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Representatives Henne, McColley

Cosponsors: Representatives Boose, Romanchuk, Hambley, Burkley, Hood, Sprague, Terhar, Maag, Reineke, Hackett, DeVitis, Retherford, Sears, Amstutz, Anielski, Antani, Antonio, Arndt, Barnes, Bishoff, Blessing, Brenner, Buchy, Butler, Conditt, Cupp, Derickson, Dever, Dovilla, Duffey, Ginter, Green, Grossman, Hall, Hayes, Hill, Huffman, Koehler, LaTourette, Manning, McClain, O'Brien, M., O'Brien, S., Patterson, Pelanda, Perales, Phillips, Rezabek, Rogers, Ruhl, Ryan, Schaffer, Scherer, Schuring, Slesnick, Smith, R., Stinziano, Sweeney, Thompson, Young, Zeltwanger, Speaker Rosenberger

Senators Hottinger, Beagle, Bacon, Brown, Balderson, Burke, Coley, Eklund, Faber, Gardner, Hite, Jones, Obhof, Oelslager, Peterson, Schiavoni, Seitz, Yuko

A BILL

To amend sections 4123.35, 4123.93, 4123.931, and 1
4125.07 and to enact section 4123.932 of the 2
Revised Code to eliminate the minimum number of 3
employees required for a private sector employer 4
or a board of county commissioners with respect 5
to the construction of a sports facility to 6
obtain self-insuring status under the Workers' 7
Compensation Law, to allow a state fund employer 8
to have a workers' compensation claim that is 9
likely to be subrogated by a third party paid 10
from the surplus fund account in the state 11
insurance fund rather than charged to the 12
employer's experience and to require a self- 13
insuring employer resuming paying premiums to 14
the State Insurance Fund or a self-insuring 15

professional employer organization after a lease 16
termination to submit certain records to the 17
Administrator of Workers' Compensation. 18

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

Section 1. That sections 4123.35, 4123.93, 4123.931, and 19
4125.07 be amended and section 4123.932 of the Revised Code be 20
enacted to read as follows: 21

Sec. 4123.35. (A) Except as provided in this section, and 22
until the policy year commencing July 1, 2015, every private 23
employer and every publicly owned utility shall pay semiannually 24
in the months of January and July into the state insurance fund 25
the amount of annual premium the administrator of workers' 26
compensation fixes for the employment or occupation of the 27
employer, the amount of which premium to be paid by each 28
employer to be determined by the classifications, rules, and 29
rates made and published by the administrator. The employer 30
shall pay semiannually a further sum of money into the state 31
insurance fund as may be ascertained to be due from the employer 32
by applying the rules of the administrator. 33

Except as otherwise provided in this section, for a policy 34
year commencing on or after July 1, 2015, every private employer 35
and every publicly owned utility shall pay annually in the month 36
of June immediately preceding the policy year into the state 37
insurance fund the amount of estimated annual premium the 38
administrator fixes for the employment or occupation of the 39
employer, the amount of which estimated premium to be paid by 40
each employer to be determined by the classifications, rules, 41

and rates made and published by the administrator. The employer 42
shall pay a further sum of money into the state insurance fund 43
as may be ascertained to be due from the employer by applying 44
the rules of the administrator. Upon receipt of the payroll 45
report required by division (B) of section 4123.26 of the 46
Revised Code, the administrator shall adjust the premium and 47
assessments charged to each employer for the difference between 48
estimated gross payrolls and actual gross payrolls, and any 49
balance due to the administrator shall be immediately paid by 50
the employer. Any balance due the employer shall be credited to 51
the employer's account. 52

For a policy year commencing on or after July 1, 2015, 53
each employer that is recognized by the administrator as a 54
professional employer organization shall pay monthly into the 55
state insurance fund the amount of premium the administrator 56
fixes for the employer for the prior month based on the actual 57
payroll of the employer reported pursuant to division (C) of 58
section 4123.26 of the Revised Code. 59

A receipt certifying that payment has been made shall be 60
issued to the employer by the bureau of workers' compensation. 61
The receipt is prima-facie evidence of the payment of the 62
premium. The administrator shall provide each employer written 63
proof of workers' compensation coverage as is required in 64
section 4123.83 of the Revised Code. Proper posting of the 65
notice constitutes the employer's compliance with the notice 66
requirement mandated in section 4123.83 of the Revised Code. 67

The bureau shall verify with the secretary of state the 68
existence of all corporations and organizations making 69
application for workers' compensation coverage and shall require 70
every such application to include the employer's federal 71

identification number. 72

A private employer who has contracted with a subcontractor 73
is liable for the unpaid premium due from any subcontractor with 74
respect to that part of the payroll of the subcontractor that is 75
for work performed pursuant to the contract with the employer. 76

Division (A) of this section providing for the payment of 77
premiums semiannually does not apply to any employer who was a 78
subscriber to the state insurance fund prior to January 1, 1914, 79
or, until July 1, 2015, who may first become a subscriber to the 80
fund in any month other than January or July. Instead, the 81
semiannual premiums shall be paid by those employers from time 82
to time upon the expiration of the respective periods for which 83
payments into the fund have been made by them. After July 1, 84
2015, an employer who first becomes a subscriber to the fund on 85
any day other than the first day of July shall pay premiums 86
according to rules adopted by the administrator, with the advice 87
and consent of the bureau of workers' compensation board of 88
directors, for the remainder of the policy year for which the 89
coverage is effective. 90

The administrator, with the advice and consent of the 91
board, shall adopt rules to permit employers to make periodic 92
payments of the premium and assessment due under this division. 93
The rules shall include provisions for the assessment of 94
interest charges, where appropriate, and for the assessment of 95
penalties when an employer fails to make timely premium 96
payments. The administrator, in the rules the administrator 97
adopts, may set an administrative fee for these periodic 98
payments. An employer who timely pays the amounts due under this 99
division is entitled to all of the benefits and protections of 100
this chapter. Upon receipt of payment, the bureau shall issue a 101

receipt to the employer certifying that payment has been made, 102
which receipt is prima-facie evidence of payment. Workers' 103
compensation coverage under this chapter continues uninterrupted 104
upon timely receipt of payment under this division. 105

Every public employer, except public employers that are 106
self-insuring employers under this section, shall comply with 107
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 108
regard to the contribution of moneys to the public insurance 109
fund. 110

