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**131st General Assembly**

**Regular Session**

**2015-2016**

**Sub. H. B. No. 56**

**Representatives Schuring, Slesnick**

**Cosponsors: Representatives Antonio, Becker, Bishoff, Brenner, Boyd, Dever, Driehaus, Fedor, Hood, Leland, Lepore-Hagan, Maag, Reece, Retherford, Ruhl, Thompson, Sheehy, Amstutz, Ashford, Blessing, Boyce, Buchy, Craig, Derickson, DeVitis, Ginter, Green, Grossman, Hackett, Howse, Johnson, T., Kuhns, McClain, O'Brien, S., Patmon, Patterson, Pelanda, Perales, Ramos, Rogers, Ryan, Sears, Smith, R., Stinziano, Sweeney, Sykes, Young, Speaker Rosenberger**

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**A BILL**

To amend sections 124.11, 124.34, 329.021, 2953.36, 1  
4121.121, 5123.08, and 5139.02 and to enact 2  
section 9.73 of the Revised Code to prohibit 3  
public employers from including on an employment 4  
application any question concerning the criminal 5  
background of the applicant, to prohibit a 6  
felony conviction from being used against an 7  
officer or employee when a public employer is 8  
undertaking certain employment practices, unless 9  
the conviction occurs while the officer or 10  
employee is employed in the civil service, and 11  
to remove the bar against sealing a conviction 12  
record when the victim is 16 or 17 years old. 13

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

**Section 1.** That sections 124.11, 124.34, 329.021, 2953.36, 14  
4121.121, 5123.08, and 5139.02 be amended and section 9.73 of 15

the Revised Code be enacted to read as follows: 16

Sec. 9.73. (A) As used in this section: 17

(1) "Public employer" means a state agency or a political 18  
subdivision of the state. 19

(2) "State agency" means any organized body, office, 20  
agency, institution, or other entity established by the laws of 21  
the state for the exercise of any function of government. 22

(3) "Political subdivision" means a county, township, 23  
municipal corporation, or any other body corporate and politic 24  
that is responsible for government activities in a geographic 25  
area smaller than that of the state. 26

(B) No public employer shall include on any form for 27  
application for employment with the public employer any question 28  
concerning the criminal background of the applicant. 29

**Sec. 124.11.** The civil service of the state and the 30  
several counties, cities, civil service townships, city health 31  
districts, general health districts, and city school districts 32  
of the state shall be divided into the unclassified service and 33  
the classified service. 34

(A) The unclassified service shall comprise the following 35  
positions, which shall not be included in the classified 36  
service, and which shall be exempt from all examinations 37  
required by this chapter: 38

(1) All officers elected by popular vote or persons 39  
appointed to fill vacancies in those offices; 40

(2) All election officers as defined in section 3501.01 of 41  
the Revised Code; 42

(3) (a) The members of all boards and commissions, and 43  
heads of principal departments, boards, and commissions 44  
appointed by the governor or by and with the governor's consent; 45

(b) The heads of all departments appointed by a board of 46  
county commissioners; 47

(c) The members of all boards and commissions and all 48  
heads of departments appointed by the mayor, or, if there is no 49  
mayor, such other similar chief appointing authority of any city 50  
or city school district; 51

Except as otherwise provided in division (A) (17) or (C) of 52  
this section, this chapter does not exempt the chiefs of police 53  
departments and chiefs of fire departments of cities or civil 54  
service townships from the competitive classified service. 55

(4) The members of county or district licensing boards or 56  
commissions and boards of revision, and not more than five 57  
deputy county auditors; 58

(5) All officers and employees elected or appointed by 59  
either or both branches of the general assembly, and employees 60  
of the city legislative authority engaged in legislative duties; 61

(6) All commissioned, warrant, and noncommissioned 62  
officers and enlisted persons in the Ohio organized militia, 63  
including military appointees in the adjutant general's 64  
department; 65

(7) (a) All presidents, business managers, administrative 66  
officers, superintendents, assistant superintendents, 67  
principals, deans, assistant deans, instructors, teachers, and 68  
such employees as are engaged in educational or research duties 69  
connected with the public school system, colleges, and 70  
universities, as determined by the governing body of the public 71

school system, colleges, and universities;	72
(b) The library staff of any library in the state supported wholly or in part at public expense.	73 74
(8) Four clerical and administrative support employees for each of the elective state officers, four clerical and administrative support employees for each board of county commissioners and one such employee for each county commissioner, and four clerical and administrative support employees for other elective officers and each of the principal appointive executive officers, boards, or commissions, except for civil service commissions, that are authorized to appoint such clerical and administrative support employees;	75 76 77 78 79 80 81 82 83
(9) The deputies and assistants of state agencies authorized to act for and on behalf of the agency, or holding a fiduciary or administrative relation to that agency and those persons employed by and directly responsible to elected county officials or a county administrator and holding a fiduciary or administrative relationship to such elected county officials or county administrator, and the employees of such county officials whose fitness would be impracticable to determine by competitive examination, provided that division (A) (9) of this section shall not affect those persons in county employment in the classified service as of September 19, 1961. Nothing in division (A) (9) of this section applies to any position in a county department of job and family services created pursuant to Chapter 329. of the Revised Code.	84 85 86 87 88 89 90 91 92 93 94 95 96 97
(10) Bailiffs, constables, official stenographers, and commissioners of courts of record, deputies of clerks of the courts of common pleas who supervise or who handle public moneys or secured documents, and such officers and employees of courts	98 99 100 101

of record and such deputies of clerks of the courts of common 102  
pleas as the appointing authority finds it impracticable to 103  
determine their fitness by competitive examination; 104

(11) Assistants to the attorney general, special counsel 105  
appointed or employed by the attorney general, assistants to 106  
county prosecuting attorneys, and assistants to city directors 107  
of law; 108

