1432
payment of premiums to the state insurance fund with appropriate 1433
credit modifications to the employer's basic premium rate as such 1434
rate is determined pursuant to section 4123.29 of the Revised 1435
Code. 1436

(J) On the first day of July of each year, the administrator 1437
shall calculate separately each self-insuring employer's 1438
assessments for the safety and hygiene fund, administrative costs 1439
pursuant to section 4123.342 of the Revised Code, and for the 1440
portion of the surplus fund under division (B) of section 4123.34 1441
of the Revised Code that is not used for handicapped 1442
reimbursement, on the basis of the paid compensation attributable 1443
to the individual self-insuring employer according to the 1444
following calculation: 1445

(1) The total assessment against all self-insuring employers 1446
as a class for each fund and for the administrative costs for the 1447
year that the assessment is being made, as determined by the 1448
administrator, divided by the total amount of paid compensation 1449
for the previous calendar year attributable to all amenable 1450

self-insuring employers; 1451

(2) Multiply the quotient in division (J)(1) of this section 1452
by the total amount of paid compensation for the previous calendar 1453
year that is attributable to the individual self-insuring employer 1454
for whom the assessment is being determined. Each self-insuring 1455
employer shall pay the assessment that results from this 1456
calculation, unless the assessment resulting from this calculation 1457
falls below a minimum assessment, which minimum assessment the 1458
administrator shall determine on the first day of July of each 1459
year with the advice and consent of the bureau of workers' 1460
compensation board of directors, in which event, the self-insuring 1461
employer shall pay the minimum assessment. 1462

In determining the total amount due for the total assessment 1463
against all self-insuring employers as a class for each fund and 1464
the administrative assessment, the administrator shall reduce 1465
proportionately the total for each fund and assessment by the 1466
amount of money in the self-insurance assessment fund as of the 1467
date of the computation of the assessment. 1468

The administrator shall calculate the assessment for the 1469
portion of the surplus fund under division (B) of section 4123.34 1470
of the Revised Code that is used for handicapped reimbursement in 1471
the same manner as set forth in divisions (J)(1) and (2) of this 1472
section except that the administrator shall calculate the total 1473
assessment for this portion of the surplus fund only on the basis 1474
of those self-insuring employers that retain participation in the 1475
handicapped reimbursement program and the individual self-insuring 1476
employer's proportion of paid compensation shall be calculated 1477
only for those self-insuring employers who retain participation in 1478
the handicapped reimbursement program. The administrator, as the 1479
administrator determines appropriate, may determine the total 1480
assessment for the handicapped portion of the surplus fund in 1481
accordance with sound actuarial principles. 1482

The administrator shall calculate the assessment for the 1483
portion of the surplus fund under division (B) of section 4123.34 1484
of the Revised Code that under division (D) of section 4121.66 of 1485
the Revised Code is used for rehabilitation costs in the same 1486
manner as set forth in divisions (J)(1) and (2) of this section, 1487
except that the administrator shall calculate the total assessment 1488
for this portion of the surplus fund only on the basis of those 1489
self-insuring employers who have not made the election to make 1490
payments directly under division (D) of section 4121.66 of the 1491
Revised Code and an individual self-insuring employer's proportion 1492
of paid compensation only for those self-insuring employers who 1493
have not made that election. 1494

The administrator shall calculate the assessment for the 1495
portion of the surplus fund under division (B) of section 4123.34 1496
of the Revised Code that is used for reimbursement to a 1497
self-insuring employer under division (H) of section 4123.512 of 1498
the Revised Code in the same manner as set forth in divisions 1499
(J)(1) and (2) of this section except that the administrator shall 1500
calculate the total assessment for this portion of the surplus 1501
fund only on the basis of those self-insuring employers that 1502
retain participation in reimbursement to the self-insuring 1503
employer under division (H) of section 4123.512 of the Revised 1504
Code and the individual self-insuring employer's proportion of 1505
paid compensation shall be calculated only for those self-insuring 1506
employers who retain participation in reimbursement to the 1507
self-insuring employer under division (H) of section 4123.512 of 1508
the Revised Code. 1509

An employer who no longer is a self-insuring employer in this 1510
state or who no longer is operating in this state, shall continue 1511
to pay assessments for administrative costs and for the portion of 1512
the surplus fund under division (B) of section 4123.34 of the 1513
Revised Code that is not used for handicapped reimbursement, based 1514

upon paid compensation attributable to claims that occurred while 1515
the employer was a self-insuring employer within this state. 1516

(K) The administrator shall deposit any moneys received from 1517
a self-insuring employer for the self-insuring employer's 1518
assessment to pay the costs solely attributable to the workers' 1519
compensation council into the administrative assessment account 1520
described in division (B) of section 4123.342 of the Revised Code 1521
for the administrative cost assessment collected by the 1522
administrator for the council. There is hereby created in the 1523
state treasury the self-insurance assessment fund. All investment 1524
earnings of the fund shall be deposited in the fund. The 1525
administrator shall use the money in the self-insurance assessment 1526
fund only for administrative costs as specified in section 1527
4123.341 of the Revised Code. 1528

