

**As Reconsidered and Passed by the Senate**

**131st General Assembly**

**Regular Session**

**2015-2016**

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

**Representative Hackett**

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

---

**A B I L L**

To amend sections 119.12, 4121.129, 4121.37, 4121.61, 1  
4121.65, 4121.66, 4121.67, 4121.68, 4123.01, 2  
4123.291, 4123.34, 4123.343, 4123.35, 4123.351, 3  
4123.411, 4123.419, 4123.512, 4123.56, and 4  
4123.59, to enact section 5162.80, and to repeal 5  
section 4121.48 of the Revised Code to make 6  
changes to the Workers' Compensation Law, to make 7  
appropriations for the Bureau of Workers' 8  
Compensation for the biennium beginning July 1, 9  
2015, and ending June 30, 2017, and to provide 10  
authorization and conditions for the operation of 11  
the Bureau's programs. 12

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

**Section 1.** That sections 119.12, 4121.129, 4121.37, 4121.61, 13  
4121.65, 4121.66, 4121.67, 4121.68, 4123.01, 4123.291, 4123.34, 14  
4123.343, 4123.35, 4123.351, 4123.411, 4123.419, 4123.512, 15

4123.56, and 4123.59 be amended and section 5162.80 of the Revised Code be enacted to read as follows:

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

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

(a) The liquor control commission,~~the~~i

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

(c) The state chiropractic board,~~and~~i

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

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

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

(B) Any party adversely affected by any order of an agency

issued pursuant to any other adjudication may appeal to the court 45  
of common pleas of Franklin county, except that appeals from 46  
orders of the fire marshal issued under Chapter 3737. of the 47  
Revised Code may be to the court of common pleas of the county in 48  
which the building of the aggrieved person is located and except 49  
that appeals under division (B) of section 124.34 of the Revised 50  
Code from a decision of the state personnel board of review or a 51  
municipal or civil service township civil service commission shall 52  
be taken to the court of common pleas of the county in which the 53  
appointing authority is located or, in the case of an appeal by 54  
the department of rehabilitation and correction, to the court of 55  
common pleas of Franklin county. 56

(C) This section does not apply to appeals from the 57  
department of taxation. 58

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

procedural, and this paragraph as amended by those amendments 77  
shall be applied retrospectively to all appeals pursuant to this 78  
paragraph filed before ~~the effective date of those amendments~~ 79  
September 13, 2010, but not earlier than May 7, 2009, which was 80  
the date the supreme court of Ohio released its opinion and 81  
judgment in *Medcorp, Inc. v. Ohio Dep't. of Job and Family Servs.* 82  
(2009), 121 Ohio St.3d 622. 83

(E) The filing of a notice of appeal shall not automatically 84  
operate as a suspension of the order of an agency. If it appears 85  
to the court that an unusual hardship to the appellant will result 86  
from the execution of the agency's order pending determination of 87  
the appeal, the court may grant a suspension and fix its terms. If 88  
an appeal is taken from the judgment of the court and the court 89  
has previously granted a suspension of the agency's order as 90  
provided in this section, the suspension of the agency's order 91  
shall not be vacated and shall be given full force and effect 92  
until the matter is finally adjudicated. No renewal of a license 93  
or permit shall be denied by reason of the suspended order during 94  
the period of the appeal from the decision of the court of common 95  
pleas. In the case of an appeal from the state medical board or 96  
state chiropractic board, the court may grant a suspension and fix 97  
its terms if it appears to the court that an unusual hardship to 98  
the appellant will result from the execution of the agency's order 99  
pending determination of the appeal and the health, safety, and 100  
welfare of the public will not be threatened by suspension of the 101  
order. This provision shall not be construed to limit the factors 102  
the court may consider in determining whether to suspend an order 103  
of any other agency pending determination of an appeal. 104

(F) The final order of adjudication may apply to any renewal 105  
of a license or permit which has been granted during the period of 106  
the appeal. 107