(12) Such teachers and employees in the agricultural 109  
experiment stations; such students in normal schools, colleges, 110  
and universities of the state who are employed by the state or a 111  
political subdivision of the state in student or intern 112  
classifications; and such unskilled labor positions as the 113  
director of administrative services, with respect to positions 114  
in the service of the state, or any municipal civil service 115  
commission may find it impracticable to include in the 116  
competitive classified service; provided such exemptions shall 117  
be by order of the commission or the director, duly entered on 118  
the record of the commission or the director with the reasons 119  
for each such exemption; 120

(13) Any physician or dentist who is a full-time employee 121  
of the department of mental health and addiction services, the 122  
department of developmental disabilities, or an institution 123  
under the jurisdiction of either department; and physicians who 124  
are in residency programs at the institutions; 125

(14) Up to twenty positions at each institution under the 126  
jurisdiction of the department of mental health and addiction 127  
services or the department of developmental disabilities that 128  
the department director determines to be primarily 129  
administrative or managerial; and up to fifteen positions in any 130  
division of either department, excluding administrative 131

assistants to the director and division chiefs, which are within 132  
the immediate staff of a division chief and which the director 133  
determines to be primarily and distinctively administrative and 134  
managerial; 135

(15) Noncitizens of the United States employed by the 136  
state, or its counties or cities, as physicians or nurses who 137  
are duly licensed to practice their respective professions under 138  
the laws of this state, or medical assistants, in mental or 139  
chronic disease hospitals, or institutions; 140

(16) Employees of the governor's office; 141

(17) Fire chiefs and chiefs of police in civil service 142  
townships appointed by boards of township trustees under section 143  
505.38 or 505.49 of the Revised Code; 144

(18) Executive directors, deputy directors, and program 145  
directors employed by boards of alcohol, drug addiction, and 146  
mental health services under Chapter 340. of the Revised Code, 147  
and secretaries of the executive directors, deputy directors, 148  
and program directors; 149

(19) Superintendents, and management employees as defined 150  
in section 5126.20 of the Revised Code, of county boards of 151  
developmental disabilities; 152

(20) Physicians, nurses, and other employees of a county 153  
hospital who are appointed pursuant to sections 339.03 and 154  
339.06 of the Revised Code; 155

(21) The executive director of the state medical board, 156  
who is appointed pursuant to division (B) of section 4731.05 of 157  
the Revised Code; 158

(22) County directors of job and family services as 159

provided in section 329.02 of the Revised Code and 160  
administrators appointed under section 329.021 of the Revised 161  
Code; 162

(23) A director of economic development who is hired 163  
pursuant to division (A) of section 307.07 of the Revised Code; 164

(24) Chiefs of construction and compliance, of operations 165  
and maintenance, of worker protection, and of licensing and 166  
certification in the division of industrial compliance in the 167  
department of commerce; 168

(25) The executive director of a county transit system 169  
appointed under division (A) of section 306.04 of the Revised 170  
Code; 171

(26) Up to five positions at each of the administrative 172  
departments listed in section 121.02 of the Revised Code and at 173  
the department of taxation, department of the adjutant general, 174  
department of education, Ohio board of regents, bureau of 175  
workers' compensation, industrial commission, state lottery 176  
commission, opportunities for Ohioans with disabilities agency, 177  
and public utilities commission of Ohio that the head of that 178  
administrative department or of that other state agency 179  
determines to be involved in policy development and 180  
implementation. The head of the administrative department or 181  
other state agency shall set the compensation for employees in 182  
these positions at a rate that is not less than the minimum 183  
compensation specified in pay range 41 but not more than the 184  
maximum compensation specified in pay range 47 of salary 185  
schedule E-2 in section 124.152 of the Revised Code. The 186  
authority to establish positions in the unclassified service 187  
under division (A) (26) of this section is in addition to and 188  
does not limit any other authority that an administrative 189

department or state agency has under the Revised Code to	190
establish positions, appoint employees, or set compensation.	191
(27) Employees of the department of agriculture employed	192
under section 901.09 of the Revised Code;	193
(28) For cities, counties, civil service townships, city	194
health districts, general health districts, and city school	195
districts, the deputies and assistants of elective or principal	196
executive officers authorized to act for and in the place of	197
their principals or holding a fiduciary relation to their	198
principals;	199
(29) Employees who receive intermittent or temporary	200
appointments under division (B) of section 124.30 of the Revised	201
Code;	202
(30) Employees appointed to administrative staff positions	203
for which an appointing authority is given specific statutory	204
authority to set compensation;	205
(31) Employees appointed to highway patrol cadet or	206
highway patrol cadet candidate classifications;	207
(32) Employees placed in the unclassified service by	208
another section of the Revised Code.	209
(B) The classified service shall comprise all persons in	210
the employ of the state and the several counties, cities, city	211
health districts, general health districts, and city school	212
districts of the state, not specifically included in the	213
unclassified service. Upon the creation by the board of trustees	214
of a civil service township civil service commission, the	215
classified service shall also comprise, except as otherwise	216
provided in division (A) (17) or (C) of this section, all persons	217
in the employ of a civil service township police or fire	218



department having ten or more full-time paid employees. The 219  
classified service consists of two classes, which shall be 220  
designated as the competitive class and the unskilled labor 221  
class. 222

(1) The competitive class shall include all positions and 223  
employments in the state and the counties, cities, city health 224  
districts, general health districts, and city school districts 225  
of the state, and, upon the creation by the board of trustees of 226  
a civil service township or a township civil service commission, 227  
all positions in a civil service township police or fire 228  
department having ten or more full-time paid employees, for 229  
which it is practicable to determine the merit and fitness of 230  
applicants by competitive examinations. Appointments shall be 231  
made to, or employment shall be given in, all positions in the 232  
competitive class that are not filled by promotion, 233  
reinstatement, transfer, or reduction, as provided in this 234  
chapter, and the rules of the director of administrative 235  
services, by appointment from those certified to the appointing 236  
officer in accordance with this chapter. 237