(L) Every self-insuring employer shall certify, in affidavit 1529
form subject to the penalty for perjury, to the bureau the amount 1530
of the self-insuring employer's paid compensation for the previous 1531
calendar year. In reporting paid compensation paid for the 1532
previous year, a self-insuring employer shall exclude from the 1533
total amount of paid compensation any reimbursement the 1534
self-insuring employer receives in the previous calendar year from 1535
the surplus fund pursuant to section 4123.512 of the Revised Code 1536
for any paid compensation. The self-insuring employer also shall 1537
exclude from the paid compensation reported any amount recovered 1538
under section 4123.931 of the Revised Code and any amount that is 1539
determined not to have been payable to or on behalf of a claimant 1540
in any final administrative or judicial proceeding. The 1541
self-insuring employer shall exclude such amounts from the paid 1542
compensation reported in the reporting period subsequent to the 1543
date the determination is made. The administrator shall adopt 1544
rules, in accordance with Chapter 119. of the Revised Code, that 1545
provide for all of the following: 1546

(1) Establishing the date by which self-insuring employers 1547
must submit such information and the amount of the assessments 1548
provided for in division (J) of this section for employers who 1549
have been granted self-insuring status within the last calendar 1550
year; 1551

(2) If an employer fails to pay the assessment when due, the 1552
administrator may add a late fee penalty of not more than five 1553
hundred dollars to the assessment plus an additional penalty 1554
amount as follows: 1555

(a) For an assessment from sixty-one to ninety days past due, 1556
the prime interest rate, multiplied by the assessment due; 1557

(b) For an assessment from ninety-one to one hundred twenty 1558
days past due, the prime interest rate plus two per cent, 1559
multiplied by the assessment due; 1560

(c) For an assessment from one hundred twenty-one to one 1561
hundred fifty days past due, the prime interest rate plus four per 1562
cent, multiplied by the assessment due; 1563

(d) For an assessment from one hundred fifty-one to one 1564
hundred eighty days past due, the prime interest rate plus six per 1565
cent, multiplied by the assessment due; 1566

(e) For an assessment from one hundred eighty-one to two 1567
hundred ten days past due, the prime interest rate plus eight per 1568
cent, multiplied by the assessment due; 1569

(f) For each additional thirty-day period or portion thereof 1570
that an assessment remains past due after it has remained past due 1571
for more than two hundred ten days, the prime interest rate plus 1572
eight per cent, multiplied by the assessment due. 1573

(3) An employer may appeal a late fee penalty and penalty 1574
assessment to the administrator. 1575

For purposes of division (L)(2) of this section, "prime 1576

interest rate" means the average bank prime rate, and the 1577
administrator shall determine the prime interest rate in the same 1578
manner as a county auditor determines the average bank prime rate 1579
under section 929.02 of the Revised Code. 1580

The administrator shall include any assessment and penalties 1581
that remain unpaid for previous assessment periods in the 1582
calculation and collection of any assessments due under this 1583
division or division (J) of this section. 1584

(M) As used in this section, "paid compensation" means all 1585
amounts paid by a self-insuring employer for living maintenance 1586
benefits, all amounts for compensation paid pursuant to sections 1587
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 1588
4123.64 of the Revised Code, all amounts paid as wages in lieu of 1589
such compensation, all amounts paid in lieu of such compensation 1590
under a nonoccupational accident and sickness program fully funded 1591
by the self-insuring employer, and all amounts paid by a 1592
self-insuring employer for a violation of a specific safety 1593
standard pursuant to Section 35 of Article II, Ohio Constitution 1594
and section 4121.47 of the Revised Code. 1595

(N) Should any section of this chapter or Chapter 4121. of 1596
the Revised Code providing for self-insuring employers' 1597
assessments based upon compensation paid be declared 1598
unconstitutional by a final decision of any court, then that 1599
section of the Revised Code declared unconstitutional shall revert 1600
back to the section in existence prior to November 3, 1989, 1601
providing for assessments based upon payroll. 1602

(O) The administrator may grant a self-insuring employer the 1603
privilege to self-insure a construction project entered into by 1604
the self-insuring employer that is scheduled for completion within 1605
six years after the date the project begins, and the total cost of 1606
which is estimated to exceed one hundred million dollars or, for 1607
employers described in division (R) of this section, if the 1608

construction project is estimated to exceed twenty-five million 1609
dollars. The administrator may waive such cost and time criteria 1610
and grant a self-insuring employer the privilege to self-insure a 1611
construction project regardless of the time needed to complete the 1612
construction project and provided that the cost of the 1613
construction project is estimated to exceed fifty million dollars. 1614
A self-insuring employer who desires to self-insure a construction 1615
project shall submit to the administrator an application listing 1616
the dates the construction project is scheduled to begin and end, 1617
the estimated cost of the construction project, the contractors 1618
and subcontractors whose employees are to be self-insured by the 1619
self-insuring employer, the provisions of a safety program that is 1620
specifically designed for the construction project, and a 1621
statement as to whether a collective bargaining agreement 1622
governing the rights, duties, and obligations of each of the 1623
parties to the agreement with respect to the construction project 1624
exists between the self-insuring employer and a labor 1625
organization. 1626

A self-insuring employer may apply to self-insure the 1627
employees of either of the following: 1628

(1) All contractors and subcontractors who perform labor or 1629
work or provide materials for the construction project; 1630

(2) All contractors and, at the administrator's discretion, a 1631
substantial number of all the subcontractors who perform labor or 1632
work or provide materials for the construction project. 1633