(G) Notwithstanding any other provision of this section, any 108

order issued by a court of common pleas or a court of appeals 109  
suspending the effect of an order of the liquor control commission 110  
issued pursuant to Chapter 4301. or 4303. of the Revised Code that 111  
suspends, revokes, or cancels a permit issued under Chapter 4303. 112  
of the Revised Code or that allows the payment of a forfeiture 113  
under section 4301.252 of the Revised Code shall terminate not 114  
more than six months after the date of the filing of the record of 115  
the liquor control commission with the clerk of the court of 116  
common pleas and shall not be extended. The court of common pleas, 117  
or the court of appeals on appeal, shall render a judgment in that 118  
matter within six months after the date of the filing of the 119  
record of the liquor control commission with the clerk of the 120  
court of common pleas. A court of appeals shall not issue an order 121  
suspending the effect of an order of the liquor control commission 122  
that extends beyond six months after the date on which the record 123  
of the liquor control commission is filed with a court of common 124  
pleas. 125

(H) Notwithstanding any other provision of this section, any 126  
order issued by a court of common pleas suspending the effect of 127  
an order of the state medical board or state chiropractic board 128  
that limits, revokes, suspends, places on probation, or refuses to 129  
register or reinstate a certificate issued by the board or 130  
reprimands the holder of the certificate shall terminate not more 131  
than fifteen months after the date of the filing of a notice of 132  
appeal in the court of common pleas, or upon the rendering of a 133  
final decision or order in the appeal by the court of common 134  
pleas, whichever occurs first. 135

(I) Within thirty days after receipt of a notice of appeal 136  
from an order in any case in which a hearing is required by 137  
sections 119.01 to 119.13 of the Revised Code, the agency shall 138  
prepare and certify to the court a complete record of the 139  
proceedings in the case. Failure of the agency to comply within 140

the time allowed, upon motion, shall cause the court to enter a finding in favor of the party adversely affected. Additional time, however, may be granted by the court, not to exceed thirty days, when it is shown that the agency has made substantial effort to comply. The record shall be prepared and transcribed, and the expense of it shall be taxed as a part of the costs on the appeal. The appellant shall provide security for costs satisfactory to the court of common pleas. Upon demand by any interested party, the agency shall furnish at the cost of the party requesting it a copy of the stenographic report of testimony offered and evidence submitted at any hearing and a copy of the complete record.

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

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

(L) The court shall conduct a hearing on the appeal and shall give preference to all proceedings under sections 119.01 to 119.13 of the Revised Code, over all other civil cases, irrespective of

the position of the proceedings on the calendar of the court. An 173  
appeal from an order of the state medical board issued pursuant to 174  
division (G) of either section 4730.25 or 4731.22 of the Revised 175  
Code, or the state chiropractic board issued pursuant to section 176  
4734.37 of the Revised Code, or the liquor control commission 177  
issued pursuant to Chapter 4301. or 4303. of the Revised Code 178  
shall be set down for hearing at the earliest possible time and 179  
takes precedence over all other actions. The hearing in the court 180  
of common pleas shall proceed as in the trial of a civil action, 181  
and the court shall determine the rights of the parties in 182  
accordance with the laws applicable to a civil action. At the 183  
hearing, counsel may be heard on oral argument, briefs may be 184  
submitted, and evidence may be introduced if the court has granted 185  
a request for the presentation of additional evidence. 186

(M) The court may affirm the order of the agency complained 187  
of in the appeal if it finds, upon consideration of the entire 188  
record and any additional evidence the court has admitted, that 189  
the order is supported by reliable, probative, and substantial 190  
evidence and is in accordance with law. In the absence of this 191  
finding, it may reverse, vacate, or modify the order or make such 192  
other ruling as is supported by reliable, probative, and 193  
substantial evidence and is in accordance with law. The court 194  
shall award compensation for fees in accordance with section 195  
2335.39 of the Revised Code to a prevailing party, other than an 196  
agency, in an appeal filed pursuant to this section. 197

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

constitutionality, construction, or interpretation of statutes and 205  
rules of the agency, and, in the appeal, the court may also review 206  
and determine the correctness of the judgment of the court of 207  
common pleas that the order of the agency is not supported by any 208  
reliable, probative, and substantial evidence in the entire 209  
record. 210

The court shall certify its judgment to the agency or take 211  
any other action necessary to give its judgment effect. 212