(B) Employers who will abide by the rules of the 111
administrator and who may be of sufficient financial ability to 112
render certain the payment of compensation to injured employees 113
or the dependents of killed employees, and the furnishing of 114
medical, surgical, nursing, and hospital attention and services 115
and medicines, and funeral expenses, equal to or greater than is 116
provided for in sections 4123.52, 4123.55 to 4123.62, and 117
4123.64 to 4123.67 of the Revised Code, and who do not desire to 118
insure the payment thereof or indemnify themselves against loss 119
sustained by the direct payment thereof, upon a finding of such 120
facts by the administrator, may be granted the privilege to pay 121
individually compensation, and furnish medical, surgical, 122
nursing, and hospital services and attention and funeral 123
expenses directly to injured employees or the dependents of 124
killed employees, thereby being granted status as a self- 125
insuring employer. The administrator may charge employers who 126
apply for the status as a self-insuring employer a reasonable 127
application fee to cover the bureau's costs in connection with 128
processing and making a determination with respect to an 129
application. 130

All employers granted status as self-insuring employers 131

shall demonstrate sufficient financial and administrative 132
ability to assure that all obligations under this section are 133
promptly met. The administrator shall deny the privilege where 134
the employer is unable to demonstrate the employer's ability to 135
promptly meet all the obligations imposed on the employer by 136
this section. 137

(1) The administrator shall consider, but is not limited 138
to, the following factors, where applicable, in determining the 139
employer's ability to meet all of the obligations imposed on the 140
employer by this section: 141

~~(a) The employer employs a minimum of five hundred 142
employees in this state; 143~~

~~(b) The employer has operated in this state for a minimum 144
of two years, provided that an employer who has purchased, 145
acquired, or otherwise succeeded to the operation of a business, 146
or any part thereof, situated in this state that has operated 147
for at least two years in this state, also shall qualify; 148~~

~~(c) Where the employer previously contributed to the 149
state insurance fund or is a successor employer as defined by 150
bureau rules, the amount of the buyout, as defined by bureau 151
rules; 152~~

~~(d) (c) The sufficiency of the employer's assets located 153
in this state to insure the employer's solvency in paying 154
compensation directly; 155~~

~~(e) (d) The financial records, documents, and data, 156
certified by a certified public accountant, necessary to provide 157
the employer's full financial disclosure. The records, 158
documents, and data include, but are not limited to, balance 159
sheets and profit and loss history for the current year and 160~~

previous four years. 161

~~(f)~~ (e) The employer's organizational plan for the 162
administration of the workers' compensation law; 163

~~(g)~~ (f) The employer's proposed plan to inform employees 164
of the change from a state fund insurer to a self-insuring 165
employer, the procedures the employer will follow as a self- 166
insuring employer, and the employees' rights to compensation and 167
benefits; and 168

~~(h)~~ (g) The employer has either an account in a financial 169
institution in this state, or if the employer maintains an 170
account with a financial institution outside this state, ensures 171
that workers' compensation checks are drawn from the same 172
account as payroll checks or the employer clearly indicates that 173
payment will be honored by a financial institution in this 174
state. 175

The administrator may waive the requirements of ~~divisions~~ 176
division (B) (1) (a) ~~and (b)~~ of this section and the requirement 177
of division (B) (1) ~~(c)~~ (d) of this section that the financial 178
records, documents, and data be certified by a certified public 179
accountant. The administrator shall adopt rules establishing the 180
criteria that an employer shall meet in order for the 181
administrator to waive the requirements of divisions (B) (1) (a) ~~7~~ 182
~~(b)~~, and ~~(c)~~ (d) of this section. Such rules may require 183
additional security of that employer pursuant to division (E) of 184
section 4123.351 of the Revised Code. 185

The administrator shall not grant the status of self- 186
insuring employer to the state, except that the administrator 187
may grant the status of self-insuring employer to a state 188
institution of higher education, including its hospitals, that 189

meets the requirements of division (B) (2) of this section. 190

(2) When considering the application of a public employer, 191
except for a board of county commissioners described in division 192
(G) of section 4123.01 of the Revised Code, a board of a county 193
hospital, or a publicly owned utility, the administrator shall 194
verify that the public employer satisfies all of the following 195
requirements as the requirements apply to that public employer: 196

(a) For the two-year period preceding application under 197
this section, the public employer has maintained an unvoted debt 198
capacity equal to at least two times the amount of the current 199
annual premium established by the administrator under this 200
chapter for that public employer for the year immediately 201
preceding the year in which the public employer makes 202
application under this section. 203

(b) For each of the two fiscal years preceding application 204
under this section, the unreserved and undesignated year-end 205
fund balance in the public employer's general fund is equal to 206
at least five per cent of the public employer's general fund 207
revenues for the fiscal year computed in accordance with 208
generally accepted accounting principles. 209

(c) For the five-year period preceding application under 210
this section, the public employer, to the extent applicable, has 211
complied fully with the continuing disclosure requirements 212
established in rules adopted by the United States securities and 213
exchange commission under 17 C.F.R. 240.15c 2-12. 214

(d) For the five-year period preceding application under 215
this section, the public employer has not had its local 216
government fund distribution withheld on account of the public 217
employer being indebted or otherwise obligated to the state. 218

(e) For the five-year period preceding application under 219
this section, the public employer has not been under a fiscal 220
watch or fiscal emergency pursuant to section 118.023, 118.04, 221
or 3316.03 of the Revised Code. 222

(f) For the public employer's fiscal year preceding 223
application under this section, the public employer has obtained 224
an annual financial audit as required under section 117.10 of 225
the Revised Code, which has been released by the auditor of 226
state within seven months after the end of the public employer's 227
fiscal year. 228

(g) On the date of application, the public employer holds 229
a debt rating of Aa3 or higher according to Moody's investors 230
service, inc., or a comparable rating by an independent rating 231
agency similar to Moody's investors service, inc. 232

(h) The public employer agrees to generate an annual 233
accumulating book reserve in its financial statements reflecting 234
an actuarially generated reserve adequate to pay projected 235
claims under this chapter for the applicable period of time, as 236
determined by the administrator. 237

(i) For a public employer that is a hospital, the public 238
employer shall submit audited financial statements showing the 239
hospital's overall liquidity characteristics, and the 240
administrator shall determine, on an individual basis, whether 241
the public employer satisfies liquidity standards equivalent to 242
the liquidity standards of other public employers. 243

(j) Any additional criteria that the administrator adopts 244
by rule pursuant to division (E) of this section. 245