Upon approval of the application, the administrator shall 1634
mail a certificate granting the privilege to self-insure the 1635
construction project to the self-insuring employer. The 1636
certificate shall contain the name of the self-insuring employer 1637
and the name, address, and telephone number of the self-insuring 1638
employer's representatives who are responsible for administering 1639
workers' compensation claims for the construction project. The 1640

self-insuring employer shall post the certificate in a conspicuous 1641
place at the site of the construction project. 1642

The administrator shall maintain a record of the contractors 1643
and subcontractors whose employees are covered under the 1644
certificate issued to the self-insured employer. A self-insuring 1645
employer immediately shall notify the administrator when any 1646
contractor or subcontractor is added or eliminated from inclusion 1647
under the certificate. 1648

Upon approval of the application, the self-insuring employer 1649
is responsible for the administration and payment of all claims 1650
under this chapter and Chapter 4121. of the Revised Code for the 1651
employees of the contractor and subcontractors covered under the 1652
certificate who receive injuries or are killed in the course of 1653
and arising out of employment on the construction project, or who 1654
contract an occupational disease in the course of employment on 1655
the construction project. For purposes of this chapter and Chapter 1656
4121. of the Revised Code, a claim that is administered and paid 1657
in accordance with this division is considered a claim against the 1658
self-insuring employer listed in the certificate. A contractor or 1659
subcontractor included under the certificate shall report to the 1660
self-insuring employer listed in the certificate, all claims that 1661
arise under this chapter and Chapter 4121. of the Revised Code in 1662
connection with the construction project for which the certificate 1663
is issued. 1664

A self-insuring employer who complies with this division is 1665
entitled to the protections provided under this chapter and 1666
Chapter 4121. of the Revised Code with respect to the employees of 1667
the contractors and subcontractors covered under a certificate 1668
issued under this division for death or injuries that arise out 1669
of, or death, injuries, or occupational diseases that arise in the 1670
course of, those employees' employment on that construction 1671
project, as if the employees were employees of the self-insuring 1672

employer, provided that the self-insuring employer also complies 1673
with this section. No employee of the contractors and 1674
subcontractors covered under a certificate issued under this 1675
division shall be considered the employee of the self-insuring 1676
employer listed in that certificate for any purposes other than 1677
this chapter and Chapter 4121. of the Revised Code. Nothing in 1678
this division gives a self-insuring employer authority to control 1679
the means, manner, or method of employment of the employees of the 1680
contractors and subcontractors covered under a certificate issued 1681
under this division. 1682

The contractors and subcontractors included under a 1683
certificate issued under this division are entitled to the 1684
protections provided under this chapter and Chapter 4121. of the 1685
Revised Code with respect to the contractor's or subcontractor's 1686
employees who are employed on the construction project which is 1687
the subject of the certificate, for death or injuries that arise 1688
out of, or death, injuries, or occupational diseases that arise in 1689
the course of, those employees' employment on that construction 1690
project. 1691

The contractors and subcontractors included under a 1692
certificate issued under this division shall identify in their 1693
payroll records the employees who are considered the employees of 1694
the self-insuring employer listed in that certificate for purposes 1695
of this chapter and Chapter 4121. of the Revised Code, and the 1696
amount that those employees earned for employment on the 1697
construction project that is the subject of that certificate. 1698
Notwithstanding any provision to the contrary under this chapter 1699
and Chapter 4121. of the Revised Code, the administrator shall 1700
exclude the payroll that is reported for employees who are 1701
considered the employees of the self-insuring employer listed in 1702
that certificate, and that the employees earned for employment on 1703
the construction project that is the subject of that certificate, 1704

when determining those contractors' or subcontractors' premiums or 1705
assessments required under this chapter and Chapter 4121. of the 1706
Revised Code. A self-insuring employer issued a certificate under 1707
this division shall include in the amount of paid compensation it 1708
reports pursuant to division (L) of this section, the amount of 1709
paid compensation the self-insuring employer paid pursuant to this 1710
division for the previous calendar year. 1711

Nothing in this division shall be construed as altering the 1712
rights of employees under this chapter and Chapter 4121. of the 1713
Revised Code as those rights existed prior to September 17, 1996. 1714
Nothing in this division shall be construed as altering the rights 1715
devolved under sections 2305.31 and 4123.82 of the Revised Code as 1716
those rights existed prior to September 17, 1996. 1717

As used in this division, "privilege to self-insure a 1718
construction project" means privilege to pay individually 1719
compensation, and to furnish medical, surgical, nursing, and 1720
hospital services and attention and funeral expenses directly to 1721
injured employees or the dependents of killed employees. 1722

(P) A self-insuring employer whose application is granted 1723
under division (O) of this section shall designate a safety 1724
professional to be responsible for the administration and 1725
enforcement of the safety program that is specifically designed 1726
for the construction project that is the subject of the 1727
application. 1728

A self-insuring employer whose application is granted under 1729
division (O) of this section shall employ an ombudsperson for the 1730
construction project that is the subject of the application. The 1731
ombudsperson shall have experience in workers' compensation or the 1732
construction industry, or both. The ombudsperson shall perform all 1733
of the following duties: 1734