**Sec. 4121.129.** (A) There is hereby created the workers' 213  
compensation audit committee consisting of at least three members. 214  
One member shall be the member of the bureau of workers' 215  
compensation board of directors who is a certified public 216  
accountant. The board, by majority vote, shall appoint two 217  
additional members of the board to serve on the audit committee 218  
and may appoint additional members who are not board members, as 219  
the board determines necessary. Members of the audit committee 220  
serve at the pleasure of the board, and the board, by majority 221  
vote, may remove any member except the member of the committee who 222  
is the certified public accountant member of the board. The board, 223  
by majority vote, shall determine how often the audit committee 224  
shall meet and report to the board. If the audit committee meets 225  
on the same day as the board holds a meeting, no member shall be 226  
compensated for more than one meeting held on that day. The audit 227  
committee shall do all of the following: 228

(1) Recommend to the board an ~~actuarial~~ accounting firm to 229  
perform the annual ~~analysis~~ audits required under division (B) of 230  
section 4123.47 of the Revised Code; 231

(2) Recommend an auditing firm for the board to use when 232  
conducting audits under section 4121.125 of the Revised Code; 233

(3) Review the results of each annual audit and management 234  
review and, if any problems exist, assess the appropriate course 235



of action to correct those problems and develop an action plan to	236
correct those problems;	237
(4) Monitor the implementation of any action plans created	238
pursuant to division (A)(3) of this section;	239
(5) Review all internal audit reports on a regular basis.	240
(B) There is hereby created the workers' compensation	241
actuarial committee consisting of at least three members. One	242
member shall be the member of the board who is an actuary. The	243
board, by majority vote, shall appoint two additional members of	244
the board to serve on the actuarial committee and may appoint	245
additional members who are not board members, as the board	246
determines necessary. Members of the actuarial committee serve at	247
the pleasure of the board and the board, by majority vote, may	248
remove any member except the member of the committee who is the	249
actuary member of the board. The board, by majority vote, shall	250
determine how often the actuarial committee shall meet and report	251
to the board. If the actuarial committee meets on the same day as	252
the board holds a meeting, no member shall be compensated for more	253
than one meeting held on that day. The actuarial committee shall	254
do both of the following:	255
(1) Recommend actuarial consultants for the board to use for	256
the funds specified in this chapter and Chapters 4123., 4127., and	257
4131. of the Revised Code;	258
(2) Review <del>calculations on</del> <u>and approve the various</u> rate	259
schedules <del>and performance</del> prepared <u>and presented</u> by the actuarial	260
<u>division of the bureau or by actuarial</u> consultants with whom the	261
board enters into a contract.	262
(C)(1) There is hereby created the workers' compensation	263
investment committee consisting of at least four members. Two of	264
the members shall be the members of the board who serve as the	265
investment and securities experts on the board. The board, by	266

majority vote, shall appoint two additional members of the board 267  
to serve on the investment committee and may appoint additional 268  
members who are not board members. Each additional member the 269  
board appoints shall have at least one of the following 270  
qualifications: 271

(a) Experience managing another state's pension funds or 272  
workers' compensation funds; 273

(b) Expertise that the board determines is needed to make 274  
investment decisions. 275

Members of the investment committee serve at the pleasure of 276  
the board and the board, by majority vote, may remove any member 277  
except the members of the committee who are the investment and 278  
securities expert members of the board. The board, by majority 279  
vote, shall determine how often the investment committee shall 280  
meet and report to the board. If the investment committee meets on 281  
the same day as the board holds a meeting, no member shall be 282  
compensated for more than one meeting held on that day. 283

(2) The investment committee shall do all of the following: 284

(a) Develop the investment policy for the administration of 285  
the investment program for the funds specified in this chapter and 286  
Chapters 4123., 4127., and 4131. of the Revised Code in accordance 287  
with the requirements specified in section 4123.442 of the Revised 288  
Code; 289

(b) Submit the investment policy developed pursuant to 290  
division (C)(2)(a) of this section to the board for approval; 291

(c) Monitor implementation by the administrator of workers' 292  
compensation and the bureau of workers' compensation chief 293  
investment officer of the investment policy approved by the board; 294

