

# As Reported by House Insurance Committee

131st General Assembly  
Regular Session  
2015-2016

H. B. No. 52

Representative Hackett

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## A BILL

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~~ i 31

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

(c) The state chiropractic board, ~~and~~ i 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 operate as a suspension of the order of an agency. If it appears to the court that an unusual hardship to the appellant will result from the execution of the agency's order pending determination of the appeal, the court may grant a suspension and fix its terms. If an appeal is taken from the judgment of the court and the court has previously granted a suspension of the agency's order as provided in this section, the suspension of the agency's order shall not be vacated and shall be given full force and effect until the matter is finally adjudicated. No renewal of a license or permit shall be denied by reason of the suspended order during the period of the appeal from the decision of the court of common pleas. In the case of an appeal from the state medical board or state chiropractic board, the court may grant a suspension and fix its terms if it appears to the court that an unusual hardship to the appellant will result from the execution of the agency's order pending determination of the appeal and the health, safety, and welfare of the public will not be threatened by suspension of the order. This provision shall not be construed to limit the factors the court may consider in determining whether to suspend an order of any other agency pending determination of an appeal.

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

(G) Notwithstanding any other provision of this section, any order issued by a court of common pleas or a court of appeals suspending the effect of an order of the liquor control commission issued pursuant to Chapter 4301. or 4303. of the Revised Code that suspends, revokes, or cancels a permit issued under Chapter 4303. of the Revised Code or that allows the payment of a forfeiture under section 4301.252 of the Revised Code shall terminate not more than six months after the date of the filing of the record of

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 237  
pursuant to division (A)(3) of this section; 238

(5) Review all internal audit reports on a regular basis. 239

(B) There is hereby created the workers' compensation 240



actuarial committee consisting of at least three members. One 241  
member shall be the member of the board who is an actuary. The 242  
board, by majority vote, shall appoint two additional members of 243  
the board to serve on the actuarial committee and may appoint 244  
additional members who are not board members, as the board 245  
determines necessary. Members of the actuarial committee serve at 246  
the pleasure of the board and the board, by majority vote, may 247  
remove any member except the member of the committee who is the 248  
actuary member of the board. The board, by majority vote, shall 249  
determine how often the actuarial committee shall meet and report 250  
to the board. If the actuarial committee meets on the same day as 251  
the board holds a meeting, no member shall be compensated for more 252  
than one meeting held on that day. The actuarial committee shall 253  
do both of the following: 254

(1) Recommend actuarial consultants for the board to use for 255  
the funds specified in this chapter and Chapters 4123., 4127., and 256  
4131. of the Revised Code; 257

(2) Review ~~calculations on~~ and approve the various rate 258  
~~schedules and performance prepared and presented~~ by the actuarial 259  
division of the bureau or by actuarial consultants with whom the 260  
board enters into a contract. 261

(C)(1) There is hereby created the workers' compensation 262  
investment committee consisting of at least four members. Two of 263  
the members shall be the members of the board who serve as the 264  
investment and securities experts on the board. The board, by 265  
majority vote, shall appoint two additional members of the board 266  
to serve on the investment committee and may appoint additional 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 investment decisions.	273 274
Members of the investment committee serve at the pleasure of the board and the board, by majority vote, may remove any member except the members of the committee who are the investment and securities expert members of the board. The board, by majority vote, shall determine how often the investment committee shall meet and report to the board. If the investment 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.	275 276 277 278 279 280 281 282
(2) The investment committee shall do all of the following:	283
(a) Develop the investment policy for the administration of the investment program for the funds specified in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code in accordance with the requirements specified in section 4123.442 of the Revised Code;	284 285 286 287 288
(b) Submit the investment policy developed pursuant to division (C)(2)(a) of this section to the board for approval;	289 290
(c) Monitor implementation by the administrator of workers' compensation and the bureau of workers' compensation chief investment officer of the investment policy approved by the board;	291 292 293
(d) Recommend outside investment counsel with whom the board may contract to assist the investment committee in fulfilling its duties;	294 295 296
(e) Review the performance of the bureau of workers' compensation chief investment officer and any investment consultants retained by the administrator to assure that the investments of the assets of the funds specified in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code are made in accordance with the investment policy approved by the board and to assure compliance with the investment policy and effective	297 298 299 300 301 302 303

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 lawfully constituted fire department.	492 493
(iii) Off-duty first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, or emergency medical technicians-paramedic, whether paid or volunteer, of an ambulance service organization or emergency medical service organization pursuant to Chapter 4765. of the Revised Code.	494 495 496 497 498 499
(b) Every person in the service of any person, firm, or private corporation, including any public service corporation, that (i) employs one or more persons regularly in the same business or in or about the same establishment under any contract of hire, express or implied, oral or written, including aliens and minors, household workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single household and casual workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single employer, or (ii) is bound by any such contract of hire or by any other written contract, to pay into the state insurance fund the premiums provided by this chapter.	500 501 502 503 504 505 506 507 508 509 510 511
(c) Every person who performs labor or provides services pursuant to a construction contract, as defined in section 4123.79 of the Revised Code, if at least ten of the following criteria apply:	512 513 514 515
(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	521

functioning of the other contracting party;	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 other contracting party;	543 544
(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 551  
to the general public; 552

(xix) The other contracting party has a right to discharge 553  
the person; 554

(xx) The person has the right to end the relationship with 555  
the other contracting party without incurring liability pursuant 556  
to an employment contract or agreement. 557

Every person in the service of any independent contractor or 558  
subcontractor who has failed to pay into the state insurance fund 559  
the amount of premium determined and fixed by the administrator of 560  
workers' compensation for the person's employment or occupation or 561  
if a self-insuring employer has failed to pay compensation and 562  
benefits directly to the employer's injured and to the dependents 563  
of the employer's killed employees as required by section 4123.35 564  
of the Revised Code, shall be considered as the employee of the 565  
person who has entered into a contract, whether written or verbal, 566  
with such independent contractor unless such employees or their 567  
legal representatives or beneficiaries elect, after injury or 568  
death, to regard such independent contractor as the employer. 569

(2) "Employee" does not mean any of the following: 570

(a) A duly ordained, commissioned, or licensed minister or 571  
assistant or associate minister of a church in the exercise of 572  
ministry; 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 637  
other written contract, to pay into the insurance fund the 638  
premiums provided by this chapter. 639

All such employers are subject to this chapter. Any member of 640  
a firm or association, who regularly performs manual labor in or 641  
about a mine, factory, or other establishment, including a 642  
household establishment, shall be considered an employee in 643  
determining whether such person, firm, or private corporation, or 644

public service corporation, has in its service, one or more 645  
employees and the employer shall report the income derived from 646  
such labor to the bureau as part of the payroll of such employer, 647  
and such member shall thereupon be entitled to all the benefits of 648  
an employee. 649

(C) "Injury" includes any injury, whether caused by external 650  
accidental means or accidental in character and result, received 651  
in the course of, and arising out of, the injured employee's 652  
employment. "Injury" does not include: 653

(1) Psychiatric conditions except where the claimant's 654  
psychiatric conditions have arisen from an injury or occupational 655  
disease sustained by that claimant or where the claimant's 656  
psychiatric conditions have arisen from sexual conduct in which 657  
the claimant was forced by threat of physical harm to engage or 658  
participate; 659

(2) Injury or disability caused primarily by the natural 660  
deterioration of tissue, an organ, or part of the body; 661

(3) Injury or disability incurred in voluntary participation 662  
in an employer-sponsored recreation or fitness activity if the 663  
employee signs a waiver of the employee's right to compensation or 664  
benefits under this chapter prior to engaging in the recreation or 665  
fitness activity; 666

(4) A condition that pre-existed an injury unless that 667  
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 adopted prior to the injury. 676  
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(E) "Family farm corporation" means a corporation founded for the purpose of farming agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons or the spouse of persons related to each other within the fourth degree of kinship, according to the rules of the civil law, and at least one of the related persons is residing on or actively operating the farm, and none of whose stockholders are a corporation. A family farm corporation does not cease to qualify under this division where, by reason of any devise, bequest, or the operation of the laws of descent or distribution, the ownership of shares of voting stock is transferred to another person, as long as that person is within the degree of kinship stipulated in this division. 678  
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(F) "Occupational disease" means a disease contracted in the course of employment, which by its causes and the characteristics of its manifestation or the condition of the employment results in a hazard which distinguishes the employment in character from employment generally, and the employment creates a risk of contracting the disease in greater degree and in a different manner from the public in general. 691  
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(G) "Self-insuring employer" means an employer who is granted the privilege of paying compensation and benefits directly under section 4123.35 of the Revised Code, including a board of county commissioners for the sole purpose of constructing a sports facility as defined in section 307.696 of the Revised Code, provided that the electors of the county in which the sports facility is to be built have approved construction of a sports facility by ballot election no later than November 6, 1997. 698  
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(H) "Private employer" means an employer as defined in division (B)(2) of this section. 706  
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(I) "Professional employer organization" has the same meaning as in section 4125.01 of the Revised Code. 708  
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(J) "Public employer" means an employer as defined in division (B)(1) of this section. 710  
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(K) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of gender; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse. 712  
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(L) "Other-states' insurer" means an insurance company that is authorized to provide workers' compensation insurance coverage in any of the states that permit employers to obtain insurance for workers' compensation claims through insurance companies. 719  
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(M) "Other-states' coverage" means both of the following: 723

(1) Insurance coverage secured by an eligible employer for workers' compensation claims of employees who are in employment relationships localized in a state other than this state or those employees' dependents; 724  
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(2) Insurance coverage secured by an eligible employer for workers' compensation claims that arise in a state other than this state where an employer elects to obtain coverage through either the administrator or an other-states' insurer. 728  
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(N) "Limited other-states coverage" means insurance coverage provided by the administrator to an eligible employer for workers' compensation claims of employees who are in an employment relationship localized in this state but are temporarily working in a state other than this state, or those employees' dependents. 732  
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**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 administrator or the 753  
designee shall ~~hear~~ consider and issue a decision on the appeal 754  
~~and hold a hearing, provided that~~ if the decision of the 755  
adjudicating committee relates to one of the following: 756

(1) An employer request for a waiver of a default in the 757  
payment of premiums pursuant to section 4123.37 of the Revised 758  
Code; 759

(2) An employer request for the settlement of liability as a 760  
noncomplying employer under section 4123.75 of the Revised Code; 761

(3) An employer petition objecting to an assessment made 762  
pursuant to section 4123.37 of the Revised Code and the rules 763  
adopted pursuant to that section; 764

(4) An employer request for the abatement of penalties 765  
assessed pursuant to section 4123.32 of the Revised Code and the 766  
rules adopted pursuant to that section; 767

(5) An employer protest relating to an audit finding or a 768

determination of a manual classification, experience rating, or 769  
transfer or combination of risk experience; 770

(6) Any decision relating to any other risk premium matter 771  
under Chapters 4121., 4123., and 4131. of the Revised Code; 772

(7) An employer petition objecting to the amount of security 773  
required under division (D) of section 4125.05 of the Revised Code 774  
and the rules adopted pursuant to that section. 775

If an employer requests a hearing on the appeal the 776  
administrator or the designee shall hold the hearing. Otherwise, a 777  
hearing on the appeal may be held at the discretion of the 778  
administrator or the designee. 779

(C) The bureau of workers' compensation board of directors, 780  
based upon recommendations of the workers' compensation actuarial 781  
committee, shall establish the policy for all adjudicating 782  
committee procedures, including, but not limited to, specific 783  
criteria for manual premium rate adjustment. 784