(1) Communicate with and provide information to employees who 1735

are injured in the course of, or whose injury arises out of 1736
employment on the construction project, or who contract an 1737
occupational disease in the course of employment on the 1738
construction project; 1739

(2) Investigate the status of a claim upon the request of an 1740
employee to do so; 1741

(3) Provide information to claimants, third party 1742
administrators, employers, and other persons to assist those 1743
persons in protecting their rights under this chapter and Chapter 1744
4121. of the Revised Code. 1745

A self-insuring employer whose application is granted under 1746
division (O) of this section shall post the name of the safety 1747
professional and the ombudsperson and instructions for contacting 1748
the safety professional and the ombudsperson in a conspicuous 1749
place at the site of the construction project. 1750

(Q) The administrator may consider all of the following when 1751
deciding whether to grant a self-insuring employer the privilege 1752
to self-insure a construction project as provided under division 1753
(O) of this section: 1754

(1) Whether the self-insuring employer has an organizational 1755
plan for the administration of the workers' compensation law; 1756

(2) Whether the safety program that is specifically designed 1757
for the construction project provides for the safety of employees 1758
employed on the construction project, is applicable to all 1759
contractors and subcontractors who perform labor or work or 1760
provide materials for the construction project, and has as a 1761
component, a safety training program that complies with standards 1762
adopted pursuant to the "Occupational Safety and Health Act of 1763
1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing 1764
management and employee involvement; 1765

(3) Whether granting the privilege to self-insure the 1766

construction project will reduce the costs of the construction project;	1767 1768
(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;	1769 1770
(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible pursuant to the granting of the privilege to self-insure a construction project under division (O) of this section.	1771 1772 1773 1774 1775
(R) As used in divisions (O), (P), and (Q), "self-insuring employer" includes the following employers, whether or not they have been granted the status of being a self-insuring employer under division (B) of this section:	1776 1777 1778 1779
(1) A state institution of higher education;	1780
(2) A school district;	1781
(3) A county school financing district;	1782
(4) An educational service center;	1783
(5) A community school established under Chapter 3314. of the Revised Code;	1784 1785
<u>(6) A municipal power agency as defined in section 3734.058 of the Revised Code.</u>	1786 1787
(S) As used in this section:	1788
(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;	1789 1790
(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to	1791 1792 1793 1794 1795

Chapter 3357. of the Revised Code, and state community colleges 1796
created pursuant to Chapter 3358. of the Revised Code. 1797

Sec. 4123.82. (A) All contracts and agreements are void which 1798
undertake to indemnify or insure an employer against loss or 1799
liability for the payment of compensation to workers or their 1800
dependents for death, injury, or occupational disease occasioned 1801
in the course of the workers' employment, or which provide that 1802
the insurer shall pay the compensation, or which indemnify the 1803
employer against damages when the injury, disease, or death arises 1804
from the failure to comply with any lawful requirement for the 1805
protection of the lives, health, and safety of employees, or when 1806
the same is occasioned by the willful act of the employer or any 1807
of the employer's officers or agents, or by which it is agreed 1808
that the insurer shall pay any such damages. No license or 1809
authority to enter into any such agreements or issue any such 1810
policies of insurance shall be granted or issued by any public 1811
authority in this state. Any corporation organized or admitted 1812
under the laws of this state to transact liability insurance as 1813
defined in section 3929.01 of the Revised Code may by amendment of 1814
its articles of incorporation or by original articles of 1815
incorporation, provide therein for the authority and purpose to 1816
make insurance in states, territories, districts, and counties, 1817
other than the state of Ohio, and in the state of Ohio in respect 1818
of contracts permitted by division (B) of this section, 1819
indemnifying employers against loss or liability for payment of 1820
compensation to workers and employees and their dependents for 1821
death, injury, or occupational disease occasioned in the course of 1822
the employment and to insure and indemnify employers against loss, 1823
expense, and liability by risk of bodily injury or death by 1824
accident, disability, sickness, or disease suffered by workers and 1825
employees for which the employer may be liable or has assumed 1826
liability. 1827

(B) Notwithstanding division (A) of this section: 1828

(1) No contract because of that division is void which 1829
undertakes to indemnify a self-insuring employer against all or 1830
part of such employer's loss in excess of at least fifty thousand 1831
dollars from any one disaster or event arising out of the 1832
employer's liability under this chapter, but no insurance 1833
corporation shall, directly or indirectly, represent an employer 1834
in the settlement, adjudication, determination, allowance, or 1835
payment of claims. The superintendent of insurance shall enforce 1836
this prohibition by such disciplinary orders directed against the 1837
offending insurance corporation as the superintendent of insurance 1838
deems appropriate in the circumstances and the administrator of 1839
workers' compensation shall enforce this prohibition by such 1840
disciplinary orders directed against the offending employer as the 1841
administrator deems appropriate in the circumstances, which orders 1842
may include revocation of the insurance corporation's right to 1843
enter into indemnity contracts and revocation of the employer's 1844
status as a self-insuring employer. 1845