(d) Recommend outside investment counsel with whom the board 295  
may contract to assist the investment committee in fulfilling its 296

duties;	297
(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 management of the funds.	298 299 300 301 302 303 304 305
<b>Sec. 4121.37.</b> The administrator of workers' compensation having, by virtue of Section 35 of Article II, Ohio Constitution, the expenditure of the fund therein created for the investigation and prevention of industrial accidents and diseases, shall, with the advice and consent of the bureau of workers' compensation board of directors, in the exercise of the administrator's authority and in the performance of the administrator's duty, employ a superintendent and the necessary experts, engineers, <del>investigators, clerks, and stenographers</del> <u>occupational safety and health professionals, and support staff</u> for the efficient operation of a division of safety and hygiene of the bureau of workers' compensation, which is hereby created.	306 307 308 309 310 311 312 313 314 315 316 317
The administrator, with the advice and consent of the board, shall pay into the safety and hygiene fund, which is hereby created in the state treasury, the portion of the contributions paid by employers, calculated as though all employers paid premiums based upon payroll, not to exceed one per cent thereof in any year, as is necessary for the payment of the salary of the superintendent of the division of safety and hygiene and the compensation of the other employees of the division of safety and hygiene, <u>and for</u> the expenses of investigations and researches for the prevention of industrial accidents and diseases, <del>and for</del>	318 319 320 321 322 323 324 325 326 327

~~operating the long term care loan fund program established under~~ 328  
~~section 4121.48 of the Revised Code.~~ All investment earnings of 329  
the fund shall be credited to the fund. The administrator has the 330  
same powers to invest any of the funds belonging to the fund as 331  
are delegated to the administrator under section 4123.44 of the 332  
Revised Code with respect to the state insurance fund. The 333  
superintendent, under the direction of the administrator, with the 334  
advice and consent of the board, shall conduct investigations and 335  
researches for the prevention of industrial accidents and 336  
diseases, conduct loss prevention programs and courses for 337  
employers, establish and administrate cooperative programs with 338  
employers for the purchase of individual safety equipment for 339  
employees, and print and distribute information as may be of 340  
benefit to employers and employees. The administrator shall pay 341  
from the safety and hygiene fund the salary of the superintendent 342  
of the division of safety and hygiene, the compensation of the 343  
other employees of the division of safety and hygiene, the 344  
expenses necessary or incidental to investigations and researches 345  
for the prevention of industrial accidents and diseases, and the 346  
cost of printing and distributing such information. 347

The superintendent, under the direction of the administrator, 348  
shall prepare an annual report, addressed to the governor, on the 349  
amount of the expenditures and the purposes for which they have 350  
been made, and the results of the investigations and researches. 351  
The administrator shall include the administrative costs, 352  
salaries, and other expenses of the division of safety and hygiene 353  
as a part of the budget of the bureau of workers' compensation 354  
that is submitted to the director of budget and management and 355  
shall identify those expenditures separately from other bureau 356  
expenditures. 357

The superintendent shall be a competent person with at least 358  
five years' experience in industrial accident or disease 359

prevention work. The superintendent ~~and up to six positions in the~~ 360  
~~division of safety and hygiene as the~~ shall be in the unclassified 361  
civil service of the state. 362

~~The administrator, with the advice and consent of the board,~~ 363  
~~designates are~~ may designate positions in the division that are in 364  
the unclassified civil service of the state as long as the 365  
~~administrator, with the advice and consent of the board,~~ 366  
determines the positions ~~subordinate to the superintendent~~ are 367  
primarily and distinctively administrative, managerial, or 368  
professional in character. All other full-time employees of the 369  
division of safety and hygiene are in the classified civil service 370  
of the state. 371

**Sec. 4121.61.** (A) As used in sections 4121.61 to 4121.70 of 372  
the Revised Code, "self-insuring employer" has the same meaning as 373  
in section 4123.01 of the Revised Code. 374

(B) The administrator of workers' compensation, with the 375  
advice and consent of the bureau of workers' compensation board of 376  
directors, shall adopt rules, take measures, and make expenditures 377  
as it deems necessary to aid claimants who have sustained 378  
compensable injuries or incurred compensable occupational diseases 379  
pursuant to Chapter 4123., 4127., or 4131. of the Revised Code to 380  
return to work or to assist in lessening or removing any resulting 381  
handicap. 382

**Sec. 4121.65.** ~~Employers who provide compensation and benefits~~ 383  
~~pursuant to section 4123.35 of the Revised Code also~~ Self-insuring 384  
employers may be ~~granted authority to~~ furnish rehabilitation 385  
services as long as the quality and content of the ~~same is~~ 386  
services are equal to or greater than that provided by the bureau 387  
of workers' compensation, ~~and prior approval therefor has been~~ 388  
~~given by the bureau.~~ 389