**Sec. 4123.34.** It shall be the duty of the bureau of workers' 785  
compensation board of directors and the administrator of workers' 786  
compensation to safeguard and maintain the solvency of the state 787  
insurance fund and all other funds specified in this chapter and 788  
Chapters 4121., 4127., and 4131. of the Revised Code. The 789  
administrator, in the exercise of the powers and discretion 790  
conferred upon the administrator in section 4123.29 of the Revised 791  
Code, shall fix and maintain, with the advice and consent of the 792  
board, for each class of occupation or industry, the lowest 793  
possible rates of premium consistent with the maintenance of a 794  
solvent state insurance fund and the creation and maintenance of a 795  
reasonable surplus, after the payment of legitimate claims for 796  
injury, occupational disease, and death that the administrator 797  
authorizes to be paid from the state insurance fund for the 798  
benefit of injured, diseased, and the dependents of killed 799

employees. In establishing rates, the administrator shall take 800  
into account the necessity of ensuring sufficient money is set 801  
aside in the premium payment security fund to cover any defaults 802  
in premium obligations. The administrator shall observe all of the 803  
following requirements in fixing the rates of premium for the 804  
risks of occupations or industries: 805

(A) The administrator shall keep an accurate account of the 806  
money paid in premiums by each of the several classes of 807  
occupations or industries, and the losses on account of injuries, 808  
occupational disease, and death of employees thereof, and also 809  
keep an account of the money received from each individual 810  
employer and the amount of losses incurred against the state 811  
insurance fund on account of injuries, occupational disease, and 812  
death of the employees of the employer. 813

(B) A portion of the money paid into the state insurance fund 814  
shall be set aside for the creation of a surplus fund account 815  
within the state insurance fund. Any references in this chapter or 816  
in Chapter 4121., 4125., 4127., or 4131. of the Revised Code to 817  
the surplus fund, the surplus created in this division, the 818  
statutory surplus fund, or the statutory surplus of the state 819  
insurance fund are hereby deemed to be references to the surplus 820  
fund account. The administrator may transfer the portion of the 821  
state insurance fund to the surplus fund account as the 822  
administrator determines is necessary to satisfy the needs of the 823  
surplus fund account and to guarantee the solvency of the state 824  
insurance fund and the surplus fund account. In addition to all 825  
statutory authority under this chapter and Chapter 4121. of the 826  
Revised Code, the administrator has discretionary and contingency 827  
authority to make charges to the surplus fund account. The 828  
administrator shall account for all charges, whether statutory, 829  
discretionary, or contingency, that the administrator may make to 830  
the surplus fund account. A revision of basic rates shall be made 831

annually on the first day of July. 832

~~Notwithstanding any provision of the law to the contrary, one 833  
hundred eighty days after the effective date on which 834  
self-insuring employers first may elect under division (D) of 835  
section 4121.66 of the Revised Code to directly pay for 836  
rehabilitation expenses, the administrator shall calculate the 837  
deficit, if any, in the portion of the surplus fund account that 838  
is used for reimbursement to self-insuring employers for all 839  
expenses other than handicapped reimbursement under section 840  
4123.343 of the Revised Code. The administrator, from time to 841  
time, may determine whether the surplus fund account has such a 842  
deficit and may assess all self-insuring employers who 843  
participated in the portion of the surplus fund account during the 844  
accrual of the deficit and who during that time period have not 845  
made the election under division (D) of section 4121.66 of the 846  
Revised Code the amount the administrator determines necessary to 847  
reduce the deficit. 848~~

For policy years commencing prior to July 1, 2016, revisions 849  
of basic rates for private employers shall be in accordance with 850  
the oldest four of the last five calendar years of the combined 851  
accident and occupational disease experience of the administrator 852  
in the administration of this chapter, as shown by the accounts 853  
kept as provided in this section. For a policy year commencing on 854  
or after July 1, 2016, revisions of basic rates for private 855  
employers shall be in accordance with the oldest four of the last 856  
five policy years combined accident and occupational disease 857  
experience of the administrator in the administration of this 858  
chapter, as shown by the accounts kept as provided in this 859  
section. 860

Revisions of basic rates for public employers shall be in 861  
accordance with the oldest four of the last five policy years of 862  
the combined accident and occupational disease experience of the 863

administrator in the administration of this chapter, as shown by 864  
the accounts kept as provided in this section. 865

In revising basic rates, the administrator shall exclude the 866  
experience of employers that are no longer active if the 867  
administrator determines that the inclusion of those employers 868  
would have a significant negative impact on the remainder of the 869  
employers in a particular manual classification. The administrator 870  
shall adopt rules, with the advice and consent of the board, 871  
governing rate revisions, the object of which shall be to make an 872  
equitable distribution of losses among the several classes of 873  
occupation or industry, which rules shall be general in their 874  
application. 875

(C) The administrator may apply that form of rating system 876  
that the administrator finds is best calculated to merit rate or 877  
individually rate the risk more equitably, predicated upon the 878  
basis of its individual industrial accident and occupational 879  
disease experience, and may encourage and stimulate accident 880  
prevention. The administrator shall develop fixed and equitable 881  
rules controlling the rating system, which rules shall conserve to 882  
each risk the basic principles of workers' compensation insurance. 883

(D) The administrator, from the money paid into the state 884  
insurance fund, shall set aside into an account of the state 885  
insurance fund titled a premium payment security fund sufficient 886  
money to pay for any premiums due from an employer and 887  
uncollected. 888

The use of the moneys held by the premium payment security 889  
fund account is restricted to reimbursement to the state insurance 890  
fund of premiums due and uncollected. 891

(E) The administrator may grant discounts on premium rates 892  
for employers who meet either of the following requirements: 893

(1) Have not incurred a compensable injury for one year or 894

more and who maintain an employee safety committee or similar organization or make periodic safety inspections of the workplace. 895  
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(2) Successfully complete a loss prevention program prescribed by the superintendent of the division of safety and hygiene and conducted by the division or by any other person approved by the superintendent. 897  
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(F)(1) In determining the premium rates for the construction industry the administrator shall calculate the employers' premiums based upon the actual remuneration construction industry employees receive from construction industry employers, provided that the amount of remuneration the administrator uses in calculating the premiums shall not exceed an average weekly wage equal to one hundred fifty per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code. 901  
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(2) Division (F)(1) of this section shall not be construed as affecting the manner in which benefits to a claimant are awarded under this chapter. 909  
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(3) As used in division (F) of this section, "construction industry" includes any activity performed in connection with the erection, alteration, repair, replacement, renovation, installation, or demolition of any building, structure, highway, or bridge. 912  
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(G) The administrator shall not place a limit on the length of time that an employer may participate in the bureau of workers' compensation drug free workplace and workplace safety programs. 917  
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**Sec. 4123.343.** This section shall be construed liberally to the end that employers shall be encouraged to employ and retain in their employment handicapped employees as defined in this section. 920  
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(A) As used in this section, "handicapped employee" means an employee who is afflicted with or subject to any physical or 923  
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mental impairment, or both, whether congenital or due to an injury	925
or disease of such character that the impairment constitutes a	926
handicap in obtaining employment or would constitute a handicap in	927
obtaining reemployment if the employee should become unemployed	928
and whose handicap is due to any of the following diseases or	929
conditions:	930
(1) Epilepsy;	931
(2) Diabetes;	932
(3) Cardiac disease;	933
(4) Arthritis;	934
(5) Amputated foot, leg, arm, or hand;	935
(6) Loss of sight of one or both eyes or a partial loss of	936
uncorrected vision of more than seventy-five per cent bilaterally;	937
(7) Residual disability from poliomyelitis;	938
(8) Cerebral palsy;	939
(9) Multiple sclerosis;	940
(10) Parkinson's disease;	941
(11) Cerebral vascular accident;	942
(12) Tuberculosis;	943
(13) Silicosis;	944
(14) Psycho-neurotic disability following treatment in a	945
recognized medical or mental institution;	946
(15) Hemophilia;	947
(16) Chronic osteomyelitis;	948
(17) Ankylosis of joints;	949
(18) Hyper insulinism;	950
(19) Muscular dystrophies;	951

(20) Arterio-sclerosis;	952
(21) Thrombo-phlebitis;	953
(22) Varicose veins;	954
(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;	955 956 957 958
(24) Coal miners' pneumoconiosis, commonly referred to as "black lung disease";	959 960
(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.	961 962 963
(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 dependents or by way of reimbursement to the self-insuring employer as the circumstances indicate.</del> The provisions of this section apply only in cases of death, total disability, whether temporary or permanent, and all disabilities compensated under division (B) of section 4123.57 of the Revised Code. The administrator shall adopt rules specifying the grounds upon which charges to the statutory surplus fund are to be made. The rules shall prohibit as a grounds any agreement between employer and claimant as to the merits of a claim and the amount of the charge.	964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982



(C) Any employer who has in its employ a handicapped employee 983  
is entitled, in the event the person is injured, to a 984  
determination under this section. 985

An employer shall file an application under this section for 986  
a determination with the bureau or commission in the same manner 987  
as other claims. An application only may be made in cases where a 988  
handicapped employee or a handicapped employee's dependents claim 989  
or ~~is~~ are receiving an award of compensation as a result of an 990  
injury or occupational disease occurring or contracted on or after 991  
the date on which division (A) of this section first included the 992  
handicap of such employee. 993

(D) The circumstances under and the manner in which an 994  
apportionment under this section shall be made are: 995

(1) Whenever a handicapped employee is injured or disabled or 996  
dies as the result of an injury or occupational disease sustained 997  
in the course of and arising out of a handicapped employee's 998  
employment in this state and the administrator awards compensation 999  
therefor and when it appears to the satisfaction of the 1000  
administrator that the injury or occupational disease or the death 1001  
resulting therefrom would not have occurred but for the 1002  
pre-existing physical or mental impairment of the handicapped 1003  
employee, all compensation and benefits payable on account of the 1004  
disability or death shall be paid from the surplus fund. 1005

(2) Whenever a handicapped employee is injured or disabled or 1006  
dies as a result of an injury or occupational disease and the 1007  
administrator finds that the injury or occupational disease would 1008  
have been sustained or suffered without regard to the employee's 1009  
pre-existing impairment but that the resulting disability or death 1010  
was caused at least in part through aggravation of the employee's 1011  
pre-existing disability, the administrator shall determine in a 1012  
manner that is equitable and reasonable and based upon medical 1013  
evidence the amount of disability or proportion of the cost of the 1014

death award that is attributable to the employee's pre-existing 1015  
disability and the amount found shall be charged to the statutory 1016  
surplus fund. 1017

(E) The benefits and provisions of this section apply only to 1018  
employers who have complied with this chapter either through 1019  
insurance with the state fund ~~or as a self-insuring employer.~~ 1020

(F) No employer shall in any year receive credit under this 1021  
section in an amount greater than the premium the employer paid ~~if~~ 1022  
~~a state fund employer or greater than the employer's assessments~~ 1023  
~~if a self-insuring employer.~~ 1024

(G) ~~Self-insuring employers may, for all claims made after~~ 1025  
~~January 1, 1987, for compensation and benefits under this section,~~ 1026  
~~pay the compensation and benefits directly to the employee or the~~ 1027  
~~employee's dependents. If such an employer chooses to pay~~ 1028  
~~compensation and benefits directly, the employer shall receive no~~ 1029  
~~money or credit from the surplus fund for the payment under this~~ 1030  
~~section, nor shall the employer be required to pay any amounts~~ 1031  
~~into the surplus fund that otherwise would be assessed for~~ 1032  
~~handicapped reimbursements for claims made after January 1, 1987.~~ 1033  
~~Where a self-insuring employer elects to pay for compensation and~~ 1034  
~~benefits pursuant to this section, the employer shall assume~~ 1035  
~~responsibility for compensation and benefits arising out of claims~~ 1036  
~~made prior to January 1, 1987, and shall not be required to pay~~ 1037  
~~any amounts into the surplus fund and may not receive any money or~~ 1038  
~~credit from that fund on account of this section. The election~~ 1039  
~~made under this division is irrevocable.~~ 1040

