

**As Passed by the House**

**131st General Assembly  
Regular Session  
2015-2016**

**Am. H. B. No. 52**

**Representative Hackett**

**Cosponsors: Representatives Amstutz, Anielski, Baker, Barnes, Bishoff,  
Blessing, Boose, Boyd, Brown, Buchy, Burkley, Conditt, Cupp, Derickson,  
Dever, Dovilla, Duffey, Grossman, Henne, Kraus, McClain, O'Brien, S.,  
Perales, Reineke, Retherford, Romanchuk, Schaffer, Sears, Smith, R.,  
Sprague, Terhar, Thompson, Speaker Rosenberger**

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**A B I L L**

To amend sections 119.12, 4121.129, 4121.37, 4121.61, 1  
4121.65, 4121.66, 4121.67, 4121.68, 4123.01, 2  
4123.291, 4123.34, 4123.343, 4123.35, 4123.351, 3  
4123.411, 4123.419, 4123.512, 4123.56, and 4123.59 4  
and to repeal section 4121.48 of the Revised Code 5  
to make changes to the Workers' Compensation Law, 6  
to make appropriations for the Bureau of Workers' 7  
Compensation for the biennium beginning July 1, 8  
2015, and ending June 30, 2017, and to provide 9  
authorization and conditions for the operation of 10  
the Bureau's programs. 11

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

**Section 1.** That sections 119.12, 4121.129, 4121.37, 4121.61, 12  
4121.65, 4121.66, 4121.67, 4121.68, 4123.01, 4123.291, 4123.34, 13  
4123.343, 4123.35, 4123.351, 4123.411, 4123.419, 4123.512, 14  
4123.56, and 4123.59 of the Revised Code be amended to read as 15  
follows: 16

Sec. 119.12. Any (A)(1) Except as provided in division (A)(2) 17  
or (3) of this section, any party adversely affected by any order 18  
of an agency issued pursuant to an adjudication denying an 19  
applicant admission to an examination, or denying the issuance or 20  
renewal of a license or registration of a licensee, or revoking or 21  
suspending a license, or allowing the payment of a forfeiture 22  
under section 4301.252 of the Revised Code may appeal from the 23  
order of the agency to the court of common pleas of the county in 24  
which the place of business of the licensee is located or the 25  
county in which the licensee is a resident, ~~except that appeals.~~ 26

(2) An appeal from decisions of the an order described in 27  
division (A)(1) of this section issued by any of the following 28  
agencies shall be made to the court of common pleas of Franklin 29  
county: 30

(a) The liquor control commission, ~~the~~; 31

(b) The state medical board, ~~i~~; 32

(c) The state chiropractic board, ~~and~~; 33

(d) The board of nursing ~~shall be to the court of common~~ 34  
pleas of Franklin county; 35

(e) The bureau of workers' compensation regarding 36  
participation in the health partnership program created in 37  
sections 4121.44 and 4121.441 of the Revised Code. ~~If~~ 38

(3) If any party appealing from the an order described in 39  
division (A)(1) of this section is not a resident of and has no 40  
place of business in this state, the party may appeal to the court 41  
of common pleas of Franklin county. 42

(B) Any party adversely affected by any order of an agency 43  
issued pursuant to any other adjudication may appeal to the court 44  
of common pleas of Franklin county, except that appeals from 45  
orders of the fire marshal issued under Chapter 3737. of the 46

Revised Code may be to the court of common pleas of the county in 47  
which the building of the aggrieved person is located and except 48  
that appeals under division (B) of section 124.34 of the Revised 49  
Code from a decision of the state personnel board of review or a 50  
municipal or civil service township civil service commission shall 51  
be taken to the court of common pleas of the county in which the 52  
appointing authority is located or, in the case of an appeal by 53  
the department of rehabilitation and correction, to the court of 54  
common pleas of Franklin county. 55

(C) This section does not apply to appeals from the 56  
department of taxation. 57

(D) Any party desiring to appeal shall file a notice of 58  
appeal with the agency setting forth the order appealed from and 59  
stating that the agency's order is not supported by reliable, 60  
probative, and substantial evidence and is not in accordance with 61  
law. The notice of appeal may, but need not, set forth the 62  
specific grounds of the party's appeal beyond the statement that 63  
the agency's order is not supported by reliable, probative, and 64  
substantial evidence and is not in accordance with law. The notice 65  
of appeal shall also be filed by the appellant with the court. In 66  
filing a notice of appeal with the agency or court, the notice 67  
that is filed may be either the original notice or a copy of the 68  
original notice. Unless otherwise provided by law relating to a 69  
particular agency, notices of appeal shall be filed within fifteen 70  
days after the mailing of the notice of the agency's order as 71  
provided in this section. For purposes of this paragraph, an order 72  
includes a determination appealed pursuant to division (C) of 73  
section 119.092 of the Revised Code. The amendments made to this 74  
paragraph by Sub. H.B. 215 of the 128th general assembly are 75  
procedural, and this paragraph as amended by those amendments 76  
shall be applied retrospectively to all appeals pursuant to this 77  
paragraph filed before ~~the effective date of those amendments~~ 78

September 13, 2010, but not earlier than May 7, 2009, which was 79  
the date the supreme court of Ohio released its opinion and 80  
judgment in *Medcorp, Inc. v. Ohio Dep't. of Job and Family Servs.* 81  
(2009), 121 Ohio St.3d 622. 82

(E) The filing of a notice of appeal shall not automatically 83  
operate as a suspension of the order of an agency. If it appears 84  
to the court that an unusual hardship to the appellant will result 85  
from the execution of the agency's order pending determination of 86  
the appeal, the court may grant a suspension and fix its terms. If 87  
an appeal is taken from the judgment of the court and the court 88  
has previously granted a suspension of the agency's order as 89  
provided in this section, the suspension of the agency's order 90  
shall not be vacated and shall be given full force and effect 91  
until the matter is finally adjudicated. No renewal of a license 92  
or permit shall be denied by reason of the suspended order during 93  
the period of the appeal from the decision of the court of common 94  
pleas. In the case of an appeal from the state medical board or 95  
state chiropractic board, the court may grant a suspension and fix 96  
its terms if it appears to the court that an unusual hardship to 97  
the appellant will result from the execution of the agency's order 98  
pending determination of the appeal and the health, safety, and 99  
welfare of the public will not be threatened by suspension of the 100  
order. This provision shall not be construed to limit the factors 101  
the court may consider in determining whether to suspend an order 102  
of any other agency pending determination of an appeal. 103

(F) The final order of adjudication may apply to any renewal 104  
of a license or permit which has been granted during the period of 105  
the appeal. 106

(G) Notwithstanding any other provision of this section, any 107  
order issued by a court of common pleas or a court of appeals 108  
suspending the effect of an order of the liquor control commission 109  
issued pursuant to Chapter 4301. or 4303. of the Revised Code that 110

suspends, revokes, or cancels a permit issued under Chapter 4303. 111  
of the Revised Code or that allows the payment of a forfeiture 112  
under section 4301.252 of the Revised Code shall terminate not 113  
more than six months after the date of the filing of the record of 114  
the liquor control commission with the clerk of the court of 115  
common pleas and shall not be extended. The court of common pleas, 116  
or the court of appeals on appeal, shall render a judgment in that 117  
matter within six months after the date of the filing of the 118  
record of the liquor control commission with the clerk of the 119  
court of common pleas. A court of appeals shall not issue an order 120  
suspending the effect of an order of the liquor control commission 121  
that extends beyond six months after the date on which the record 122  
of the liquor control commission is filed with a court of common 123  
pleas. 124

(H) Notwithstanding any other provision of this section, any 125  
order issued by a court of common pleas suspending the effect of 126  
an order of the state medical board or state chiropractic board 127  
that limits, revokes, suspends, places on probation, or refuses to 128  
register or reinstate a certificate issued by the board or 129  
reprimands the holder of the certificate shall terminate not more 130  
than fifteen months after the date of the filing of a notice of 131  
appeal in the court of common pleas, or upon the rendering of a 132  
final decision or order in the appeal by the court of common 133  
pleas, whichever occurs first. 134

(I) Within thirty days after receipt of a notice of appeal 135  
from an order in any case in which a hearing is required by 136  
sections 119.01 to 119.13 of the Revised Code, the agency shall 137  
prepare and certify to the court a complete record of the 138  
proceedings in the case. Failure of the agency to comply within 139  
the time allowed, upon motion, shall cause the court to enter a 140  
finding in favor of the party adversely affected. Additional time, 141  
however, may be granted by the court, not to exceed thirty days, 142

when it is shown that the agency has made substantial effort to 143  
comply. The record shall be prepared and transcribed, and the 144  
expense of it shall be taxed as a part of the costs on the appeal. 145  
The appellant shall provide security for costs satisfactory to the 146  
court of common pleas. Upon demand by any interested party, the 147  
agency shall furnish at the cost of the party requesting it a copy 148  
of the stenographic report of testimony offered and evidence 149  
submitted at any hearing and a copy of the complete record. 150

(J) Notwithstanding any other provision of this section, any 151  
party desiring to appeal an order or decision of the state 152  
personnel board of review shall, at the time of filing a notice of 153  
appeal with the board, provide a security deposit in an amount and 154  
manner prescribed in rules that the board shall adopt in 155  
accordance with this chapter. In addition, the board is not 156  
required to prepare or transcribe the record of any of its 157  
proceedings unless the appellant has provided the deposit 158  
described above. The failure of the board to prepare or transcribe 159  
a record for an appellant who has not provided a security deposit 160  
shall not cause a court to enter a finding adverse to the board. 161

(K) Unless otherwise provided by law, in the hearing of the 162  
appeal, the court is confined to the record as certified to it by 163  
the agency. Unless otherwise provided by law, the court may grant 164  
a request for the admission of additional evidence when satisfied 165  
that the additional evidence is newly discovered and could not 166  
with reasonable diligence have been ascertained prior to the 167  
hearing before the agency. 168

(L) The court shall conduct a hearing on the appeal and shall 169  
give preference to all proceedings under sections 119.01 to 119.13 170  
of the Revised Code, over all other civil cases, irrespective of 171  
the position of the proceedings on the calendar of the court. An 172  
appeal from an order of the state medical board issued pursuant to 173  
division (G) of either section 4730.25 or 4731.22 of the Revised 174

Code, or the state chiropractic board issued pursuant to section 175  
4734.37 of the Revised Code, or the liquor control commission 176  
issued pursuant to Chapter 4301. or 4303. of the Revised Code 177  
shall be set down for hearing at the earliest possible time and 178  
takes precedence over all other actions. The hearing in the court 179  
of common pleas shall proceed as in the trial of a civil action, 180  
and the court shall determine the rights of the parties in 181  
accordance with the laws applicable to a civil action. At the 182  
hearing, counsel may be heard on oral argument, briefs may be 183  
submitted, and evidence may be introduced if the court has granted 184  
a request for the presentation of additional evidence. 185

(M) The court may affirm the order of the agency complained 186  
of in the appeal if it finds, upon consideration of the entire 187  
record and any additional evidence the court has admitted, that 188  
the order is supported by reliable, probative, and substantial 189  
evidence and is in accordance with law. In the absence of this 190  
finding, it may reverse, vacate, or modify the order or make such 191  
other ruling as is supported by reliable, probative, and 192  
substantial evidence and is in accordance with law. The court 193  
shall award compensation for fees in accordance with section 194  
2335.39 of the Revised Code to a prevailing party, other than an 195  
agency, in an appeal filed pursuant to this section. 196

(N) The judgment of the court shall be final and conclusive 197  
unless reversed, vacated, or modified on appeal. These appeals may 198  
be taken either by the party or the agency, shall proceed as in 199  
the case of appeals in civil actions, and shall be pursuant to the 200  
Rules of Appellate Procedure and, to the extent not in conflict 201  
with those rules, Chapter 2505. of the Revised Code. An appeal by 202  
the agency shall be taken on questions of law relating to the 203  
constitutionality, construction, or interpretation of statutes and 204  
rules of the agency, and, in the appeal, the court may also review 205  
and determine the correctness of the judgment of the court of 206

common pleas that the order of the agency is not supported by any 207  
reliable, probative, and substantial evidence in the entire 208  
record. 209

The court shall certify its judgment to the agency or take 210  
any other action necessary to give its judgment effect. 211

**Sec. 4121.129.** (A) There is hereby created the workers' 212  
compensation audit committee consisting of at least three members. 213  
One member shall be the member of the bureau of workers' 214  
compensation board of directors who is a certified public 215  
accountant. The board, by majority vote, shall appoint two 216  
additional members of the board to serve on the audit committee 217  
and may appoint additional members who are not board members, as 218  
the board determines necessary. Members of the audit committee 219  
serve at the pleasure of the board, and the board, by majority 220  
vote, may remove any member except the member of the committee who 221  
is the certified public accountant member of the board. The board, 222  
by majority vote, shall determine how often the audit committee 223  
shall meet and report to the board. If the audit committee meets 224  
on the same day as the board holds a meeting, no member shall be 225  
compensated for more than one meeting held on that day. The audit 226  
committee shall do all of the following: 227

(1) Recommend to the board an ~~actuarial~~ accounting firm to 228  
perform the annual ~~analysis audits~~ required under division (B) of 229  
section 4123.47 of the Revised Code; 230

(2) Recommend an auditing firm for the board to use when 231  
conducting audits under section 4121.125 of the Revised Code; 232

(3) Review the results of each annual audit and management 233  
review and, if any problems exist, assess the appropriate course 234  
of action to correct those problems and develop an action plan to 235  
correct those problems; 236



(4) Monitor the implementation of any action plans created pursuant to division (A)(3) of this section;	237 238
(5) Review all internal audit reports on a regular basis.	239
(B) There is hereby created the workers' compensation actuarial committee consisting of at least three members. One member shall be the member of the board who is an actuary. The board, by majority vote, shall appoint two additional members of the board to serve on the actuarial committee and may appoint additional members who are not board members, as the board determines necessary. Members of the actuarial committee serve at the pleasure of the board and the board, by majority vote, may remove any member except the member of the committee who is the actuary member of the board. The board, by majority vote, shall determine how often the actuarial committee shall meet and report to the board. If the actuarial committee meets on the same day as the board holds a meeting, no member shall be compensated for more than one meeting held on that day. The actuarial committee shall do both of the following:	240 241 242 243 244 245 246 247 248 249 250 251 252 253 254
(1) Recommend actuarial consultants for the board to use for the funds specified in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;	255 256 257
(2) Review <del>calculations on</del> <u>and approve the various</u> rate schedules <del>and performance</del> prepared <u>and presented</u> by the actuarial <u>division of the bureau or by actuarial</u> consultants with whom the board enters into a contract.	258 259 260 261
(C)(1) There is hereby created the workers' compensation investment committee consisting of at least four members. Two of the members shall be the members of the board who serve as the investment and securities experts on the board. The board, by majority vote, shall appoint two additional members of the board to serve on the investment committee and may appoint additional	262 263 264 265 266 267

members who are not board members. Each additional member the	268
board appoints shall have at least one of the following	269
qualifications:	270
(a) Experience managing another state's pension funds or	271
workers' compensation funds;	272
(b) Expertise that the board determines is needed to make	273
investment decisions.	274
Members of the investment committee serve at the pleasure of	275
the board and the board, by majority vote, may remove any member	276
except the members of the committee who are the investment and	277
securities expert members of the board. The board, by majority	278
vote, shall determine how often the investment committee shall	279
meet and report to the board. If the investment committee meets on	280
the same day as the board holds a meeting, no member shall be	281
compensated for more than one meeting held on that day.	282
(2) The investment committee shall do all of the following:	283
(a) Develop the investment policy for the administration of	284
the investment program for the funds specified in this chapter and	285
Chapters 4123., 4127., and 4131. of the Revised Code in accordance	286
with the requirements specified in section 4123.442 of the Revised	287
Code;	288
(b) Submit the investment policy developed pursuant to	289
division (C)(2)(a) of this section to the board for approval;	290
(c) Monitor implementation by the administrator of workers'	291
compensation and the bureau of workers' compensation chief	292
investment officer of the investment policy approved by the board;	293
(d) Recommend outside investment counsel with whom the board	294
may contract to assist the investment committee in fulfilling its	295
duties;	296
(e) Review the performance of the bureau of workers'	297

compensation chief investment officer and any investment 298  
consultants retained by the administrator to assure that the 299  
investments of the assets of the funds specified in this chapter 300  
and Chapters 4123., 4127., and 4131. of the Revised Code are made 301  
in accordance with the investment policy approved by the board and 302  
to assure compliance with the investment policy and effective 303  
management of the funds. 304