(2) The unskilled labor class shall include ordinary 238  
unskilled laborers. Vacancies in the labor class for positions 239  
in service of the state shall be filled by appointment from 240  
lists of applicants registered by the director or the director's 241  
designee. Vacancies in the labor class for all other positions 242  
shall be filled by appointment from lists of applicants 243  
registered by a commission. The director or the commission, as 244  
applicable, by rule, shall require an applicant for registration 245  
in the labor class to furnish evidence or take tests as the 246  
director or commission considers proper with respect to age, 247  
residence, physical condition, ability to labor, honesty, 248  
sobriety, industry, capacity, and experience in the work or 249

employment for which application is made. Laborers who fulfill 250  
the requirements shall be placed on the eligible list for the 251  
kind of labor or employment sought, and preference shall be 252  
given in employment in accordance with the rating received from 253  
that evidence or in those tests. Upon the request of an 254  
appointing officer, stating the kind of labor needed, the pay 255  
and probable length of employment, and the number to be 256  
employed, the director or commission, as applicable, shall 257  
certify from the highest on the list double the number to be 258  
employed; from this number, the appointing officer shall appoint 259  
the number actually needed for the particular work. If more than 260  
one applicant receives the same rating, priority in time of 261  
application shall determine the order in which their names shall 262  
be certified for appointment. 263

(C) A municipal or civil service township civil service 264  
commission may place volunteer firefighters who are paid on a 265  
fee-for-service basis in either the classified or the 266  
unclassified civil service. 267

(D) (1) This division does not apply to persons in the 268  
unclassified service who have the right to resume positions in 269  
the classified service under sections 4121.121, 5119.18, 270  
5120.38, 5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of 271  
the Revised Code or to cities, counties, or political 272  
subdivisions of the state. 273

(2) A person who holds a position in the classified 274  
service of the state and who is appointed to a position in the 275  
unclassified service shall retain the right to resume the 276  
position and status held by the person in the classified service 277  
immediately prior to the person's appointment to the position in 278  
the unclassified service, regardless of the number of positions 279

the person held in the unclassified service. An employee's right 280  
to resume a position in the classified service may only be 281  
exercised when an appointing authority demotes the employee to a 282  
pay range lower than the employee's current pay range or revokes 283  
the employee's appointment to the unclassified service and: 284

(a) That person held a certified position prior to July 1, 285  
2007, in the classified service within the appointing 286  
authority's agency; or 287

(b) That person held a permanent position on or after July 288  
1, 2007, in the classified service within the appointing 289  
authority's agency. 290

(3) An employee forfeits the right to resume a position in 291  
the classified service when: 292

(a) The employee is removed from the position in the 293  
unclassified service due to incompetence, inefficiency, 294  
dishonesty, drunkenness, immoral conduct, insubordination, 295  
discourteous treatment of the public, neglect of duty, violation 296  
of this chapter or the rules of the director of administrative 297  
services, any other failure of good behavior, any other acts of 298  
misfeasance, malfeasance, or nonfeasance in office, or 299  
conviction of a felony while employed in the civil service; or 300

(b) Upon transfer to a different agency. 301

(4) Reinstatement to a position in the classified service 302  
shall be to a position substantially equal to that position in 303  
the classified service held previously, as certified by the 304  
director of administrative services. If the position the person 305  
previously held in the classified service has been placed in the 306  
unclassified service or is otherwise unavailable, the person 307  
shall be appointed to a position in the classified service 308

within the appointing authority's agency that the director of administrative services certifies is comparable in compensation to the position the person previously held in the classified service. Service in the position in the unclassified service shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment to the position in the unclassified service. When a person is reinstated to a position in the classified service as provided in this division, the person is entitled to all rights, status, and benefits accruing to the position in the classified service during the person's time of service in the position in the unclassified service.

**Sec. 124.34.** (A) The tenure of every officer or employee in the classified service of the state and the counties, civil service townships, cities, city health districts, general health districts, and city school districts of the state, holding a position under this chapter, shall be during good behavior and efficient service. No officer or employee shall be reduced in pay or position, fined, suspended, or removed, or have the officer's or employee's longevity reduced or eliminated, except as provided in section 124.32 of the Revised Code, and for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of any policy or work rule of the officer's or employee's appointing authority, violation of this chapter or the rules of the director of administrative services or the commission, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony while employed in the civil service. The denial of a one-time pay supplement or a bonus to an officer or employee is not a reduction in pay for purposes of this section.

This section does not apply to any modifications or 340  
reductions in pay or work week authorized by division (Q) of 341  
section 124.181 or section 124.392, 124.393, or 124.394 of the 342  
Revised Code. 343

An appointing authority may require an employee who is 344  
suspended to report to work to serve the suspension. An employee 345  
serving a suspension in this manner shall continue to be 346  
compensated at the employee's regular rate of pay for hours 347  
worked. The disciplinary action shall be recorded in the 348  
employee's personnel file in the same manner as other 349  
disciplinary actions and has the same effect as a suspension 350  
without pay for the purpose of recording disciplinary actions. 351

A finding by the appropriate ethics commission, based upon 352  
a preponderance of the evidence, that the facts alleged in a 353  
complaint under section 102.06 of the Revised Code constitute a 354  
violation of Chapter 102., section 2921.42, or section 2921.43 355  
of the Revised Code may constitute grounds for dismissal. 356  
Failure to file a statement or falsely filing a statement 357  
required by section 102.02 of the Revised Code may also 358  
constitute grounds for dismissal. The tenure of an employee in 359  
the career professional service of the department of 360  
transportation is subject to section 5501.20 of the Revised 361  
Code. 362

Conviction of a felony while employed in the civil service 363  
is a separate basis for reducing in pay or position, suspending, 364  
or removing an officer or employee, even if the officer or 365  
employee has already been reduced in pay or position, suspended, 366  
or removed for the same conduct that is the basis of the felony. 367  
An officer or employee may not appeal to the state personnel 368  
board of review or the commission any disciplinary action taken 369

by an appointing authority as a result of the officer's or 370  
employee's conviction of a felony. If an officer or employee 371  
removed under this section is reinstated as a result of an 372  
appeal of the removal, any conviction of a felony that occurs 373  
during the pendency of the appeal is a basis for further 374  
disciplinary action under this section upon the officer's or 375  
employee's reinstatement. 376