Sec. 4121.66. (A) ~~The~~ Except as provided in division (D) of 390  
this section, the administrator of workers' compensation shall pay 391  
the expense of providing rehabilitation services, counseling, 392  
training, and living maintenance payments from the surplus fund 393  
established by section 4123.34 of the Revised Code. 394

(B) Living maintenance payments are not subject to 395  
garnishment, levy, or attachment. 396

(C) Sections 4123.343, 4123.63, and 4123.64 of the Revised 397  
Code do not apply to living maintenance payments. 398

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

~~provided that for a period not to exceed one hundred eighty days 421~~  
~~after the effective date of the application, the self-insuring 422~~  
~~employer may submit to the bureau requests for reimbursement from 423~~  
~~the surplus fund on account of payments made for services rendered 424~~  
~~or living maintenance periods prior to the effective date of the 425~~  
~~application pursuant to division (A) of this section. The election 426~~  
~~made under this division is irrevocable. 427~~

**Sec. 4121.67.** (A) The administrator of workers' compensation, 428  
with the advice and consent of the bureau of workers' compensation 429  
board of directors, shall adopt rules: 430

~~(A)(1)~~ For the encouragement of reemployment of claimants who 431  
have successfully completed prescribed rehabilitation programs by 432  
payment from the surplus fund established by section 4123.34 of 433  
the Revised Code to employers who employ or re-employ the 434  
claimants. The period or periods of payments shall not exceed six 435  
months in the aggregate, unless the administrator or the 436  
administrator's designee determines that the claimant will be 437  
benefited by an extension of payments. 438

~~(B)(2)~~ Requiring payment, in the same manner as living 439  
maintenance payments are made pursuant to section 4121.63 of the 440  
Revised Code, to the claimant who completes a rehabilitation 441  
training program and returns to employment, but who suffers a wage 442  
loss compared to the wage the claimant was receiving at the time 443  
of injury. Payments per week shall be sixty-six and two-thirds per 444  
cent of the difference, if any, between the claimant's weekly wage 445  
at the time of injury and the weekly wage received while employed, 446  
up to a maximum payment per week equal to the statewide average 447  
weekly wage. The payments may continue for up to a maximum of two 448  
hundred weeks but shall be reduced by the corresponding number of 449  
weeks in which the claimant receives payments pursuant to division 450  
(B) of section 4123.56 of the Revised Code. 451

(B) A self-insuring employer shall make the payments 452  
described in division (A) of this section directly as part of a 453  
claim. 454

**Sec. 4121.68.** In the event a claimant sustains an injury or 455  
occupational disease or dies as a result of any injury or disease 456  
received in the course of and arising out of the claimant's 457  
participation in a rehabilitation program, the claimant or, in the 458  
case of death, a dependent of the claimant, may file a claim for 459  
compensation and benefits. All compensation and benefit awards 460  
made as a result of the injury, disease, or death shall be charged 461  
to the surplus fund account, created pursuant to section 4123.34 462  
of the Revised Code, and not charged through the state insurance 463  
fund to the employer against which the claim was allowed so long 464  
as the employer pays assessments into the surplus fund account for 465  
the payment of such compensation and benefits. If an employer is a 466  
self-insuring employer, the self-insuring employer shall pay these 467  
compensation and benefits directly as a part of a claim. 468

**Sec. 4123.01.** As used in this chapter: 469

(A)(1) "Employee" means: 470

(a) Every person in the service of the state, or of any 471  
county, municipal corporation, township, or school district 472  
therein, including regular members of lawfully constituted police 473  
and fire departments of municipal corporations and townships, 474  
whether paid or volunteer, and wherever serving within the state 475  
or on temporary assignment outside thereof, and executive officers 476  
of boards of education, under any appointment or contract of hire, 477  
express or implied, oral or written, including any elected 478  
official of the state, or of any county, municipal corporation, or 479  
township, or members of boards of education. 480

As used in division (A)(1)(a) of this section, the term 481



"employee" includes the following persons when responding to an inherently dangerous situation that calls for an immediate response on the part of the person, regardless of whether the person is within the limits of the jurisdiction of the person's regular employment or voluntary service when responding, on the condition that the person responds to the situation as the person otherwise would if the person were on duty in the person's jurisdiction:

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

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

(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.