**Sec. 4121.37.** The administrator of workers' compensation 305  
having, by virtue of Section 35 of Article II, Ohio Constitution, 306  
the expenditure of the fund therein created for the investigation 307  
and prevention of industrial accidents and diseases, shall, with 308  
the advice and consent of the bureau of workers' compensation 309  
board of directors, in the exercise of the administrator's 310  
authority and in the performance of the administrator's duty, 311  
employ a superintendent and the necessary experts, engineers, 312  
~~investigators, clerks, and stenographers~~ occupational safety and 313  
health professionals, and support staff for the efficient 314  
operation of a division of safety and hygiene of the bureau of 315  
workers' compensation, which is hereby created. 316

The administrator, with the advice and consent of the board, 317  
shall pay into the safety and hygiene fund, which is hereby 318  
created in the state treasury, the portion of the contributions 319  
paid by employers, calculated as though all employers paid 320  
premiums based upon payroll, not to exceed one per cent thereof in 321  
any year, as is necessary for the payment of the salary of the 322  
superintendent of the division of safety and hygiene and the 323  
compensation of the other employees of the division of safety and 324  
hygiene, and for the expenses of investigations and researches for 325  
the prevention of industrial accidents and diseases, ~~and for~~ 326  
~~operating the long-term care loan fund program established under~~ 327  
~~section 4121.48 of the Revised Code.~~ All investment earnings of 328  
the fund shall be credited to the fund. The administrator has the 329

same powers to invest any of the funds belonging to the fund as 330  
are delegated to the administrator under section 4123.44 of the 331  
Revised Code with respect to the state insurance fund. The 332  
superintendent, under the direction of the administrator, with the 333  
advice and consent of the board, shall conduct investigations and 334  
researches for the prevention of industrial accidents and 335  
diseases, conduct loss prevention programs and courses for 336  
employers, establish and administrate cooperative programs with 337  
employers for the purchase of individual safety equipment for 338  
employees, and print and distribute information as may be of 339  
benefit to employers and employees. The administrator shall pay 340  
from the safety and hygiene fund the salary of the superintendent 341  
of the division of safety and hygiene, the compensation of the 342  
other employees of the division of safety and hygiene, the 343  
expenses necessary or incidental to investigations and researches 344  
for the prevention of industrial accidents and diseases, and the 345  
cost of printing and distributing such information. 346

The superintendent, under the direction of the administrator, 347  
shall prepare an annual report, addressed to the governor, on the 348  
amount of the expenditures and the purposes for which they have 349  
been made, and the results of the investigations and researches. 350  
The administrator shall include the administrative costs, 351  
salaries, and other expenses of the division of safety and hygiene 352  
as a part of the budget of the bureau of workers' compensation 353  
that is submitted to the director of budget and management and 354  
shall identify those expenditures separately from other bureau 355  
expenditures. 356

The superintendent shall be a competent person with at least 357  
five years' experience in industrial accident or disease 358  
prevention work. The superintendent ~~and up to six positions in the~~ 359  
~~division of safety and hygiene as the~~ shall be in the unclassified 360  
civil service of the state. 361

~~The administrator, with the advice and consent of the board,~~ 362  
~~designates are may designate positions in the division that are in~~ 363  
~~the unclassified civil service of the state as long as the~~ 364  
~~administrator, with the advice and consent of the board,~~ 365  
determines the positions subordinate to the superintendent are 366  
primarily and distinctively administrative, managerial, or 367  
professional in character. All other full-time employees of the 368  
division of safety and hygiene are in the classified civil service 369  
of the state. 370

**Sec. 4121.61.** (A) As used in sections 4121.61 to 4121.70 of 371  
the Revised Code, "self-insuring employer" has the same meaning as 372  
in section 4123.01 of the Revised Code. 373

(B) The administrator of workers' compensation, with the 374  
advice and consent of the bureau of workers' compensation board of 375  
directors, shall adopt rules, take measures, and make expenditures 376  
as it deems necessary to aid claimants who have sustained 377  
compensable injuries or incurred compensable occupational diseases 378  
pursuant to Chapter 4123., 4127., or 4131. of the Revised Code to 379  
return to work or to assist in lessening or removing any resulting 380  
handicap. 381

**Sec. 4121.65.** ~~Employers who provide compensation and benefits~~ 382  
~~pursuant to section 4123.35 of the Revised Code also~~ Self-insuring 383  
employers may be granted authority to furnish rehabilitation 384  
services as long as the quality and content of the ~~same is~~ 385  
services are equal to or greater than that provided by the bureau 386  
of workers' compensation, ~~and prior approval therefor has been~~ 387  
~~given by the bureau.~~ 388

**Sec. 4121.66.** (A) ~~The~~ Except as provided in division (D) of 389  
this section, the administrator of workers' compensation shall pay 390  
the expense of providing rehabilitation services, counseling, 391

training, and living maintenance payments from the surplus fund 392  
established by section 4123.34 of the Revised Code. 393

(B) Living maintenance payments are not subject to 394  
garnishment, levy, or attachment. 395

(C) Sections 4123.343, 4123.63, and 4123.64 of the Revised 396  
Code do not apply to living maintenance payments. 397

(D) A self-insuring employer ~~under section 4123.35 of the~~ 398  
~~Revised Code may elect to~~ shall pay directly to a claimant or to 399  
the provider of the rehabilitation services, counseling, or 400  
training the expenses listed in division (A) of this section ~~by~~ 401  
~~filing an application with the bureau of workers' compensation not~~ 402  
~~more than one hundred eighty days and not less than ninety days~~ 403  
~~prior to the first day of the employer's next six month coverage~~ 404  
~~period. If the self-insuring employer timely files the~~ 405  
~~application, the application is effective on the first day of the~~ 406  
~~employer's next six month coverage period, provided that the~~ 407  
~~administrator shall compute the employer's assessment for the~~ 408  
~~surplus fund due with respect to the period during which such~~ 409  
~~application was filed without regard to the filing of the~~ 410  
~~application. Following the timely filing, the self-insuring~~ 411  
~~employer shall pay directly to a claimant or to the provider of~~ 412  
~~the rehabilitation services, counseling, or training the expenses~~ 413  
~~listed in division (A) of this section for all periods of~~ 414  
~~rehabilitation occurring on or after the effective date of his~~ 415  
~~election, regardless of the date of the injury or occupational~~ 416  
~~disease, and he shall receive no money or credits from the surplus~~ 417  
~~fund on account of such payments and shall not be required to pay~~ 418  
~~any amounts into the surplus fund on account of this section,~~ 419  
~~provided that for a period not to exceed one hundred eighty days~~ 420  
~~after the effective date of the application, the self-insuring~~ 421  
~~employer may submit to the bureau requests for reimbursement from~~ 422  
~~the surplus fund on account of payments made for services rendered~~ 423

~~or living maintenance periods prior to the effective date of the~~ 424  
~~application pursuant to division (A) of this section. The election~~ 425  
~~made under this division is irrevocable.~~ 426

**Sec. 4121.67.** (A) The administrator of workers' compensation, 427  
with the advice and consent of the bureau of workers' compensation 428  
board of directors, shall adopt rules: 429

~~(A)(1)~~ For the encouragement of reemployment of claimants who 430  
have successfully completed prescribed rehabilitation programs by 431  
payment from the surplus fund established by section 4123.34 of 432  
the Revised Code to employers who employ or re-employ the 433  
claimants. The period or periods of payments shall not exceed six 434  
months in the aggregate, unless the administrator or the 435  
administrator's designee determines that the claimant will be 436  
benefited by an extension of payments. 437

~~(B)(2)~~ Requiring payment, in the same manner as living 438  
maintenance payments are made pursuant to section 4121.63 of the 439  
Revised Code, to the claimant who completes a rehabilitation 440  
training program and returns to employment, but who suffers a wage 441  
loss compared to the wage the claimant was receiving at the time 442  
of injury. Payments per week shall be sixty-six and two-thirds per 443  
cent of the difference, if any, between the claimant's weekly wage 444  
at the time of injury and the weekly wage received while employed, 445  
up to a maximum payment per week equal to the statewide average 446  
weekly wage. The payments may continue for up to a maximum of two 447  
hundred weeks but shall be reduced by the corresponding number of 448  
weeks in which the claimant receives payments pursuant to division 449  
(B) of section 4123.56 of the Revised Code. 450

(B) A self-insuring employer shall make the payments 451  
described in division (A) of this section directly as part of a 452  
claim. 453

**Sec. 4121.68.** In the event a claimant sustains an injury or 454  
occupational disease or dies as a result of any injury or disease 455  
received in the course of and arising out of the claimant's 456  
participation in a rehabilitation program, the claimant or, in the 457  
case of death, a dependent of the claimant, may file a claim for 458  
compensation and benefits. All compensation and benefit awards 459  
made as a result of the injury, disease, or death shall be charged 460  
to the surplus fund account, created pursuant to section 4123.34 461  
of the Revised Code, and not charged through the state insurance 462  
fund to the employer against which the claim was allowed so long 463  
as the employer pays assessments into the surplus fund account for 464  
the payment of such compensation and benefits. If an employer is a 465  
self-insuring employer, the self-insuring employer shall pay these 466  
compensation and benefits directly as a part of a claim. 467

**Sec. 4123.01.** As used in this chapter: 468

(A)(1) "Employee" means: 469

(a) Every person in the service of the state, or of any 470  
county, municipal corporation, township, or school district 471  
therein, including regular members of lawfully constituted police 472  
and fire departments of municipal corporations and townships, 473  
whether paid or volunteer, and wherever serving within the state 474  
or on temporary assignment outside thereof, and executive officers 475  
of boards of education, under any appointment or contract of hire, 476  
express or implied, oral or written, including any elected 477  
official of the state, or of any county, municipal corporation, or 478  
township, or members of boards of education. 479

As used in division (A)(1)(a) of this section, the term 480  
"employee" includes the following persons when responding to an 481  
inherently dangerous situation that calls for an immediate 482  
response on the part of the person, regardless of whether the 483



person is within the limits of the jurisdiction of the person's 484  
regular employment or voluntary service when responding, on the 485  
condition that the person responds to the situation as the person 486  
otherwise would if the person were on duty in the person's 487  
jurisdiction: 488

(i) Off-duty peace officers. As used in division (A)(1)(a)(i) 489  
of this section, "peace officer" has the same meaning as in 490  
section 2935.01 of the Revised Code. 491

(ii) Off-duty firefighters, whether paid or volunteer, of a 492  
lawfully constituted fire department. 493

(iii) Off-duty first responders, emergency medical 494  
technicians-basic, emergency medical technicians-intermediate, or 495  
emergency medical technicians-paramedic, whether paid or 496  
volunteer, of an ambulance service organization or emergency 497  
medical service organization pursuant to Chapter 4765. of the 498  
Revised Code. 499

(b) Every person in the service of any person, firm, or 500  
private corporation, including any public service corporation, 501  
that (i) employs one or more persons regularly in the same 502  
business or in or about the same establishment under any contract 503  
of hire, express or implied, oral or written, including aliens and 504  
minors, household workers who earn one hundred sixty dollars or 505  
more in cash in any calendar quarter from a single household and 506  
casual workers who earn one hundred sixty dollars or more in cash 507  
in any calendar quarter from a single employer, or (ii) is bound 508  
by any such contract of hire or by any other written contract, to 509  
pay into the state insurance fund the premiums provided by this 510  
chapter. 511

(c) Every person who performs labor or provides services 512  
pursuant to a construction contract, as defined in section 4123.79 513  
of the Revised Code, if at least ten of the following criteria 514

apply:	515
(i) The person is required to comply with instructions from the other contracting party regarding the manner or method of performing services;	516 517 518
(ii) The person is required by the other contracting party to have particular training;	519 520
(iii) The person's services are integrated into the regular functioning of the other contracting party;	521 522
(iv) The person is required to perform the work personally;	523
(v) The person is hired, supervised, or paid by the other contracting party;	524 525
(vi) A continuing relationship exists between the person and the other contracting party that contemplates continuing or recurring work even if the work is not full time;	526 527 528
(vii) The person's hours of work are established by the other contracting party;	529 530
(viii) The person is required to devote full time to the business of the other contracting party;	531 532
(ix) The person is required to perform the work on the premises of the other contracting party;	533 534
(x) The person is required to follow the order of work set by the other contracting party;	535 536
(xi) The person is required to make oral or written reports of progress to the other contracting party;	537 538
(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;	539 540
(xiii) The person's expenses are paid for by the other contracting party;	541 542
(xiv) The person's tools and materials are furnished by the	543

other contracting party;	544
(xv) The person is provided with the facilities used to perform services;	545 546
(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;	547 548
(xvii) The person is not performing services for a number of employers at the same time;	549 550
(xviii) The person does not make the same services available to the general public;	551 552
(xix) The other contracting party has a right to discharge the person;	553 554
(xx) The person has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.	555 556 557
Every person in the service of any independent contractor or subcontractor who has failed to pay into the state insurance fund the amount of premium determined and fixed by the administrator of workers' compensation for the person's employment or occupation or if a self-insuring employer has failed to pay compensation and benefits directly to the employer's injured and to the dependents of the employer's killed employees as required by section 4123.35 of the Revised Code, shall be considered as the employee of the person who has entered into a contract, whether written or verbal, with such independent contractor unless such employees or their legal representatives or beneficiaries elect, after injury or death, to regard such independent contractor as the employer.	558 559 560 561 562 563 564 565 566 567 568 569
(2) "Employee" does not mean <u>any of the following</u> :	570
(a) A duly ordained, commissioned, or licensed minister or assistant or associate minister of a church in the exercise of ministry;	571 572 573

(b) Any officer of a family farm corporation; 574

(c) An individual incorporated as a corporation; ~~or~~ 575

(d) An officer of a nonprofit corporation, as defined in 576  
section 1702.01 of the Revised Code, who volunteers the person's 577  
services as a officer; 578

(e) An individual who otherwise is an employee of an employer 579  
but who signs the waiver and affidavit specified in section 580  
4123.15 of the Revised Code on the condition that the 581  
administrator has granted a waiver and exception to the 582  
individual's employer under section 4123.15 of the Revised Code. 583

Any employer may elect to include as an "employee" within 584  
this chapter, any person excluded from the definition of 585  
"employee" pursuant to division (A)(2)(a), (b), (c), or (e) of 586  
this section in accordance with rules adopted by the 587  
administrator, with the advice and consent of the bureau of 588  
workers' compensation board of directors. If an employer is a 589  
partnership, sole proprietorship, individual incorporated as a 590  
corporation, or family farm corporation, such employer may elect 591  
to include as an "employee" within this chapter, any member of 592  
such partnership, the owner of the sole proprietorship, the 593  
individual incorporated as a corporation, or the officers of the 594  
family farm corporation. ~~In~~ Nothing in this section shall prohibit 595  
a partner, sole proprietor, or any person excluded from the 596  
definition of "employee" pursuant to division (A)(2)(a), (b), (c), 597  
or (e) of this section from electing to be included as an 598  
"employee" under this chapter in accordance with rules adopted by 599  
the administrator, with the advice and consent of the board. 600

In the event of an election, the employer or person electing 601  
coverage shall serve upon the bureau of workers' compensation 602  
written notice naming the ~~persons~~ person to be covered, and 603  
include ~~such employee's~~ the person's remuneration for premium 604

purposes in all future payroll reports, ~~and no.~~ No partner, sole 605  
proprietor, or person excluded from the definition of "employee" 606  
pursuant to division (A)(2)(a), (b), (c), or (e) of this section, 607  
~~proprietor, individual incorporated as a corporation, or partner~~ 608  
~~shall be deemed an employee within this division until the~~ 609  
~~employer has served such notice~~ shall receive benefits or 610  
compensation under this chapter until the bureau receives written 611  
notice of the election permitted by this section. 612

For informational purposes only, the bureau shall prescribe 613  
such language as it considers appropriate, on such of its forms as 614  
it considers appropriate, to advise employers of their right to 615  
elect to include as an "employee" within this chapter a sole 616  
proprietor, any member of a partnership, ~~an individual~~ 617  
~~incorporated as a corporation, the officers of a family farm~~ 618  
~~corporation,~~ or a person excluded from the definition of 619  
"employee" under division (A)(2)(a), (b), (c), or (e) of this 620  
section, that they should check any health and disability 621  
insurance policy, or other form of health and disability plan or 622  
contract, presently covering them, or the purchase of which they 623  
may be considering, to determine whether such policy, plan, or 624  
contract excludes benefits for illness or injury that they might 625  
have elected to have covered by workers' compensation. 626

(B) "Employer" means: 627

(1) The state, including state hospitals, each county, 628  
municipal corporation, township, school district, and hospital 629  
owned by a political subdivision or subdivisions other than the 630  
state; 631

(2) Every person, firm, professional employer organization, 632  
and private corporation, including any public service corporation, 633  
that (a) has in service one or more employees or shared employees 634  
regularly in the same business or in or about the same 635  
establishment under any contract of hire, express or implied, oral 636

or written, or (b) is bound by any such contract of hire or by any other written contract, to pay into the insurance fund the premiums provided by this chapter.