The administrator may adopt rules establishing the 246
criteria that a public employer shall satisfy in order for the 247

administrator to waive any of the requirements listed in 248
divisions (B) (2) (a) to (j) of this section. The rules may 249
require additional security from that employer pursuant to 250
division (E) of section 4123.351 of the Revised Code. The 251
administrator shall not waive any of the requirements listed in 252
divisions (B) (2) (a) to (j) of this section for a public employer 253
who does not satisfy the criteria established in the rules the 254
administrator adopts. 255

(C) A board of county commissioners described in division 256
(G) of section 4123.01 of the Revised Code, as an employer, that 257
will abide by the rules of the administrator and that may be of 258
sufficient financial ability to render certain the payment of 259
compensation to injured employees or the dependents of killed 260
employees, and the furnishing of medical, surgical, nursing, and 261
hospital attention and services and medicines, and funeral 262
expenses, equal to or greater than is provided for in sections 263
4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the 264
Revised Code, and that does not desire to insure the payment 265
thereof or indemnify itself against loss sustained by the direct 266
payment thereof, upon a finding of such facts by the 267
administrator, may be granted the privilege to pay individually 268
compensation, and furnish medical, surgical, nursing, and 269
hospital services and attention and funeral expenses directly to 270
injured employees or the dependents of killed employees, thereby 271
being granted status as a self-insuring employer. The 272
administrator may charge a board of county commissioners 273
described in division (G) of section 4123.01 of the Revised Code 274
that applies for the status as a self-insuring employer a 275
reasonable application fee to cover the bureau's costs in 276
connection with processing and making a determination with 277
respect to an application. All employers granted such status 278

shall demonstrate sufficient financial and administrative 279
ability to assure that all obligations under this section are 280
promptly met. The administrator shall deny the privilege where 281
the employer is unable to demonstrate the employer's ability to 282
promptly meet all the obligations imposed on the employer by 283
this section. The administrator shall consider, but is not 284
limited to, the following factors, where applicable, in 285
determining the employer's ability to meet all of the 286
obligations imposed on the board as an employer by this section: 287

~~(1) The board as an employer employs a minimum of five-~~ 288
~~hundred employees in this state;~~ 289

~~(2)~~The board has operated in this state for a minimum of 290
two years; 291

~~(3)~~(2) Where the board previously contributed to the 292
state insurance fund or is a successor employer as defined by 293
bureau rules, the amount of the buyout, as defined by bureau 294
rules; 295

~~(4)~~(3) The sufficiency of the board's assets located in 296
this state to insure the board's solvency in paying compensation 297
directly; 298

~~(5)~~(4) The financial records, documents, and data, 299
certified by a certified public accountant, necessary to provide 300
the board's full financial disclosure. The records, documents, 301
and data include, but are not limited to, balance sheets and 302
profit and loss history for the current year and previous four 303
years. 304

~~(6)~~(5) The board's organizational plan for the 305
administration of the workers' compensation law; 306

~~(7)~~(6) The board's proposed plan to inform employees of 307

the proposed self-insurance, the procedures the board will 308
follow as a self-insuring employer, and the employees' rights to 309
compensation and benefits; 310

~~(8)~~ (7) The board has either an account in a financial 311
institution in this state, or if the board maintains an account 312
with a financial institution outside this state, ensures that 313
workers' compensation checks are drawn from the same account as 314
payroll checks or the board clearly indicates that payment will 315
be honored by a financial institution in this state; 316

~~(9)~~ (8) The board shall provide the administrator a surety 317
bond in an amount equal to one hundred twenty-five per cent of 318
the projected losses as determined by the administrator. 319

(D) The administrator shall require a surety bond from all 320
self-insuring employers, issued pursuant to section 4123.351 of 321
the Revised Code, that is sufficient to compel, or secure to 322
injured employees, or to the dependents of employees killed, the 323
payment of compensation and expenses, which shall in no event be 324
less than that paid or furnished out of the state insurance fund 325
in similar cases to injured employees or to dependents of killed 326
employees whose employers contribute to the fund, except when an 327
employee of the employer, who has suffered the loss of a hand, 328
arm, foot, leg, or eye prior to the injury for which 329
compensation is to be paid, and thereafter suffers the loss of 330
any other of the members as the result of any injury sustained 331
in the course of and arising out of the employee's employment, 332
the compensation to be paid by the self-insuring employer is 333
limited to the disability suffered in the subsequent injury, 334
additional compensation, if any, to be paid by the bureau out of 335
the surplus created by section 4123.34 of the Revised Code. 336

(E) In addition to the requirements of this section, the 337

administrator shall make and publish rules governing the manner 338
of making application and the nature and extent of the proof 339
required to justify a finding of fact by the administrator as to 340
granting the status of a self-insuring employer, which rules 341
shall be general in their application, one of which rules shall 342
provide that all self-insuring employers shall pay into the 343
state insurance fund such amounts as are required to be credited 344
to the surplus fund in division (B) of section 4123.34 of the 345
Revised Code. The administrator may adopt rules establishing 346
requirements in addition to the requirements described in 347
division (B)(2) of this section that a public employer shall 348
meet in order to qualify for self-insuring status. 349

Employers shall secure directly from the bureau central 350
offices application forms upon which the bureau shall stamp a 351
designating number. Prior to submission of an application, an 352
employer shall make available to the bureau, and the bureau 353
shall review, the information described in division (B)(1) of 354
this section, and public employers shall make available, and the 355
bureau shall review, the information necessary to verify whether 356
the public employer meets the requirements listed in division 357
(B)(2) of this section. An employer shall file the completed 358
application forms with an application fee, which shall cover the 359
costs of processing the application, as established by the 360
administrator, by rule, with the bureau at least ninety days 361
prior to the effective date of the employer's new status as a 362
self-insuring employer. The application form is not deemed 363
complete until all the required information is attached thereto. 364
The bureau shall only accept applications that contain the 365
required information. 366

(F) The bureau shall review completed applications within 367
a reasonable time. If the bureau determines to grant an employer 368

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

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

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

The bureau shall receive and transmit to the self-insuring employer all complaints concerning any self-insuring employer. In the case of a complaint against a self-insuring employer, the administrator shall handle the complaint through the self-

insurance division of the bureau. The bureau shall maintain a 399
file by employer of all complaints received that relate to the 400
employer. The bureau shall evaluate each complaint and take 401
appropriate action. 402

The administrator shall adopt as a rule a prohibition 403
against any self-insuring employer from harassing, dismissing, 404
or otherwise disciplining any employee making a complaint, which 405
rule shall provide for a financial penalty to be levied by the 406
administrator payable by the offending self-insuring employer. 407