A person convicted of a felony while employed in the civil 377  
service immediately forfeits the person's status as a classified 378  
employee in any public employment on and after the date of the 379  
conviction for the felony. If an officer or employee is removed 380  
under this section as a result of being convicted of a felony or 381  
is subsequently convicted of a felony that involves the same 382  
conduct that was the basis for the removal, the officer or 383  
employee is barred from receiving any compensation after the 384  
removal notwithstanding any modification or disaffirmance of the 385  
removal, unless the conviction for the felony is subsequently 386  
reversed or annulled. 387

Any person removed for conviction of a felony is entitled 388  
to a cash payment for any accrued but unused sick, personal, and 389  
vacation leave as authorized by law. If subsequently reemployed 390  
in the public sector, the person shall qualify for and accrue 391  
these forms of leave in the manner specified by law for a newly 392  
appointed employee and shall not be credited with prior public 393  
service for the purpose of receiving these forms of leave. 394

As used in this division, "felony" means any of the 395  
following: 396

(1) A felony that is an offense of violence as defined in 397  
section 2901.01 of the Revised Code; 398

(2) A felony that is a felony drug abuse offense as defined in section 2925.01 of the Revised Code; 399  
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(3) A felony under the laws of this or any other state or the United States that is a crime of moral turpitude; 401  
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(4) A felony involving dishonesty, fraud, or theft; 403

(5) A felony that is a violation of section 2921.05, 2921.32, or 2921.42 of the Revised Code. 404  
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(B) In case of a reduction, a suspension of more than forty work hours in the case of an employee exempt from the payment of overtime compensation, a suspension of more than twenty-four work hours in the case of an employee required to be paid overtime compensation, a fine of more than forty hours' pay in the case of an employee exempt from the payment of overtime compensation, a fine of more than twenty-four hours' pay in the case of an employee required to be paid overtime compensation, or removal, except for the reduction or removal of a probationary employee, the appointing authority shall serve the employee with a copy of the order of reduction, fine, suspension, or removal, which order shall state the reasons for the action. 406  
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Within ten days following the date on which the order is served or, in the case of an employee in the career professional service of the department of transportation, within ten days following the filing of a removal order, the employee, except as otherwise provided in this section, may file an appeal of the order in writing with the state personnel board of review or the commission. For purposes of this section, the date on which an order is served is the date of hand delivery of the order or the date of delivery of the order by certified United States mail, 419  
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whichever occurs first. If an appeal is filed, the board or 428  
commission shall forthwith notify the appointing authority and 429  
shall hear, or appoint a trial board to hear, the appeal within 430  
thirty days from and after its filing with the board or 431  
commission. The board, commission, or trial board may affirm, 432  
disaffirm, or modify the judgment of the appointing authority. 433  
However, in an appeal of a removal order based upon a violation 434  
of a last chance agreement, the board, commission, or trial 435  
board may only determine if the employee violated the agreement 436  
and thus affirm or disaffirm the judgment of the appointing 437  
authority. 438

In cases of removal or reduction in pay for disciplinary 439  
reasons, either the appointing authority or the officer or 440  
employee may appeal from the decision of the state personnel 441  
board of review or the commission, and any such appeal shall be 442  
to the court of common pleas of the county in which the 443  
appointing authority is located, or to the court of common pleas 444  
of Franklin county, as provided by section 119.12 of the Revised 445  
Code. 446

(C) In the case of the suspension for any period of time, 447  
or a fine, demotion, or removal, of a chief of police, a chief 448  
of a fire department, or any member of the police or fire 449  
department of a city or civil service township, who is in the 450  
classified civil service, the appointing authority shall furnish 451  
the chief or member with a copy of the order of suspension, 452  
fine, demotion, or removal, which order shall state the reasons 453  
for the action. The order shall be filed with the municipal or 454  
civil service township civil service commission. Within ten days 455  
following the filing of the order, the chief or member may file 456  
an appeal, in writing, with the commission. If an appeal is 457  
filed, the commission shall forthwith notify the appointing 458



authority and shall hear, or appoint a trial board to hear, the 459  
appeal within thirty days from and after its filing with the 460  
commission, and it may affirm, disaffirm, or modify the judgment 461  
of the appointing authority. An appeal on questions of law and 462  
fact may be had from the decision of the commission to the court 463  
of common pleas in the county in which the city or civil service 464  
township is situated. The appeal shall be taken within thirty 465  
days from the finding of the commission. 466

(D) A violation of division (A) (7) of section 2907.03 of 467  
the Revised Code is grounds for termination of employment of a 468  
nonteaching employee under this section. 469

(E) As used in this section, "last chance agreement" means 470  
an agreement signed by both an appointing authority and an 471  
officer or employee of the appointing authority that describes 472  
the type of behavior or circumstances that, if it occurs, will 473  
automatically lead to removal of the officer or employee without 474  
the right of appeal to the state personnel board of review or 475  
the appropriate commission. 476

**Sec. 329.021.** (A) The board of county commissioners may, 477  
in addition to the county director of job and family services, 478  
appoint administrators to oversee services provided by the 479  
county department of job and family services, subject to the 480  
following limitations: 481

(1) If the county has a population of five hundred 482  
thousand or more, the board may appoint up to five 483  
administrators. 484

(2) If the county has a population of two hundred and 485  
fifty thousand or more, but less than five hundred thousand, the 486  
board may appoint up to four administrators. 487

(3) If the county has a population of one hundred thousand or more, but less than two hundred and fifty thousand, the board may appoint up to three administrators.

(4) If the county has a population of forty thousand or more, but less than one hundred thousand, the board may appoint up to two administrators.

(5) If the county has a population of less than forty thousand, the board may appoint one administrator.