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

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

(1) Psychiatric conditions except where the claimant's psychiatric conditions have arisen from an injury or occupational disease sustained by that claimant or where the claimant's psychiatric conditions have arisen from sexual conduct in which the claimant was forced by threat of physical harm to engage or participate;

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

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

(4) A condition that pre-existed an injury unless that

pre-existing condition is substantially aggravated by the injury. 668  
Such a substantial aggravation must be documented by objective 669  
diagnostic findings, objective clinical findings, or objective 670  
test results. Subjective complaints may be evidence of such a 671  
substantial aggravation. However, subjective complaints without 672  
objective diagnostic findings, objective clinical findings, or 673  
objective test results are insufficient to substantiate a 674  
substantial aggravation. 675

(D) "Child" includes a posthumous child and a child legally 676  
adopted prior to the injury. 677

(E) "Family farm corporation" means a corporation founded for 678  
the purpose of farming agricultural land in which the majority of 679  
the voting stock is held by and the majority of the stockholders 680  
are persons or the spouse of persons related to each other within 681  
the fourth degree of kinship, according to the rules of the civil 682  
law, and at least one of the related persons is residing on or 683  
actively operating the farm, and none of whose stockholders are a 684  
corporation. A family farm corporation does not cease to qualify 685  
under this division where, by reason of any devise, bequest, or 686  
the operation of the laws of descent or distribution, the 687  
ownership of shares of voting stock is transferred to another 688  
person, as long as that person is within the degree of kinship 689  
stipulated in this division. 690

(F) "Occupational disease" means a disease contracted in the 691  
course of employment, which by its causes and the characteristics 692  
of its manifestation or the condition of the employment results in 693  
a hazard which distinguishes the employment in character from 694  
employment generally, and the employment creates a risk of 695  
contracting the disease in greater degree and in a different 696  
manner from the public in general. 697

(G) "Self-insuring employer" means an employer who is granted 698  
the privilege of paying compensation and benefits directly under 699

section 4123.35 of the Revised Code, including a board of county 700  
commissioners for the sole purpose of constructing a sports 701  
facility as defined in section 307.696 of the Revised Code, 702  
provided that the electors of the county in which the sports 703  
facility is to be built have approved construction of a sports 704  
facility by ballot election no later than November 6, 1997. 705

(H) "Private employer" means an employer as defined in 706  
division (B)(2) of this section. 707

(I) "Professional employer organization" has the same meaning 708  
as in section 4125.01 of the Revised Code. 709

(J) "Public employer" means an employer as defined in 710  
division (B)(1) of this section. 711

(K) "Sexual conduct" means vaginal intercourse between a male 712  
and female; anal intercourse, fellatio, and cunnilingus between 713  
persons regardless of gender; and, without privilege to do so, the 714  
insertion, however slight, of any part of the body or any 715  
instrument, apparatus, or other object into the vaginal or anal 716  
cavity of another. Penetration, however slight, is sufficient to 717  
complete vaginal or anal intercourse. 718

(L) "Other-states' insurer" means an insurance company that 719  
is authorized to provide workers' compensation insurance coverage 720  
in any of the states that permit employers to obtain insurance for 721  
workers' compensation claims through insurance companies. 722

(M) "Other-states' coverage" means both of the following: 723

(1) Insurance coverage secured by an eligible employer for 724  
workers' compensation claims of employees who are in employment 725  
relationships localized in a state other than this state or those 726  
employees' dependents; 727

(2) Insurance coverage secured by an eligible employer for 728  
workers' compensation claims that arise in a state other than this 729



state where an employer elects to obtain coverage through either 730  
the administrator or an other-states' insurer. 731

(N) "Limited other-states coverage" means insurance coverage 732  
provided by the administrator to an eligible employer for workers' 733  
compensation claims of employees who are in an employment 734  
relationship localized in this state but are temporarily working 735  
in a state other than this state, or those employees' dependents. 736

**Sec. 4123.291.** (A) An adjudicating committee appointed by the 737  
administrator of workers' compensation to hear any matter 738  
specified in divisions (B)(1) to (7) of this section shall hear 739  
the matter within sixty days of the date on which an employer 740  
files the request, protest, or petition. An employer desiring to 741  
file a request, protest, or petition regarding any matter 742  
specified in divisions (B)(1) to (7) of this section shall file 743  
the request, protest, or petition to the adjudicating committee on 744  
or before twenty-four months after the administrator sends notice 745  
of the determination about which the employer is filing the 746  
request, protest, or petition. 747

(B) An employer who is adversely affected by a decision of an 748  
adjudicating committee appointed by the administrator may appeal 749  
the decision of the committee to the administrator or the 750  
administrator's designee. The employer shall file the appeal in 751  
writing within thirty days after the employer receives the 752  
decision of the adjudicating committee. ~~The~~ Except as otherwise 753  
provided in this division, the administrator or the designee shall 754  
~~hear~~ hold a hearing and consider and issue a decision on the 755  
appeal ~~and hold a hearing, provided that~~ if the decision of the 756  
adjudicating committee relates to one of the following: 757

(1) An employer request for a waiver of a default in the 758  
payment of premiums pursuant to section 4123.37 of the Revised 759  
Code; 760

(2) An employer request for the settlement of liability as a noncomplying employer under section 4123.75 of the Revised Code;	761 762
(3) An employer petition objecting to an assessment made pursuant to section 4123.37 of the Revised Code and the rules adopted pursuant to that section;	763 764 765
(4) An employer request for the abatement of penalties assessed pursuant to section 4123.32 of the Revised Code and the rules adopted pursuant to that section;	766 767 768
(5) An employer protest relating to an audit finding or a determination of a manual classification, experience rating, or transfer or combination of risk experience;	769 770 771
(6) Any decision relating to any other risk premium matter under Chapters 4121., 4123., and 4131. of the Revised Code;	772 773
(7) An employer petition objecting to the amount of security required under division (D) of section 4125.05 of the Revised Code and the rules adopted pursuant to that section.	774 775 776
<u>An employer may request, in writing, that the administrator waive the hearing before the administrator or the administrator's designee. The administrator shall decide whether to grant or deny a request to waive a hearing.</u>	777 778 779 780
(C) The bureau of workers' compensation board of directors, based upon recommendations of the workers' compensation actuarial committee, shall establish the policy for all adjudicating committee procedures, including, but not limited to, specific criteria for manual premium rate adjustment.	781 782 783 784 785
<b>Sec. 4123.34.</b> It shall be the duty of the bureau of workers' compensation board of directors and the administrator of workers' compensation to safeguard and maintain the solvency of the state insurance fund and all other funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code. The	786 787 788 789 790

administrator, in the exercise of the powers and discretion 791  
conferred upon the administrator in section 4123.29 of the Revised 792  
Code, shall fix and maintain, with the advice and consent of the 793  
board, for each class of occupation or industry, the lowest 794  
possible rates of premium consistent with the maintenance of a 795  
solvent state insurance fund and the creation and maintenance of a 796  
reasonable surplus, after the payment of legitimate claims for 797  
injury, occupational disease, and death that the administrator 798  
authorizes to be paid from the state insurance fund for the 799  
benefit of injured, diseased, and the dependents of killed 800  
employees. In establishing rates, the administrator shall take 801  
into account the necessity of ensuring sufficient money is set 802  
aside in the premium payment security fund to cover any defaults 803  
in premium obligations. The administrator shall observe all of the 804  
following requirements in fixing the rates of premium for the 805  
risks of occupations or industries: 806

(A) The administrator shall keep an accurate account of the 807  
money paid in premiums by each of the several classes of 808  
occupations or industries, and the losses on account of injuries, 809  
occupational disease, and death of employees thereof, and also 810  
keep an account of the money received from each individual 811  
employer and the amount of losses incurred against the state 812  
insurance fund on account of injuries, occupational disease, and 813  
death of the employees of the employer. 814

(B) A portion of the money paid into the state insurance fund 815  
shall be set aside for the creation of a surplus fund account 816  
within the state insurance fund. Any references in this chapter or 817  
in Chapter 4121., 4125., 4127., or 4131. of the Revised Code to 818  
the surplus fund, the surplus created in this division, the 819  
statutory surplus fund, or the statutory surplus of the state 820  
insurance fund are hereby deemed to be references to the surplus 821  
fund account. The administrator may transfer the portion of the 822

state insurance fund to the surplus fund account as the 823  
administrator determines is necessary to satisfy the needs of the 824  
surplus fund account and to guarantee the solvency of the state 825  
insurance fund and the surplus fund account. In addition to all 826  
statutory authority under this chapter and Chapter 4121. of the 827  
Revised Code, the administrator has discretionary and contingency 828  
authority to make charges to the surplus fund account. The 829  
administrator shall account for all charges, whether statutory, 830  
discretionary, or contingency, that the administrator may make to 831  
the surplus fund account. A revision of basic rates shall be made 832  
annually on the first day of July. 833

~~Notwithstanding any provision of the law to the contrary, one 834  
hundred eighty days after the effective date on which 835  
self-insuring employers first may elect under division (D) of 836  
section 4121.66 of the Revised Code to directly pay for 837  
rehabilitation expenses, the administrator shall calculate the 838  
deficit, if any, in the portion of the surplus fund account that 839  
is used for reimbursement to self-insuring employers for all 840  
expenses other than handicapped reimbursement under section 841  
4123.343 of the Revised Code. The administrator, from time to 842  
time, may determine whether the surplus fund account has such a 843  
deficit and may assess all self-insuring employers who 844  
participated in the portion of the surplus fund account during the 845  
accrual of the deficit and who during that time period have not 846  
made the election under division (D) of section 4121.66 of the 847  
Revised Code the amount the administrator determines necessary to 848  
reduce the deficit. 849~~

For policy years commencing prior to July 1, 2016, revisions 850  
of basic rates for private employers shall be in accordance with 851  
the oldest four of the last five calendar years of the combined 852  
accident and occupational disease experience of the administrator 853  
in the administration of this chapter, as shown by the accounts 854

kept as provided in this section. For a policy year commencing on 855  
or after July 1, 2016, revisions of basic rates for private 856  
employers shall be in accordance with the oldest four of the last 857  
five policy years combined accident and occupational disease 858  
experience of the administrator in the administration of this 859  
chapter, as shown by the accounts kept as provided in this 860  
section. 861

Revisions of basic rates for public employers shall be in 862  
accordance with the oldest four of the last five policy years of 863  
the combined accident and occupational disease experience of the 864  
administrator in the administration of this chapter, as shown by 865  
the accounts kept as provided in this section. 866

In revising basic rates, the administrator shall exclude the 867  
experience of employers that are no longer active if the 868  
administrator determines that the inclusion of those employers 869  
would have a significant negative impact on the remainder of the 870  
employers in a particular manual classification. The administrator 871  
shall adopt rules, with the advice and consent of the board, 872  
governing rate revisions, the object of which shall be to make an 873  
equitable distribution of losses among the several classes of 874  
occupation or industry, which rules shall be general in their 875  
application. 876

(C) The administrator may apply that form of rating system 877  
that the administrator finds is best calculated to merit rate or 878  
individually rate the risk more equitably, predicated upon the 879  
basis of its individual industrial accident and occupational 880  
disease experience, and may encourage and stimulate accident 881  
prevention. The administrator shall develop fixed and equitable 882  
rules controlling the rating system, which rules shall conserve to 883  
each risk the basic principles of workers' compensation insurance. 884

(D) The administrator, from the money paid into the state 885  
insurance fund, shall set aside into an account of the state 886

insurance fund titled a premium payment security fund sufficient 887  
money to pay for any premiums due from an employer and 888  
uncollected. 889

The use of the moneys held by the premium payment security 890  
fund account is restricted to reimbursement to the state insurance 891  
fund of premiums due and uncollected. 892

(E) The administrator may grant discounts on premium rates 893  
for employers who meet either of the following requirements: 894

(1) Have not incurred a compensable injury for one year or 895  
more and who maintain an employee safety committee or similar 896  
organization or make periodic safety inspections of the workplace. 897

(2) Successfully complete a loss prevention program 898  
prescribed by the superintendent of the division of safety and 899  
hygiene and conducted by the division or by any other person 900  
approved by the superintendent. 901

(F)(1) In determining the premium rates for the construction 902  
industry the administrator shall calculate the employers' premiums 903  
based upon the actual remuneration construction industry employees 904  
receive from construction industry employers, provided that the 905  
amount of remuneration the administrator uses in calculating the 906  
premiums shall not exceed an average weekly wage equal to one 907  
hundred fifty per cent of the statewide average weekly wage as 908  
defined in division (C) of section 4123.62 of the Revised Code. 909

(2) Division (F)(1) of this section shall not be construed as 910  
affecting the manner in which benefits to a claimant are awarded 911  
under this chapter. 912

(3) As used in division (F) of this section, "construction 913  
industry" includes any activity performed in connection with the 914  
erection, alteration, repair, replacement, renovation, 915  
installation, or demolition of any building, structure, highway, 916  
or bridge. 917

(G) The administrator shall not place a limit on the length 918  
of time that an employer may participate in the bureau of workers' 919  
compensation drug free workplace and workplace safety programs. 920

**Sec. 4123.343.** This section shall be construed liberally to 921  
the end that employers shall be encouraged to employ and retain in 922  
their employment handicapped employees as defined in this section. 923

(A) As used in this section, "handicapped employee" means an 924  
employee who is afflicted with or subject to any physical or 925  
mental impairment, or both, whether congenital or due to an injury 926  
or disease of such character that the impairment constitutes a 927  
handicap in obtaining employment or would constitute a handicap in 928  
obtaining reemployment if the employee should become unemployed 929  
and whose handicap is due to any of the following diseases or 930  
conditions: 931

(1) Epilepsy; 932

(2) Diabetes; 933

(3) Cardiac disease; 934

(4) Arthritis; 935

(5) Amputated foot, leg, arm, or hand; 936

(6) Loss of sight of one or both eyes or a partial loss of 937  
uncorrected vision of more than seventy-five per cent bilaterally; 938