(H) For the purpose of making determinations as to whether 408
to grant status as a self-insuring employer, the administrator 409
may subscribe to and pay for a credit reporting service that 410
offers financial and other business information about individual 411
employers. The costs in connection with the bureau's 412
subscription or individual reports from the service about an 413
applicant may be included in the application fee charged 414
employers under this section. 415

~~(I) The administrator, notwithstanding other provisions of 416
this chapter, may permit a self-insuring employer to resume 417
payment of premiums to the state insurance fund with appropriate 418
credit modifications to the employer's basic premium rate as 419
such rate is determined pursuant to section 4123.29 of the 420
Revised Code. A self-insuring employer that returns to the state 421
insurance fund as a state fund employer shall provide the 422
administrator with medical costs and indemnity costs by claim, 423
and payroll by manual classification and year, and such other 424
information the administrator may require. The self-insuring 425
employer shall submit this information by dates and in a format 426
determined by the administrator. The administrator shall develop 427
a state fund experience modification factor for a self-insuring 428~~

employer that returns to the state insurance fund based in whole 429
or in part on the employer's self-insured experience and the 430
information submitted. 431

(J) On the first day of July of each year, the 432
administrator shall calculate separately each self-insuring 433
employer's assessments for the safety and hygiene fund, 434
administrative costs pursuant to section 4123.342 of the Revised 435
Code, and for the surplus fund under division (B) of section 436
4123.34 of the Revised Code, on the basis of the paid 437
compensation attributable to the individual self-insuring 438
employer according to the following calculation: 439

(1) The total assessment against all self-insuring 440
employers as a class for each fund and for the administrative 441
costs for the year that the assessment is being made, as 442
determined by the administrator, divided by the total amount of 443
paid compensation for the previous calendar year attributable to 444
all amenable self-insuring employers; 445

(2) Multiply the quotient in division (J)(1) of this 446
section by the total amount of paid compensation for the 447
previous calendar year that is attributable to the individual 448
self-insuring employer for whom the assessment is being 449
determined. Each self-insuring employer shall pay the assessment 450
that results from this calculation, unless the assessment 451
resulting from this calculation falls below a minimum 452
assessment, which minimum assessment the administrator shall 453
determine on the first day of July of each year with the advice 454
and consent of the bureau of workers' compensation board of 455
directors, in which event, the self-insuring employer shall pay 456
the minimum assessment. 457

In determining the total amount due for the total 458

assessment against all self-insuring employers as a class for 459
each fund and the administrative assessment, the administrator 460
shall reduce proportionately the total for each fund and 461
assessment by the amount of money in the self-insurance 462
assessment fund as of the date of the computation of the 463
assessment. 464

The administrator shall calculate the assessment for the 465
portion of the surplus fund under division (B) of section 466
4123.34 of the Revised Code that is used for reimbursement to a 467
self-insuring employer under division (H) of section 4123.512 of 468
the Revised Code in the same manner as set forth in divisions 469
(J) (1) and (2) of this section except that the administrator 470
shall calculate the total assessment for this portion of the 471
surplus fund only on the basis of those self-insuring employers 472
that retain participation in reimbursement to the self-insuring 473
employer under division (H) of section 4123.512 of the Revised 474
Code and the individual self-insuring employer's proportion of 475
paid compensation shall be calculated only for those self- 476
insuring employers who retain participation in reimbursement to 477
the self-insuring employer under division (H) of section 478
4123.512 of the Revised Code. 479

An employer who no longer is a self-insuring employer in 480
this state or who no longer is operating in this state, shall 481
continue to pay assessments for administrative costs and for the 482
surplus fund under division (B) of section 4123.34 of the 483
Revised Code based upon paid compensation attributable to claims 484
that occurred while the employer was a self-insuring employer 485
within this state. 486

(K) There is hereby created in the state treasury the 487
self-insurance assessment fund. All investment earnings of the 488

fund shall be deposited in the fund. The administrator shall use 489
the money in the self-insurance assessment fund only for 490
administrative costs as specified in section 4123.341 of the 491
Revised Code. 492

(L) Every self-insuring employer shall certify, in 493
affidavit form subject to the penalty for perjury, to the bureau 494
the amount of the self-insuring employer's paid compensation for 495
the previous calendar year. In reporting paid compensation paid 496
for the previous year, a self-insuring employer shall exclude 497
from the total amount of paid compensation any reimbursement the 498
self-insuring employer receives in the previous calendar year 499
from the surplus fund pursuant to section 4123.512 of the 500
Revised Code for any paid compensation. The self-insuring 501
employer also shall exclude from the paid compensation reported 502
any amount recovered under section 4123.931 of the Revised Code 503
and any amount that is determined not to have been payable to or 504
on behalf of a claimant in any final administrative or judicial 505
proceeding. The self-insuring employer shall exclude such 506
amounts from the paid compensation reported in the reporting 507
period subsequent to the date the determination is made. The 508
administrator shall adopt rules, in accordance with Chapter 119. 509
of the Revised Code, that provide for all of the following: 510

(1) Establishing the date by which self-insuring employers 511
must submit such information and the amount of the assessments 512
provided for in division (J) of this section for employers who 513
have been granted self-insuring status within the last calendar 514
year; 515

(2) If an employer fails to pay the assessment when due, 516
the administrator may add a late fee penalty of not more than 517
five hundred dollars to the assessment plus an additional 518

penalty amount as follows:	519
(a) For an assessment from sixty-one to ninety days past due, the prime interest rate, multiplied by the assessment due;	520 521
(b) For an assessment from ninety-one to one hundred twenty days past due, the prime interest rate plus two per cent, multiplied by the assessment due;	522 523 524
(c) For an assessment from one hundred twenty-one to one hundred fifty days past due, the prime interest rate plus four per cent, multiplied by the assessment due;	525 526 527
(d) For an assessment from one hundred fifty-one to one hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the assessment due;	528 529 530
(e) For an assessment from one hundred eighty-one to two hundred ten days past due, the prime interest rate plus eight per cent, multiplied by the assessment due;	531 532 533
(f) For each additional thirty-day period or portion thereof that an assessment remains past due after it has remained past due for more than two hundred ten days, the prime interest rate plus eight per cent, multiplied by the assessment due.	534 535 536 537 538
(3) An employer may appeal a late fee penalty and penalty assessment to the administrator.	539 540
For purposes of division (L)(2) of this section, "prime interest rate" means the average bank prime rate, and the administrator shall determine the prime interest rate in the same manner as a county auditor determines the average bank prime rate under section 929.02 of the Revised Code.	541 542 543 544 545
The administrator shall include any assessment and	546

penalties that remain unpaid for previous assessment periods in 547
the calculation and collection of any assessments due under this 548
division or division (J) of this section. 549