(B) The administrators appointed by the board of county commissioners under this section shall be in the unclassified civil service and serve at the pleasure of the board. However, no administrator position that is filled by a person serving in the classified service ~~on the effective date of this amendment~~ July 1, 2007, shall be placed in the unclassified civil service until that person vacates the position.

(C) The board of county commissioners may appoint a person who holds a certified position in the classified service within the county department of job and family services to the position of administrator. A person appointed to the position of administrator pursuant to this division and later removed by the board retains the right to resume the position in the classified service held by that person immediately prior to being appointed to the position of administrator, except that a person first appointed to a classified position in the department ~~on or after the effective date of this amendment~~ July 1, 2007, shall retain the right to resume the position in the classified service for only six months after being appointed to the position of administrator. An employee forfeits the right to resume a position in the classified service when the employee is removed from the position of administrator due to incompetence,

inefficiency, dishonesty, drunkenness, immoral conduct, 518  
insubordination, discourteous treatment of the public, neglect 519  
of duty, violation of any policy or work rule of the board or 520  
department, violation of Chapter 124. of the Revised Code or the 521  
rules of the director of administrative services, any other 522  
failure of good behavior, any other acts of misfeasance, 523  
malfeasance, or nonfeasance in office, or conviction of a felony 524  
while employed in the civil service. If the position the person 525  
previously held in the classified service no longer exists or 526  
has been placed in the unclassified service, the person shall be 527  
appointed to a position in the classified service of the 528  
department that is equivalent to the classified position the 529  
person previously held, as determined by the board with the 530  
approval of the director of administrative services. 531

(D) As used in this section, "administrator" means 532  
assistant director, fiscal officer or director, personnel 533  
officer or director, social services administrator, income 534  
maintenance administrator, child support administrator in a 535  
combined agency, children services administrator in a combined 536  
agency, and workforce development administrator in a combined 537  
agency. 538

**Sec. 2953.36.** Sections 2953.31 to 2953.35 of the Revised 539  
Code do not apply to any of the following: 540

(A) Convictions when the offender is subject to a 541  
mandatory prison term; 542

(B) Convictions under section 2907.02, 2907.03, 2907.04, 543  
2907.05, 2907.06, 2907.321, 2907.322, or 2907.323, former 544  
section 2907.12, or Chapter 4507., 4510., 4511., or 4549. of the 545  
Revised Code, or a conviction for a violation of a municipal 546  
ordinance that is substantially similar to any section contained 547

in any of those chapters, except as otherwise provided in 548  
section 2953.61 of the Revised Code; 549

(C) Convictions of an offense of violence when the offense 550  
is a misdemeanor of the first degree or a felony and when the 551  
offense is not a violation of section 2917.03 of the Revised 552  
Code and is not a violation of section 2903.13, 2917.01, or 553  
2917.31 of the Revised Code that is a misdemeanor of the first 554  
degree; 555

(D) Convictions on or after October 10, 2007, under 556  
section 2907.07 of the Revised Code or a conviction on or after 557  
October 10, 2007, for a violation of a municipal ordinance that 558  
is substantially similar to that section; 559

(E) Convictions on or after October 10, 2007, under 560  
section 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.31, 561  
2907.311, 2907.32, or 2907.33 of the Revised Code when the 562  
victim of the offense was under eighteen years of age; 563

(F) Convictions of an offense in circumstances in which 564  
the victim of the offense was ~~under eighteen~~ less than sixteen 565  
years of age when the offense is a misdemeanor of the first 566  
degree or a felony, except for convictions under section 2919.21 567  
of the Revised Code; 568

(G) Convictions of a felony of the first or second degree; 569

(H) Bail forfeitures in a traffic case as defined in 570  
Traffic Rule 2. 571

**Sec. 4121.121.** (A) There is hereby created the bureau of 572  
workers' compensation, which shall be administered by the 573  
administrator of workers' compensation. A person appointed to 574  
the position of administrator shall possess significant 575  
management experience in effectively managing an organization or 576

organizations of substantial size and complexity. A person 577  
appointed to the position of administrator also shall possess a 578  
minimum of five years of experience in the field of workers' 579  
compensation insurance or in another insurance industry, except 580  
as otherwise provided when the conditions specified in division 581  
(C) of this section are satisfied. The governor shall appoint 582  
the administrator as provided in section 121.03 of the Revised 583  
Code, and the administrator shall serve at the pleasure of the 584  
governor. The governor shall fix the administrator's salary on 585  
the basis of the administrator's experience and the 586  
administrator's responsibilities and duties under this chapter 587  
and Chapters 4123., 4125., 4127., 4131., and 4167. of the 588  
Revised Code. The governor shall not appoint to the position of 589  
administrator any person who has, or whose spouse has, given a 590  
contribution to the campaign committee of the governor in an 591  
amount greater than one thousand dollars during the two-year 592  
period immediately preceding the date of the appointment of the 593  
administrator. 594

The administrator shall hold no other public office and 595  
shall devote full time to the duties of administrator. Before 596  
entering upon the duties of the office, the administrator shall 597  
take an oath of office as required by sections 3.22 and 3.23 of 598  
the Revised Code, and shall file in the office of the secretary 599  
of state, a bond signed by the administrator and by surety 600  
approved by the governor, for the sum of fifty thousand dollars 601  
payable to the state, conditioned upon the faithful performance 602  
of the administrator's duties. 603

(B) The administrator is responsible for the management of 604  
the bureau and for the discharge of all administrative duties 605  
imposed upon the administrator in this chapter and Chapters 606  
4123., 4125., 4127., 4131., and 4167. of the Revised Code, and 607

in the discharge thereof shall do all of the following: 608

(1) Perform all acts and exercise all authorities and 609  
powers, discretionary and otherwise that are required of or 610  
vested in the bureau or any of its employees in this chapter and 611  
Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised 612  
Code, except the acts and the exercise of authority and power 613  
that is required of and vested in the bureau of workers' 614  
compensation board of directors or the industrial commission 615  
pursuant to those chapters. The treasurer of state shall honor 616  
all warrants signed by the administrator, or by one or more of 617  
the administrator's employees, authorized by the administrator 618  
in writing, or bearing the facsimile signature of the 619  
administrator or such employee under sections 4123.42 and 620  
4123.44 of the Revised Code. 621