(7) Residual disability from poliomyelitis; 939

(8) Cerebral palsy; 940

(9) Multiple sclerosis; 941

(10) Parkinson's disease; 942

(11) Cerebral vascular accident; 943

(12) Tuberculosis; 944

(13) Silicosis; 945

(14) Psycho-neurotic disability following treatment in a recognized medical or mental institution;	946 947
(15) Hemophilia;	948
(16) Chronic osteomyelitis;	949
(17) Ankylosis of joints;	950
(18) Hyper insulinism;	951
(19) Muscular dystrophies;	952
(20) Arterio-sclerosis;	953
(21) Thrombo-phlebitis;	954
(22) Varicose veins;	955
(23) Cardiovascular, pulmonary, or respiratory diseases of a firefighter or police officer employed by a municipal corporation or township as a regular member of a lawfully constituted police department or fire department;	956 957 958 959
(24) Coal miners' pneumoconiosis, commonly referred to as "black lung disease";	960 961
(25) Disability with respect to which an individual has completed a rehabilitation program conducted pursuant to sections 4121.61 to 4121.69 of the Revised Code.	962 963 964
(B) Under the circumstances set forth in this section all or such portion as the administrator determines of the compensation and benefits paid in any claim arising hereafter shall be charged to and paid from the statutory surplus fund created under section 4123.34 of the Revised Code and only the portion remaining shall be merit-rated or otherwise treated as part of the accident or occupational disease experience of the employer. <del>If the employer is a self-insuring employer, the proportion of such costs whether charged to the statutory surplus fund in whole or in part shall be by way of direct payment to such employee or the employee's</del>	965 966 967 968 969 970 971 972 973 974



~~dependents or by way of reimbursement to the self-insuring~~ 975  
~~employer as the circumstances indicate.~~ The provisions of this 976  
section apply only in cases of death, total disability, whether 977  
temporary or permanent, and all disabilities compensated under 978  
division (B) of section 4123.57 of the Revised Code. The 979  
administrator shall adopt rules specifying the grounds upon which 980  
charges to the statutory surplus fund are to be made. The rules 981  
shall prohibit as a grounds any agreement between employer and 982  
claimant as to the merits of a claim and the amount of the charge. 983

(C) Any employer who has in its employ a handicapped employee 984  
is entitled, in the event the person is injured, to a 985  
determination under this section. 986

An employer shall file an application under this section for 987  
a determination with the bureau or commission in the same manner 988  
as other claims. An application only may be made in cases where a 989  
handicapped employee or a handicapped employee's dependents claim 990  
or ~~is~~ are receiving an award of compensation as a result of an 991  
injury or occupational disease occurring or contracted on or after 992  
the date on which division (A) of this section first included the 993  
handicap of such employee. 994

(D) The circumstances under and the manner in which an 995  
apportionment under this section shall be made are: 996

(1) Whenever a handicapped employee is injured or disabled or 997  
dies as the result of an injury or occupational disease sustained 998  
in the course of and arising out of a handicapped employee's 999  
employment in this state and the administrator awards compensation 1000  
therefor and when it appears to the satisfaction of the 1001  
administrator that the injury or occupational disease or the death 1002  
resulting therefrom would not have occurred but for the 1003  
pre-existing physical or mental impairment of the handicapped 1004  
employee, all compensation and benefits payable on account of the 1005  
disability or death shall be paid from the surplus fund. 1006

(2) Whenever a handicapped employee is injured or disabled or dies as a result of an injury or occupational disease and the administrator finds that the injury or occupational disease would have been sustained or suffered without regard to the employee's pre-existing impairment but that the resulting disability or death was caused at least in part through aggravation of the employee's pre-existing disability, the administrator shall determine in a manner that is equitable and reasonable and based upon medical evidence the amount of disability or proportion of the cost of the death award that is attributable to the employee's pre-existing disability and the amount found shall be charged to the statutory surplus fund.

(E) The benefits and provisions of this section apply only to employers who have complied with this chapter ~~either~~ through insurance with the state fund ~~or as a self-insuring employer.~~

(F) No employer shall in any year receive credit under this section in an amount greater than the premium the employer paid ~~if a state fund employer or greater than the employer's assessments if a self-insuring employer.~~

(G) ~~Self-insuring employers may, for all claims made after January 1, 1987, for compensation and benefits under this section, pay the compensation and benefits directly to the employee or the employee's dependents. If such an employer chooses to pay compensation and benefits directly, the employer shall receive no money or credit from the surplus fund for the payment under this section, nor shall the employer be required to pay any amounts into the surplus fund that otherwise would be assessed for handicapped reimbursements for claims made after January 1, 1987. Where a self-insuring employer elects to pay for compensation and benefits pursuant to this section, the employer shall assume responsibility for compensation and benefits arising out of claims made prior to January 1, 1987, and shall not be required to pay~~

~~any amounts into the surplus fund and may not receive any money or  
credit from that fund on account of this section. The election  
made under this division is irrevocable.~~

~~(H)~~ An order issued by the administrator pursuant to this  
section is appealable under section 4123.511 of the Revised Code  
but is not appealable to court under section 4123.512 of the  
Revised Code.

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

Except as otherwise provided in this section, for a policy  
year commencing on or after July 1, 2015, every private employer  
and every publicly owned utility shall pay annually in the month  
of June immediately preceding the policy year into the state  
insurance fund the amount of estimated annual premium the  
administrator fixes for the employment or occupation of the  
employer, the amount of which estimated premium to be paid by each  
employer to be determined by the classifications, rules, and rates  
made and published by the administrator. The employer shall pay a  
further sum of money into the state insurance fund as may be  
ascertained to be due from the employer by applying the rules of  
the administrator. Upon receipt of the payroll report required by

division (B) of section 4123.26 of the Revised Code, the 1070  
administrator shall adjust the premium and assessments charged to 1071  
each employer for the difference between estimated gross payrolls 1072  
and actual gross payrolls, and any balance due to the 1073  
administrator shall be immediately paid by the employer. Any 1074  
balance due the employer shall be credited to the employer's 1075  
account. 1076

For a policy year commencing on or after July 1, 2015, each 1077  
employer that is recognized by the administrator as a professional 1078  
employer organization shall pay monthly into the state insurance 1079  
fund the amount of premium the administrator fixes for the 1080  
employer for the prior month based on the actual payroll of the 1081  
employer reported pursuant to division (C) of section 4123.26 of 1082  
the Revised Code. 1083

A receipt certifying that payment has been made shall be 1084  
issued to the employer by the bureau of workers' compensation. The 1085  
receipt is prima-facie evidence of the payment of the premium. The 1086  
administrator shall provide each employer written proof of 1087  
workers' compensation coverage as is required in section 4123.83 1088  
of the Revised Code. Proper posting of the notice constitutes the 1089  
employer's compliance with the notice requirement mandated in 1090  
section 4123.83 of the Revised Code. 1091

The bureau shall verify with the secretary of state the 1092  
existence of all corporations and organizations making application 1093  
for workers' compensation coverage and shall require every such 1094  
application to include the employer's federal identification 1095  
number. 1096

A private employer who has contracted with a subcontractor is 1097  
liable for the unpaid premium due from any subcontractor with 1098  
respect to that part of the payroll of the subcontractor that is 1099  
for work performed pursuant to the contract with the employer. 1100

Division (A) of this section providing for the payment of 1101  
premiums semiannually does not apply to any employer who was a 1102  
subscriber to the state insurance fund prior to January 1, 1914, 1103  
or, until July 1, 2015, who may first become a subscriber to the 1104  
fund in any month other than January or July. Instead, the 1105  
semiannual premiums shall be paid by those employers from time to 1106  
time upon the expiration of the respective periods for which 1107  
payments into the fund have been made by them. After July 1, 2015, 1108  
an employer who first becomes a subscriber to the fund on any day 1109  
other than the first day of July shall pay premiums according to 1110  
rules adopted by the administrator, with the advice and consent of 1111  
the bureau of workers' compensation board of directors, for the 1112  
remainder of the policy year for which the coverage is effective. 1113

The administrator, with the advice and consent of the board, 1114  
shall adopt rules to permit employers to make periodic payments of 1115  
the premium and assessment due under this division. The rules 1116  
shall include provisions for the assessment of interest charges, 1117  
where appropriate, and for the assessment of penalties when an 1118  
employer fails to make timely premium payments. The administrator, 1119  
in the rules the administrator adopts, may set an administrative 1120  
fee for these periodic payments. An employer who timely pays the 1121  
amounts due under this division is entitled to all of the benefits 1122  
and protections of this chapter. Upon receipt of payment, the 1123  
bureau shall issue a receipt to the employer certifying that 1124  
payment has been made, which receipt is prima-facie evidence of 1125  
payment. Workers' compensation coverage under this chapter 1126  
continues uninterrupted upon timely receipt of payment under this 1127  
division. 1128

Every public employer, except public employers that are 1129  
self-insuring employers under this section, shall comply with 1130  
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 1131  
regard to the contribution of moneys to the public insurance fund. 1132

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

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

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

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

(b) The employer has operated in this state for a minimum of

two years, provided that an employer who has purchased, acquired, 1165  
or otherwise succeeded to the operation of a business, or any part 1166  
thereof, situated in this state that has operated for at least two 1167  
years in this state, also shall qualify; 1168

(c) Where the employer previously contributed to the state 1169  
insurance fund or is a successor employer as defined by bureau 1170  
rules, the amount of the buyout, as defined by bureau rules; 1171

(d) The sufficiency of the employer's assets located in this 1172  
state to insure the employer's solvency in paying compensation 1173  
directly; 1174

(e) The financial records, documents, and data, certified by 1175  
a certified public accountant, necessary to provide the employer's 1176  
full financial disclosure. The records, documents, and data 1177  
include, but are not limited to, balance sheets and profit and 1178  
loss history for the current year and previous four years. 1179

(f) The employer's organizational plan for the administration 1180  
of the workers' compensation law; 1181

(g) The employer's proposed plan to inform employees of the 1182  
change from a state fund insurer to a self-insuring employer, the 1183  
procedures the employer will follow as a self-insuring employer, 1184  
and the employees' rights to compensation and benefits; and 1185

(h) The employer has either an account in a financial 1186  
institution in this state, or if the employer maintains an account 1187  
with a financial institution outside this state, ensures that 1188  
workers' compensation checks are drawn from the same account as 1189  
payroll checks or the employer clearly indicates that payment will 1190  
be honored by a financial institution in this state. 1191

The administrator may waive the requirements of divisions 1192  
(B)(1)(a) and (b) of this section and the requirement of division 1193  
(B)(1)(e) of this section that the financial records, documents, 1194  
and data be certified by a certified public accountant. The 1195

administrator shall adopt rules establishing the criteria that an 1196  
employer shall meet in order for the administrator to waive the 1197  
requirements of divisions (B)(1)(a), (b), and (e) of this section. 1198  
Such rules may require additional security of that employer 1199  
pursuant to division (E) of section 4123.351 of the Revised Code. 1200

The administrator shall not grant the status of self-insuring 1201  
employer to the state, except that the administrator may grant the 1202  
status of self-insuring employer to a state institution of higher 1203  
education, including its hospitals, that meets the requirements of 1204  
division (B)(2) of this section. 1205

(2) When considering the application of a public employer, 1206  
except for a board of county commissioners described in division 1207  
(G) of section 4123.01 of the Revised Code, a board of a county 1208  
hospital, or a publicly owned utility, the administrator shall 1209  
verify that the public employer satisfies all of the following 1210  
requirements as the requirements apply to that public employer: 1211

(a) For the two-year period preceding application under this 1212  
section, the public employer has maintained an unvoted debt 1213  
capacity equal to at least two times the amount of the current 1214  
annual premium established by the administrator under this chapter 1215  
for that public employer for the year immediately preceding the 1216  
year in which the public employer makes application under this 1217  
section. 1218

(b) For each of the two fiscal years preceding application 1219  
under this section, the unreserved and undesignated year-end fund 1220  
balance in the public employer's general fund is equal to at least 1221  
five per cent of the public employer's general fund revenues for 1222  
the fiscal year computed in accordance with generally accepted 1223  
accounting principles. 1224

(c) For the five-year period preceding application under this 1225  
section, the public employer, to the extent applicable, has 1226



complied fully with the continuing disclosure requirements 1227  
established in rules adopted by the United States securities and 1228  
exchange commission under 17 C.F.R. 240.15c 2-12. 1229

(d) For the five-year period preceding application under this 1230  
section, the public employer has not had its local government fund 1231  
distribution withheld on account of the public employer being 1232  
indebted or otherwise obligated to the state. 1233

(e) For the five-year period preceding application under this 1234  
section, the public employer has not been under a fiscal watch or 1235  
fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 1236  
of the Revised Code. 1237

(f) For the public employer's fiscal year preceding 1238  
application under this section, the public employer has obtained 1239  
an annual financial audit as required under section 117.10 of the 1240  
Revised Code, which has been released by the auditor of state 1241  
within seven months after the end of the public employer's fiscal 1242  
year. 1243

(g) On the date of application, the public employer holds a 1244  
debt rating of Aa3 or higher according to Moody's investors 1245  
service, inc., or a comparable rating by an independent rating 1246  
agency similar to Moody's investors service, inc. 1247

(h) The public employer agrees to generate an annual 1248  
accumulating book reserve in its financial statements reflecting 1249  
an actuarially generated reserve adequate to pay projected claims 1250  
under this chapter for the applicable period of time, as 1251  
determined by the administrator. 1252

(i) For a public employer that is a hospital, the public 1253  
employer shall submit audited financial statements showing the 1254  
hospital's overall liquidity characteristics, and the 1255  
administrator shall determine, on an individual basis, whether the 1256  
public employer satisfies liquidity standards equivalent to the 1257

liquidity standards of other public employers. 1258

(j) Any additional criteria that the administrator adopts by 1259  
rule pursuant to division (E) of this section. 1260

The administrator may adopt rules establishing the criteria 1261  
that a public employer shall satisfy in order for the 1262  
administrator to waive any of the requirements listed in divisions 1263  
(B)(2)(a) to (j) of this section. The rules may require additional 1264  
security from that employer pursuant to division (E) of section 1265  
4123.351 of the Revised Code. The administrator shall not waive 1266  
any of the requirements listed in divisions (B)(2)(a) to (j) of 1267  
this section for a public employer who does not satisfy the 1268  
criteria established in the rules the administrator adopts. 1269

(C) A board of county commissioners described in division (G) 1270  
of section 4123.01 of the Revised Code, as an employer, that will 1271  
abide by the rules of the administrator and that may be of 1272  
sufficient financial ability to render certain the payment of 1273  
compensation to injured employees or the dependents of killed 1274  
employees, and the furnishing of medical, surgical, nursing, and 1275  
hospital attention and services and medicines, and funeral 1276  
expenses, equal to or greater than is provided for in sections 1277  
4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised 1278  
Code, and that does not desire to insure the payment thereof or 1279  
indemnify itself against loss sustained by the direct payment 1280  
thereof, upon a finding of such facts by the administrator, may be 1281  
granted the privilege to pay individually compensation, and 1282  
furnish medical, surgical, nursing, and hospital services and 1283  
attention and funeral expenses directly to injured employees or 1284  
the dependents of killed employees, thereby being granted status 1285  
as a self-insuring employer. The administrator may charge a board 1286  
of county commissioners described in division (G) of section 1287  
4123.01 of the Revised Code that applies for the status as a 1288  
self-insuring employer a reasonable application fee to cover the 1289

bureau's costs in connection with processing and making a 1290  
determination with respect to an application. All employers 1291  
granted such status shall demonstrate sufficient financial and 1292  
administrative ability to assure that all obligations under this 1293  
section are promptly met. The administrator shall deny the 1294  
privilege where the employer is unable to demonstrate the 1295  
employer's ability to promptly meet all the obligations imposed on 1296  
the employer by this section. The administrator shall consider, 1297  
but is not limited to, the following factors, where applicable, in 1298  
determining the employer's ability to meet all of the obligations 1299  
imposed on the board as an employer by this section: 1300

(1) The board as an employer employs a minimum of five 1301  
hundred employees in this state; 1302

(2) The board has operated in this state for a minimum of two 1303  
years; 1304

(3) Where the board previously contributed to the state 1305  
insurance fund or is a successor employer as defined by bureau 1306  
rules, the amount of the buyout, as defined by bureau rules; 1307

(4) The sufficiency of the board's assets located in this 1308  
state to insure the board's solvency in paying compensation 1309  
directly; 1310