(M) As used in this section, "paid compensation" means all 550
amounts paid by a self-insuring employer for living maintenance 551
benefits, all amounts for compensation paid pursuant to sections 552
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, 553
and 4123.64 of the Revised Code, all amounts paid as wages in 554
lieu of such compensation, all amounts paid in lieu of such 555
compensation under a nonoccupational accident and sickness 556
program fully funded by the self-insuring employer, and all 557
amounts paid by a self-insuring employer for a violation of a 558
specific safety standard pursuant to Section 35 of Article II, 559
Ohio Constitution and section 4121.47 of the Revised Code. 560

(N) Should any section of this chapter or Chapter 4121. of 561
the Revised Code providing for self-insuring employers' 562
assessments based upon compensation paid be declared 563
unconstitutional by a final decision of any court, then that 564
section of the Revised Code declared unconstitutional shall 565
revert back to the section in existence prior to November 3, 566
1989, providing for assessments based upon payroll. 567

(O) The administrator may grant a self-insuring employer 568
the privilege to self-insure a construction project entered into 569
by the self-insuring employer that is scheduled for completion 570
within six years after the date the project begins, and the 571
total cost of which is estimated to exceed one hundred million 572
dollars or, for employers described in division (R) of this 573
section, if the construction project is estimated to exceed 574
twenty-five million dollars. The administrator may waive such 575
cost and time criteria and grant a self-insuring employer the 576

privilege to self-insure a construction project regardless of 577
the time needed to complete the construction project and 578
provided that the cost of the construction project is estimated 579
to exceed fifty million dollars. A self-insuring employer who 580
desires to self-insure a construction project shall submit to 581
the administrator an application listing the dates the 582
construction project is scheduled to begin and end, the 583
estimated cost of the construction project, the contractors and 584
subcontractors whose employees are to be self-insured by the 585
self-insuring employer, the provisions of a safety program that 586
is specifically designed for the construction project, and a 587
statement as to whether a collective bargaining agreement 588
governing the rights, duties, and obligations of each of the 589
parties to the agreement with respect to the construction 590
project exists between the self-insuring employer and a labor 591
organization. 592

A self-insuring employer may apply to self-insure the 593
employees of either of the following: 594

(1) All contractors and subcontractors who perform labor 595
or work or provide materials for the construction project; 596

(2) All contractors and, at the administrator's 597
discretion, a substantial number of all the subcontractors who 598
perform labor or work or provide materials for the construction 599
project. 600

Upon approval of the application, the administrator shall 601
mail a certificate granting the privilege to self-insure the 602
construction project to the self-insuring employer. The 603
certificate shall contain the name of the self-insuring employer 604
and the name, address, and telephone number of the self-insuring 605
employer's representatives who are responsible for administering 606

workers' compensation claims for the construction project. The 607
self-insuring employer shall post the certificate in a 608
conspicuous place at the site of the construction project. 609

The administrator shall maintain a record of the 610
contractors and subcontractors whose employees are covered under 611
the certificate issued to the self-insured employer. A self- 612
insuring employer immediately shall notify the administrator 613
when any contractor or subcontractor is added or eliminated from 614
inclusion under the certificate. 615

Upon approval of the application, the self-insuring 616
employer is responsible for the administration and payment of 617
all claims under this chapter and Chapter 4121. of the Revised 618
Code for the employees of the contractor and subcontractors 619
covered under the certificate who receive injuries or are killed 620
in the course of and arising out of employment on the 621
construction project, or who contract an occupational disease in 622
the course of employment on the construction project. For 623
purposes of this chapter and Chapter 4121. of the Revised Code, 624
a claim that is administered and paid in accordance with this 625
division is considered a claim against the self-insuring 626
employer listed in the certificate. A contractor or 627
subcontractor included under the certificate shall report to the 628
self-insuring employer listed in the certificate, all claims 629
that arise under this chapter and Chapter 4121. of the Revised 630
Code in connection with the construction project for which the 631
certificate is issued. 632

A self-insuring employer who complies with this division 633
is entitled to the protections provided under this chapter and 634
Chapter 4121. of the Revised Code with respect to the employees 635
of the contractors and subcontractors covered under a 636

certificate issued under this division for death or injuries 637
that arise out of, or death, injuries, or occupational diseases 638
that arise in the course of, those employees' employment on that 639
construction project, as if the employees were employees of the 640
self-insuring employer, provided that the self-insuring employer 641
also complies with this section. No employee of the contractors 642
and subcontractors covered under a certificate issued under this 643
division shall be considered the employee of the self-insuring 644
employer listed in that certificate for any purposes other than 645
this chapter and Chapter 4121. of the Revised Code. Nothing in 646
this division gives a self-insuring employer authority to 647
control the means, manner, or method of employment of the 648
employees of the contractors and subcontractors covered under a 649
certificate issued under this division. 650

The contractors and subcontractors included under a 651
certificate issued under this division are entitled to the 652
protections provided under this chapter and Chapter 4121. of the 653
Revised Code with respect to the contractor's or subcontractor's 654
employees who are employed on the construction project which is 655
the subject of the certificate, for death or injuries that arise 656
out of, or death, injuries, or occupational diseases that arise 657
in the course of, those employees' employment on that 658
construction project. 659

The contractors and subcontractors included under a 660
certificate issued under this division shall identify in their 661
payroll records the employees who are considered the employees 662
of the self-insuring employer listed in that certificate for 663
purposes of this chapter and Chapter 4121. of the Revised Code, 664
and the amount that those employees earned for employment on the 665
construction project that is the subject of that certificate. 666
Notwithstanding any provision to the contrary under this chapter 667

and Chapter 4121. of the Revised Code, the administrator shall 668
exclude the payroll that is reported for employees who are 669
considered the employees of the self-insuring employer listed in 670
that certificate, and that the employees earned for employment 671
on the construction project that is the subject of that 672
certificate, when determining those contractors' or 673
subcontractors' premiums or assessments required under this 674
chapter and Chapter 4121. of the Revised Code. A self-insuring 675
employer issued a certificate under this division shall include 676
in the amount of paid compensation it reports pursuant to 677
division (L) of this section, the amount of paid compensation 678
the self-insuring employer paid pursuant to this division for 679
the previous calendar year. 680