(2) The administrator may enter into a contract of indemnity 1846
with any such employer upon such terms, payment of such premium, 1847
and for such amount and form of indemnity as the administrator 1848
determines and the bureau of workers' compensation board of 1849
directors may procure reinsurance of the liability of the public 1850
and private funds under this chapter, or any part of the liability 1851
in respect of either or both of the funds, upon such terms and 1852
premiums or other payments from the fund or funds as the 1853
administrator deems prudent in the maintenance of a solvent fund 1854
or funds from year to year. When making the finding of fact which 1855
the administrator is required by section 4123.35 of the Revised 1856
Code to make with respect to the financial ability of an employer, 1857
no contract of indemnity, or the ability of the employer to 1858
procure such a contract, shall be considered as increasing the 1859

financial ability of the employer. 1860

(C) Nothing in this section shall be construed to prohibit 1861
the administrator or an other-states' insurer from providing to 1862
employers in this state other-states' coverage in accordance with 1863
section 4123.292 of the Revised Code. 1864

(D) Notwithstanding any other section of the Revised Code, 1865
the superintendent of insurance shall have the sole authority to 1866
regulate any insurance products, except those products offered by 1867
the bureau of workers' compensation, that indemnify or insure 1868
employers against workers' compensation losses in this state or 1869
that are sold to employers in this state. 1870

Section 102. That existing sections 121.52, 4121.12, 1871
4121.125, 4121.62, 4121.70, 4121.75, 4123.29, 4123.34, 4123.35, 1872
and 4123.82 of the Revised Code are hereby repealed. 1873

Section 201. All items in Sections 201 and 203 of this act 1874
are hereby appropriated out of any moneys in the state treasury to 1875
the credit of the designated fund. For all appropriations made in 1876
this act, those in the first column are for fiscal year 2010, and 1877
those in the second column are for fiscal year 2011. 1878

FND AI	AI TITLE	Appropriations		
	BWC BUREAU OF WORKERS' COMPENSATION			1880
	Workers' Compensation Fund Group			1881
7023 855401	William Green Lease	\$ 19,871,795	\$ 19,049,395	1882
	Payments to OBA			
7023 855407	Claims, Risk and	\$ 138,129,873	\$ 142,659,528	1883
	Medical Management			
7023 855408	Fraud Prevention	\$ 12,546,239	\$ 13,101,761	1884
7023 855409	Administrative	\$ 124,674,772	\$ 120,192,995	1885
	Services			
7023 855410	Attorney General	\$ 4,621,850	\$ 4,621,850	1886

		Payments				
8220	855606	Coal Workers' Fund	\$	91,894	\$	91,894
8230	855608	Marine Industry	\$	53,952	\$	53,952
8250	855605	Disabled Workers	\$	492,500	\$	492,500
		Relief Fund				
8260	855609	Safety and Hygiene	\$	20,734,750	\$	20,734,750
		Operating				
8260	855610	Gear Program	\$	4,000,000	\$	4,000,000
8290	855604	Long Term Care Loan	\$	2,000,000	\$	2,000,000
		Program				
		TOTAL WCF Workers' Compensation				1893
		Fund Group	\$	327,217,625	\$	326,998,625
		Federal Special Revenue Fund Group				1895
3490	855601	OSHA Enforcement	\$	1,604,140	\$	1,604,140
		TOTAL FED Federal Special Revenue	\$	1,604,140	\$	1,604,140
		Fund Group				
		TOTAL ALL BUDGET FUND GROUPS	\$	328,821,765	\$	328,602,765
		WILLIAM GREEN LEASE PAYMENTS				1899
		The foregoing appropriation item 855401, William Green Lease				1900
		Payments to OBA, shall be used for lease payments to the Ohio				1901
		Building Authority, and these appropriations shall be used to meet				1902
		all payments at the times they are required to be made during the				1903
		period from July 1, 2009, to June 30, 2011, by the Bureau of				1904
		Workers' Compensation to the Ohio Building Authority pursuant to				1905
		leases and agreements made under Chapter 152. of the Revised Code				1906
		and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly.				1907
		Of the amounts received in Fund 7023, appropriation item 855401,				1908
		William Green Lease Payments to OBA, up to \$38,921,190 shall be				1909
		restricted for lease rental payments to the Ohio Building				1910
		Authority. If it is determined that additional appropriations are				1911
		necessary for such purpose, such amounts are hereby appropriated.				1912
		Notwithstanding any provision of law to the contrary, all				1913

tenants of the William Green Building not funded by the Workers' Compensation Fund (Fund 7023) shall pay their fair share of the costs of lease payments to the Workers' Compensation Fund (Fund 7023) by intrastate transfer voucher.

WORKERS' COMPENSATION FRAUD UNIT

The Workers' Compensation Section Fund (Fund 1950) that is used by the Attorney General shall receive payments from the Bureau of Workers' Compensation at the beginning of each quarter of each fiscal year to fund expenses of the Workers' Compensation Fraud Unit of the Attorney General's Office. Of the foregoing appropriation item 855410, Attorney General Payments, \$828,200 in fiscal year 2010 and \$828,200 in fiscal year 2011 shall be used to provide these payments.

SAFETY AND HYGIENE

Notwithstanding section 4121.37 of the Revised Code, the Administrator of Workers' Compensation shall transfer moneys from the State Insurance Fund so that appropriation item 855609, Safety and Hygiene Operating, is provided \$20,734,750 in fiscal year 2010 and \$20,734,750 in fiscal year 2011.

OSHA ON-SITE CONSULTATION PROGRAM

The Bureau of Workers' Compensation may designate a portion of appropriation item 855609, Safety and Hygiene Operating, to be used to match federal funding for the federal Occupational Safety and Health Administration's (OSHA) on-site consultation program.