(H) An order issued by the administrator pursuant to this 1041  
section is appealable under section 4123.511 of the Revised Code 1042  
but is not appealable to court under section 4123.512 of the 1043  
Revised Code. 1044

**Sec. 4123.35.** (A) Except as provided in this section, and 1045

until the policy year commencing July 1, 2015, every private 1046  
employer and every publicly owned utility shall pay semiannually 1047  
in the months of January and July into the state insurance fund 1048  
the amount of annual premium the administrator of workers' 1049  
compensation fixes for the employment or occupation of the 1050  
employer, the amount of which premium to be paid by each employer 1051  
to be determined by the classifications, rules, and rates made and 1052  
published by the administrator. The employer shall pay 1053  
semiannually a further sum of money into the state insurance fund 1054  
as may be ascertained to be due from the employer by applying the 1055  
rules of the administrator. 1056

Except as otherwise provided in this section, for a policy 1057  
year commencing on or after July 1, 2015, every private employer 1058  
and every publicly owned utility shall pay annually in the month 1059  
of June immediately preceding the policy year into the state 1060  
insurance fund the amount of estimated annual premium the 1061  
administrator fixes for the employment or occupation of the 1062  
employer, the amount of which estimated premium to be paid by each 1063  
employer to be determined by the classifications, rules, and rates 1064  
made and published by the administrator. The employer shall pay a 1065  
further sum of money into the state insurance fund as may be 1066  
ascertained to be due from the employer by applying the rules of 1067  
the administrator. Upon receipt of the payroll report required by 1068  
division (B) of section 4123.26 of the Revised Code, the 1069  
administrator shall adjust the premium and assessments charged to 1070  
each employer for the difference between estimated gross payrolls 1071  
and actual gross payrolls, and any balance due to the 1072  
administrator shall be immediately paid by the employer. Any 1073  
balance due the employer shall be credited to the employer's 1074  
account. 1075

For a policy year commencing on or after July 1, 2015, each 1076  
employer that is recognized by the administrator as a professional 1077

employer organization shall pay monthly into the state insurance 1078  
fund the amount of premium the administrator fixes for the 1079  
employer for the prior month based on the actual payroll of the 1080  
employer reported pursuant to division (C) of section 4123.26 of 1081  
the Revised Code. 1082

A receipt certifying that payment has been made shall be 1083  
issued to the employer by the bureau of workers' compensation. The 1084  
receipt is prima-facie evidence of the payment of the premium. The 1085  
administrator shall provide each employer written proof of 1086  
workers' compensation coverage as is required in section 4123.83 1087  
of the Revised Code. Proper posting of the notice constitutes the 1088  
employer's compliance with the notice requirement mandated in 1089  
section 4123.83 of the Revised Code. 1090

The bureau shall verify with the secretary of state the 1091  
existence of all corporations and organizations making application 1092  
for workers' compensation coverage and shall require every such 1093  
application to include the employer's federal identification 1094  
number. 1095

A private employer who has contracted with a subcontractor is 1096  
liable for the unpaid premium due from any subcontractor with 1097  
respect to that part of the payroll of the subcontractor that is 1098  
for work performed pursuant to the contract with the employer. 1099

Division (A) of this section providing for the payment of 1100  
premiums semiannually does not apply to any employer who was a 1101  
subscriber to the state insurance fund prior to January 1, 1914, 1102  
or, until July 1, 2015, who may first become a subscriber to the 1103  
fund in any month other than January or July. Instead, the 1104  
semiannual premiums shall be paid by those employers from time to 1105  
time upon the expiration of the respective periods for which 1106  
payments into the fund have been made by them. After July 1, 2015, 1107  
an employer who first becomes a subscriber to the fund on any day 1108  
other than the first day of July shall pay premiums according to 1109

rules adopted by the administrator, with the advice and consent of 1110  
the bureau of workers' compensation board of directors, for the 1111  
remainder of the policy year for which the coverage is effective. 1112

The administrator, with the advice and consent of the board, 1113  
shall adopt rules to permit employers to make periodic payments of 1114  
the premium and assessment due under this division. The rules 1115  
shall include provisions for the assessment of interest charges, 1116  
where appropriate, and for the assessment of penalties when an 1117  
employer fails to make timely premium payments. The administrator, 1118  
in the rules the administrator adopts, may set an administrative 1119  
fee for these periodic payments. An employer who timely pays the 1120  
amounts due under this division is entitled to all of the benefits 1121  
and protections of this chapter. Upon receipt of payment, the 1122  
bureau shall issue a receipt to the employer certifying that 1123  
payment has been made, which receipt is prima-facie evidence of 1124  
payment. Workers' compensation coverage under this chapter 1125  
continues uninterrupted upon timely receipt of payment under this 1126  
division. 1127

Every public employer, except public employers that are 1128  
self-insuring employers under this section, shall comply with 1129  
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 1130  
regard to the contribution of moneys to the public insurance fund. 1131

(B) Employers who will abide by the rules of the 1132  
administrator and who may be of sufficient financial ability to 1133  
render certain the payment of compensation to injured employees or 1134  
the dependents of killed employees, and the furnishing of medical, 1135  
surgical, nursing, and hospital attention and services and 1136  
medicines, and funeral expenses, equal to or greater than is 1137  
provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 1138  
to 4123.67 of the Revised Code, and who do not desire to insure 1139  
the payment thereof or indemnify themselves against loss sustained 1140  
by the direct payment thereof, upon a finding of such facts by the 1141

administrator, may be granted the privilege to pay individually 1142  
compensation, and furnish medical, surgical, nursing, and hospital 1143  
services and attention and funeral expenses directly to injured 1144  
employees or the dependents of killed employees, thereby being 1145  
granted status as a self-insuring employer. The administrator may 1146  
charge employers who apply for the status as a self-insuring 1147  
employer a reasonable application fee to cover the bureau's costs 1148  
in connection with processing and making a determination with 1149  
respect to an application. 1150

All employers granted status as self-insuring employers shall 1151  
demonstrate sufficient financial and administrative ability to 1152  
assure that all obligations under this section are promptly met. 1153  
The administrator shall deny the privilege where the employer is 1154  
unable to demonstrate the employer's ability to promptly meet all 1155  
the obligations imposed on the employer by this section. 1156

(1) The administrator shall consider, but is not limited to, 1157  
the following factors, where applicable, in determining the 1158  
employer's ability to meet all of the obligations imposed on the 1159  
employer by this section: 1160

(a) The employer employs a minimum of five hundred employees 1161  
in this state; 1162

(b) The employer has operated in this state for a minimum of 1163  
two years, provided that an employer who has purchased, acquired, 1164  
or otherwise succeeded to the operation of a business, or any part 1165  
thereof, situated in this state that has operated for at least two 1166  
years in this state, also shall qualify; 1167

(c) Where the employer previously contributed to the state 1168  
insurance fund or is a successor employer as defined by bureau 1169  
rules, the amount of the buyout, as defined by bureau rules; 1170

(d) The sufficiency of the employer's assets located in this 1171  
state to insure the employer's solvency in paying compensation 1172

directly; 1173

(e) The financial records, documents, and data, certified by 1174  
a certified public accountant, necessary to provide the employer's 1175  
full financial disclosure. The records, documents, and data 1176  
include, but are not limited to, balance sheets and profit and 1177  
loss history for the current year and previous four years. 1178

(f) The employer's organizational plan for the administration 1179  
of the workers' compensation law; 1180

(g) The employer's proposed plan to inform employees of the 1181  
change from a state fund insurer to a self-insuring employer, the 1182  
procedures the employer will follow as a self-insuring employer, 1183  
and the employees' rights to compensation and benefits; and 1184

(h) The employer has either an account in a financial 1185  
institution in this state, or if the employer maintains an account 1186  
with a financial institution outside this state, ensures that 1187  
workers' compensation checks are drawn from the same account as 1188  
payroll checks or the employer clearly indicates that payment will 1189  
be honored by a financial institution in this state. 1190

The administrator may waive the requirements of divisions 1191  
(B)(1)(a) and (b) of this section and the requirement of division 1192  
(B)(1)(e) of this section that the financial records, documents, 1193  
and data be certified by a certified public accountant. The 1194  
administrator shall adopt rules establishing the criteria that an 1195  
employer shall meet in order for the administrator to waive the 1196  
requirements of divisions (B)(1)(a), (b), and (e) of this section. 1197  
Such rules may require additional security of that employer 1198  
pursuant to division (E) of section 4123.351 of the Revised Code. 1199

The administrator shall not grant the status of self-insuring 1200  
employer to the state, except that the administrator may grant the 1201  
status of self-insuring employer to a state institution of higher 1202  
education, including its hospitals, that meets the requirements of 1203

division (B)(2) of this section. 1204

(2) When considering the application of a public employer, 1205  
except for a board of county commissioners described in division 1206  
(G) of section 4123.01 of the Revised Code, a board of a county 1207  
hospital, or a publicly owned utility, the administrator shall 1208  
verify that the public employer satisfies all of the following 1209  
requirements as the requirements apply to that public employer: 1210

(a) For the two-year period preceding application under this 1211  
section, the public employer has maintained an unvoted debt 1212  
capacity equal to at least two times the amount of the current 1213  
annual premium established by the administrator under this chapter 1214  
for that public employer for the year immediately preceding the 1215  
year in which the public employer makes application under this 1216  
section. 1217

(b) For each of the two fiscal years preceding application 1218  
under this section, the unreserved and undesignated year-end fund 1219  
balance in the public employer's general fund is equal to at least 1220  
five per cent of the public employer's general fund revenues for 1221  
the fiscal year computed in accordance with generally accepted 1222  
accounting principles. 1223

(c) For the five-year period preceding application under this 1224  
section, the public employer, to the extent applicable, has 1225  
complied fully with the continuing disclosure requirements 1226  
established in rules adopted by the United States securities and 1227  
exchange commission under 17 C.F.R. 240.15c 2-12. 1228

(d) For the five-year period preceding application under this 1229  
section, the public employer has not had its local government fund 1230  
distribution withheld on account of the public employer being 1231  
indebted or otherwise obligated to the state. 1232

(e) For the five-year period preceding application under this 1233  
section, the public employer has not been under a fiscal watch or 1234



fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 1235  
of the Revised Code. 1236

(f) For the public employer's fiscal year preceding 1237  
application under this section, the public employer has obtained 1238  
an annual financial audit as required under section 117.10 of the 1239  
Revised Code, which has been released by the auditor of state 1240  
within seven months after the end of the public employer's fiscal 1241  
year. 1242

(g) On the date of application, the public employer holds a 1243  
debt rating of Aa3 or higher according to Moody's investors 1244  
service, inc., or a comparable rating by an independent rating 1245  
agency similar to Moody's investors service, inc. 1246

(h) The public employer agrees to generate an annual 1247  
accumulating book reserve in its financial statements reflecting 1248  
an actuarially generated reserve adequate to pay projected claims 1249  
under this chapter for the applicable period of time, as 1250  
determined by the administrator. 1251

(i) For a public employer that is a hospital, the public 1252  
employer shall submit audited financial statements showing the 1253  
hospital's overall liquidity characteristics, and the 1254  
administrator shall determine, on an individual basis, whether the 1255  
public employer satisfies liquidity standards equivalent to the 1256  
liquidity standards of other public employers. 1257

(j) Any additional criteria that the administrator adopts by 1258  
rule pursuant to division (E) of this section. 1259