Nothing in this division shall be construed as altering 681
the rights of employees under this chapter and Chapter 4121. of 682
the Revised Code as those rights existed prior to September 17, 683
1996. Nothing in this division shall be construed as altering 684
the rights devolved under sections 2305.31 and 4123.82 of the 685
Revised Code as those rights existed prior to September 17, 686
1996. 687

As used in this division, "privilege to self-insure a 688
construction project" means privilege to pay individually 689
compensation, and to furnish medical, surgical, nursing, and 690
hospital services and attention and funeral expenses directly to 691
injured employees or the dependents of killed employees. 692

(P) A self-insuring employer whose application is granted 693
under division (O) of this section shall designate a safety 694
professional to be responsible for the administration and 695
enforcement of the safety program that is specifically designed 696
for the construction project that is the subject of the 697

application. 698

A self-insuring employer whose application is granted 699
under division (O) of this section shall employ an ombudsperson 700
for the construction project that is the subject of the 701
application. The ombudsperson shall have experience in workers' 702
compensation or the construction industry, or both. The 703
ombudsperson shall perform all of the following duties: 704

(1) Communicate with and provide information to employees 705
who are injured in the course of, or whose injury arises out of 706
employment on the construction project, or who contract an 707
occupational disease in the course of employment on the 708
construction project; 709

(2) Investigate the status of a claim upon the request of 710
an employee to do so; 711

(3) Provide information to claimants, third party 712
administrators, employers, and other persons to assist those 713
persons in protecting their rights under this chapter and 714
Chapter 4121. of the Revised Code. 715

A self-insuring employer whose application is granted 716
under division (O) of this section shall post the name of the 717
safety professional and the ombudsperson and instructions for 718
contacting the safety professional and the ombudsperson in a 719
conspicuous place at the site of the construction project. 720

(Q) The administrator may consider all of the following 721
when deciding whether to grant a self-insuring employer the 722
privilege to self-insure a construction project as provided 723
under division (O) of this section: 724

(1) Whether the self-insuring employer has an 725
organizational plan for the administration of the workers' 726

compensation law;	727
(2) Whether the safety program that is specifically	728
designed for the construction project provides for the safety of	729
employees employed on the construction project, is applicable to	730
all contractors and subcontractors who perform labor or work or	731
provide materials for the construction project, and has as a	732
component, a safety training program that complies with	733
standards adopted pursuant to the "Occupational Safety and	734
Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and	735
provides for continuing management and employee involvement;	736
(3) Whether granting the privilege to self-insure the	737
construction project will reduce the costs of the construction	738
project;	739
(4) Whether the self-insuring employer has employed an	740
ombudsperson as required under division (P) of this section;	741
(5) Whether the self-insuring employer has sufficient	742
surety to secure the payment of claims for which the self-	743
insuring employer would be responsible pursuant to the granting	744
of the privilege to self-insure a construction project under	745
division (O) of this section.	746
(R) As used in divisions (O), (P), and (Q), "self-insuring	747
employer" includes the following employers, whether or not they	748
have been granted the status of being a self-insuring employer	749
under division (B) of this section:	750
(1) A state institution of higher education;	751
(2) A school district;	752
(3) A county school financing district;	753
(4) An educational service center;	754

(5) A community school established under Chapter 3314. of the Revised Code;	755 756
(6) A municipal power agency as defined in section 3734.058 of the Revised Code.	757 758
(S) As used in this section:	759
(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;	760 761 762
(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.	763 764 765 766 767 768 769 770
Sec. 4123.93. As used in sections 4123.93 and 4123.931 <u>to</u> <u>4123.932</u> of the Revised Code:	771 772
(A) "Claimant" means a person who is eligible to receive compensation, medical benefits, or death benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code.	773 774 775
(B) "Statutory subrogee" means the administrator of workers' compensation, a self-insuring employer, or an employer that contracts for the direct payment of medical services pursuant to division (P) of section 4121.44 of the Revised Code.	776 777 778 779
(C) "Third party" means an individual, private insurer, public or private entity, or public or private program that is or may be liable to make payments to a person without regard to	780 781 782

any statutory duty contained in this chapter or Chapter 4121., 783
4127., or 4131. of the Revised Code. 784

(D) "Subrogation interest" includes past, present, and 785
estimated future payments of compensation, medical benefits, 786
rehabilitation costs, or death benefits, and any other costs or 787
expenses paid to or on behalf of the claimant by the statutory 788
subrogee pursuant to this chapter or Chapter 4121., 4127., or 789
4131. of the Revised Code. 790

(E) "Net amount recovered" means the amount of any award, 791
settlement, compromise, or recovery by a claimant against a 792
third party, minus the attorney's fees, costs, or other expenses 793
incurred by the claimant in securing the award, settlement, 794
compromise, or recovery. "Net amount recovered" does not include 795
any punitive damages that may be awarded by a judge or jury. 796

(F) "Uncompensated damages" means the claimant's 797
demonstrated or proven damages minus the statutory subrogee's 798
subrogation interest. 799

Sec. 4123.931. (A) The payment of compensation or benefits 800
pursuant to this chapter or Chapter 4121., 4127., or 4131., of 801
the Revised Code creates a right of recovery in favor of a 802
statutory subrogee against a third party, and the statutory 803
subrogee is subrogated to the rights of a claimant against that 804
third party. The net amount recovered is subject to a statutory 805
subrogee's right of recovery. 806

(B) If a claimant, statutory subrogee, and third party 807
settle or attempt to settle a claimant's claim against a third 808
party, the claimant shall receive an amount equal to the 809
uncompensated damages divided by the sum of the subrogation 810
interest plus the uncompensated damages, multiplied by the net 811

amount recovered, and the statutory subrogee shall receive an 812
amount equal to the subrogation interest divided by the sum of 813
the subrogation interest plus the uncompensated damages, 814
multiplied by the net amount recovered, except that the net 815
amount recovered may instead be divided and paid on a more fair 816
and reasonable basis that is agreed to by the claimant and 817
statutory subrogee. If while attempting to settle, the claimant 818
and statutory subrogee cannot agree to the allocation of the net 819
amount recovered, the claimant and statutory subrogee may file a 820
request with the administrator of workers' compensation for a 821
conference to be conducted by a designee appointed by the 822
administrator, or the claimant and statutory subrogee may agree 823
to utilize any other binding or non-binding alternative dispute 824
resolution process. 825