(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.

(c) Every person who performs labor or provides services	513
pursuant to a construction contract, as defined in section 4123.79	514
of the Revised Code, if at least ten of the following criteria	515
apply:	516
(i) The person is required to comply with instructions from	517
the other contracting party regarding the manner or method of	518
performing services;	519
(ii) The person is required by the other contracting party to	520
have particular training;	521
(iii) The person's services are integrated into the regular	522
functioning of the other contracting party;	523
(iv) The person is required to perform the work personally;	524
(v) The person is hired, supervised, or paid by the other	525
contracting party;	526
(vi) A continuing relationship exists between the person and	527
the other contracting party that contemplates continuing or	528
recurring work even if the work is not full time;	529
(vii) The person's hours of work are established by the other	530
contracting party;	531
(viii) The person is required to devote full time to the	532
business of the other contracting party;	533
(ix) The person is required to perform the work on the	534
premises of the other contracting party;	535
(x) The person is required to follow the order of work set by	536
the other contracting party;	537
(xi) The person is required to make oral or written reports	538
of progress to the other contracting party;	539
(xii) The person is paid for services on a regular basis such	540
as hourly, weekly, or monthly;	541

(xiii) The person's expenses are paid for by the other contracting party;	542 543
(xiv) The person's tools and materials are furnished by the other contracting party;	544 545
(xv) The person is provided with the facilities used to perform services;	546 547
(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;	548 549
(xvii) The person is not performing services for a number of employers at the same time;	550 551
(xviii) The person does not make the same services available to the general public;	552 553
(xix) The other contracting party has a right to discharge the person;	554 555
(xx) The person has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.	556 557 558
Every person in the service of any independent contractor or subcontractor who has failed to pay into the state insurance fund the amount of premium determined and fixed by the administrator of workers' compensation for the person's employment or occupation or if a self-insuring employer has failed to pay compensation and benefits directly to the employer's injured and to the dependents of the employer's killed employees as required by section 4123.35 of the Revised Code, shall be considered as the employee of the person who has entered into a contract, whether written or verbal, with such independent contractor unless such employees or their legal representatives or beneficiaries elect, after injury or death, to regard such independent contractor as the employer.	559 560 561 562 563 564 565 566 567 568 569 570
(2) "Employee" does not mean <u>any of the following</u> :	571

(a) A duly ordained, commissioned, or licensed minister or 572  
assistant or associate minister of a church in the exercise of 573  
ministry; 574

(b) Any officer of a family farm corporation; 575

(c) An individual incorporated as a corporation; ~~or~~ 576

(d) An officer of a nonprofit corporation, as defined in 577  
section 1702.01 of the Revised Code, who volunteers the person's 578  
services as a officer; 579

(e) An individual who otherwise is an employee of an employer 580  
but who signs the waiver and affidavit specified in section 581  
4123.15 of the Revised Code on the condition that the 582  
administrator has granted a waiver and exception to the 583  
individual's employer under section 4123.15 of the Revised Code. 584

Any employer may elect to include as an "employee" within 585  
this chapter, any person excluded from the definition of 586  
"employee" pursuant to division (A)(2)(a), (b), (c), or (e) of 587  
this section in accordance with rules adopted by the 588  
administrator, with the advice and consent of the bureau of 589  
workers' compensation board of directors. If an employer is a 590  
partnership, sole proprietorship, individual incorporated as a 591  
corporation, or family farm corporation, such employer may elect 592  
to include as an "employee" within this chapter, any member of 593  
such partnership, the owner of the sole proprietorship, the 594  
individual incorporated as a corporation, or the officers of the 595  
family farm corporation. ~~In~~ Nothing in this section shall prohibit 596  
a partner, sole proprietor, or any person excluded from the 597  
definition of "employee" pursuant to division (A)(2)(a), (b), (c), 598  
or (e) of this section from electing to be included as an 599  
"employee" under this chapter in accordance with rules adopted by 600  
the administrator, with the advice and consent of the board. 601