(2) Employ, direct, and supervise all employees required 622  
in connection with the performance of the duties assigned to the 623  
bureau by this chapter and Chapters 4123., 4125., 4127., 4131., 624  
and 4167. of the Revised Code, including an actuary, and may 625  
establish job classification plans and compensation for all 626  
employees of the bureau provided that this grant of authority 627  
shall not be construed as affecting any employee for whom the 628  
state employment relations board has established an appropriate 629  
bargaining unit under section 4117.06 of the Revised Code. All 630  
positions of employment in the bureau are in the classified 631  
civil service except those employees the administrator may 632  
appoint to serve at the administrator's pleasure in the 633  
unclassified civil service pursuant to section 124.11 of the 634  
Revised Code. The administrator shall fix the salaries of 635  
employees the administrator appoints to serve at the 636  
administrator's pleasure, including the chief operating officer, 637  
staff physicians, and other senior management personnel of the 638

bureau and shall establish the compensation of staff attorneys 639  
of the bureau's legal section and their immediate supervisors, 640  
and take whatever steps are necessary to provide adequate 641  
compensation for other staff attorneys. 642

The administrator may appoint a person who holds a 643  
certified position in the classified service within the bureau 644  
to a position in the unclassified service within the bureau. A 645  
person appointed pursuant to this division to a position in the 646  
unclassified service shall retain the right to resume the 647  
position and status held by the person in the classified service 648  
immediately prior to the person's appointment in the 649  
unclassified service, regardless of the number of positions the 650  
person held in the unclassified service. An employee's right to 651  
resume a position in the classified service may only be 652  
exercised when the administrator demotes the employee to a pay 653  
range lower than the employee's current pay range or revokes the 654  
employee's appointment to the unclassified service. An employee 655  
forfeits the right to resume a position in the classified 656  
service when the employee is removed from the position in the 657  
unclassified service due to incompetence, inefficiency, 658  
dishonesty, drunkenness, immoral conduct, insubordination, 659  
discourteous treatment of the public, neglect of duty, violation 660  
of this chapter or Chapter 124., 4123., 4125., 4127., 4131., or 661  
4167. of the Revised Code, violation of the rules of the 662  
director of administrative services or the administrator, any 663  
other failure of good behavior, any other acts of misfeasance, 664  
malfeasance, or nonfeasance in office, or conviction of a felony 665  
while employed in the civil service. An employee also forfeits 666  
the right to resume a position in the classified service upon 667  
transfer to a different agency. 668

Reinstatement to a position in the classified service 669

shall be to a position substantially equal to that position in 670  
the classified service held previously, as certified by the 671  
department of administrative services. If the position the 672  
person previously held in the classified service has been placed 673  
in the unclassified service or is otherwise unavailable, the 674  
person shall be appointed to a position in the classified 675  
service within the bureau that the director of administrative 676  
services certifies is comparable in compensation to the position 677  
the person previously held in the classified service. Service in 678  
the position in the unclassified service shall be counted as 679  
service in the position in the classified service held by the 680  
person immediately prior to the person's appointment in the 681  
unclassified service. When a person is reinstated to a position 682  
in the classified service as provided in this division, the 683  
person is entitled to all rights, status, and benefits accruing 684  
to the position during the person's time of service in the 685  
position in the unclassified service. 686

(3) Reorganize the work of the bureau, its sections, 687  
departments, and offices to the extent necessary to achieve the 688  
most efficient performance of its functions and to that end may 689  
establish, change, or abolish positions and assign and reassign 690  
duties and responsibilities of every employee of the bureau. All 691  
persons employed by the commission in positions that, after 692  
November 3, 1989, are supervised and directed by the 693  
administrator under this section are transferred to the bureau 694  
in their respective classifications but subject to reassignment 695  
and reclassification of position and compensation as the 696  
administrator determines to be in the interest of efficient 697  
administration. The civil service status of any person employed 698  
by the commission is not affected by this section. Personnel 699  
employed by the bureau or the commission who are subject to 700



Chapter 4117. of the Revised Code shall retain all of their 701  
rights and benefits conferred pursuant to that chapter as it 702  
presently exists or is hereafter amended and nothing in this 703  
chapter or Chapter 4123. of the Revised Code shall be construed 704  
as eliminating or interfering with Chapter 4117. of the Revised 705  
Code or the rights and benefits conferred under that chapter to 706  
public employees or to any bargaining unit. 707

(4) Provide offices, equipment, supplies, and other 708  
facilities for the bureau. 709

(5) Prepare and submit to the board information the 710  
administrator considers pertinent or the board requires, 711  
together with the administrator's recommendations, in the form 712  
of administrative rules, for the advice and consent of the 713  
board, for classifications of occupations or industries, for 714  
premium rates and contributions, for the amount to be credited 715  
to the surplus fund, for rules and systems of rating, rate 716  
revisions, and merit rating. The administrator shall obtain, 717  
prepare, and submit any other information the board requires for 718  
the prompt and efficient discharge of its duties. 719

(6) Keep the accounts required by division (A) of section 720  
4123.34 of the Revised Code and all other accounts and records 721  
necessary to the collection, administration, and distribution of 722  
the workers' compensation funds and shall obtain the statistical 723  
and other information required by section 4123.19 of the Revised 724  
Code. 725

(7) Exercise the investment powers vested in the 726  
administrator by section 4123.44 of the Revised Code in 727  
accordance with the investment policy approved by the board 728  
pursuant to section 4121.12 of the Revised Code and in 729  
consultation with the chief investment officer of the bureau of 730

workers' compensation. The administrator shall not engage in any 731  
prohibited investment activity specified by the board pursuant 732  
to division (F) (9) of section 4121.12 of the Revised Code and 733  
shall not invest in any type of investment specified in 734  
divisions (B) (1) to (10) of section 4123.442 of the Revised 735  
Code. All business shall be transacted, all funds invested, all 736  
warrants for money drawn and payments made, and all cash and 737  
securities and other property held, in the name of the bureau, 738  
or in the name of its nominee, provided that nominees are 739  
authorized by the administrator solely for the purpose of 740  
facilitating the transfer of securities, and restricted to the 741  
administrator and designated employees. 742