The claimant and statutory subrogee shall pay equal shares 826
of the fees and expenses of utilizing an alternative dispute 827
resolution process, unless they agree to pay those fees and 828
expenses in another manner. The administrator shall not assess 829
any fees to a claimant or statutory subrogee for a conference 830
conducted by the administrator's designee. 831

(C) If a claimant and statutory subrogee request that a 832
conference be conducted by the administrator's designee pursuant 833
to division (B) of this section, both of the following apply: 834

(1) The administrator's designee shall schedule a 835
conference on or before sixty days after the date that the 836
claimant and statutory subrogee filed a request for the 837
conference. 838

(2) The determination made by the administrator's designee 839
is not subject to Chapter 119. of the Revised Code. 840

(D) When a claimant's action against a third party 841
proceeds to trial and damages are awarded, both of the following 842
apply: 843

(1) The claimant shall receive an amount equal to the 844
uncompensated damages divided by the sum of the subrogation 845
interest plus the uncompensated damages, multiplied by the net 846
amount recovered, and the statutory subrogee shall receive an 847
amount equal to the subrogation interest divided by the sum of 848
the subrogation interest plus the uncompensated damages, 849
multiplied by the net amount recovered. 850

(2) The court in a nonjury action shall make findings of 851
fact, and the jury in a jury action shall return a general 852
verdict accompanied by answers to interrogatories that specify 853
the following: 854

(a) The total amount of the compensatory damages; 855

(b) The portion of the compensatory damages specified 856
pursuant to division (D) (2) (a) of this section that represents 857
economic loss; 858

(c) The portion of the compensatory damages specified 859
pursuant to division (D) (2) (a) of this section that represents 860
noneconomic loss. 861

(E) (1) After a claimant and statutory subrogee know the 862
net amount recovered, and after the means for dividing it has 863
been determined under division (B) or (D) of this section, a 864
claimant may establish an interest-bearing trust account for the 865
full amount of the subrogation interest that represents 866
estimated future payments of compensation, medical benefits, 867
rehabilitation costs, or death benefits, reduced to present 868
value, from which the claimant shall make reimbursement payments 869

to the statutory subrogee for the future payments of 870
compensation, medical benefits, rehabilitation costs, or death 871
benefits. If the workers' compensation claim associated with the 872
subrogation interest is settled, or if the claimant dies, or if 873
any other circumstance occurs that would preclude any future 874
payments of compensation, medical benefits, rehabilitation 875
costs, and death benefits by the statutory subrogee, any amount 876
remaining in the trust account after final reimbursement is paid 877
to the statutory subrogee for all payments made by the statutory 878
subrogee before the ending of future payments shall be paid to 879
the claimant or the claimant's estate. 880

(2) A claimant may use interest that accrues on the trust 881
account to pay the expenses of establishing and maintaining the 882
trust account, and all remaining interest shall be credited to 883
the trust account. 884

(3) If a claimant establishes a trust account, the 885
statutory subrogee shall provide payment notices to the claimant 886
on or before the thirtieth day of June and the thirty-first day 887
of December every year listing the total amount that the 888
statutory subrogee has paid for compensation, medical benefits, 889
rehabilitation costs, or death benefits during the half of the 890
year preceding the notice. The claimant shall make reimbursement 891
payments to the statutory subrogee from the trust account on or 892
before the thirty-first day of July every year for a notice 893
provided by the thirtieth day of June, and on or before the 894
thirty-first day of January every year for a notice provided by 895
the thirty-first day of December. The claimant's reimbursement 896
payment shall be in an amount that equals the total amount 897
listed on the notice the claimant receives from the statutory 898
subrogee. 899

(F) If a claimant does not establish a trust account as 900
described in division (E)(1) of this section, the claimant shall 901
pay to the statutory subrogee, on or before thirty days after 902
receipt of funds from the third party, the full amount of the 903
subrogation interest that represents estimated future payments 904
of compensation, medical benefits, rehabilitation costs, or 905
death benefits. 906

(G) A claimant shall notify a statutory subrogee and the 907
attorney general of the identity of all third parties against 908
whom the claimant has or may have a right of recovery, except 909
that when the statutory subrogee is a self-insuring employer, 910
the claimant need not notify the attorney general. No 911
settlement, compromise, judgment, award, or other recovery in 912
any action or claim by a claimant shall be final unless the 913
claimant provides the statutory subrogee and, when required, the 914
attorney general, with prior notice and a reasonable opportunity 915
to assert its subrogation rights. If a statutory subrogee and, 916
when required, the attorney general are not given that notice, 917
or if a settlement or compromise excludes any amount paid by the 918
statutory subrogee, the third party and the claimant shall be 919
jointly and severally liable to pay the statutory subrogee the 920
full amount of the subrogation interest. 921

(H) The right of subrogation under this chapter is 922
automatic, regardless of whether a statutory subrogee is joined 923
as a party in an action by a claimant against a third party. A 924
statutory subrogee may assert its subrogation rights through 925
correspondence with the claimant and the third party or their 926
legal representatives. A statutory subrogee may institute and 927
pursue legal proceedings against a third party either by itself 928
or in conjunction with a claimant. If a statutory subrogee 929
institutes legal proceedings against a third party, the 930

statutory subrogee shall provide notice of that fact to the 931
claimant. If the statutory subrogee joins the claimant as a 932
necessary party, or if the claimant elects to participate in the 933
proceedings as a party, the claimant may present the claimant's 934
case first if the matter proceeds to trial. If a claimant 935
disputes the validity or amount of an asserted subrogation 936
interest, the claimant shall join the statutory subrogee as a 937
necessary party to the action against the third party. 938

(I) The statutory subrogation right of recovery applies 939
to, but is not limited to, all of the following: 940

(1) Amounts recoverable from a claimant's insurer in 941
connection with underinsured or uninsured motorist coverage, 942
notwithstanding any limitation contained in Chapter 3937. of the 943
Revised Code; 944

(2) Amounts that a claimant would be entitled to recover 945
from a political subdivision, notwithstanding any limitations 946
contained in Chapter 2744. of the Revised Code; 947

(3) Amounts recoverable from an intentional tort action. 948

(J) If a claimant's claim against a third party is for 949
wrongful death or the claim involves any minor beneficiaries, 950
amounts allocated under this section are subject to the approval 951
of probate court. 952

(K) The Except as otherwise provided in this division, the 953
administrator shall deposit any money collected under this 954
section into the public fund or the private fund of the state 955
insurance fund, as appropriate. Any money collected under this 956
section for compensation or benefits that were charged pursuant 957
to section 4123.932 of the Revised Code to the surplus fund 958
account created in division (B) of section 4123.34 of the 959