The administrator may adopt rules establishing the criteria 1260  
that a public employer shall satisfy in order for the 1261  
administrator to waive any of the requirements listed in divisions 1262  
(B)(2)(a) to (j) of this section. The rules may require additional 1263  
security from that employer pursuant to division (E) of section 1264  
4123.351 of the Revised Code. The administrator shall not waive 1265

any of the requirements listed in divisions (B)(2)(a) to (j) of 1266  
this section for a public employer who does not satisfy the 1267  
criteria established in the rules the administrator adopts. 1268

(C) A board of county commissioners described in division (G) 1269  
of section 4123.01 of the Revised Code, as an employer, that will 1270  
abide by the rules of the administrator and that may be of 1271  
sufficient financial ability to render certain the payment of 1272  
compensation to injured employees or the dependents of killed 1273  
employees, and the furnishing of medical, surgical, nursing, and 1274  
hospital attention and services and medicines, and funeral 1275  
expenses, equal to or greater than is provided for in sections 1276  
4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised 1277  
Code, and that does not desire to insure the payment thereof or 1278  
indemnify itself against loss sustained by the direct payment 1279  
thereof, upon a finding of such facts by the administrator, may be 1280  
granted the privilege to pay individually compensation, and 1281  
furnish medical, surgical, nursing, and hospital services and 1282  
attention and funeral expenses directly to injured employees or 1283  
the dependents of killed employees, thereby being granted status 1284  
as a self-insuring employer. The administrator may charge a board 1285  
of county commissioners described in division (G) of section 1286  
4123.01 of the Revised Code that applies for the status as a 1287  
self-insuring employer a reasonable application fee to cover the 1288  
bureau's costs in connection with processing and making a 1289  
determination with respect to an application. All employers 1290  
granted such status shall demonstrate sufficient financial and 1291  
administrative ability to assure that all obligations under this 1292  
section are promptly met. The administrator shall deny the 1293  
privilege where the employer is unable to demonstrate the 1294  
employer's ability to promptly meet all the obligations imposed on 1295  
the employer by this section. The administrator shall consider, 1296  
but is not limited to, the following factors, where applicable, in 1297  
determining the employer's ability to meet all of the obligations 1298

imposed on the board as an employer by this section:	1299
(1) The board as an employer employs a minimum of five hundred employees in this state;	1300 1301
(2) The board has operated in this state for a minimum of two years;	1302 1303
(3) Where the board previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;	1304 1305 1306
(4) The sufficiency of the board's assets located in this state to insure the board's solvency in paying compensation directly;	1307 1308 1309
(5) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the board's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.	1310 1311 1312 1313 1314
(6) The board's organizational plan for the administration of the workers' compensation law;	1315 1316
(7) The board's proposed plan to inform employees of the proposed self-insurance, the procedures the board will follow as a self-insuring employer, and the employees' rights to compensation and benefits;	1317 1318 1319 1320
(8) The board has either an account in a financial institution in this state, or if the board maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the board clearly indicates that payment will be honored by a financial institution in this state;	1321 1322 1323 1324 1325 1326
(9) The board shall provide the administrator a surety bond in an amount equal to one hundred twenty-five per cent of the	1327 1328

projected losses as determined by the administrator. 1329

(D) The administrator shall require a surety bond from all 1330  
self-insuring employers, issued pursuant to section 4123.351 of 1331  
the Revised Code, that is sufficient to compel, or secure to 1332  
injured employees, or to the dependents of employees killed, the 1333  
payment of compensation and expenses, which shall in no event be 1334  
less than that paid or furnished out of the state insurance fund 1335  
in similar cases to injured employees or to dependents of killed 1336  
employees whose employers contribute to the fund, except when an 1337  
employee of the employer, who has suffered the loss of a hand, 1338  
arm, foot, leg, or eye prior to the injury for which compensation 1339  
is to be paid, and thereafter suffers the loss of any other of the 1340  
members as the result of any injury sustained in the course of and 1341  
arising out of the employee's employment, the compensation to be 1342  
paid by the self-insuring employer is limited to the disability 1343  
suffered in the subsequent injury, additional compensation, if 1344  
any, to be paid by the bureau out of the surplus created by 1345  
section 4123.34 of the Revised Code. 1346

(E) In addition to the requirements of this section, the 1347  
administrator shall make and publish rules governing the manner of 1348  
making application and the nature and extent of the proof required 1349  
to justify a finding of fact by the administrator as to granting 1350  
the status of a self-insuring employer, which rules shall be 1351  
general in their application, one of which rules shall provide 1352  
that all self-insuring employers shall pay into the state 1353  
insurance fund such amounts as are required to be credited to the 1354  
surplus fund in division (B) of section 4123.34 of the Revised 1355  
Code. The administrator may adopt rules establishing requirements 1356  
in addition to the requirements described in division (B)(2) of 1357  
this section that a public employer shall meet in order to qualify 1358  
for self-insuring status. 1359

Employers shall secure directly from the bureau central 1360

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

(F) The bureau shall review completed applications within a 1376  
reasonable time. If the bureau determines to grant an employer the 1377  
status as a self-insuring employer, the bureau shall issue a 1378  
statement, containing its findings of fact, that is prepared by 1379  
the bureau and signed by the administrator. If the bureau 1380  
determines not to grant the status as a self-insuring employer, 1381  
the bureau shall notify the employer of the determination and 1382  
require the employer to continue to pay its full premium into the 1383  
state insurance fund. The administrator also shall adopt rules 1384  
establishing a minimum level of performance as a criterion for 1385  
granting and maintaining the status as a self-insuring employer 1386  
and fixing time limits beyond which failure of the self-insuring 1387  
employer to provide for the necessary medical examinations and 1388  
evaluations may not delay a decision on a claim. 1389

(G) The administrator shall adopt rules setting forth 1390  
procedures for auditing the program of self-insuring employers. 1391  
The bureau shall conduct the audit upon a random basis or whenever 1392

the bureau has grounds for believing that a self-insuring employer 1393  
is not in full compliance with bureau rules or this chapter. 1394

The administrator shall monitor the programs conducted by 1395  
self-insuring employers, to ensure compliance with bureau 1396  
requirements and for that purpose, shall develop and issue to 1397  
self-insuring employers standardized forms for use by the 1398  
self-insuring employer in all aspects of the self-insuring 1399  
employers' direct compensation program and for reporting of 1400  
information to the bureau. 1401

The bureau shall receive and transmit to the self-insuring 1402  
employer all complaints concerning any self-insuring employer. In 1403  
the case of a complaint against a self-insuring employer, the 1404  
administrator shall handle the complaint through the 1405  
self-insurance division of the bureau. The bureau shall maintain a 1406  
file by employer of all complaints received that relate to the 1407  
employer. The bureau shall evaluate each complaint and take 1408  
appropriate action. 1409

The administrator shall adopt as a rule a prohibition against 1410  
any self-insuring employer from harassing, dismissing, or 1411  
otherwise disciplining any employee making a complaint, which rule 1412  
shall provide for a financial penalty to be levied by the 1413  
administrator payable by the offending self-insuring employer. 1414

(H) For the purpose of making determinations as to whether to 1415  
grant status as a self-insuring employer, the administrator may 1416  
subscribe to and pay for a credit reporting service that offers 1417  
financial and other business information about individual 1418  
employers. The costs in connection with the bureau's subscription 1419  
or individual reports from the service about an applicant may be 1420  
included in the application fee charged employers under this 1421  
section. 1422

(I) The administrator, notwithstanding other provisions of 1423

this chapter, may permit a self-insuring employer to resume 1424  
payment of premiums to the state insurance fund with appropriate 1425  
credit modifications to the employer's basic premium rate as such 1426  
rate is determined pursuant to section 4123.29 of the Revised 1427  
Code. 1428

(J) On the first day of July of each year, the administrator 1429  
shall calculate separately each self-insuring employer's 1430  
assessments for the safety and hygiene fund, administrative costs 1431  
pursuant to section 4123.342 of the Revised Code, and for the 1432  
~~portion of the~~ surplus fund under division (B) of section 4123.34 1433  
of the Revised Code ~~that is not used for handicapped~~ 1434  
~~reimbursement~~, on the basis of the paid compensation attributable 1435  
to the individual self-insuring employer according to the 1436  
following calculation: 1437

(1) The total assessment against all self-insuring employers 1438  
as a class for each fund and for the administrative costs for the 1439  
year that the assessment is being made, as determined by the 1440  
administrator, divided by the total amount of paid compensation 1441  
for the previous calendar year attributable to all amenable 1442  
self-insuring employers; 1443

(2) Multiply the quotient in division (J)(1) of this section 1444  
by the total amount of paid compensation for the previous calendar 1445  
year that is attributable to the individual self-insuring employer 1446  
for whom the assessment is being determined. Each self-insuring 1447  
employer shall pay the assessment that results from this 1448  
calculation, unless the assessment resulting from this calculation 1449  
falls below a minimum assessment, which minimum assessment the 1450  
administrator shall determine on the first day of July of each 1451  
year with the advice and consent of the bureau of workers' 1452  
compensation board of directors, in which event, the self-insuring 1453  
employer shall pay the minimum assessment. 1454

In determining the total amount due for the total assessment 1455

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

~~The administrator shall calculate the assessment for the 1461  
portion of the surplus fund under division (B) of section 4123.34 1462  
of the Revised Code that is used for handicapped reimbursement in 1463  
the same manner as set forth in divisions (J)(1) and (2) of this 1464  
section except that the administrator shall calculate the total 1465  
assessment for this portion of the surplus fund only on the basis 1466  
of those self-insuring employers that retain participation in the 1467  
handicapped reimbursement program and the individual self-insuring 1468  
employer's proportion of paid compensation shall be calculated 1469  
only for those self-insuring employers who retain participation in 1470  
the handicapped reimbursement program. The administrator, as the 1471  
administrator determines appropriate, may determine the total 1472  
assessment for the handicapped portion of the surplus fund in 1473  
accordance with sound actuarial principles. 1474~~

~~The administrator shall calculate the assessment for the 1475  
portion of the surplus fund under division (B) of section 4123.34 1476  
of the Revised Code that under division (D) of section 4121.66 of 1477  
the Revised Code is used for rehabilitation costs in the same 1478  
manner as set forth in divisions (J)(1) and (2) of this section, 1479  
except that the administrator shall calculate the total assessment 1480  
for this portion of the surplus fund only on the basis of those 1481  
self-insuring employers who have not made the election to make 1482  
payments directly under division (D) of section 4121.66 of the 1483  
Revised Code and an individual self-insuring employer's proportion 1484  
of paid compensation only for those self-insuring employers who 1485  
have not made that election. 1486~~

The administrator shall calculate the assessment for the 1487



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

An employer who no longer is a self-insuring employer in this 1502  
state or who no longer is operating in this state, shall continue 1503  
to pay assessments for administrative costs and for ~~the portion of~~ 1504  
the surplus fund under division (B) of section 4123.34 of the 1505  
Revised Code ~~that is not used for handicapped reimbursement~~, based 1506  
upon paid compensation attributable to claims that occurred while 1507  
the employer was a self-insuring employer within this state. 1508

(K) There is hereby created in the state treasury the 1509  
self-insurance assessment fund. All investment earnings of the 1510  
fund shall be deposited in the fund. The administrator shall use 1511  
the money in the self-insurance assessment fund only for 1512  
administrative costs as specified in section 4123.341 of the 1513  
Revised Code. 1514

(L) Every self-insuring employer shall certify, in affidavit 1515  
form subject to the penalty for perjury, to the bureau the amount 1516  
of the self-insuring employer's paid compensation for the previous 1517  
calendar year. In reporting paid compensation paid for the 1518  
previous year, a self-insuring employer shall exclude from the 1519