VOCATIONAL REHABILITATION

The Bureau of Workers' Compensation and the Rehabilitation 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 \$605,407 in fiscal year 2010 and \$605,407 in fiscal year 2011 from the State

Insurance Fund to fund vocational rehabilitation services and 1944
staff in accordance with the interagency agreement. 1945

FUND BALANCE 1946

Any unencumbered cash balance in excess of \$45,000,000 in the 1947
Workers' Compensation Fund (Fund 7023) on the thirtieth day of 1948
June of each fiscal year shall be used to reduce the 1949
administrative cost rate charged to employers to cover 1950
appropriations for Bureau of Workers' Compensation operations. 1951

Section 203. WCC WORKERS' COMPENSATION COUNCIL 1952

5FV0 321600 Remuneration Expenses \$ 471,200 \$ 471,200 1953

TOTAL 5FV0 Workers' Compensation \$ 471,200 \$ 471,200 1954

Council Remuneration Fund

TOTAL ALL BUDGET FUND GROUPS \$ 471,200 \$ 471,200 1955

WORKERS' COMPENSATION COUNCIL 1956

The foregoing appropriation item 321600, Remuneration 1957
Expenses, shall be used to pay the payroll and fringe benefit 1958
costs for employees of the Workers' Compensation Council. 1959

Between July 1, 2009, and December 31, 2009, the 1960
Administrator of Workers' Compensation shall direct the Treasurer 1961
of State to transfer \$325,000 in cash from the Workers' 1962
Compensation Fund (Fund 7023) to the Workers' Compensation Council 1963
Fund, created in division (C) of section 4121.79 of the Revised 1964
Code, in three installments. These transfers shall be made 1965
according to a schedule agreed to by the Director of the Workers' 1966
Compensation Council and the Administrator of Workers' 1967
Compensation. 1968

If the Workers' Compensation Council contracts with an 1969
independent actuary to have that actuary perform an actuarial 1970
valuation as described in division (A)(1) of Section 512.45 of Am. 1971
Sub. H.B. 100 of the 127th General Assembly as amended by this 1972

act, or a review as described in division (A)(2), (3), or (4) of 1973
Section 512.45 of Am. Sub. H.B. 100 of the 127th General Assembly 1974
as amended by this act, on or before January 31, 2011, the 1975
Director of the Workers' Compensation Council shall request the 1976
funds necessary to cover the expenses of the valuation or review, 1977
which amount shall not exceed \$650,000, from the Administrator of 1978
Workers' Compensation. The Administrator shall direct the 1979
Treasurer of State to transfer the amount requested by the 1980
Director from the Workers' Compensation Fund (Fund 7023) to the 1981
Workers' Compensation Council Fund created in division (C) of 1982
section 4121.79 of the Revised Code. The Director and 1983
Administrator shall agree to a schedule for the transfer of these 1984
funds. 1985

Section 211. DEPUTY INSPECTOR GENERAL FOR BWC AND OIC FUNDING 1986

On July 1, 2009, January 1, 2010, July 1, 2010, and January 1987
1, 2011 or as soon after each date as possible, the Director of 1988
Budget and Management shall transfer \$212,500 in cash from the 1989
Workers' Compensation Fund (Fund 7023) to the Deputy Inspector 1990
General for the Bureau of Workers' Compensation and Industrial 1991
Commission Fund (Fund 5FT0). The amounts transferred are 1992
appropriated. 1993

Should additional amounts be necessary, the Inspector General 1994
may seek Controlling Board approval for additional transfers of 1995
cash and to increase the amount appropriated from appropriation 1996
item 965604, Deputy Inspector General for the Bureau of Workers' 1997
compensation and Industrial Commission, in the amount of the 1998
additional transfers. 1999

Section 215.01. That Section 512.45 of Am. Sub. H.B. 100 of 2000
the 127th General Assembly be amended to read as follows: 2001

Sec. 512.45. (A) The Workers' Compensation Council ~~shall~~ may 2002

contract with an independent actuary to have that actuary perform 2003
~~an~~ any of the following work as the Council determines is 2004
necessary: 2005

(1) An actuarial valuation of the assets, liabilities, and 2006
funding requirements of the funds specified in Chapters 4121., 2007
4123., 4127., and 4131. of the Revised Code.—The; 2008

(2) A review of a recent actuarial valuation performed 2009
pursuant to division (C)(1) of section 4121.125 of the Revised 2010
Code; 2011

(3) A review of the study required by Section 512.50 of Am. 2012
Sub. H.B. 100 of the 127th General Assembly; 2013

(4) A review of any actuarial analysis of any of the funds 2014
specified in Chapters 4121., 4123., 4127., and 4131. of the 2015
Revised Code that is completed as required by the Auditor of 2016
State. 2017

(B) If the Council contracts with an actuary with whom the 2018
Council contracts under pursuant to division (A)(1) of this 2019
section, that actuary shall prepare a report of the valuation 2020
described in that division in accordance with the standards of 2021
practice promulgated by the Actuarial Standards Board of the 2022
American Academy of Actuaries and shall submit that report to the 2023
Council. The actuary shall include all of the following 2024
information in the report: 2025