(5) The financial records, documents, and data, certified by 1311  
a certified public accountant, necessary to provide the board's 1312  
full financial disclosure. The records, documents, and data 1313  
include, but are not limited to, balance sheets and profit and 1314  
loss history for the current year and previous four years. 1315

(6) The board's organizational plan for the administration of 1316  
the workers' compensation law; 1317

(7) The board's proposed plan to inform employees of the 1318  
proposed self-insurance, the procedures the board will follow as a 1319  
self-insuring employer, and the employees' rights to compensation 1320

and benefits; 1321

(8) The board has either an account in a financial 1322  
institution in this state, or if the board maintains an account 1323  
with a financial institution outside this state, ensures that 1324  
workers' compensation checks are drawn from the same account as 1325  
payroll checks or the board clearly indicates that payment will be 1326  
honored by a financial institution in this state; 1327

(9) The board shall provide the administrator a surety bond 1328  
in an amount equal to one hundred twenty-five per cent of the 1329  
projected losses as determined by the administrator. 1330

(D) The administrator shall require a surety bond from all 1331  
self-insuring employers, issued pursuant to section 4123.351 of 1332  
the Revised Code, that is sufficient to compel, or secure to 1333  
injured employees, or to the dependents of employees killed, the 1334  
payment of compensation and expenses, which shall in no event be 1335  
less than that paid or furnished out of the state insurance fund 1336  
in similar cases to injured employees or to dependents of killed 1337  
employees whose employers contribute to the fund, except when an 1338  
employee of the employer, who has suffered the loss of a hand, 1339  
arm, foot, leg, or eye prior to the injury for which compensation 1340  
is to be paid, and thereafter suffers the loss of any other of the 1341  
members as the result of any injury sustained in the course of and 1342  
arising out of the employee's employment, the compensation to be 1343  
paid by the self-insuring employer is limited to the disability 1344  
suffered in the subsequent injury, additional compensation, if 1345  
any, to be paid by the bureau out of the surplus created by 1346  
section 4123.34 of the Revised Code. 1347

(E) In addition to the requirements of this section, the 1348  
administrator shall make and publish rules governing the manner of 1349  
making application and the nature and extent of the proof required 1350  
to justify a finding of fact by the administrator as to granting 1351  
the status of a self-insuring employer, which rules shall be 1352

general in their application, one of which rules shall provide 1353  
that all self-insuring employers shall pay into the state 1354  
insurance fund such amounts as are required to be credited to the 1355  
surplus fund in division (B) of section 4123.34 of the Revised 1356  
Code. The administrator may adopt rules establishing requirements 1357  
in addition to the requirements described in division (B)(2) of 1358  
this section that a public employer shall meet in order to qualify 1359  
for self-insuring status. 1360

Employers shall secure directly from the bureau central 1361  
offices application forms upon which the bureau shall stamp a 1362  
designating number. Prior to submission of an application, an 1363  
employer shall make available to the bureau, and the bureau shall 1364  
review, the information described in division (B)(1) of this 1365  
section, and public employers shall make available, and the bureau 1366  
shall review, the information necessary to verify whether the 1367  
public employer meets the requirements listed in division (B)(2) 1368  
of this section. An employer shall file the completed application 1369  
forms with an application fee, which shall cover the costs of 1370  
processing the application, as established by the administrator, 1371  
by rule, with the bureau at least ninety days prior to the 1372  
effective date of the employer's new status as a self-insuring 1373  
employer. The application form is not deemed complete until all 1374  
the required information is attached thereto. The bureau shall 1375  
only accept applications that contain the required information. 1376

(F) The bureau shall review completed applications within a 1377  
reasonable time. If the bureau determines to grant an employer the 1378  
status as a self-insuring employer, the bureau shall issue a 1379  
statement, containing its findings of fact, that is prepared by 1380  
the bureau and signed by the administrator. If the bureau 1381  
determines not to grant the status as a self-insuring employer, 1382  
the bureau shall notify the employer of the determination and 1383  
require the employer to continue to pay its full premium into the 1384

state insurance fund. The administrator also shall adopt rules 1385  
establishing a minimum level of performance as a criterion for 1386  
granting and maintaining the status as a self-insuring employer 1387  
and fixing time limits beyond which failure of the self-insuring 1388  
employer to provide for the necessary medical examinations and 1389  
evaluations may not delay a decision on a claim. 1390

(G) The administrator shall adopt rules setting forth 1391  
procedures for auditing the program of self-insuring employers. 1392  
The bureau shall conduct the audit upon a random basis or whenever 1393  
the bureau has grounds for believing that a self-insuring employer 1394  
is not in full compliance with bureau rules or this chapter. 1395

The administrator shall monitor the programs conducted by 1396  
self-insuring employers, to ensure compliance with bureau 1397  
requirements and for that purpose, shall develop and issue to 1398  
self-insuring employers standardized forms for use by the 1399  
self-insuring employer in all aspects of the self-insuring 1400  
employers' direct compensation program and for reporting of 1401  
information to the bureau. 1402

The bureau shall receive and transmit to the self-insuring 1403  
employer all complaints concerning any self-insuring employer. In 1404  
the case of a complaint against a self-insuring employer, the 1405  
administrator shall handle the complaint through the 1406  
self-insurance division of the bureau. The bureau shall maintain a 1407  
file by employer of all complaints received that relate to the 1408  
employer. The bureau shall evaluate each complaint and take 1409  
appropriate action. 1410

The administrator shall adopt as a rule a prohibition against 1411  
any self-insuring employer from harassing, dismissing, or 1412  
otherwise disciplining any employee making a complaint, which rule 1413  
shall provide for a financial penalty to be levied by the 1414  
administrator payable by the offending self-insuring employer. 1415

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

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

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

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

(2) Multiply the quotient in division (J)(1) of this section by the total amount of paid compensation for the previous calendar year that is attributable to the individual self-insuring employer

for whom the assessment is being determined. Each self-insuring 1448  
employer shall pay the assessment that results from this 1449  
calculation, unless the assessment resulting from this calculation 1450  
falls below a minimum assessment, which minimum assessment the 1451  
administrator shall determine on the first day of July of each 1452  
year with the advice and consent of the bureau of workers' 1453  
compensation board of directors, in which event, the self-insuring 1454  
employer shall pay the minimum assessment. 1455

In determining the total amount due for the total assessment 1456  
against all self-insuring employers as a class for each fund and 1457  
the administrative assessment, the administrator shall reduce 1458  
proportionately the total for each fund and assessment by the 1459  
amount of money in the self-insurance assessment fund as of the 1460  
date of the computation of the assessment. 1461

~~The administrator shall calculate the assessment for the 1462  
portion of the surplus fund under division (B) of section 4123.34 1463  
of the Revised Code that is used for handicapped reimbursement in 1464  
the same manner as set forth in divisions (J)(1) and (2) of this 1465  
section except that the administrator shall calculate the total 1466  
assessment for this portion of the surplus fund only on the basis 1467  
of those self-insuring employers that retain participation in the 1468  
handicapped reimbursement program and the individual self-insuring 1469  
employer's proportion of paid compensation shall be calculated 1470  
only for those self-insuring employers who retain participation in 1471  
the handicapped reimbursement program. The administrator, as the 1472  
administrator determines appropriate, may determine the total 1473  
assessment for the handicapped portion of the surplus fund in 1474  
accordance with sound actuarial principles. 1475~~

~~The administrator shall calculate the assessment for the 1476  
portion of the surplus fund under division (B) of section 4123.34 1477  
of the Revised Code that under division (D) of section 4121.66 of 1478  
the Revised Code is used for rehabilitation costs in the same 1479~~



~~manner as set forth in divisions (J)(1) and (2) of this section, 1480  
except that the administrator shall calculate the total assessment 1481  
for this portion of the surplus fund only on the basis of those 1482  
self-insuring employers who have not made the election to make 1483  
payments directly under division (D) of section 4121.66 of the 1484  
Revised Code and an individual self-insuring employer's proportion 1485  
of paid compensation only for those self-insuring employers who 1486  
have not made that election. 1487~~

The administrator shall calculate the assessment for the 1488  
portion of the surplus fund under division (B) of section 4123.34 1489  
of the Revised Code that is used for reimbursement to a 1490  
self-insuring employer under division (H) of section 4123.512 of 1491  
the Revised Code in the same manner as set forth in divisions 1492  
(J)(1) and (2) of this section except that the administrator shall 1493  
calculate the total assessment for this portion of the surplus 1494  
fund only on the basis of those self-insuring employers that 1495  
retain participation in reimbursement to the self-insuring 1496  
employer under division (H) of section 4123.512 of the Revised 1497  
Code and the individual self-insuring employer's proportion of 1498  
paid compensation shall be calculated only for those self-insuring 1499  
employers who retain participation in reimbursement to the 1500  
self-insuring employer under division (H) of section 4123.512 of 1501  
the Revised Code. 1502

An employer who no longer is a self-insuring employer in this 1503  
state or who no longer is operating in this state, shall continue 1504  
to pay assessments for administrative costs and for ~~the portion of~~ 1505  
the surplus fund under division (B) of section 4123.34 of the 1506  
Revised Code ~~that is not used for handicapped reimbursement,~~ based 1507  
upon paid compensation attributable to claims that occurred while 1508  
the employer was a self-insuring employer within this state. 1509

(K) There is hereby created in the state treasury the 1510  
self-insurance assessment fund. All investment earnings of the 1511

fund shall be deposited in the fund. The administrator shall use 1512  
the money in the self-insurance assessment fund only for 1513  
administrative costs as specified in section 4123.341 of the 1514  
Revised Code. 1515

(L) Every self-insuring employer shall certify, in affidavit 1516  
form subject to the penalty for perjury, to the bureau the amount 1517  
of the self-insuring employer's paid compensation for the previous 1518  
calendar year. In reporting paid compensation paid for the 1519  
previous year, a self-insuring employer shall exclude from the 1520  
total amount of paid compensation any reimbursement the 1521  
self-insuring employer receives in the previous calendar year from 1522  
the surplus fund pursuant to section 4123.512 of the Revised Code 1523  
for any paid compensation. The self-insuring employer also shall 1524  
exclude from the paid compensation reported any amount recovered 1525  
under section 4123.931 of the Revised Code and any amount that is 1526  
determined not to have been payable to or on behalf of a claimant 1527  
in any final administrative or judicial proceeding. The 1528  
self-insuring employer shall exclude such amounts from the paid 1529  
compensation reported in the reporting period subsequent to the 1530  
date the determination is made. The administrator shall adopt 1531  
rules, in accordance with Chapter 119. of the Revised Code, that 1532  
provide for all of the following: 1533

(1) Establishing the date by which self-insuring employers 1534  
must submit such information and the amount of the assessments 1535  
provided for in division (J) of this section for employers who 1536  
have been granted self-insuring status within the last calendar 1537  
year; 1538

(2) If an employer fails to pay the assessment when due, the 1539  
administrator may add a late fee penalty of not more than five 1540  
hundred dollars to the assessment plus an additional penalty 1541  
amount as follows: 1542

(a) For an assessment from sixty-one to ninety days past due, 1543

the prime interest rate, multiplied by the assessment due; 1544

(b) For an assessment from ninety-one to one hundred twenty 1545  
days past due, the prime interest rate plus two per cent, 1546  
multiplied by the assessment due; 1547

(c) For an assessment from one hundred twenty-one to one 1548  
hundred fifty days past due, the prime interest rate plus four per 1549  
cent, multiplied by the assessment due; 1550

(d) For an assessment from one hundred fifty-one to one 1551  
hundred eighty days past due, the prime interest rate plus six per 1552  
cent, multiplied by the assessment due; 1553

(e) For an assessment from one hundred eighty-one to two 1554  
hundred ten days past due, the prime interest rate plus eight per 1555  
cent, multiplied by the assessment due; 1556

(f) For each additional thirty-day period or portion thereof 1557  
that an assessment remains past due after it has remained past due 1558  
for more than two hundred ten days, the prime interest rate plus 1559  
eight per cent, multiplied by the assessment due. 1560

(3) An employer may appeal a late fee penalty and penalty 1561  
assessment to the administrator. 1562

For purposes of division (L)(2) of this section, "prime 1563  
interest rate" means the average bank prime rate, and the 1564  
administrator shall determine the prime interest rate in the same 1565  
manner as a county auditor determines the average bank prime rate 1566  
under section 929.02 of the Revised Code. 1567

The administrator shall include any assessment and penalties 1568  
that remain unpaid for previous assessment periods in the 1569  
calculation and collection of any assessments due under this 1570  
division or division (J) of this section. 1571

(M) As used in this section, "paid compensation" means all 1572  
amounts paid by a self-insuring employer for living maintenance 1573

benefits, all amounts for compensation paid pursuant to sections 1574  
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 1575  
4123.64 of the Revised Code, all amounts paid as wages in lieu of 1576  
such compensation, all amounts paid in lieu of such compensation 1577  
under a nonoccupational accident and sickness program fully funded 1578  
by the self-insuring employer, and all amounts paid by a 1579  
self-insuring employer for a violation of a specific safety 1580  
standard pursuant to Section 35 of Article II, Ohio Constitution 1581  
and section 4121.47 of the Revised Code. 1582

(N) Should any section of this chapter or Chapter 4121. of 1583  
the Revised Code providing for self-insuring employers' 1584  
assessments based upon compensation paid be declared 1585  
unconstitutional by a final decision of any court, then that 1586  
section of the Revised Code declared unconstitutional shall revert 1587  
back to the section in existence prior to November 3, 1989, 1588  
providing for assessments based upon payroll. 1589

(O) The administrator may grant a self-insuring employer the 1590  
privilege to self-insure a construction project entered into by 1591  
the self-insuring employer that is scheduled for completion within 1592  
six years after the date the project begins, and the total cost of 1593  
which is estimated to exceed one hundred million dollars or, for 1594  
employers described in division (R) of this section, if the 1595  
construction project is estimated to exceed twenty-five million 1596  
dollars. The administrator may waive such cost and time criteria 1597  
and grant a self-insuring employer the privilege to self-insure a 1598  
construction project regardless of the time needed to complete the 1599  
construction project and provided that the cost of the 1600  
construction project is estimated to exceed fifty million dollars. 1601  
A self-insuring employer who desires to self-insure a construction 1602  
project shall submit to the administrator an application listing 1603  
the dates the construction project is scheduled to begin and end, 1604  
the estimated cost of the construction project, the contractors 1605

and subcontractors whose employees are to be self-insured by the 1606  
self-insuring employer, the provisions of a safety program that is 1607  
specifically designed for the construction project, and a 1608  
statement as to whether a collective bargaining agreement 1609  
governing the rights, duties, and obligations of each of the 1610  
parties to the agreement with respect to the construction project 1611  
exists between the self-insuring employer and a labor 1612  
organization. 1613

A self-insuring employer may apply to self-insure the 1614  
employees of either of the following: 1615

(1) All contractors and subcontractors who perform labor or 1616  
work or provide materials for the construction project; 1617

(2) All contractors and, at the administrator's discretion, a 1618  
substantial number of all the subcontractors who perform labor or 1619  
work or provide materials for the construction project. 1620

Upon approval of the application, the administrator shall 1621  
mail a certificate granting the privilege to self-insure the 1622  
construction project to the self-insuring employer. The 1623  
certificate shall contain the name of the self-insuring employer 1624  
and the name, address, and telephone number of the self-insuring 1625  
employer's representatives who are responsible for administering 1626  
workers' compensation claims for the construction project. The 1627  
self-insuring employer shall post the certificate in a conspicuous 1628  
place at the site of the construction project. 1629

The administrator shall maintain a record of the contractors 1630  
and subcontractors whose employees are covered under the 1631  
certificate issued to the self-insured employer. A self-insuring 1632  
employer immediately shall notify the administrator when any 1633  
contractor or subcontractor is added or eliminated from inclusion 1634  
under the certificate. 1635

Upon approval of the application, the self-insuring employer 1636

is responsible for the administration and payment of all claims 1637  
under this chapter and Chapter 4121. of the Revised Code for the 1638  
employees of the contractor and subcontractors covered under the 1639  
certificate who receive injuries or are killed in the course of 1640  
and arising out of employment on the construction project, or who 1641  
contract an occupational disease in the course of employment on 1642  
the construction project. For purposes of this chapter and Chapter 1643  
4121. of the Revised Code, a claim that is administered and paid 1644  
in accordance with this division is considered a claim against the 1645  
self-insuring employer listed in the certificate. A contractor or 1646  
subcontractor included under the certificate shall report to the 1647  
self-insuring employer listed in the certificate, all claims that 1648  
arise under this chapter and Chapter 4121. of the Revised Code in 1649  
connection with the construction project for which the certificate 1650  
is issued. 1651

A self-insuring employer who complies with this division is 1652  
entitled to the protections provided under this chapter and 1653  
Chapter 4121. of the Revised Code with respect to the employees of 1654  
the contractors and subcontractors covered under a certificate 1655  
issued under this division for death or injuries that arise out 1656  
of, or death, injuries, or occupational diseases that arise in the 1657  
course of, those employees' employment on that construction 1658  
project, as if the employees were employees of the self-insuring 1659  
employer, provided that the self-insuring employer also complies 1660  
with this section. No employee of the contractors and 1661  
subcontractors covered under a certificate issued under this 1662  
division shall be considered the employee of the self-insuring 1663  
employer listed in that certificate for any purposes other than 1664  
this chapter and Chapter 4121. of the Revised Code. Nothing in 1665  
this division gives a self-insuring employer authority to control 1666  
the means, manner, or method of employment of the employees of the 1667  
contractors and subcontractors covered under a certificate issued 1668  
under this division. 1669

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

The contractors and subcontractors included under a certificate issued under this division shall identify in their payroll records the employees who are considered the employees of the self-insuring employer listed in that certificate for purposes of this chapter and Chapter 4121. of the Revised Code, and the amount that those employees earned for employment on the construction project that is the subject of that certificate. Notwithstanding any provision to the contrary under this chapter and Chapter 4121. of the Revised Code, the administrator shall exclude the payroll that is reported for employees who are considered the employees of the self-insuring employer listed in that certificate, and that the employees earned for employment on the construction project that is the subject of that certificate, when determining those contractors' or subcontractors' premiums or assessments required under this chapter and Chapter 4121. of the Revised Code. A self-insuring employer issued a certificate under this division shall include in the amount of paid compensation it reports pursuant to division (L) of this section, the amount of paid compensation the self-insuring employer paid pursuant to this division for the previous calendar year.