(8) Make contracts for and supervise the construction of 743  
any project or improvement or the construction or repair of 744  
buildings under the control of the bureau. 745

(9) Purchase supplies, materials, equipment, and services; 746  
make contracts for, operate, and superintend the telephone, 747  
other telecommunication, and computer services for the use of 748  
the bureau; and make contracts in connection with office 749  
reproduction, forms management, printing, and other services. 750  
Notwithstanding sections 125.12 to 125.14 of the Revised Code, 751  
the administrator may transfer surplus computers and computer 752  
equipment directly to an accredited public school within the 753  
state. The computers and computer equipment may be repaired or 754  
refurbished prior to the transfer. 755

(10) Prepare and submit to the board an annual budget for 756  
internal operating purposes for the board's approval. The 757  
administrator also shall, separately from the budget the 758  
industrial commission submits, prepare and submit to the 759  
director of budget and management a budget for each biennium. 760

The budgets submitted to the board and the director shall 761  
include estimates of the costs and necessary expenditures of the 762  
bureau in the discharge of any duty imposed by law. 763

(11) As promptly as possible in the course of efficient 764  
administration, decentralize and relocate such of the personnel 765  
and activities of the bureau as is appropriate to the end that 766  
the receipt, investigation, determination, and payment of claims 767  
may be undertaken at or near the place of injury or the 768  
residence of the claimant and for that purpose establish 769  
regional offices, in such places as the administrator considers 770  
proper, capable of discharging as many of the functions of the 771  
bureau as is practicable so as to promote prompt and efficient 772  
administration in the processing of claims. All active and 773  
inactive lost-time claims files shall be held at the service 774  
office responsible for the claim. A claimant, at the claimant's 775  
request, shall be provided with information by telephone as to 776  
the location of the file pertaining to the claimant's claim. The 777  
administrator shall ensure that all service office employees 778  
report directly to the director for their service office. 779

(12) Provide a written binder on new coverage where the 780  
administrator considers it to be in the best interest of the 781  
risk. The administrator, or any other person authorized by the 782  
administrator, shall grant the binder upon submission of a 783  
request for coverage by the employer. A binder is effective for 784  
a period of thirty days from date of issuance and is 785  
nonrenewable. Payroll reports and premium charges shall coincide 786  
with the effective date of the binder. 787

(13) Set standards for the reasonable and maximum handling 788  
time of claims payment functions, ensure, by rules, the 789  
impartial and prompt treatment of all claims and employer risk 790

accounts, and establish a secure, accurate method of time stamping all incoming mail and documents hand delivered to bureau employees.

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

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

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

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

(b) Provide a resource to respond to questions from claims examiners for employees of the bureau;

(c) Audit fee bill payments;

(d) Implement a program to utilize, to the maximum extent 820  
possible, electronic data processing equipment for storage of 821  
information to facilitate authorizations of compensation 822  
payments for medical, hospital, drug, and nursing services; 823

(e) Perform other duties assigned to it by the 824  
administrator. 825

(17) Appoint, as the administrator determines necessary, 826  
panels to review and advise the administrator on disputes 827  
arising over a determination that a health care service or 828  
supply provided to a claimant is not covered under this chapter 829  
or Chapter 4123., 4127., or 4131. of the Revised Code or is 830  
medically unnecessary. If an individual health care provider is 831  
involved in the dispute, the panel shall consist of individuals 832  
licensed pursuant to the same section of the Revised Code as 833  
such health care provider. 834

(18) Pursuant to section 4123.65 of the Revised Code, 835  
approve applications for the final settlement of claims for 836  
compensation or benefits under this chapter and Chapters 4123., 837  
4127., and 4131. of the Revised Code as the administrator 838  
determines appropriate, except in regard to the applications of 839  
self-insuring employers and their employees. 840

(19) Comply with section 3517.13 of the Revised Code, and 841  
except in regard to contracts entered into pursuant to the 842  
authority contained in section 4121.44 of the Revised Code, 843  
comply with the competitive bidding procedures set forth in the 844  
Revised Code for all contracts into which the administrator 845  
enters provided that those contracts fall within the type of 846  
contracts and dollar amounts specified in the Revised Code for 847  
competitive bidding and further provided that those contracts 848  
are not otherwise specifically exempt from the competitive 849

bidding procedures contained in the Revised Code. 850

(20) Adopt, with the advice and consent of the board, 851  
rules for the operation of the bureau. 852

(21) Prepare and submit to the board information the 853  
administrator considers pertinent or the board requires, 854  
together with the administrator's recommendations, in the form 855  
of administrative rules, for the advice and consent of the 856  
board, for the health partnership program and the qualified 857  
health plan system, as provided in sections 4121.44, 4121.441, 858  
and 4121.442 of the Revised Code. 859

(C) The administrator, with the advice and consent of the 860  
senate, shall appoint a chief operating officer who has a 861  
minimum of five years of experience in the field of workers' 862  
compensation insurance or in another similar insurance industry 863  
if the administrator does not possess such experience. The chief 864  
operating officer shall not commence the chief operating 865  
officer's duties until after the senate consents to the chief 866  
operating officer's appointment. The chief operating officer 867  
shall serve in the unclassified civil service of the state. 868