(A)(1) A summary of the compensation and benefit provisions 2026
evaluated; 2027

(B)(2) A summary of the census data and financial information 2028
used in the valuation; 2029

(C)(3) A description of the actuarial assumptions, actuarial 2030
cost method, and asset valuation method used in the valuation; 2031

(D)(4) A summary of the findings that includes a statement of 2032

the actuarial accrued compensation and benefit liabilities and 2033
unfounded actuarial accrued compensation and benefit liabilities. 2034

The (C) If the Council contracts with an actuary pursuant to 2035
division (A)(2), (3), or (4) of this section, that actuary shall 2036
prepare a report of the review in accordance with the standards of 2037
practice promulgated by the Actuarial Standards Board of the 2038
American Academy of Actuaries and shall submit that report to the 2039
Council. The actuary shall include all of the following 2040
information in the report: 2041

(1) A summary of the valuation, study, or analysis the 2042
actuary reviewed; 2043

(2) The actuarial assumptions and methods and the data 2044
underlying the valuation, study, or analysis, as appropriate; 2045

(3) An assessment of the adequacy of each of the funds 2046
specified in Chapters 4121., 4123., 4127., and 4131. of the 2047
Revised Code that were evaluated to pay the claims authorized 2048
under those chapters; 2049

(4) A discussion of the reasonableness of the findings of 2050
valuation, study, or analysis, and whether the valuation, study, 2051
or analysis was performed in accordance with the actuarial 2052
standards of practice promulgated by the Actuarial Standards Board 2053
of the American Academy of Actuaries; 2054

(5) A description of any additional studies the actuary 2055
recommends to assist the Council in the performance of its duties. 2056

(D) If the Council contracts with an actuary under this 2057
section, the Council shall submit to the ~~governor~~ Governor and the 2058
general assembly General Assembly a report summarizing the 2059
valuation required any report completed under this section not 2060
later than two years after the effective date of section 4121.75 2061
of the Revised Code, as enacted by this act September 10, 2011. 2062

Section 215.02. That existing Section 512.45 of Am. Sub. H.B. 2063
100 of the 127th General Assembly is hereby repealed. 2064

Section 217. All members serving on the Workers' Compensation 2065
Council on the effective date of section 4121.75 of the Revised 2066
Code as amended by this act shall serve the duration of their 2067
terms as appointed. Upon the expiration of the terms of the 2068
members serving on the Council on the effective date of section 2069
4121.75 of the Revised Code as amended by this act, new 2070
appointments shall be made to the Council in accordance with 2071
section 4121.75 of the Revised Code as amended by this act. The 2072
President of the Senate shall make the initial appointment of the 2073
member described in division (A)(7) of section 4121.75 of the 2074
Revised Code as amended by this act, and thereafter the President 2075
and the Speaker of the House shall alternate appointments as 2076
described in division (A)(7) of section 4121.75 of the Revised 2077
Code as amended by this act. 2078

Section 219. The Speaker of the House of Representatives and 2079
the President of the Senate shall make the initial appointments of 2080
the members of the Labor-Management Government Advisory Council 2081
described in divisions (A)(5) and (6) of section 4121.70 of the 2082
Revised Code, as amended by this act, within sixty days after the 2083
effective date of section 4121.70 of the Revised Code, as amended 2084
by this act. The members appointed pursuant to this section shall 2085
serve terms of six years, as described in division (B) of section 2086
4121.70 of the Revised Code. Subsequent appointments of the 2087
members described in divisions (A)(5) and (6) of section 4121.70 2088
of the Revised Code, as amended by this act, shall be made in 2089
accordance with section 4121.70 of the Revised Code, as amended by 2090
this act. 2091

Section 220. (A) For the policy year beginning July 1, 2009 2092

and ending June 30, 2010, and thereafter until the Bureau of
Workers' Compensation completes the Bureau's transition to the
adoption of a split-experienced rating plan in conformity with the
current methodology of the National Council of Compensation
Insurance, the Bureau shall offer to an eligible construction
industry employer a construction industry cap on the employer's
experience modification as provided in this section.

(B) The Bureau shall establish the employer's experience
modifier at .99 for the policy year beginning July 1, 2009, and
ending June 30, 2010, unless the employer opts to not participate.
The Bureau shall adjust the premium rate calculation of a
participating employer by including an adjustment factor in the
calculation of the blended rate of the employer to establish a
blended rate that the employer would have paid as established by
using the initially calculated experience modifier.

(C) The construction industry cap is available to a
construction industry employer that satisfies all of the following
requirements:

(1) The employer's predominant premium for the policy year
beginning July 1, 2007, is in Industry Group 4, Construction, as
identified in Appendix A to section 4123-17-05 of the Ohio
Administrative Code.

(2) The employer had an experience modifier of less than or
equal to 1.0 in the preceding policy year.

(3) The experience modifier initially calculated for the
employer for the current policy year is greater than 1.0 and not
more than 1.5.

(4) The employer participates in a safety program approved by
the Bureau or by the Occupational Safety and Health Administration
during the policy year to improve accident prevention.