Nothing in this division shall be construed as altering the rights of employees under this chapter and Chapter 4121. of the Revised Code as those rights existed prior to September 17, 1996.

Nothing in this division shall be construed as altering the rights 1702  
devolved under sections 2305.31 and 4123.82 of the Revised Code as 1703  
those rights existed prior to September 17, 1996. 1704

As used in this division, "privilege to self-insure a 1705  
construction project" means privilege to pay individually 1706  
compensation, and to furnish medical, surgical, nursing, and 1707  
hospital services and attention and funeral expenses directly to 1708  
injured employees or the dependents of killed employees. 1709

(P) A self-insuring employer whose application is granted 1710  
under division (O) of this section shall designate a safety 1711  
professional to be responsible for the administration and 1712  
enforcement of the safety program that is specifically designed 1713  
for the construction project that is the subject of the 1714  
application. 1715

A self-insuring employer whose application is granted under 1716  
division (O) of this section shall employ an ombudsperson for the 1717  
construction project that is the subject of the application. The 1718  
ombudsperson shall have experience in workers' compensation or the 1719  
construction industry, or both. The ombudsperson shall perform all 1720  
of the following duties: 1721

(1) Communicate with and provide information to employees who 1722  
are injured in the course of, or whose injury arises out of 1723  
employment on the construction project, or who contract an 1724  
occupational disease in the course of employment on the 1725  
construction project; 1726

(2) Investigate the status of a claim upon the request of an 1727  
employee to do so; 1728

(3) Provide information to claimants, third party 1729  
administrators, employers, and other persons to assist those 1730  
persons in protecting their rights under this chapter and Chapter 1731  
4121. of the Revised Code. 1732



A self-insuring employer whose application is granted under 1733  
division (O) of this section shall post the name of the safety 1734  
professional and the ombudsperson and instructions for contacting 1735  
the safety professional and the ombudsperson in a conspicuous 1736  
place at the site of the construction project. 1737

(Q) The administrator may consider all of the following when 1738  
deciding whether to grant a self-insuring employer the privilege 1739  
to self-insure a construction project as provided under division 1740  
(O) of this section: 1741

(1) Whether the self-insuring employer has an organizational 1742  
plan for the administration of the workers' compensation law; 1743

(2) Whether the safety program that is specifically designed 1744  
for the construction project provides for the safety of employees 1745  
employed on the construction project, is applicable to all 1746  
contractors and subcontractors who perform labor or work or 1747  
provide materials for the construction project, and has as a 1748  
component, a safety training program that complies with standards 1749  
adopted pursuant to the "Occupational Safety and Health Act of 1750  
1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing 1751  
management and employee involvement; 1752

(3) Whether granting the privilege to self-insure the 1753  
construction project will reduce the costs of the construction 1754  
project; 1755

(4) Whether the self-insuring employer has employed an 1756  
ombudsperson as required under division (P) of this section; 1757

(5) Whether the self-insuring employer has sufficient surety 1758  
to secure the payment of claims for which the self-insuring 1759  
employer would be responsible pursuant to the granting of the 1760  
privilege to self-insure a construction project under division (O) 1761  
of this section. 1762

(R) As used in divisions (O), (P), and (Q), "self-insuring 1763

employer" includes the following employers, whether or not they	1764
have been granted the status of being a self-insuring employer	1765
under division (B) of this section:	1766
(1) A state institution of higher education;	1767
(2) A school district;	1768
(3) A county school financing district;	1769
(4) An educational service center;	1770
(5) A community school established under Chapter 3314. of the	1771
Revised Code;	1772
(6) A municipal power agency as defined in section 3734.058	1773
of the Revised Code.	1774
(S) As used in this section:	1775
(1) "Unvoted debt capacity" means the amount of money that a	1776
public employer may borrow without voter approval of a tax levy;	1777
(2) "State institution of higher education" means the state	1778
universities listed in section 3345.011 of the Revised Code,	1779
community colleges created pursuant to Chapter 3354. of the	1780
Revised Code, university branches created pursuant to Chapter	1781
3355. of the Revised Code, technical colleges created pursuant to	1782
Chapter 3357. of the Revised Code, and state community colleges	1783
created pursuant to Chapter 3358. of the Revised Code.	1784
<b>Sec. 4123.351.</b> (A) The administrator of workers' compensation	1785
shall require every self-insuring employer, including any	1786
self-insuring employer that is indemnified by a captive insurance	1787
company granted a certificate of authority under Chapter <del>3694.</del>	1788
<u>3964.</u> of the Revised Code, to pay a contribution, calculated under	1789
this section, to the self-insuring employers' guaranty fund	1790
established pursuant to this section. The fund shall provide for	1791
payment of compensation and benefits to employees of the	1792

self-insuring employer in order to cover any default in payment by 1793  
that employer. 1794

(B) The bureau of workers' compensation shall operate the 1795  
self-insuring employers' guaranty fund for self-insuring 1796  
employers. The administrator annually shall establish the 1797  
contributions due from self-insuring employers for the fund at 1798  
rates as low as possible but such as will assure sufficient moneys 1799  
to guarantee the payment of any claims against the fund. The 1800  
bureau's operation of the fund is not subject to sections 3929.10 1801  
to 3929.18 of the Revised Code or to regulation by the 1802  
superintendent of insurance. 1803

(C) If a self-insuring employer defaults, the bureau shall 1804  
recover the amounts paid as a result of the default from the 1805  
self-insuring employers' guaranty fund. If a self-insuring 1806  
employer defaults and is in compliance with this section for the 1807  
payment of contributions to the fund, such self-insuring employer 1808  
is entitled to the immunity conferred by section 4123.74 of the 1809  
Revised Code for any claim arising during any period the employer 1810  
is in compliance with this section. 1811

(D)(1) There is hereby established a self-insuring employers' 1812  
guaranty fund, which shall be in the custody of the treasurer of 1813  
state and which shall be separate from the other funds established 1814  
and administered pursuant to this chapter. The fund shall consist 1815  
of contributions and other payments made by self-insuring 1816  
employers under this section. All investment earnings of the fund 1817  
shall be credited to the fund. The bureau shall make disbursements 1818  
from the fund pursuant to this section. 1819

(2) The administrator has the same powers to invest any of 1820  
the surplus or reserve belonging to the fund as are delegated to 1821  
the administrator under section 4123.44 of the Revised Code with 1822  
respect to the state insurance fund. The administrator shall apply 1823  
interest earned solely to the reduction of assessments for 1824

contributions from self-insuring employers and to the payments 1825  
required due to defaults. 1826

(3) If the bureau of workers' compensation board of directors 1827  
determines that reinsurance of the risks of the fund is necessary 1828  
to assure solvency of the fund, the board may: 1829

(a) Enter into contracts for the purchase of reinsurance 1830  
coverage of the risks of the fund with any company or agency 1831  
authorized by law to issue contracts of reinsurance; 1832

(b) Require the administrator to pay the cost of reinsurance 1833  
from the fund; 1834

(c) Include the costs of reinsurance as a liability and 1835  
estimated liability of the fund. 1836

(E) The administrator, with the advice and consent of the 1837  
board, may adopt rules pursuant to Chapter 119. of the Revised 1838  
Code for the implementation of this section, including a rule, 1839  
notwithstanding division (C) of this section, requiring 1840  
self-insuring employers to provide security in addition to the 1841  
contribution to the self-insuring employers' guaranty fund 1842  
required by this section. The additional security required by the 1843  
rule, as the administrator determines appropriate, shall be 1844  
sufficient and adequate to provide for financial assurance to meet 1845  
the obligations of self-insuring employers under this chapter and 1846  
Chapter 4121. of the Revised Code. 1847

(F) The purchase of coverage under this section by 1848  
self-insuring employers is valid notwithstanding the prohibitions 1849  
contained in division (A) of section 4123.82 of the Revised Code 1850  
and is in addition to the indemnity contracts that self-insuring 1851  
employers may purchase pursuant to division (B) of section 4123.82 1852  
of the Revised Code. 1853

(G) The administrator, on behalf of the self-insuring 1854  
employers' guaranty fund, has the rights of reimbursement and 1855

subrogation and shall collect from a defaulting self-insuring 1856  
employer or other liable person all amounts the administrator has 1857  
paid or reasonably expects to pay from the fund on account of the 1858  
defaulting self-insuring employer. 1859

(H) The assessments for contributions, the administration of 1860  
the self-insuring employers' guaranty fund, the investment of the 1861  
money in the fund, and the payment of liabilities incurred by the 1862  
fund do not create any liability upon the state. 1863

Except for a gross abuse of discretion, neither the board, 1864  
nor the individual members thereof, nor the administrator shall 1865  
incur any obligation or liability respecting the assessments for 1866  
contributions, the administration of the self-insuring employers' 1867  
guaranty fund, the investment of the fund, or the payment of 1868  
liabilities therefrom. 1869

**Sec. 4123.411.** (A) For all injuries and disabilities 1870  
occurring before January 1, 1987, the administrator of workers' 1871  
compensation, for the purpose of carrying out sections 4123.412 to 1872  
4123.418 of the Revised Code, ~~the administrator of workers'~~ 1873  
~~compensation,~~ and with the advice and consent of the bureau of 1874  
workers' compensation board of directors, ~~shall~~ may levy an 1875  
assessment against all employers at a rate not to exceed ten cents 1876  
per one hundred dollars of payroll, ~~such.~~ If the administrator 1877  
levies an assessment under this division, the rate to of that 1878  
assessment shall be determined annually for each employer group 1879  
listed in divisions (A)(1) to (3) of this section, ~~which will.~~ The 1880  
rates determined under this division shall be sufficient to 1881  
produce an amount no greater than the amount the administrator 1882  
estimates to be necessary to carry out such sections for the 1883  
period for which the assessment is levied. In the event the amount 1884  
produced by the assessment is not sufficient to carry out such 1885  
sections the additional amount necessary shall be provided, 1886

<u>pursuant to section 4123.419 of the Revised Code,</u> from the income	1887
produced as a result of investments made pursuant to section	1888
4123.44 of the Revised Code.	1889
<u>Assessments If levied, assessments</u> shall be <del>levied</del> according	1890
to the following schedule:	1891
(1) For private fund employers, except self-insuring	1892
employers:	1893
(a) For policy years commencing prior to July 1, 2015, in	1894
January and July of each year upon gross payrolls of the preceding	1895
six months;	1896
(b) For policy years commencing on or after July 1, 2015, in	1897
the month of June immediately preceding each policy year upon	1898
gross payrolls estimated for that policy year.	1899
(2) For counties and taxing district employers therein,	1900
except county hospitals that are self-insuring employers:	1901
(a) For policy years commencing prior to January 1, 2016, in	1902
January of each year upon gross payrolls of the preceding twelve	1903
months;	1904
(b) For policy years commencing on or after January 1, 2016,	1905
in the month of December immediately preceding each policy year	1906
upon gross payrolls estimated for that policy year.	1907
(3) For the state as an employer--in January, April, July,	1908
and October of each year upon gross payrolls of the preceding	1909
three months or at other intervals as the administrator	1910
establishes.	1911
After the completion of each policy year that commences on or	1912
after July 1, 2015, for private fund employers or that commences	1913
on or after January 1, 2016, for counties and taxing district	1914
employers therein, the assessments levied under this section shall	1915
be adjusted for the difference between estimated gross payrolls	1916

and actual gross payrolls reported by the employer on the payroll 1917  
report submitted by a private employer pursuant to section 4123.26 1918  
of the Revised Code, or, for a public employer, submitted pursuant 1919  
to section 4123.41 of the Revised Code. 1920

Amounts assessed in accordance with this section shall be 1921  
collected from each employer as prescribed in rules the 1922  
administrator adopts. 1923

The moneys derived from the assessment provided for in this 1924  
section shall be credited to the disabled workers' relief fund 1925  
created by section 4123.412 of the Revised Code. The administrator 1926  
shall establish by rule classifications of employers within 1927  
divisions (A)(1) to (3) of this section and shall determine rates 1928  
for each class so as to fairly apportion the costs of carrying out 1929  
sections 4123.412 to 4123.418 of the Revised Code. 1930

(B) For all injuries and disabilities occurring on or after 1931  
January 1, 1987, the administrator, for the purposes of carrying 1932  
out sections 4123.412 to 4123.418 of the Revised Code, shall levy 1933  
an assessment against all employers at a rate per one hundred 1934  
dollars of payroll, such rate to be determined annually for each 1935  
classification of employer in each employer group listed in 1936  
divisions (A)(1) to (3) of this section, which will produce an 1937  
amount no greater than the amount the administrator estimates to 1938  
be necessary to carry out such sections for the period for which 1939  
the assessment is levied. The administrator annually shall 1940  
establish the contributions due from employers for the disabled 1941  
workers' relief fund at rates as low as possible but that will 1942  
assure sufficient moneys to guarantee the payment of any claims 1943  
against that fund. 1944

Amounts assessed in accordance with this division shall be 1945  
billed at the same time premiums are billed and credited to the 1946  
disabled workers' relief fund created by section 4123.412 of the 1947  
Revised Code. The administrator shall determine the rates for each 1948

class in the same manner as the administrator fixes the rates for 1949  
premiums pursuant to section 4123.29 of the Revised Code. 1950

(C) For a self-insuring employer, the bureau of workers' 1951  
compensation shall pay to employees who are participants 1952  
regardless of the date of injury, any amounts due to the 1953  
participants under section 4123.414 of the Revised Code and shall 1954  
bill the self-insuring employer, semiannually, for all amounts 1955  
paid to a participant. 1956