Revised Code and not charged to an employer's experience shall 960
be deposited in the surplus fund account and not applied to an 961
individual employer's account. If a self-insuring employer 962
collects money under this section of the Revised Code, the self- 963
insuring employer shall deduct the amount collected, in the year 964
collected, from the amount of paid compensation the self-insured 965
employer is required to report under section 4123.35 of the 966
Revised Code. 967

Sec. 4123.932. (A) As used in this section, "motor 968
vehicle" has the same meaning as in section 4501.01 of the 969
Revised Code. 970

(B) Any compensation and benefits related to a claim that 971
is compensable under this chapter or Chapter 4121., 4127., or 972
4131. of the Revised Code shall be charged to the surplus fund 973
account created under division (B) of section 4123.34 of the 974
Revised Code and not charged to an individual employer's 975
experience if, upon the administrator's determination, all of 976
the following apply to that claim: 977

(1) The employer of the employee who is the subject of the 978
claim pays premiums into the state insurance fund. 979

(2) The claim is based on a motor vehicle accident 980
involving a third party. 981

(3) The third party is issued a citation for violation of 982
any law or ordinance regulating the operation of a motor vehicle 983
arising from the accident on which the claim is based. 984

(4) Either of the following circumstances apply to the 985
claim: 986

(a) Any form of insurance maintained by the third party 987
covers the claim. 988

(b) Uninsured or underinsured motorist coverage as 989
described in section 3937.18 of the Revised Code, covers the 990
claim. 991

(C) If an employer believes division (B) of this section 992
applies to a claim about which an employee of the employer is 993
the subject, the employer may file a request with the 994
administrator for a determination by the administrator as to 995
whether the claim is to be charged to the surplus fund account 996
pursuant to this section. 997

(D) (1) Within one hundred eighty days after the 998
administrator receives a request made under division (C) of this 999
section, the administrator shall determine whether the claim for 1000
which the request is made shall be charged to the surplus fund 1001
account pursuant to this section. 1002

(2) If the administrator fails to make a determination 1003
under division (D) (1) of this section within the time required, 1004
the administrator shall charge the claim for which the request 1005
was made to the surplus fund account pursuant to this section. 1006

(E) This section does not apply if the employer of the 1007
employee who is the subject of the claim is the state or a state 1008
institution of higher education, including its hospitals. 1009

Sec. 4125.07. (A) As used in this section, "self-insuring 1010
employer" has the same meaning as in section 4123.01 of the 1011
Revised Code. 1012

(B) Not later than fourteen calendar days after the date 1013
on which a professional employer organization agreement is 1014
terminated, the professional employer organization is adjudged 1015
bankrupt, the professional employer organization ceases 1016
operations within the state of Ohio, or the registration of the 1017

professional employer organization is revoked, the professional 1018
employer organization shall submit to the administrator of 1019
workers' compensation and each client employer associated with 1020
that professional employer organization a completed workers' 1021
compensation lease termination notice form provided by the 1022
administrator. The completed form shall include all client 1023
payroll and claim information listed in a format specified by 1024
the administrator and notice of all workers' compensation claims 1025
that have been reported to the professional employer 1026
organization in accordance with its internal reporting policies. 1027

(C) (1) If a professional employer organization that is a 1028
self-insuring employer is required to submit a workers' 1029
compensation lease termination notice form under division (B) of 1030
this section, not later than fourteen calendar days after the 1031
lease termination the professional employer organization shall 1032
submit all of the following to the administrator for any years 1033
necessary for the administrator to develop a state fund 1034
experience modification factor for each client employer involved 1035
in the lease termination: 1036

(a) The payroll of each client employer involved in the 1037
lease termination, organized by manual classification and year; 1038

(b) The medical and indemnity costs of each client 1039
employer involved in the lease termination, organized by claim; 1040

(c) Any other information the administrator may require to 1041
develop a state fund experience modification factor for each 1042
client employer involved in the lease termination. 1043

(2) The administrator may require a professional employer 1044
organization to submit the information required under division 1045
(C) (1) of this section at additional times after the initial 1046

submission if the administrator determines that the information 1047
is necessary for the administrator to develop a state fund 1048
experience modification factor. 1049

(3) The administrator may revoke or refuse to renew a 1050
professional employer organization's status as a self-insuring 1051
employer if the professional employer organization fails to 1052
provide information requested by the administrator under 1053
division (C) (1) or (2) of this section. 1054

(D) The administrator shall use the information provided 1055
under division (C) of this section to develop a state fund 1056
experience modification factor for each client employer involved 1057
in a lease termination with a professional employer organization 1058
that is a self-insuring employer. 1059

(E) A professional employer organization shall report any 1060
transfer of employees between related professional employer 1061
organization entities or professional employer organization 1062
reporting entities to the administrator within fourteen calendar 1063
days after the date of the transfer on a form prescribed by the 1064
administrator. The professional employer organization or 1065
professional employer organization reporting entity shall 1066
include in the form all client payroll and claim information 1067
regarding the transferred employees listed in a format specified 1068
by the administrator and a notice of all workers' compensation 1069
claims that have been reported to the professional employer 1070
organization or professional employer organization reporting 1071
entity in accordance with the internal reporting policies of the 1072
professional employer organization or professional employer 1073
organization reporting entity. 1074

(F) Prior to entering into a professional employer 1075
organization agreement with a client employer, a professional 1076

employer organization shall disclose in writing to the client 1077
employer the reporting requirements that apply to the 1078
professional employer organization under division (C) of this 1079
section and that the administrator must develop a state fund 1080
experience modification factor for each client employer involved 1081
in a lease termination with a professional employer organization 1082
that is a self-insuring employer. 1083

Section 2. That existing sections 4123.35, 4123.93, 1084
4123.931, and 4125.07 of the Revised Code are hereby repealed. 1085

Section 3. (A) Sections 4123.93 and 4123.931 of the 1086
Revised Code, as amended by this act and section 4123.932 of the 1087
Revised Code, as enacted by this act, apply to a claim under 1088
Chapter 4121., 4123., 4127., or 4131. of the Revised Code 1089
arising on or after July 1, 2017. 1090

(B) Section 4123.35 of the Revised Code, as amended by 1091
this act, applies to every self-insuring employer that returns 1092
to the State Insurance Fund on or after January 1, 2017. 1093

(C) Section 4125.07 of the Revised Code, as amended by 1094
this act, applies to every professional employer organization 1095
lease termination that occurs on or after January 1, 2017. 1096