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

(1) Establishing the date by which self-insuring employers 1533  
must submit such information and the amount of the assessments 1534  
provided for in division (J) of this section for employers who 1535  
have been granted self-insuring status within the last calendar 1536  
year; 1537

(2) If an employer fails to pay the assessment when due, the 1538  
administrator may add a late fee penalty of not more than five 1539  
hundred dollars to the assessment plus an additional penalty 1540  
amount as follows: 1541

(a) For an assessment from sixty-one to ninety days past due, 1542  
the prime interest rate, multiplied by the assessment due; 1543

(b) For an assessment from ninety-one to one hundred twenty 1544  
days past due, the prime interest rate plus two per cent, 1545  
multiplied by the assessment due; 1546

(c) For an assessment from one hundred twenty-one to one 1547  
hundred fifty days past due, the prime interest rate plus four per 1548  
cent, multiplied by the assessment due; 1549

(d) For an assessment from one hundred fifty-one to one 1550

hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the assessment due;

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

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

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

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

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

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

(N) Should any section of this chapter or Chapter 4121. of 1582  
the Revised Code providing for self-insuring employers' 1583  
assessments based upon compensation paid be declared 1584  
unconstitutional by a final decision of any court, then that 1585  
section of the Revised Code declared unconstitutional shall revert 1586  
back to the section in existence prior to November 3, 1989, 1587  
providing for assessments based upon payroll. 1588

(O) The administrator may grant a self-insuring employer the 1589  
privilege to self-insure a construction project entered into by 1590  
the self-insuring employer that is scheduled for completion within 1591  
six years after the date the project begins, and the total cost of 1592  
which is estimated to exceed one hundred million dollars or, for 1593  
employers described in division (R) of this section, if the 1594  
construction project is estimated to exceed twenty-five million 1595  
dollars. The administrator may waive such cost and time criteria 1596  
and grant a self-insuring employer the privilege to self-insure a 1597  
construction project regardless of the time needed to complete the 1598  
construction project and provided that the cost of the 1599  
construction project is estimated to exceed fifty million dollars. 1600  
A self-insuring employer who desires to self-insure a construction 1601  
project shall submit to the administrator an application listing 1602  
the dates the construction project is scheduled to begin and end, 1603  
the estimated cost of the construction project, the contractors 1604  
and subcontractors whose employees are to be self-insured by the 1605  
self-insuring employer, the provisions of a safety program that is 1606  
specifically designed for the construction project, and a 1607  
statement as to whether a collective bargaining agreement 1608  
governing the rights, duties, and obligations of each of the 1609  
parties to the agreement with respect to the construction project 1610  
exists between the self-insuring employer and a labor 1611  
organization. 1612

A self-insuring employer may apply to self-insure the 1613

employees of either of the following: 1614

(1) All contractors and subcontractors who perform labor or 1615  
work or provide materials for the construction project; 1616

(2) All contractors and, at the administrator's discretion, a 1617  
substantial number of all the subcontractors who perform labor or 1618  
work or provide materials for the construction project. 1619

Upon approval of the application, the administrator shall 1620  
mail a certificate granting the privilege to self-insure the 1621  
construction project to the self-insuring employer. The 1622  
certificate shall contain the name of the self-insuring employer 1623  
and the name, address, and telephone number of the self-insuring 1624  
employer's representatives who are responsible for administering 1625  
workers' compensation claims for the construction project. The 1626  
self-insuring employer shall post the certificate in a conspicuous 1627  
place at the site of the construction project. 1628

The administrator shall maintain a record of the contractors 1629  
and subcontractors whose employees are covered under the 1630  
certificate issued to the self-insured employer. A self-insuring 1631  
employer immediately shall notify the administrator when any 1632  
contractor or subcontractor is added or eliminated from inclusion 1633  
under the certificate. 1634

Upon approval of the application, the self-insuring employer 1635  
is responsible for the administration and payment of all claims 1636  
under this chapter and Chapter 4121. of the Revised Code for the 1637  
employees of the contractor and subcontractors covered under the 1638  
certificate who receive injuries or are killed in the course of 1639  
and arising out of employment on the construction project, or who 1640  
contract an occupational disease in the course of employment on 1641  
the construction project. For purposes of this chapter and Chapter 1642  
4121. of the Revised Code, a claim that is administered and paid 1643  
in accordance with this division is considered a claim against the 1644

self-insuring employer listed in the certificate. A contractor or 1645  
subcontractor included under the certificate shall report to the 1646  
self-insuring employer listed in the certificate, all claims that 1647  
arise under this chapter and Chapter 4121. of the Revised Code in 1648  
connection with the construction project for which the certificate 1649  
is issued. 1650

A self-insuring employer who complies with this division is 1651  
entitled to the protections provided under this chapter and 1652  
Chapter 4121. of the Revised Code with respect to the employees of 1653  
the contractors and subcontractors covered under a certificate 1654  
issued under this division for death or injuries that arise out 1655  
of, or death, injuries, or occupational diseases that arise in the 1656  
course of, those employees' employment on that construction 1657  
project, as if the employees were employees of the self-insuring 1658  
employer, provided that the self-insuring employer also complies 1659  
with this section. No employee of the contractors and 1660  
subcontractors covered under a certificate issued under this 1661  
division shall be considered the employee of the self-insuring 1662  
employer listed in that certificate for any purposes other than 1663  
this chapter and Chapter 4121. of the Revised Code. Nothing in 1664  
this division gives a self-insuring employer authority to control 1665  
the means, manner, or method of employment of the employees of the 1666  
contractors and subcontractors covered under a certificate issued 1667  
under this division. 1668

The contractors and subcontractors included under a 1669  
certificate issued under this division are entitled to the 1670  
protections provided under this chapter and Chapter 4121. of the 1671  
Revised Code with respect to the contractor's or subcontractor's 1672  
employees who are employed on the construction project which is 1673  
the subject of the certificate, for death or injuries that arise 1674  
out of, or death, injuries, or occupational diseases that arise in 1675  
the course of, those employees' employment on that construction 1676

project. 1677

The contractors and subcontractors included under a 1678  
certificate issued under this division shall identify in their 1679  
payroll records the employees who are considered the employees of 1680  
the self-insuring employer listed in that certificate for purposes 1681  
of this chapter and Chapter 4121. of the Revised Code, and the 1682  
amount that those employees earned for employment on the 1683  
construction project that is the subject of that certificate. 1684  
Notwithstanding any provision to the contrary under this chapter 1685  
and Chapter 4121. of the Revised Code, the administrator shall 1686  
exclude the payroll that is reported for employees who are 1687  
considered the employees of the self-insuring employer listed in 1688  
that certificate, and that the employees earned for employment on 1689  
the construction project that is the subject of that certificate, 1690  
when determining those contractors' or subcontractors' premiums or 1691  
assessments required under this chapter and Chapter 4121. of the 1692  
Revised Code. A self-insuring employer issued a certificate under 1693  
this division shall include in the amount of paid compensation it 1694  
reports pursuant to division (L) of this section, the amount of 1695  
paid compensation the self-insuring employer paid pursuant to this 1696  
division for the previous calendar year. 1697

Nothing in this division shall be construed as altering the 1698  
rights of employees under this chapter and Chapter 4121. of the 1699  
Revised Code as those rights existed prior to September 17, 1996. 1700  
Nothing in this division shall be construed as altering the rights 1701  
devolved under sections 2305.31 and 4123.82 of the Revised Code as 1702  
those rights existed prior to September 17, 1996. 1703

As used in this division, "privilege to self-insure a 1704  
construction project" means privilege to pay individually 1705  
compensation, and to furnish medical, surgical, nursing, and 1706  
hospital services and attention and funeral expenses directly to 1707  
injured employees or the dependents of killed employees. 1708

(P) A self-insuring employer whose application is granted 1709  
under division (O) of this section shall designate a safety 1710  
professional to be responsible for the administration and 1711  
enforcement of the safety program that is specifically designed 1712  
for the construction project that is the subject of the 1713  
application. 1714

A self-insuring employer whose application is granted under 1715  
division (O) of this section shall employ an ombudsperson for the 1716  
construction project that is the subject of the application. The 1717  
ombudsperson shall have experience in workers' compensation or the 1718  
construction industry, or both. The ombudsperson shall perform all 1719  
of the following duties: 1720

(1) Communicate with and provide information to employees who 1721  
are injured in the course of, or whose injury arises out of 1722  
employment on the construction project, or who contract an 1723  
occupational disease in the course of employment on the 1724  
construction project; 1725

(2) Investigate the status of a claim upon the request of an 1726  
employee to do so; 1727

(3) Provide information to claimants, third party 1728  
administrators, employers, and other persons to assist those 1729  
persons in protecting their rights under this chapter and Chapter 1730  
4121. of the Revised Code. 1731

A self-insuring employer whose application is granted under 1732  
division (O) of this section shall post the name of the safety 1733  
professional and the ombudsperson and instructions for contacting 1734  
the safety professional and the ombudsperson in a conspicuous 1735  
place at the site of the construction project. 1736

(Q) The administrator may consider all of the following when 1737  
deciding whether to grant a self-insuring employer the privilege 1738  
to self-insure a construction project as provided under division 1739



(O) of this section:	1740
(1) Whether the self-insuring employer has an organizational plan for the administration of the workers' compensation law;	1741 1742
(2) Whether the safety program that is specifically designed for the construction project provides for the safety of employees employed on the construction project, is applicable to all contractors and subcontractors who perform labor or work or provide materials for the construction project, and has as a component, a safety training program that complies with standards adopted pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing management and employee involvement;	1743 1744 1745 1746 1747 1748 1749 1750 1751
(3) Whether granting the privilege to self-insure the construction project will reduce the costs of the construction project;	1752 1753 1754
(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;	1755 1756
(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible pursuant to the granting of the privilege to self-insure a construction project under division (O) of this section.	1757 1758 1759 1760 1761
(R) As used in divisions (O), (P), and (Q), "self-insuring employer" includes the following employers, whether or not they have been granted the status of being a self-insuring employer under division (B) of this section:	1762 1763 1764 1765
(1) A state institution of higher education;	1766
(2) A school district;	1767
(3) A county school financing district;	1768
(4) An educational service center;	1769

(5) A community school established under Chapter 3314. of the Revised Code; 1770  
1771

(6) A municipal power agency as defined in section 3734.058 of the Revised Code. 1772  
1773

(S) As used in this section: 1774

(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy; 1775  
1776

(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code. 1777  
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**Sec. 4123.351.** (A) The administrator of workers' compensation shall require every self-insuring employer, including any self-insuring employer that is indemnified by a captive insurance company granted a certificate of authority under Chapter ~~3694.~~ 3964. of the Revised Code, to pay a contribution, calculated under this section, to the self-insuring employers' guaranty fund established pursuant to this section. The fund shall provide for payment of compensation and benefits to employees of the self-insuring employer in order to cover any default in payment by that employer. 1784  
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(B) The bureau of workers' compensation shall operate the self-insuring employers' guaranty fund for self-insuring employers. The administrator annually shall establish the contributions due from self-insuring employers for the fund at rates as low as possible but such as will assure sufficient moneys to guarantee the payment of any claims against the fund. The 1794  
1795  
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1799

bureau's operation of the fund is not subject to sections 3929.10 1800  
to 3929.18 of the Revised Code or to regulation by the 1801  
superintendent of insurance. 1802

(C) If a self-insuring employer defaults, the bureau shall 1803  
recover the amounts paid as a result of the default from the 1804  
self-insuring employers' guaranty fund. If a self-insuring 1805  
employer defaults and is in compliance with this section for the 1806  
payment of contributions to the fund, such self-insuring employer 1807  
is entitled to the immunity conferred by section 4123.74 of the 1808  
Revised Code for any claim arising during any period the employer 1809  
is in compliance with this section. 1810