**Sec. 5123.08.** An appointing officer may appoint a person 869  
who holds a certified position in the classified service within 870  
the department of developmental disabilities to a position in 871  
the unclassified service within the department. A person 872  
appointed pursuant to this section to a position in the 873  
unclassified service shall retain the right to resume the 874  
position and status held by the person in the classified service 875  
immediately prior to the person's appointment to the position in 876  
the unclassified service, regardless of the number of positions 877  
the person held in the unclassified service. An employee's right 878  
to resume a position in the classified service may only be 879

exercised when an appointing authority demotes the employee to a 880  
pay range lower than the employee's current pay range or revokes 881  
the employee's appointment to the unclassified service. An 882  
employee forfeits the right to resume a position in the 883  
classified service when the employee is removed from the 884  
position in the unclassified service due to incompetence, 885  
inefficiency, dishonesty, drunkenness, immoral conduct, 886  
insubordination, discourteous treatment of the public, neglect 887  
of duty, violation of this chapter or Chapter 124. of the 888  
Revised Code, the rules of the director of developmental 889  
disabilities or the director of administrative services, any 890  
other failure of good behavior, any other acts of misfeasance, 891  
malfeasance, or nonfeasance in office, or conviction of a felony 892  
while employed in the civil service. An employee also forfeits 893  
the right to resume a position in the classified service upon 894  
transfer to a different agency. 895

Reinstatement to a position in the classified service 896  
shall be to a position substantially equal to that position in 897  
the classified service held previously, as certified by the 898  
director of administrative services. If the position the person 899  
previously held in the classified service has been placed in the 900  
unclassified service or is otherwise unavailable, the person 901  
shall be appointed to a position in the classified service 902  
within the department that the director of administrative 903  
services certifies is comparable in compensation to the position 904  
the person previously held in the classified service. Service in 905  
the position in the unclassified service shall be counted as 906  
service in the position in the classified service held by the 907  
person immediately prior to the person's appointment to the 908  
position in the unclassified service. When a person is 909  
reinstated to a position in the classified service as provided 910

in this section, the person is entitled to all rights, status, 911  
and benefits accruing to the position in the classified service 912  
during the time of the person's service in the position in the 913  
unclassified service. 914

**Sec. 5139.02.** (A) (1) As used in this section, "managing 915  
officer" means a deputy director, an assistant deputy director, 916  
a superintendent, a regional administrator, a deputy 917  
superintendent, or the superintendent of schools of the 918  
department of youth services, a member of the release authority, 919  
the chief of staff to the release authority, and the victims 920  
administrator of the office of victim services. 921

(2) Each division established by the director of youth 922  
services shall consist of managing officers and other employees, 923  
including those employed in institutions and regions as 924  
necessary to perform the functions assigned to them. The 925  
director or appropriate deputy director or managing officer of 926  
the department shall supervise the work of each division and 927  
determine general policies governing the exercise of powers 928  
vested in the department and assigned to each division. The 929  
appropriate managing officer or deputy director is responsible 930  
to the director for the organization, direction, and supervision 931  
of the work of the division or unit and for the exercise of the 932  
powers and the performance of the duties of the department 933  
assigned to it and, with the director's approval, may establish 934  
bureaus or other administrative units within the department. 935

(B) The director shall appoint all managing officers, who 936  
shall be in the unclassified civil service. The director may 937  
appoint a person who holds a certified position in the 938  
classified service within the department to a position as a 939  
managing officer within the department. A person appointed 940



pursuant to this division to a position as a managing officer 941  
shall retain the right to resume the position and status held by 942  
the person in the classified service immediately prior to the 943  
person's appointment as managing officer, regardless of the 944  
number of positions the person held in the unclassified service. 945  
A managing officer's right to resume a position in the 946  
classified service may only be exercised when the director 947  
demotes the managing officer to a pay range lower than the 948  
managing officer's current pay range or revokes the managing 949  
officer's appointment to the position of managing officer. A 950  
managing officer forfeits the right to resume a position in the 951  
classified service when the managing officer is removed from the 952  
position of managing officer due to incompetence, inefficiency, 953  
dishonesty, drunkenness, immoral conduct, insubordination, 954  
discourteous treatment of the public, neglect of duty, violation 955  
of this chapter or Chapter 124. of the Revised Code, the rules 956  
of the director of youth services or the director of 957  
administrative services, any other failure of good behavior, any 958  
other acts of misfeasance, malfeasance, or nonfeasance in 959  
office, or conviction of a felony while employed in the civil 960  
service. A managing officer also forfeits the right to resume a 961  
position in the classified service upon transfer to a different 962  
agency. 963

Reinstatement to a position in the classified service 964  
shall be to the position held in the classified service 965  
immediately prior to appointment as managing officer, or to 966  
another position certified by the director of administrative 967  
services as being substantially equal to that position. If the 968  
position the person previously held in the classified service 969  
immediately prior to appointment as a managing officer has been 970  
placed in the unclassified service or is otherwise unavailable, 971

the person shall be appointed to a position in the classified 972  
service within the department that the director of 973  
administrative services certifies is comparable in compensation 974  
to the position the person previously held in the classified 975  
service. Service as a managing officer shall be counted as 976  
service in the position in the classified service held by the 977  
person immediately prior to the person's appointment as a 978  
managing officer. If a person is reinstated to a position in the 979  
classified service under this division, the person shall be 980  
returned to the pay range and step to which the person had been 981  
assigned at the time of the appointment as managing officer. 982  
Longevity, where applicable, shall be calculated pursuant to the 983  
provisions of section 124.181 of the Revised Code. 984

(C) Each person appointed as a managing officer shall have 985  
received special training and shall have experience in the type 986  
of work that the person's division is required to perform. Each 987  
managing officer, under the supervision of the director, has 988  
entire charge of the division, institution, unit, or region for 989  
which the managing officer is appointed and, with the director's 990  
approval, shall appoint necessary employees and may remove them 991  
for cause. 992

(D) The director may designate one or more deputy 993  
directors to sign any personnel actions on the director's 994  
behalf. The director shall make a designation in a writing 995  
signed by the director, and the designation shall remain in 996  
effect until the director revokes or supersedes it with a new 997  
designation. 998

**Section 2.** That existing sections 124.11, 124.34, 329.021, 999  
2953.36, 4121.121, 5123.08, and 5139.02 of the Revised Code are 1000  
hereby repealed. 1001