**Sec. 4123.419.** The assessment rate established pursuant to 1957  
section 4123.411 of the Revised Code, subject to the limits set 1958  
forth in that section, shall be adequate to provide the amounts 1959  
estimated as necessary by the administrator of workers' 1960  
compensation to carry out the provisions of sections 4123.412 to 1961  
4123.418 of the Revised Code, ~~and in addition to provide moneys to~~ 1962  
~~reimburse the general revenue fund for moneys appropriated by~~ 1963  
~~Section 2 of H.B. No. 1131 of the 103rd general assembly or by the~~ 1964  
~~104th and succeeding general assemblies for disabled workers'~~ 1965  
~~relief. When the additional moneys are available in whole or part~~ 1966  
~~for the purpose of making the reimbursement, the director of~~ 1967  
~~budget and management shall certify the amount to the bureau of~~ 1968  
~~workers' compensation which shall thereupon cause the moneys to be~~ 1969  
~~paid to the general revenue fund from the disabled workers' relief~~ 1970  
~~fund except that any amounts due because of the state's obligation~~ 1971  
~~as an employer pursuant to section 4123.411 of the Revised Code~~ 1972  
~~and not paid to the disabled workers' relief fund shall be~~ 1973  
~~deducted from any such reimbursement.~~ 1974

For all injuries and disabilities occurring before January 1, 1975  
1987, the administrator, for the purpose of carrying out those 1976  
sections and with the advice and consent of the bureau of workers' 1977  
compensation board of directors, may transfer to the disabled 1978  
workers' relief fund from the income produced as a result of 1979



investments made pursuant to section 4123.44 of the Revised Code 1980  
amounts necessary to carry out those sections with respect to 1981  
claims related to private and public taxing district employers, 1982  
rather than levying an assessment against those employers under 1983  
section 4123.411 of the Revised Code. 1984

**Sec. 4123.512.** (A) The claimant or the employer may appeal an 1985  
order of the industrial commission made under division (E) of 1986  
section 4123.511 of the Revised Code in any injury or occupational 1987  
disease case, other than a decision as to the extent of disability 1988  
to the court of common pleas of the county in which the injury was 1989  
inflicted or in which the contract of employment was made if the 1990  
injury occurred outside the state, or in which the contract of 1991  
employment was made if the exposure occurred outside the state. If 1992  
no common pleas court has jurisdiction for the purposes of an 1993  
appeal by the use of the jurisdictional requirements described in 1994  
this division, the appellant may use the venue provisions in the 1995  
Rules of Civil Procedure to vest jurisdiction in a court. If the 1996  
claim is for an occupational disease, the appeal shall be to the 1997  
court of common pleas of the county in which the exposure which 1998  
caused the disease occurred. Like appeal may be taken from an 1999  
order of a staff hearing officer made under division (D) of 2000  
section 4123.511 of the Revised Code from which the commission has 2001  
refused to hear an appeal. The appellant shall file the notice of 2002  
appeal with a court of common pleas within sixty days after the 2003  
date of the receipt of the order appealed from or the date of 2004  
receipt of the order of the commission refusing to hear an appeal 2005  
of a staff hearing officer's decision under division (D) of 2006  
section 4123.511 of the Revised Code. The filing of the notice of 2007  
the appeal with the court is the only act required to perfect the 2008  
appeal. 2009

If an action has been commenced in a court of a county other 2010  
than a court of a county having jurisdiction over the action, the 2011

court, upon notice by any party or upon its own motion, shall 2012  
transfer the action to a court of a county having jurisdiction. 2013

Notwithstanding anything to the contrary in this section, if 2014  
the commission determines under section 4123.522 of the Revised 2015  
Code that an employee, employer, or their respective 2016  
representatives have not received written notice of an order or 2017  
decision which is appealable to a court under this section and 2018  
which grants relief pursuant to section 4123.522 of the Revised 2019  
Code, the party granted the relief has sixty days from receipt of 2020  
the order under section 4123.522 of the Revised Code to file a 2021  
notice of appeal under this section. 2022

(B) The notice of appeal shall state the names of the 2023  
administrator of workers' compensation, the claimant, and the 2024  
employer; the number of the claim; the date of the order appealed 2025  
from; and the fact that the appellant appeals therefrom. 2026

The administrator, the claimant, and the employer shall be 2027  
parties to the appeal and the court, upon the application of the 2028  
commission, shall make the commission a party. The party filing 2029  
the appeal shall serve a copy of the notice of appeal on the 2030  
administrator at the central office of the bureau of workers' 2031  
compensation in Columbus. The administrator shall notify the 2032  
employer that if the employer fails to become an active party to 2033  
the appeal, then the administrator may act on behalf of the 2034  
employer and the results of the appeal could have an adverse 2035  
effect upon the employer's premium rates or may result in a 2036  
recovery from the employer if the employer is determined to be a 2037  
noncomplying employer under section 4123.75 of the Revised Code. 2038

(C) The attorney general or one or more of the attorney 2039  
general's assistants or special counsel designated by the attorney 2040  
general shall represent the administrator and the commission. In 2041  
the event the attorney general or the attorney general's 2042  
designated assistants or special counsel are absent, the 2043

administrator or the commission shall select one or more of the 2044  
attorneys in the employ of the administrator or the commission as 2045  
the administrator's attorney or the commission's attorney in the 2046  
appeal. Any attorney so employed shall continue the representation 2047  
during the entire period of the appeal and in all hearings thereof 2048  
except where the continued representation becomes impractical. 2049

(D) Upon receipt of notice of appeal, the clerk of courts 2050  
shall provide notice to all parties who are appellees and to the 2051  
commission. 2052

The claimant shall, within thirty days after the filing of 2053  
the notice of appeal, file a petition containing a statement of 2054  
facts in ordinary and concise language showing a cause of action 2055  
to participate or to continue to participate in the fund and 2056  
setting forth the basis for the jurisdiction of the court over the 2057  
action. Further pleadings shall be had in accordance with the 2058  
Rules of Civil Procedure, provided that service of summons on such 2059  
petition shall not be required and provided that the claimant may 2060  
not dismiss the complaint without the employer's consent if the 2061  
employer is the party that filed the notice of appeal to court 2062  
pursuant to this section. The clerk of the court shall, upon 2063  
receipt thereof, transmit by certified mail a copy thereof to each 2064  
party named in the notice of appeal other than the claimant. Any 2065  
party may file with the clerk prior to the trial of the action a 2066  
deposition of any physician taken in accordance with the 2067  
provisions of the Revised Code, which deposition may be read in 2068  
the trial of the action even though the physician is a resident of 2069  
or subject to service in the county in which the trial is had. The 2070  
bureau of workers' compensation shall pay the cost of the 2071  
stenographic deposition filed in court and of copies of the 2072  
stenographic deposition for each party from the surplus fund and 2073  
charge the costs thereof against the unsuccessful party if the 2074  
claimant's right to participate or continue to participate is 2075

finally sustained or established in the appeal. In the event the 2076  
deposition is taken and filed, the physician whose deposition is 2077  
taken is not required to respond to any subpoena issued in the 2078  
trial of the action. The court, or the jury under the instructions 2079  
of the court, if a jury is demanded, shall determine the right of 2080  
the claimant to participate or to continue to participate in the 2081  
fund upon the evidence adduced at the hearing of the action. 2082

(E) The court shall certify its decision to the commission 2083  
and the certificate shall be entered in the records of the court. 2084  
Appeals from the judgment are governed by the law applicable to 2085  
the appeal of civil actions. 2086

(F) The cost of any legal proceedings authorized by this 2087  
section, including an attorney's fee to the claimant's attorney to 2088  
be fixed by the trial judge, based upon the effort expended, in 2089  
the event the claimant's right to participate or to continue to 2090  
participate in the fund is established upon the final 2091  
determination of an appeal, shall be taxed against the employer or 2092  
the commission if the commission or the administrator rather than 2093  
the employer contested the right of the claimant to participate in 2094  
the fund. The attorney's fee shall not exceed forty-two hundred 2095  
dollars. 2096

(G) If the finding of the court or the verdict of the jury is 2097  
in favor of the claimant's right to participate in the fund, the 2098  
commission and the administrator shall thereafter proceed in the 2099  
matter of the claim as if the judgment were the decision of the 2100  
commission, subject to the power of modification provided by 2101  
section 4123.52 of the Revised Code. 2102

(H)(1) An appeal from an order issued under division (E) of 2103  
section 4123.511 of the Revised Code or any action filed in court 2104  
in a case in which an award of compensation or medical benefits 2105  
has been made shall not stay the payment of compensation or 2106  
medical benefits under the award, or payment for subsequent 2107

periods of total disability or medical benefits during the 2108  
pendency of the appeal. If, in a final administrative or judicial 2109  
action, it is determined that payments of compensation or 2110  
benefits, or both, made to or on behalf of a claimant should not 2111  
have been made, the amount thereof shall be charged to the surplus 2112  
fund account under division (B) of section 4123.34 of the Revised 2113  
Code. In the event the employer is a state risk, the amount shall 2114  
not be charged to the employer's experience, and the administrator 2115  
shall adjust the employer's account accordingly. In the event the 2116  
employer is a self-insuring employer, the self-insuring employer 2117  
shall deduct the amount from the paid compensation the 2118  
self-insuring employer reports to the administrator under division 2119  
(L) of section 4123.35 of the Revised Code. If an employer is a 2120  
state risk and has paid an assessment for a violation of a 2121  
specific safety requirement, and, in a final administrative or 2122  
judicial action, it is determined that the employer did not 2123  
violate the specific safety requirement, the administrator shall 2124  
reimburse the employer from the surplus fund account under 2125  
division (B) of section 4123.34 of the Revised Code for the amount 2126  
of the assessment the employer paid for the violation. 2127

(2)(a) Notwithstanding a final determination that payments of 2128  
benefits made to or on behalf of a claimant should not have been 2129  
made, the administrator or self-insuring employer shall award 2130  
payment of medical or vocational rehabilitation services submitted 2131  
for payment after the date of the final determination if all of 2132  
the following apply: 2133

(i) The services were approved and were rendered by the 2134  
provider in good faith prior to the date of the final 2135  
determination. 2136

(ii) The services were payable under division (I) of section 2137  
4123.511 of the Revised Code prior to the date of the final 2138  
determination. 2139

(iii) The request for payment is submitted within the time 2140  
limit set forth in section 4123.52 of the Revised Code. 2141

(b) Payments made under division (H)(1) of this section shall 2142  
be charged to the surplus fund account under division (B) of 2143  
section 4123.34 of the Revised Code. If the employer of the 2144  
employee who is the subject of a claim described in division 2145  
(H)(2)(a) of this section is a state fund employer, the payments 2146  
made under that division shall not be charged to the employer's 2147  
experience. If that employer is a self-insuring employer, the 2148  
self-insuring employer shall deduct the amount from the paid 2149  
compensation the self-insuring employer reports to the 2150  
administrator under division (L) of section 4123.35 of the Revised 2151  
Code. 2152

(c) Division (H)(2) of this section shall apply only to a 2153  
claim under this chapter or Chapter 4121., 4127., or 4131. of the 2154  
Revised Code arising on or after July 29, 2011. 2155

(3) A self-insuring employer may elect to pay compensation 2156  
and benefits under this section directly to an employee or an 2157  
employee's dependents by filing an application with the bureau of 2158  
workers' compensation not more than one hundred eighty days and 2159  
not less than ninety days before the first day of the employer's 2160  
next six-month coverage period. If the self-insuring employer 2161  
timely files the application, the application is effective on the 2162  
first day of the employer's next six-month coverage period, 2163  
provided that the administrator shall compute the employer's 2164  
assessment for the surplus fund account due with respect to the 2165  
period during which that application was filed without regard to 2166  
the filing of the application. On and after the effective date of 2167  
the employer's election, the self-insuring employer shall pay 2168  
directly to an employee or to an employee's dependents 2169  
compensation and benefits under this section regardless of the 2170  
date of the injury or occupational disease, and the employer shall 2171

receive no money or credits from the surplus fund account on 2172  
account of those payments and shall not be required to pay any 2173  
amounts into the surplus fund account on account of this section. 2174  
The election made under this division is irrevocable. 2175

(I) All actions and proceedings under this section which are 2176  
the subject of an appeal to the court of common pleas or the court 2177  
of appeals shall be preferred over all other civil actions except 2178  
election causes, irrespective of position on the calendar. 2179

This section applies to all decisions of the commission or 2180  
the administrator on November 2, 1959, and all claims filed 2181  
thereafter are governed by sections 4123.511 and 4123.512 of the 2182  
Revised Code. 2183

Any action pending in common pleas court or any other court 2184  
on January 1, 1986, under this section is governed by former 2185  
sections 4123.514, 4123.515, 4123.516, and 4123.519 and section 2186  
4123.522 of the Revised Code. 2187

**Sec. 4123.56.** (A) Except as provided in division (D) of this 2188  
section, in the case of temporary disability, an employee shall 2189  
receive sixty-six and two-thirds per cent of the employee's 2190  
average weekly wage so long as such disability is total, not to 2191  
exceed a maximum amount of weekly compensation which is equal to 2192  
the statewide average weekly wage as defined in division (C) of 2193  
section 4123.62 of the Revised Code, and not less than a minimum 2194  
amount of compensation which is equal to thirty-three and 2195  
one-third per cent of the statewide average weekly wage as defined 2196  
in division (C) of section 4123.62 of the Revised Code unless the 2197  
employee's wage is less than thirty-three and one-third per cent 2198  
of the minimum statewide average weekly wage, in which event the 2199  
employee shall receive compensation equal to the employee's full 2200  
wages; provided that for the first twelve weeks of total 2201  
disability the employee shall receive seventy-two per cent of the 2202

employee's full weekly wage, but not to exceed a maximum amount of 2203  
weekly compensation which is equal to the lesser of the statewide 2204  
average weekly wage as defined in division (C) of section 4123.62 2205  
of the Revised Code or one hundred per cent of the employee's net 2206  
take-home weekly wage. In the case of a self-insuring employer, 2207  
payments shall be for a duration based upon the medical reports of 2208  
the attending physician. If the employer disputes the attending 2209  
physician's report, payments may be terminated only upon 2210  
application and hearing by a district hearing officer pursuant to 2211  
division (C) of section 4123.511 of the Revised Code. Payments 2212  
shall continue pending the determination of the matter, however 2213  
payment shall not be made for the period when any employee has 2214  
returned to work, when an employee's treating physician has made a 2215  
written statement that the employee is capable of returning to the 2216  
employee's former position of employment, when work within the 2217  
physical capabilities of the employee is made available by the 2218  
employer or another employer, or when the employee has reached the 2219  
maximum medical improvement. Where the employee is capable of work 2220  
activity, but the employee's employer is unable to offer the 2221  
employee any employment, the employee shall register with the 2222  
director of job and family services, who shall assist the employee 2223  
in finding suitable employment. The termination of temporary total 2224  
disability, whether by order or otherwise, does not preclude the 2225  
commencement of temporary total disability at another point in 2226  
time if the employee again becomes temporarily totally disabled. 2227

After two hundred weeks of temporary total disability 2228  
benefits, the medical section of the bureau of workers' 2229  
compensation shall schedule the claimant for an examination for an 2230  
evaluation to determine whether or not the temporary disability 2231  
has become permanent. A self-insuring employer shall notify the 2232  
bureau immediately after payment of two hundred weeks of temporary 2233  
total disability and request that the bureau schedule the claimant 2234  
for such an examination. 2235



When the employee is awarded compensation for temporary total disability for a period for which the employee has received benefits under Chapter 4141. of the Revised Code, the bureau shall pay an amount equal to the amount received from the award to the director of job and family services and the director shall credit the amount to the accounts of the employers to whose accounts the payment of benefits was charged or is chargeable to the extent it was charged or is chargeable.

If any compensation under this section has been paid for the same period or periods for which temporary nonoccupational accident and sickness insurance is or has been paid pursuant to an insurance policy or program to which the employer has made the entire contribution or payment for providing insurance or under a nonoccupational accident and sickness program fully funded by the employer, except as otherwise provided in this division compensation paid under this section for the period or periods shall be paid only to the extent by which the payment or payments exceeds the amount of the nonoccupational insurance or program paid or payable. Offset of the compensation shall be made only upon the prior order of the bureau or industrial commission or agreement of the claimant. If an employer provides supplemental sick leave benefits in addition to temporary total disability compensation paid under this section, and if the employer and an employee agree in writing to the payment of the supplemental sick leave benefits, temporary total disability benefits may be paid without an offset for those supplemental sick leave benefits.