(D)(1) There is hereby established a self-insuring employers' 1811  
guaranty fund, which shall be in the custody of the treasurer of 1812  
state and which shall be separate from the other funds established 1813  
and administered pursuant to this chapter. The fund shall consist 1814  
of contributions and other payments made by self-insuring 1815  
employers under this section. All investment earnings of the fund 1816  
shall be credited to the fund. The bureau shall make disbursements 1817  
from the fund pursuant to this section. 1818

(2) The administrator has the same powers to invest any of 1819  
the surplus or reserve belonging to the fund as are delegated to 1820  
the administrator under section 4123.44 of the Revised Code with 1821  
respect to the state insurance fund. The administrator shall apply 1822  
interest earned solely to the reduction of assessments for 1823  
contributions from self-insuring employers and to the payments 1824  
required due to defaults. 1825

(3) If the bureau of workers' compensation board of directors 1826  
determines that reinsurance of the risks of the fund is necessary 1827  
to assure solvency of the fund, the board may: 1828

(a) Enter into contracts for the purchase of reinsurance 1829  
coverage of the risks of the fund with any company or agency 1830

authorized by law to issue contracts of reinsurance; 1831

(b) Require the administrator to pay the cost of reinsurance 1832  
from the fund; 1833

(c) Include the costs of reinsurance as a liability and 1834  
estimated liability of the fund. 1835

(E) The administrator, with the advice and consent of the 1836  
board, may adopt rules pursuant to Chapter 119. of the Revised 1837  
Code for the implementation of this section, including a rule, 1838  
notwithstanding division (C) of this section, requiring 1839  
self-insuring employers to provide security in addition to the 1840  
contribution to the self-insuring employers' guaranty fund 1841  
required by this section. The additional security required by the 1842  
rule, as the administrator determines appropriate, shall be 1843  
sufficient and adequate to provide for financial assurance to meet 1844  
the obligations of self-insuring employers under this chapter and 1845  
Chapter 4121. of the Revised Code. 1846

(F) The purchase of coverage under this section by 1847  
self-insuring employers is valid notwithstanding the prohibitions 1848  
contained in division (A) of section 4123.82 of the Revised Code 1849  
and is in addition to the indemnity contracts that self-insuring 1850  
employers may purchase pursuant to division (B) of section 4123.82 1851  
of the Revised Code. 1852

(G) The administrator, on behalf of the self-insuring 1853  
employers' guaranty fund, has the rights of reimbursement and 1854  
subrogation and shall collect from a defaulting self-insuring 1855  
employer or other liable person all amounts the administrator has 1856  
paid or reasonably expects to pay from the fund on account of the 1857  
defaulting self-insuring employer. 1858

(H) The assessments for contributions, the administration of 1859  
the self-insuring employers' guaranty fund, the investment of the 1860  
money in the fund, and the payment of liabilities incurred by the 1861

fund do not create any liability upon the state. 1862

Except for a gross abuse of discretion, neither the board, 1863  
nor the individual members thereof, nor the administrator shall 1864  
incur any obligation or liability respecting the assessments for 1865  
contributions, the administration of the self-insuring employers' 1866  
guaranty fund, the investment of the fund, or the payment of 1867  
liabilities therefrom. 1868

**Sec. 4123.411.** (A) For all injuries and disabilities 1869  
occurring before January 1, 1987, the administrator of workers' 1870  
compensation, for the purpose of carrying out sections 4123.412 to 1871  
4123.418 of the Revised Code, ~~the administrator of workers'~~ 1872  
~~compensation,~~ and with the advice and consent of the bureau of 1873  
workers' compensation board of directors, ~~shall~~ may levy an 1874  
assessment against all employers at a rate not to exceed ten cents 1875  
per one hundred dollars of payroll, ~~such.~~ If the administrator 1876  
levies an assessment under this division, the rate to of that 1877  
assessment shall be determined annually for each employer group 1878  
listed in divisions (A)(1) to (3) of this section, ~~which will.~~ The 1879  
rates determined under this division shall be sufficient to 1880  
produce an amount no greater than the amount the administrator 1881  
estimates to be necessary to carry out such sections for the 1882  
period for which the assessment is levied. In the event the amount 1883  
produced by the assessment is not sufficient to carry out such 1884  
sections the additional amount necessary shall be provided, 1885  
pursuant to section 4123.419 of the Revised Code, from the income 1886  
produced as a result of investments made pursuant to section 1887  
4123.44 of the Revised Code. 1888

~~Assessments~~ If levied, assessments shall be levied according 1889  
to the following schedule: 1890

(1) For private fund employers, except self-insuring 1891  
employers: 1892

(a) For policy years commencing prior to July 1, 2015, in 1893  
January and July of each year upon gross payrolls of the preceding 1894  
six months; 1895

(b) For policy years commencing on or after July 1, 2015, in 1896  
the month of June immediately preceding each policy year upon 1897  
gross payrolls estimated for that policy year. 1898

(2) For counties and taxing district employers therein, 1899  
except county hospitals that are self-insuring employers: 1900

(a) For policy years commencing prior to January 1, 2016, in 1901  
January of each year upon gross payrolls of the preceding twelve 1902  
months; 1903

(b) For policy years commencing on or after January 1, 2016, 1904  
in the month of December immediately preceding each policy year 1905  
upon gross payrolls estimated for that policy year. 1906

(3) For the state as an employer--in January, April, July, 1907  
and October of each year upon gross payrolls of the preceding 1908  
three months or at other intervals as the administrator 1909  
establishes. 1910

After the completion of each policy year that commences on or 1911  
after July 1, 2015, for private fund employers or that commences 1912  
on or after January 1, 2016, for counties and taxing district 1913  
employers therein, the assessments levied under this section shall 1914  
be adjusted for the difference between estimated gross payrolls 1915  
and actual gross payrolls reported by the employer on the payroll 1916  
report submitted by a private employer pursuant to section 4123.26 1917  
of the Revised Code, or, for a public employer, submitted pursuant 1918  
to section 4123.41 of the Revised Code. 1919

Amounts assessed in accordance with this section shall be 1920  
collected from each employer as prescribed in rules the 1921  
administrator adopts. 1922

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

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

Amounts assessed in accordance with this division shall be billed at the same time premiums are billed and credited to the disabled workers' relief fund created by section 4123.412 of the Revised Code. The administrator shall determine the rates for each class in the same manner as the administrator fixes the rates for premiums pursuant to section 4123.29 of the Revised Code.

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

paid to a participant. 1955

**Sec. 4123.419.** The assessment rate established pursuant to 1956  
section 4123.411 of the Revised Code, subject to the limits set 1957  
forth in that section, shall be adequate to provide the amounts 1958  
estimated as necessary by the administrator of workers' 1959  
compensation to carry out the provisions of sections 4123.412 to 1960  
4123.418 of the Revised Code, ~~and in addition to provide moneys to~~ 1961  
~~reimburse the general revenue fund for moneys appropriated by~~ 1962  
~~Section 2 of H.B. No. 1131 of the 103rd general assembly or by the~~ 1963  
~~104th and succeeding general assemblies for disabled workers'~~ 1964  
~~relief. When the additional moneys are available in whole or part~~ 1965  
~~for the purpose of making the reimbursement, the director of~~ 1966  
~~budget and management shall certify the amount to the bureau of~~ 1967  
~~workers' compensation which shall thereupon cause the moneys to be~~ 1968  
~~paid to the general revenue fund from the disabled workers' relief~~ 1969  
~~fund except that any amounts due because of the state's obligation~~ 1970  
~~as an employer pursuant to section 4123.411 of the Revised Code~~ 1971  
~~and not paid to the disabled workers' relief fund shall be~~ 1972  
~~deducted from any such reimbursement.~~ 1973

For all injuries and disabilities occurring before January 1, 1974  
1987, the administrator, for the purpose of carrying out those 1975  
sections and with the advice and consent of the bureau of workers' 1976  
compensation board of directors, may transfer to the disabled 1977  
workers' relief fund from the income produced as a result of 1978  
investments made pursuant to section 4123.44 of the Revised Code 1979  
amounts necessary to carry out those sections with respect to 1980  
claims related to private and public taxing district employers, 1981  
rather than levying an assessment against those employers under 1982  
section 4123.411 of the Revised Code. 1983

**Sec. 4123.512.** (A) The claimant or the employer may appeal an 1984  
order of the industrial commission made under division (E) of 1985



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

If an action has been commenced in a court of a county other 2009  
than a court of a county having jurisdiction over the action, the 2010  
court, upon notice by any party or upon its own motion, shall 2011  
transfer the action to a court of a county having jurisdiction. 2012

Notwithstanding anything to the contrary in this section, if 2013  
the commission determines under section 4123.522 of the Revised 2014  
Code that an employee, employer, or their respective 2015  
representatives have not received written notice of an order or 2016  
decision which is appealable to a court under this section and 2017

which grants relief pursuant to section 4123.522 of the Revised Code, the party granted the relief has sixty days from receipt of the order under section 4123.522 of the Revised Code to file a notice of appeal under this section.

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

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

(C) The attorney general or one or more of the attorney general's assistants or special counsel designated by the attorney general shall represent the administrator and the commission. In the event the attorney general or the attorney general's designated assistants or special counsel are absent, the administrator or the commission shall select one or more of the attorneys in the employ of the administrator or the commission as the administrator's attorney or the commission's attorney in the appeal. Any attorney so employed shall continue the representation during the entire period of the appeal and in all hearings thereof except where the continued representation becomes impractical.

(D) Upon receipt of notice of appeal, the clerk of courts

shall provide notice to all parties who are appellees and to the 2050  
commission. 2051

The claimant shall, within thirty days after the filing of 2052  
the notice of appeal, file a petition containing a statement of 2053  
facts in ordinary and concise language showing a cause of action 2054  
to participate or to continue to participate in the fund and 2055  
setting forth the basis for the jurisdiction of the court over the 2056  
action. Further pleadings shall be had in accordance with the 2057  
Rules of Civil Procedure, provided that service of summons on such 2058  
petition shall not be required and provided that the claimant may 2059  
not dismiss the complaint without the employer's consent if the 2060  
employer is the party that filed the notice of appeal to court 2061  
pursuant to this section. The clerk of the court shall, upon 2062  
receipt thereof, transmit by certified mail a copy thereof to each 2063  
party named in the notice of appeal other than the claimant. Any 2064  
party may file with the clerk prior to the trial of the action a 2065  
deposition of any physician taken in accordance with the 2066  
provisions of the Revised Code, which deposition may be read in 2067  
the trial of the action even though the physician is a resident of 2068  
or subject to service in the county in which the trial is had. The 2069  
bureau of workers' compensation shall pay the cost of the 2070  
stenographic deposition filed in court and of copies of the 2071  
stenographic deposition for each party from the surplus fund and 2072  
charge the costs thereof against the unsuccessful party if the 2073  
claimant's right to participate or continue to participate is 2074  
finally sustained or established in the appeal. In the event the 2075  
deposition is taken and filed, the physician whose deposition is 2076  
taken is not required to respond to any subpoena issued in the 2077  
trial of the action. The court, or the jury under the instructions 2078  
of the court, if a jury is demanded, shall determine the right of 2079  
the claimant to participate or to continue to participate in the 2080  
fund upon the evidence adduced at the hearing of the action. 2081

(E) The court shall certify its decision to the commission 2082  
and the certificate shall be entered in the records of the court. 2083  
Appeals from the judgment are governed by the law applicable to 2084  
the appeal of civil actions. 2085