Section 221. Law contained in the Main Operating 2123
Appropriations Act of the 128th General Assembly that applies 2124
generally to the appropriations made in that act also applies 2125
generally to the appropriations made in this act. 2126

Section 301. (A) There is hereby created the Competitive 2127
Workers' Compensation Task Force, which consists of seventeen 2128
members and is created for the purpose of reviewing the 2129
feasibility of allowing employers the option to obtain private 2130
insurance to insure their obligations under the workers' 2131
compensation system of this state. Members of the task force shall 2132
be appointed not later than sixty days after the effective date of 2133
this act as follows: 2134

(1) The Governor shall appoint the following members: 2135

(a) Two representatives of employees (claimants) that fulfill 2136
both of the following criteria: 2137

(i) One representative shall be employed by a state fund 2138
employer and one shall be employed by a self-insuring employer; 2139

(ii) One representative shall be employed by an employer that 2140
employs employees who are represented by a labor organization and 2141
one shall be employed by an employer that does not employ 2142
employees who are represented by a labor organization. 2143

(b) One representative who is a state fund employer domiciled 2144
in this state; 2145

(c) One representative who is a self-insuring employer 2146
domiciled in this state; 2147

(d) One representative who is a lawyer admitted to the 2148
practice of law in this state who primarily represents claimants 2149
before the Industrial Commission; 2150

(e) One representative who is a lawyer admitted to the 2151

practice of law in this state who primarily represents employers	2152
before the Industrial Commission;	2153
(f) One representative who is a full-time employee of a	2154
third-party administrator that does business in this state;	2155
(g) One representative who is a full-time employee of a	2156
managed care organization that does business in this state;	2157
(h) Two representatives who are full-time employees of	2158
property and casualty insurance companies that are domiciled in	2159
this state or that are otherwise doing business in this state that	2160
offer to write workers' compensation coverage in at least ten	2161
states other than this state;	2162
(i) One representative who is a state fund employer who	2163
conducts business in this state and at least one other state;	2164
(j) One representative who is a self-insuring employer who	2165
conducts business in this state and at least one other state.	2166
(2) The Speaker of the House of Representatives shall appoint	2167
one member from the majority party.	2168
(3) The President of the Senate shall appoint one member from	2169
the majority party who shall serve as a co-chairperson.	2170
(4) The Administrator of Workers' Compensation, or the	2171
Administrator's designee, the Chairperson of the Bureau of	2172
Workers' Compensation Board of Directors, or the Chairperson's	2173
designee, and the Superintendent of Insurance shall be members of	2174
the task force, and the Superintendent of Insurance shall serve as	2175
a co-chairperson of the task force.	2176
(B) The task force may contract with a firm that possesses	2177
significant property and casualty and workers' compensation	2178
insurance actuarial evaluation experience to do all of the	2179
following:	2180
(1) Evaluate the current workers' compensation insurance	2181

offerings offered by the Bureau of Workers' Compensation to 2182
determine if such offerings are actuarially sound and competitive 2183
with similar offerings in other states while taking into account 2184
variations in available benefit levels; 2185

(2) Evaluate and describe the efforts made by other states 2186
within the last fifteen years to open those states' workers' 2187
compensation markets to private competition, which shall include 2188
the identification and description of those states' best practices 2189
in planning for and implementing a transition from a state-fund 2190
monopolistic workers' compensation system to a market that 2191
includes private competition; 2192

(3) Identify at least three business plan options through 2193
which this state can introduce viable private workers' 2194
compensation competition along with or without the current state 2195
fund administered by the Bureau of Workers' Compensation and the 2196
Industrial Commission. 2197

(C) If the task force contracts with a firm under division 2198
(B) of this section, then the task force shall solicit bids from 2199
appropriate vendors and award the contract described in division 2200
(B) of this section in a competitive manner. 2201

(D) The agenda, discussions, or outcomes of the work of the 2202
task force, or any firm with which the task force contracts, shall 2203
not be constrained in any manner by current law with respect to 2204
workers' compensation insurance. 2205

(E) The task force shall make findings on the issues 2206
described in division (B) of this section and shall report such 2207
findings to the Governor, the Speaker of the House of 2208
Representatives, and the President of the Senate not later than 2209
June 30, 2010. 2210

(F) Members of the task force shall be reimbursed for any 2211
travel expenses. 2212

Section 401. The provisions of law contained in this act, and 2213
their applications, are severable. If any provision of law 2214
contained in this act, or if any application of any provision of 2215
law contained in this act, is held invalid, the invalidity does 2216
not affect other provisions of law contained in this act and their 2217
applications that can be given effect without the invalid 2218
provision or application. 2219

Section 411. Except as otherwise provided in this act, the 2220
amendment, enactment, or repeal by this act of a section of law is 2221
exempt from the referendum because it is or relates to an 2222
appropriation for current expenses within the meaning of Ohio 2223
Constitution, Article II, Section 1d and section 1.471 of the 2224
Revised Code and therefore takes effect immediately when this act 2225
becomes law. 2226

Section 413. The amendment, enactment, or repeal by this act 2227
of the divisions and sections of law listed below are subject to 2228
the referendum under Ohio Constitution, Article II, Section 1c and 2229
therefore take effect on the ninety-first day after this act is 2230
filed with the Secretary of State. 2231

The amendment by this act of divisions (A)(4)(f), (A)(4)(g), 2232
and (B) of section 4123.29, division (B) of section 4123.34 and 2233
sections 4121.12, 4121.125, 4121.62, 4121.70, and 4123.35 of the 2234
Revised Code. 2235