As used in this division, "net take-home weekly wage" means the amount obtained by dividing an employee's total remuneration, as defined in section 4141.01 of the Revised Code, paid to or earned by the employee during the first four of the last five completed calendar quarters which immediately precede the first day of the employee's entitlement to benefits under this division,

by the number of weeks during which the employee was paid or 2268  
earned remuneration during those four quarters, less the amount of 2269  
local, state, and federal income taxes deducted for each such 2270  
week. 2271

(B)(1) If an employee in a claim allowed under this chapter 2272  
suffers a wage loss as a result of returning to employment other 2273  
than the employee's former position of employment due to an injury 2274  
or occupational disease, the employee shall receive compensation 2275  
at sixty-six and two-thirds per cent of the difference between the 2276  
employee's average weekly wage and the employee's present earnings 2277  
not to exceed the statewide average weekly wage. The payments may 2278  
continue for up to a maximum of two hundred weeks, but the 2279  
payments shall be reduced by the corresponding number of weeks in 2280  
which the employee receives payments pursuant to division 2281  
~~(B)(A)(2)~~ of section 4121.67 ~~of~~ of the Revised Code. 2282

(2) If an employee in a claim allowed under this chapter 2283  
suffers a wage loss as a result of being unable to find employment 2284  
consistent with the employee's disability resulting from the 2285  
employee's injury or occupational disease, the employee shall 2286  
receive compensation at sixty-six and two-thirds per cent of the 2287  
difference between the employee's average weekly wage and the 2288  
employee's present earnings, not to exceed the statewide average 2289  
weekly wage. The payments may continue for up to a maximum of 2290  
fifty-two weeks. The first twenty-six weeks of payments under 2291  
division (B)(2) of this section shall be in addition to the 2292  
maximum of two hundred weeks of payments allowed under division 2293  
(B)(1) of this section. If an employee in a claim allowed under 2294  
this chapter receives compensation under division (B)(2) of this 2295  
section in excess of twenty-six weeks, the number of weeks of 2296  
compensation allowable under division (B)(1) of this section shall 2297  
be reduced by the corresponding number of weeks in excess of 2298  
twenty-six, and up to fifty-two, that is allowable under division 2299

(B)(1) of this section. 2300

(3) The number of weeks of wage loss payable to an employee 2301  
under divisions (B)(1) and (2) of this section shall not exceed 2302  
two hundred and twenty-six weeks in the aggregate. 2303

(C) In the event an employee of a professional sports 2304  
franchise domiciled in this state is disabled as the result of an 2305  
injury or occupational disease, the total amount of payments made 2306  
under a contract of hire or collective bargaining agreement to the 2307  
employee during a period of disability is deemed an advanced 2308  
payment of compensation payable under sections 4123.56 to 4123.58 2309  
of the Revised Code. The employer shall be reimbursed the total 2310  
amount of the advanced payments out of any award of compensation 2311  
made pursuant to sections 4123.56 to 4123.58 of the Revised Code. 2312

(D) If an employee receives temporary total disability 2313  
benefits pursuant to division (A) of this section and social 2314  
security retirement benefits pursuant to the "Social Security 2315  
Act," the weekly benefit amount under division (A) of this section 2316  
shall not exceed sixty-six and two-thirds per cent of the 2317  
statewide average weekly wage as defined in division (C) of 2318  
section 4123.62 of the Revised Code. 2319

**Sec. 4123.59.** In case an injury to or an occupational disease 2320  
contracted by an employee causes ~~his~~ the employee's death, 2321  
benefits shall be in the amount and to the persons following: 2322

(A) If there are no dependents, the disbursements from the 2323  
state insurance fund is limited to the expenses provided for in 2324  
section 4123.66 of the Revised Code. 2325

(B) If there are wholly dependent persons at the time of the 2326  
death, the weekly payment is sixty-six and two-thirds per cent of 2327  
the average weekly wage, but not to exceed a maximum aggregate 2328  
amount of weekly compensation which is equal to sixty-six and 2329

two-thirds per cent of the statewide average weekly wage as 2330  
defined in division (C) of section 4123.62 of the Revised Code, 2331  
and not in any event less than a minimum amount of weekly 2332  
compensation which is equal to fifty per cent of the statewide 2333  
average weekly wage as defined in division (C) of section 4123.62 2334  
of the Revised Code, regardless of the average weekly wage; 2335  
provided however, that if the death is due to injury received or 2336  
occupational disease first diagnosed after January 1, 1976, the 2337  
weekly payment is sixty-six and two-thirds per cent of the average 2338  
weekly wage but not to exceed a maximum aggregate amount of weekly 2339  
compensation which is equal to the statewide average weekly wage 2340  
as defined in division (C) of section 4123.62 of the Revised Code; 2341  
provided that when any claimant is receiving total disability 2342  
compensation at the time of death the wholly dependent person is 2343  
eligible for the maximum compensation provided for in this 2344  
section. Where there is more than one person who is wholly 2345  
dependent at the time of the death of the employee, the 2346  
administrator of workers' compensation shall promptly apportion 2347  
the weekly amount of compensation payable under this section among 2348  
the dependent persons as provided in division (D) of this section. 2349

(1) The payment as provided in this section shall continue 2350  
from the date of death of an injured or disabled employee until 2351  
the death or remarriage of such dependent spouse. If the dependent 2352  
spouse remarries, an amount equal to two years of compensation 2353  
benefits at the weekly amount determined to be applicable to and 2354  
being paid to the dependent spouse shall be paid in a lump sum to 2355  
such spouse and no further compensation shall be paid to such 2356  
spouse. 2357

(2) That portion of the payment provided in division (B) of 2358  
this section applicable to wholly dependent persons other than a 2359  
spouse shall continue from the date of death of an injured or 2360  
disabled employee to a dependent as of the date of death, other 2361

than a spouse, at the weekly amount determined to be applicable 2362  
and being paid to such dependent other than a spouse, until he the 2363  
dependent: 2364

(a) Reaches eighteen years of age; 2365

(b) If pursuing a full time educational program while 2366  
enrolled in an accredited educational institution and program, 2367  
reaches twenty-five years of age; 2368

(c) If mentally or physically incapacitated from having any 2369  
earnings, is no longer so incapacitated. 2370

(3)(a) Payments under division (B) of this section to a 2371  
dependent described in division (B)(2)(c) of this section shall 2372  
not be terminated due to the dependent's employment in a sheltered 2373  
workshop if the dependent does not receive income, compensation, 2374  
or remuneration from that employment in excess of two thousand 2375  
dollars in any calendar quarter. 2376

(b) As used in division (B)(3) of this section, "sheltered 2377  
workshop" has the same meaning as in section 4123.58 of the 2378  
Revised Code. 2379

(C) If there are partly dependent persons at the time of the 2380  
death the weekly payment is sixty-six and two-thirds per cent of 2381  
the employee's average weekly wage, not to exceed sixty-six and 2382  
two-thirds per cent of the statewide average weekly wage as 2383  
defined in division (C) of section 4123.62 of the Revised Code, 2384  
and shall continue for such time as the administrator in each case 2385  
determines. 2386

(D) The following persons are presumed to be wholly dependent 2387  
for their support upon a deceased employee: 2388

(1) A surviving spouse who was living with the employee at 2389  
the time of death or a surviving spouse who was separated from the 2390  
employee at the time of death because of the aggression of the 2391

employee; 2392

(2) A child under the age of eighteen years, or twenty-five 2393  
years if pursuing a full-time educational program while enrolled 2394  
in an accredited educational institution and program, or over said 2395  
age if physically or mentally incapacitated from earning, upon 2396  
only the one parent who is contributing more than one-half of the 2397  
support for such child and with whom ~~he~~ the child is living at the 2398  
time of the death of such parent, or for whose maintenance such 2399  
parent was legally liable at the time of ~~his~~ the parent's death. 2400

It is presumed that there is sufficient dependency to entitle 2401  
a surviving natural parent or surviving natural parents, share and 2402  
share alike, with whom the decedent was living at the time of ~~his~~ 2403  
the decedent's death, to a total minimum award of three thousand 2404  
dollars. 2405

The administrator may take into consideration any 2406  
circumstances which, at the time of the death of the decedent, 2407  
clearly indicate prospective dependency on the part of the 2408  
claimant and potential support on the part of the decedent. No 2409  
person shall be considered a prospective dependent unless such 2410  
person is a member of the family of the deceased employee and 2411  
bears to ~~him~~ the deceased employee the relation of surviving 2412  
spouse, lineal descendant, ancestor, or brother or sister. The 2413  
total award for any or all prospective dependency to all such 2414  
claimants, except to a natural parent or natural parents of the 2415  
deceased, shall not exceed three thousand dollars to be 2416  
apportioned among them as the administrator orders. 2417

In all other cases, the question of dependency, in whole or 2418  
in part, shall be determined in accordance with the facts in each 2419  
particular case existing at the time of the injury resulting in 2420  
the death of such employee, but no person shall be considered as 2421  
dependent unless such person is a member of the family of the 2422  
deceased employee, or bears to ~~him~~ the deceased employee the 2423

relation of surviving spouse, lineal descendant, ancestor, or 2424  
brother or sister. 2425

(E) An order issued by the administrator under this section 2426  
is appealable pursuant to sections 4123.511 to 4123.512 of the 2427  
Revised Code. 2428

**Section 2.** That existing sections 119.12, 4121.129, 4121.37, 2429  
4121.61, 4121.65, 4121.66, 4121.67, 4121.68, 4123.01, 4123.291, 2430  
4123.34, 4123.343, 4123.35, 4123.351, 4123.411, 4123.419, 2431  
4123.512, 4123.56, and 4123.59 and section 4121.48 of the Revised 2432  
Code are hereby repealed. 2433

**Section 3.** All items in this section are hereby appropriated 2434  
out of any moneys in the state treasury to the credit of the 2435  
designated fund. For all appropriations made in this act, those in 2436  
the first column are for fiscal year 2016, and those in the second 2437  
column are for fiscal year 2017. 2438

FND AI	AI TITLE	Appropriations		
	BWC BUREAU OF WORKERS' COMPENSATION			2440
	Dedicated Purpose Fund Group			2441
7023 855407	Claims, Risk and Medical Management	\$ 110,445,000	\$ 110,445,000	2442
7023 855408	Fraud Prevention	\$ 11,909,400	\$ 11,909,400	2443
7023 855409	Administrative Services	\$ 110,360,919	\$ 110,360,919	2444
7023 855410	Attorney General Payments	\$ 4,621,850	\$ 4,621,850	2445
8220 855606	Coal Workers' Fund	\$ 147,666	\$ 147,666	2446
8230 855608	Marine Industry	\$ 55,000	\$ 55,000	2447
8250 855605	Disabled Workers Relief Fund	\$ 170,000	\$ 170,000	2448
8260 855609	Safety and Hygiene	\$ 21,661,132	\$ 21,661,132	2449

	Operating				
8260	855610	Safety Grants	\$ 15,000,000	\$ 15,000,000	2450
TOTAL	DPF	Dedicated Purpose Fund	\$ 274,370,967	\$ 274,370,967	2451
Group					
Federal Fund Group					2452
3490	855601	OSHA Enforcement	\$ 1,731,000	\$ 1,731,000	2453
3FW0	855614	BLS SOII Grant	\$ 141,000	\$ 141,000	2454
TOTAL	FED	Federal Fund Group	\$ 1,872,000	\$ 1,872,000	2455
TOTAL	ALL	BUDGET FUND GROUPS	\$ 276,242,967	\$ 276,242,967	2456
WORKERS' COMPENSATION FRAUD UNIT					2457
Of the foregoing appropriation item 855410, Attorney General					2458
Payments, \$828,200 in each fiscal year shall be used to fund the					2459
expenses of the Workers' Compensation Fraud Unit within the					2460
Attorney General's Office. These payments shall be processed at					2461
the beginning of each quarter of each fiscal year and deposited					2462
into the Workers' Compensation Section Fund (Fund 1950) used by					2463
the Attorney General.					2464
SAFETY AND HYGIENE					2465
Notwithstanding section 4121.37 of the Revised Code, the					2466
Treasurer of State shall transfer \$21,661,132 cash in fiscal year					2467
2016 and \$21,661,132 cash in fiscal year 2017 from the State					2468
Insurance Fund to the Safety and Hygiene Fund (Fund 8260).					2469
OSHA ON-SITE CONSULTATION PROGRAM					2470
A portion of the foregoing appropriation item 855609, Safety					2471
and Hygiene Operating, may be used to provide the state match for					2472
federal funding of the Occupational Safety and Health					2473
Administration's On-site Consultation Program operated by the					2474
Division of Safety and Hygiene.					2475
VOCATIONAL REHABILITATION					2476
The Bureau of Workers' Compensation and the Opportunities for					2477



Ohioans with Disabilities Agency shall enter into an interagency 2478  
agreement for the provision of vocational rehabilitation services 2479  
and staff to mutually eligible clients. The Bureau may provide not 2480  
more than \$605,407 in fiscal year 2016 and \$605,407 in fiscal year 2481  
2017 from the State Insurance Fund to fund vocational 2482  
rehabilitation services and staff in accordance with the 2483  
interagency agreement. 2484

**Section 4.** DEPUTY INSPECTOR GENERAL FOR BWC AND OIC FUNDING 2485

To pay for the FY 2016 costs related to the Deputy Inspector 2486  
General for the Bureau of Workers' Compensation and Industrial 2487  
Commission, on July 1, 2015, and January 1, 2016, or as soon as 2488  
possible thereafter, the Director of Budget and Management shall 2489  
transfer \$212,500 in cash from the Workers' Compensation Fund 2490  
(Fund 7023) to the Deputy Inspector General for the Bureau of 2491  
Workers' Compensation and Industrial Commission Fund (Fund 5FT0). 2492

To pay for the FY 2017 costs related to the Deputy Inspector 2493  
General for the Bureau of Workers' Compensation and Industrial 2494  
Commission, on July 1, 2016, and January 1, 2017, or as soon as 2495  
possible thereafter, the Director of Budget and Management shall 2496  
transfer \$212,500 in cash from the Workers' Compensation Fund 2497  
(Fund 7023) to the Deputy Inspector General for the Bureau of 2498  
Workers' Compensation and Industrial Commission Fund (Fund 5FT0). 2499

If additional amounts are needed, the Inspector General may 2500  
seek Controlling Board approval for additional transfers of cash 2501  
and to increase the amount appropriated in appropriation item 2502  
965604, Deputy Inspector General for the Bureau of Workers' 2503  
Compensation and Industrial Commission. 2504

**Section 5.** Law contained in the Main Operating Appropriations 2505  
Act of the 131st General Assembly that applies generally to the 2506  
appropriations made in that act also applies generally to the 2507

appropriations made in this act. 2508

**Section 6.** The provisions of law contained in this act, and 2509  
their applications, are severable. If any provision of law 2510  
contained in this act, or if any application of any provision of 2511  
law contained in this act, is held invalid, the invalidity does 2512  
not affect other provisions of law contained in this act and their 2513  
applications that can be given effect without the invalid 2514  
provision or application. 2515

**Section 7.** Except as otherwise specifically provided in this 2516  
act, the amendment, enactment, or repeal by this act of a section 2517  
of law is exempt from the referendum under Ohio Constitution, 2518  
Article II, Section 1d and section 1.471 of the Revised Code and 2519  
therefore takes effect immediately when this act becomes law. 2520

**Section 8.** The amendment, enactment, or repeal by this act of 2521  
the divisions and sections of law listed below are subject to the 2522  
referendum under Ohio Constitution, Article II, Section 1c and 2523  
therefore take effect on the ninety-first day after this act is 2524  
filed with the Secretary of State: 2525

All Revised Code sections in Section 1 of this act. 2526