(F) The cost of any legal proceedings authorized by this 2086  
section, including an attorney's fee to the claimant's attorney to 2087  
be fixed by the trial judge, based upon the effort expended, in 2088  
the event the claimant's right to participate or to continue to 2089  
participate in the fund is established upon the final 2090  
determination of an appeal, shall be taxed against the employer or 2091  
the commission if the commission or the administrator rather than 2092  
the employer contested the right of the claimant to participate in 2093  
the fund. The attorney's fee shall not exceed forty-two hundred 2094  
dollars. 2095

(G) If the finding of the court or the verdict of the jury is 2096  
in favor of the claimant's right to participate in the fund, the 2097  
commission and the administrator shall thereafter proceed in the 2098  
matter of the claim as if the judgment were the decision of the 2099  
commission, subject to the power of modification provided by 2100  
section 4123.52 of the Revised Code. 2101

(H)(1) An appeal from an order issued under division (E) of 2102  
section 4123.511 of the Revised Code or any action filed in court 2103  
in a case in which an award of compensation or medical benefits 2104  
has been made shall not stay the payment of compensation or 2105  
medical benefits under the award, or payment for subsequent 2106  
periods of total disability or medical benefits during the 2107  
pendency of the appeal. If, in a final administrative or judicial 2108  
action, it is determined that payments of compensation or 2109  
benefits, or both, made to or on behalf of a claimant should not 2110  
have been made, the amount thereof shall be charged to the surplus 2111  
fund account under division (B) of section 4123.34 of the Revised 2112  
Code. In the event the employer is a state risk, the amount shall 2113

not be charged to the employer's experience, and the administrator 2114  
shall adjust the employer's account accordingly. In the event the 2115  
employer is a self-insuring employer, the self-insuring employer 2116  
shall deduct the amount from the paid compensation the 2117  
self-insuring employer reports to the administrator under division 2118  
(L) of section 4123.35 of the Revised Code. If an employer is a 2119  
state risk and has paid an assessment for a violation of a 2120  
specific safety requirement, and, in a final administrative or 2121  
judicial action, it is determined that the employer did not 2122  
violate the specific safety requirement, the administrator shall 2123  
reimburse the employer from the surplus fund account under 2124  
division (B) of section 4123.34 of the Revised Code for the amount 2125  
of the assessment the employer paid for the violation. 2126

(2)(a) Notwithstanding a final determination that payments of 2127  
benefits made to or on behalf of a claimant should not have been 2128  
made, the administrator or self-insuring employer shall award 2129  
payment of medical or vocational rehabilitation services submitted 2130  
for payment after the date of the final determination if all of 2131  
the following apply: 2132

(i) The services were approved and were rendered by the 2133  
provider in good faith prior to the date of the final 2134  
determination. 2135

(ii) The services were payable under division (I) of section 2136  
4123.511 of the Revised Code prior to the date of the final 2137  
determination. 2138

(iii) The request for payment is submitted within the time 2139  
limit set forth in section 4123.52 of the Revised Code. 2140

(b) Payments made under division (H)(1) of this section shall 2141  
be charged to the surplus fund account under division (B) of 2142  
section 4123.34 of the Revised Code. If the employer of the 2143  
employee who is the subject of a claim described in division 2144

(H)(2)(a) of this section is a state fund employer, the payments 2145  
made under that division shall not be charged to the employer's 2146  
experience. If that employer is a self-insuring employer, the 2147  
self-insuring employer shall deduct the amount from the paid 2148  
compensation the self-insuring employer reports to the 2149  
administrator under division (L) of section 4123.35 of the Revised 2150  
Code. 2151

(c) Division (H)(2) of this section shall apply only to a 2152  
claim under this chapter or Chapter 4121., 4127., or 4131. of the 2153  
Revised Code arising on or after July 29, 2011. 2154

(3) A self-insuring employer may elect to pay compensation 2155  
and benefits under this section directly to an employee or an 2156  
employee's dependents by filing an application with the bureau of 2157  
workers' compensation not more than one hundred eighty days and 2158  
not less than ninety days before the first day of the employer's 2159  
next six-month coverage period. If the self-insuring employer 2160  
timely files the application, the application is effective on the 2161  
first day of the employer's next six-month coverage period, 2162  
provided that the administrator shall compute the employer's 2163  
assessment for the surplus fund account due with respect to the 2164  
period during which that application was filed without regard to 2165  
the filing of the application. On and after the effective date of 2166  
the employer's election, the self-insuring employer shall pay 2167  
directly to an employee or to an employee's dependents 2168  
compensation and benefits under this section regardless of the 2169  
date of the injury or occupational disease, and the employer shall 2170  
receive no money or credits from the surplus fund account on 2171  
account of those payments and shall not be required to pay any 2172  
amounts into the surplus fund account on account of this section. 2173  
The election made under this division is irrevocable. 2174

(I) All actions and proceedings under this section which are 2175  
the subject of an appeal to the court of common pleas or the court 2176

of appeals shall be preferred over all other civil actions except 2177  
election causes, irrespective of position on the calendar. 2178

This section applies to all decisions of the commission or 2179  
the administrator on November 2, 1959, and all claims filed 2180  
thereafter are governed by sections 4123.511 and 4123.512 of the 2181  
Revised Code. 2182

Any action pending in common pleas court or any other court 2183  
on January 1, 1986, under this section is governed by former 2184  
sections 4123.514, 4123.515, 4123.516, and 4123.519 and section 2185  
4123.522 of the Revised Code. 2186

**Sec. 4123.56.** (A) Except as provided in division (D) of this 2187  
section, in the case of temporary disability, an employee shall 2188  
receive sixty-six and two-thirds per cent of the employee's 2189  
average weekly wage so long as such disability is total, not to 2190  
exceed a maximum amount of weekly compensation which is equal to 2191  
the statewide average weekly wage as defined in division (C) of 2192  
section 4123.62 of the Revised Code, and not less than a minimum 2193  
amount of compensation which is equal to thirty-three and 2194  
one-third per cent of the statewide average weekly wage as defined 2195  
in division (C) of section 4123.62 of the Revised Code unless the 2196  
employee's wage is less than thirty-three and one-third per cent 2197  
of the minimum statewide average weekly wage, in which event the 2198  
employee shall receive compensation equal to the employee's full 2199  
wages; provided that for the first twelve weeks of total 2200  
disability the employee shall receive seventy-two per cent of the 2201  
employee's full weekly wage, but not to exceed a maximum amount of 2202  
weekly compensation which is equal to the lesser of the statewide 2203  
average weekly wage as defined in division (C) of section 4123.62 2204  
of the Revised Code or one hundred per cent of the employee's net 2205  
take-home weekly wage. In the case of a self-insuring employer, 2206  
payments shall be for a duration based upon the medical reports of 2207

the attending physician. If the employer disputes the attending 2208  
physician's report, payments may be terminated only upon 2209  
application and hearing by a district hearing officer pursuant to 2210  
division (C) of section 4123.511 of the Revised Code. Payments 2211  
shall continue pending the determination of the matter, however 2212  
payment shall not be made for the period when any employee has 2213  
returned to work, when an employee's treating physician has made a 2214  
written statement that the employee is capable of returning to the 2215  
employee's former position of employment, when work within the 2216  
physical capabilities of the employee is made available by the 2217  
employer or another employer, or when the employee has reached the 2218  
maximum medical improvement. Where the employee is capable of work 2219  
activity, but the employee's employer is unable to offer the 2220  
employee any employment, the employee shall register with the 2221  
director of job and family services, who shall assist the employee 2222  
in finding suitable employment. The termination of temporary total 2223  
disability, whether by order or otherwise, does not preclude the 2224  
commencement of temporary total disability at another point in 2225  
time if the employee again becomes temporarily totally disabled. 2226

After two hundred weeks of temporary total disability 2227  
benefits, the medical section of the bureau of workers' 2228  
compensation shall schedule the claimant for an examination for an 2229  
evaluation to determine whether or not the temporary disability 2230  
has become permanent. A self-insuring employer shall notify the 2231  
bureau immediately after payment of two hundred weeks of temporary 2232  
total disability and request that the bureau schedule the claimant 2233  
for such an examination. 2234

When the employee is awarded compensation for temporary total 2235  
disability for a period for which the employee has received 2236  
benefits under Chapter 4141. of the Revised Code, the bureau shall 2237  
pay an amount equal to the amount received from the award to the 2238  
director of job and family services and the director shall credit 2239



the amount to the accounts of the employers to whose accounts the 2240  
payment of benefits was charged or is chargeable to the extent it 2241  
was charged or is chargeable. 2242

If any compensation under this section has been paid for the 2243  
same period or periods for which temporary nonoccupational 2244  
accident and sickness insurance is or has been paid pursuant to an 2245  
insurance policy or program to which the employer has made the 2246  
entire contribution or payment for providing insurance or under a 2247  
nonoccupational accident and sickness program fully funded by the 2248  
employer, except as otherwise provided in this division 2249  
compensation paid under this section for the period or periods 2250  
shall be paid only to the extent by which the payment or payments 2251  
exceeds the amount of the nonoccupational insurance or program 2252  
paid or payable. Offset of the compensation shall be made only 2253  
upon the prior order of the bureau or industrial commission or 2254  
agreement of the claimant. If an employer provides supplemental 2255  
sick leave benefits in addition to temporary total disability 2256  
compensation paid under this section, and if the employer and an 2257  
employee agree in writing to the payment of the supplemental sick 2258  
leave benefits, temporary total disability benefits may be paid 2259  
without an offset for those supplemental sick leave benefits. 2260

As used in this division, "net take-home weekly wage" means 2261  
the amount obtained by dividing an employee's total remuneration, 2262  
as defined in section 4141.01 of the Revised Code, paid to or 2263  
earned by the employee during the first four of the last five 2264  
completed calendar quarters which immediately precede the first 2265  
day of the employee's entitlement to benefits under this division, 2266  
by the number of weeks during which the employee was paid or 2267  
earned remuneration during those four quarters, less the amount of 2268  
local, state, and federal income taxes deducted for each such 2269  
week. 2270

(B)(1) If an employee in a claim allowed under this chapter 2271

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

(2) If an employee in a claim allowed under this chapter 2282  
suffers a wage loss as a result of being unable to find employment 2283  
consistent with the employee's disability resulting from the 2284  
employee's injury or occupational disease, the employee shall 2285  
receive compensation at sixty-six and two-thirds per cent of the 2286  
difference between the employee's average weekly wage and the 2287  
employee's present earnings, not to exceed the statewide average 2288  
weekly wage. The payments may continue for up to a maximum of 2289  
fifty-two weeks. The first twenty-six weeks of payments under 2290  
division (B)(2) of this section shall be in addition to the 2291  
maximum of two hundred weeks of payments allowed under division 2292  
(B)(1) of this section. If an employee in a claim allowed under 2293  
this chapter receives compensation under division (B)(2) of this 2294  
section in excess of twenty-six weeks, the number of weeks of 2295  
compensation allowable under division (B)(1) of this section shall 2296  
be reduced by the corresponding number of weeks in excess of 2297  
twenty-six, and up to fifty-two, that is allowable under division 2298  
(B)(1) of this section. 2299

(3) The number of weeks of wage loss payable to an employee 2300  
under divisions (B)(1) and (2) of this section shall not exceed 2301  
two hundred and twenty-six weeks in the aggregate. 2302

(C) In the event an employee of a professional sports 2303

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

(D) If an employee receives temporary total disability 2312  
benefits pursuant to division (A) of this section and social 2313  
security retirement benefits pursuant to the "Social Security 2314  
Act," the weekly benefit amount under division (A) of this section 2315  
shall not exceed sixty-six and two-thirds per cent of the 2316  
statewide average weekly wage as defined in division (C) of 2317  
section 4123.62 of the Revised Code. 2318

**Sec. 4123.59.** In case an injury to or an occupational disease 2319  
contracted by an employee causes ~~his~~ the employee's death, 2320  
benefits shall be in the amount and to the persons following: 2321

(A) If there are no dependents, the disbursements from the 2322  
state insurance fund is limited to the expenses provided for in 2323  
section 4123.66 of the Revised Code. 2324

(B) If there are wholly dependent persons at the time of the 2325  
death, the weekly payment is sixty-six and two-thirds per cent of 2326  
the average weekly wage, but not to exceed a maximum aggregate 2327  
amount of weekly compensation which is equal to sixty-six and 2328  
two-thirds per cent of the statewide average weekly wage as 2329  
defined in division (C) of section 4123.62 of the Revised Code, 2330  
and not in any event less than a minimum amount of weekly 2331  
compensation which is equal to fifty per cent of the statewide 2332  
average weekly wage as defined in division (C) of section 4123.62 2333  
of the Revised Code, regardless of the average weekly wage; 2334

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

(1) The payment as provided in this section shall continue 2349  
from the date of death of an injured or disabled employee until 2350  
the death or remarriage of such dependent spouse. If the dependent 2351  
spouse remarries, an amount equal to two years of compensation 2352  
benefits at the weekly amount determined to be applicable to and 2353  
being paid to the dependent spouse shall be paid in a lump sum to 2354  
such spouse and no further compensation shall be paid to such 2355  
spouse. 2356

(2) That portion of the payment provided in division (B) of 2357  
this section applicable to wholly dependent persons other than a 2358  
spouse shall continue from the date of death of an injured or 2359  
disabled employee to a dependent as of the date of death, other 2360  
than a spouse, at the weekly amount determined to be applicable 2361  
and being paid to such dependent other than a spouse, until ~~he~~ the 2362  
dependent: 2363

(a) Reaches eighteen years of age; 2364

(b) If pursuing a full time educational program while 2365  
enrolled in an accredited educational institution and program, 2366

reaches twenty-five years of age; 2367

(c) If mentally or physically incapacitated from having any 2368  
earnings, is no longer so incapacitated. 2369

(3)(a) Payments under division (B) of this section to a 2370  
dependent described in division (B)(2)(c) of this section shall 2371  
not be terminated due to the dependent's employment in a sheltered 2372  
workshop if the dependent does not receive income, compensation, 2373  
or remuneration from that employment in excess of two thousand 2374  
dollars in any calendar quarter. 2375

(b) As used in division (B)(3) of this section, "sheltered 2376  
workshop" has the same meaning as in section 4123.58 of the 2377  
Revised Code. 2378

(C) If there are partly dependent persons at the time of the 2379  
death the weekly payment is sixty-six and two-thirds per cent of 2380  
the employee's average weekly wage, not to exceed sixty-six and 2381  
two-thirds per cent of the statewide average weekly wage as 2382  
defined in division (C) of section 4123.62 of the Revised Code, 2383  
and shall continue for such time as the administrator in each case 2384  
determines. 2385

(D) The following persons are presumed to be wholly dependent 2386  
for their support upon a deceased employee: 2387

(1) A surviving spouse who was living with the employee at 2388  
the time of death or a surviving spouse who was separated from the 2389  
employee at the time of death because of the aggression of the 2390  
employee; 2391

(2) A child under the age of eighteen years, or twenty-five 2392  
years if pursuing a full-time educational program while enrolled 2393  
in an accredited educational institution and program, or over said 2394  
age if physically or mentally incapacitated from earning, upon 2395  
only the one parent who is contributing more than one-half of the 2396  
support for such child and with whom ~~he~~ the child is living at the 2397

time of the death of such parent, or for whose maintenance such 2398  
parent was legally liable at the time of ~~his~~ the parent's death. 2399

It is presumed that there is sufficient dependency to entitle 2400  
a surviving natural parent or surviving natural parents, share and 2401  
share alike, with whom the decedent was living at the time of ~~his~~ 2402  
the decedent's death, to a total minimum award of three thousand 2403  
dollars. 2404

The administrator may take into consideration any 2405  
circumstances which, at the time of the death of the decedent, 2406  
clearly indicate prospective dependency on the part of the 2407  
claimant and potential support on the part of the decedent. No 2408  
person shall be considered a prospective dependent unless such 2409  
person is a member of the family of the deceased employee and 2410  
bears to ~~him~~ the deceased employee the relation of surviving 2411  
spouse, lineal descendant, ancestor, or brother or sister. The 2412  
total award for any or all prospective dependency to all such 2413  
claimants, except to a natural parent or natural parents of the 2414  
deceased, shall not exceed three thousand dollars to be 2415  
apportioned among them as the administrator orders. 2416

In all other cases, the question of dependency, in whole or 2417  
in part, shall be determined in accordance with the facts in each 2418  
particular case existing at the time of the injury resulting in 2419  
the death of such employee, but no person shall be considered as 2420  
dependent unless such person is a member of the family of the 2421  
deceased employee, or bears to ~~him~~ the deceased employee the 2422  
relation of surviving spouse, lineal descendant, ancestor, or 2423  
brother or sister. 2424

(E) An order issued by the administrator under this section 2425  
is appealable pursuant to sections 4123.511 to 4123.512 of the 2426  
Revised Code. 2427

**Section 2.** That existing sections 119.12, 4121.129, 4121.37, 2428

4121.61, 4121.65, 4121.66, 4121.67, 4121.68, 4123.01, 4123.291, 2429  
 4123.34, 4123.343, 4123.35, 4123.351, 4123.411, 4123.419, 2430  
 4123.512, 4123.56, and 4123.59 and section 4121.48 of the Revised 2431  
 Code are hereby repealed. 2432

**Section 3.** All items in this section are hereby appropriated 2433  
 out of any moneys in the state treasury to the credit of the 2434  
 designated fund. For all appropriations made in this act, those in 2435  
 the first column are for fiscal year 2016, and those in the second 2436  
 column are for fiscal year 2017. 2437

FND AI	AI TITLE	Appropriations		
	BWC BUREAU OF WORKERS' COMPENSATION			2439
	Dedicated Purpose Fund Group			2440
7023 855407	Claims, Risk and Medical Management	\$ 110,445,000	\$ 110,445,000	2441
7023 855408	Fraud Prevention	\$ 11,909,400	\$ 11,909,400	2442
7023 855409	Administrative Services	\$ 110,360,919	\$ 110,360,919	2443
7023 855410	Attorney General Payments	\$ 4,621,850	\$ 4,621,850	2444
8220 855606	Coal Workers' Fund	\$ 147,666	\$ 147,666	2445
8230 855608	Marine Industry	\$ 55,000	\$ 55,000	2446
8250 855605	Disabled Workers Relief Fund	\$ 170,000	\$ 170,000	2447
8260 855609	Safety and Hygiene Operating	\$ 21,661,132	\$ 21,661,132	2448
8260 855610	Safety Grants	\$ 15,000,000	\$ 15,000,000	2449
TOTAL DPF	Dedicated Purpose Fund Group	\$ 274,370,967	\$ 274,370,967	2450
	Federal Fund Group			2451
3490 855601	OSHA Enforcement	\$ 1,731,000	\$ 1,731,000	2452

3FW0 855614 BLS SOII Grant	\$	141,000	\$	141,000	2453
TOTAL FED Federal Fund Group	\$	1,872,000	\$	1,872,000	2454
TOTAL ALL BUDGET FUND GROUPS	\$	276,242,967	\$	276,242,967	2455

WORKERS' COMPENSATION FRAUD UNIT 2456

Of the foregoing appropriation item 855410, Attorney General 2457  
Payments, \$828,200 in each fiscal year shall be used to fund the 2458  
expenses of the Workers' Compensation Fraud Unit within the 2459  
Attorney General's Office. These payments shall be processed at 2460  
the beginning of each quarter of each fiscal year and deposited 2461  
into the Workers' Compensation Section Fund (Fund 1950) used by 2462  
the Attorney General. 2463

SAFETY AND HYGIENE 2464

Notwithstanding section 4121.37 of the Revised Code, the 2465  
Treasurer of State shall transfer \$21,661,132 cash in fiscal year 2466  
2016 and \$21,661,132 cash in fiscal year 2017 from the State 2467  
Insurance Fund to the Safety and Hygiene Fund (Fund 8260). 2468

OSHA ON-SITE CONSULTATION PROGRAM 2469

A portion of the foregoing appropriation item 855609, Safety 2470  
and Hygiene Operating, may be used to provide the state match for 2471  
federal funding of the Occupational Safety and Health 2472  
Administration's On-site Consultation Program operated by the 2473  
Division of Safety and Hygiene. 2474

VOCATIONAL REHABILITATION 2475

The Bureau of Workers' Compensation and the Opportunities for 2476  
Ohioans with Disabilities Agency shall enter into an interagency 2477  
agreement for the provision of vocational rehabilitation services 2478  
and staff to mutually eligible clients. The Bureau may provide not 2479  
more than \$605,407 in fiscal year 2016 and \$605,407 in fiscal year 2480  
2017 from the State Insurance Fund to fund vocational 2481  
rehabilitation services and staff in accordance with the 2482  
interagency agreement. 2483



**Section 4.** DEPUTY INSPECTOR GENERAL FOR BWC AND OIC FUNDING 2484

To pay for the FY 2016 costs related to the Deputy Inspector 2485  
General for the Bureau of Workers' Compensation and Industrial 2486  
Commission, on July 1, 2015, and January 1, 2016, or as soon as 2487  
possible thereafter, the Director of Budget and Management shall 2488  
transfer \$212,500 in cash from the Workers' Compensation Fund 2489  
(Fund 7023) to the Deputy Inspector General for the Bureau of 2490  
Workers' Compensation and Industrial Commission Fund (Fund 5FT0). 2491

To pay for the FY 2017 costs related to the Deputy Inspector 2492  
General for the Bureau of Workers' Compensation and Industrial 2493  
Commission, on July 1, 2016, and January 1, 2017, or as soon as 2494  
possible thereafter, the Director of Budget and Management shall 2495  
transfer \$212,500 in cash from the Workers' Compensation Fund 2496  
(Fund 7023) to the Deputy Inspector General for the Bureau of 2497  
Workers' Compensation and Industrial Commission Fund (Fund 5FT0). 2498

If additional amounts are needed, the Inspector General may 2499  
seek Controlling Board approval for additional transfers of cash 2500  
and to increase the amount appropriated in appropriation item 2501  
965604, Deputy Inspector General for the Bureau of Workers' 2502  
Compensation and Industrial Commission. 2503

**Section 5.** Law contained in the Main Operating Appropriations 2504  
Act of the 131st General Assembly that applies generally to the 2505  
appropriations made in that act also applies generally to the 2506  
appropriations made in this act. 2507

**Section 6.** The provisions of law contained in this act, and 2508  
their applications, are severable. If any provision of law 2509  
contained in this act, or if any application of any provision of 2510  
law contained in this act, is held invalid, the invalidity does 2511  
not affect other provisions of law contained in this act and their 2512  
applications that can be given effect without the invalid 2513

provision or application. 2514

**Section 7.** Except as otherwise specifically provided in this 2515  
act, the amendment, enactment, or repeal by this act of a section 2516  
of law is exempt from the referendum under Ohio Constitution, 2517  
Article II, Section 1d and section 1.471 of the Revised Code and 2518  
therefore takes effect immediately when this act becomes law. 2519

**Section 8.** The amendment, enactment, or repeal by this act of 2520  
the divisions and sections of law listed below are subject to the 2521  
referendum under Ohio Constitution, Article II, Section 1c and 2522  
therefore take effect on the ninety-first day after this act is 2523  
filed with the Secretary of State: 2524

All Revised Code sections in Section 1 of this act. 2525