In the event of an election, the employer or person electing 602

coverage shall serve upon the bureau of workers' compensation 603  
written notice naming the ~~persons~~ person to be covered, and 604  
include ~~such employee's~~ the person's remuneration for premium 605  
purposes in all future payroll reports, ~~and no.~~ No partner, sole 606  
proprietor, or person excluded from the definition of "employee" 607  
pursuant to division (A)(2)(a), (b), (c), or (e) of this section, 608  
~~proprietor, individual incorporated as a corporation, or partner~~ 609  
~~shall be deemed an employee within this division until the~~ 610  
~~employer has served such notice~~ shall receive benefits or 611  
compensation under this chapter until the bureau receives written 612  
notice of the election permitted by this section. 613

For informational purposes only, the bureau shall prescribe 614  
such language as it considers appropriate, on such of its forms as 615  
it considers appropriate, to advise employers of their right to 616  
elect to include as an "employee" within this chapter a sole 617  
proprietor, any member of a partnership, ~~an individual~~ 618  
~~incorporated as a corporation, the officers of a family farm~~ 619  
~~corporation,~~ or a person excluded from the definition of 620  
"employee" under division (A)(2)(a), (b), (c), or (e) of this 621  
section, that they should check any health and disability 622  
insurance policy, or other form of health and disability plan or 623  
contract, presently covering them, or the purchase of which they 624  
may be considering, to determine whether such policy, plan, or 625  
contract excludes benefits for illness or injury that they might 626  
have elected to have covered by workers' compensation. 627

(B) "Employer" means: 628

(1) The state, including state hospitals, each county, 629  
municipal corporation, township, school district, and hospital 630  
owned by a political subdivision or subdivisions other than the 631  
state; 632

(2) Every person, firm, professional employer organization, 633  
and private corporation, including any public service corporation, 634

that (a) has in service one or more employees or shared employees 635  
regularly in the same business or in or about the same 636  
establishment under any contract of hire, express or implied, oral 637  
or written, or (b) is bound by any such contract of hire or by any 638  
other written contract, to pay into the insurance fund the 639  
premiums provided by this chapter. 640

All such employers are subject to this chapter. Any member of 641  
a firm or association, who regularly performs manual labor in or 642  
about a mine, factory, or other establishment, including a 643  
household establishment, shall be considered an employee in 644  
determining whether such person, firm, or private corporation, or 645  
public service corporation, has in its service, one or more 646  
employees and the employer shall report the income derived from 647  
such labor to the bureau as part of the payroll of such employer, 648  
and such member shall thereupon be entitled to all the benefits of 649  
an employee. 650

(C) "Injury" includes any injury, whether caused by external 651  
accidental means or accidental in character and result, received 652  
in the course of, and arising out of, the injured employee's 653  
employment. "Injury" does not include: 654

(1) Psychiatric conditions except where the claimant's 655  
psychiatric conditions have arisen from an injury or occupational 656  
disease sustained by that claimant or where the claimant's 657  
psychiatric conditions have arisen from sexual conduct in which 658  
the claimant was forced by threat of physical harm to engage or 659  
participate; 660

(2) Injury or disability caused primarily by the natural 661  
deterioration of tissue, an organ, or part of the body; 662

(3) Injury or disability incurred in voluntary participation 663  
in an employer-sponsored recreation or fitness activity if the 664  
employee signs a waiver of the employee's right to compensation or 665

benefits under this chapter prior to engaging in the recreation or 666  
fitness activity; 667

(4) A condition that pre-existed an injury unless that 668  
pre-existing condition is substantially aggravated by the injury. 669  
Such a substantial aggravation must be documented by objective 670  
diagnostic findings, objective clinical findings, or objective 671  
test results. Subjective complaints may be evidence of such a 672  
substantial aggravation. However, subjective complaints without 673  
objective diagnostic findings, objective clinical findings, or 674  
objective test results are insufficient to substantiate a 675  
substantial aggravation. 676

(D) "Child" includes a posthumous child and a child legally 677  
adopted prior to the injury. 678

(E) "Family farm corporation" means a corporation founded for 679  
the purpose of farming agricultural land in which the majority of 680  
the voting stock is held by and the majority of the stockholders 681  
are persons or the spouse of persons related to each other within 682  
the fourth degree of kinship, according to the rules of the civil 683  
law, and at least one of the related persons is residing on or 684  
actively operating the farm, and none of whose stockholders are a 685  
corporation. A family farm corporation does not cease to qualify 686  
under this division where, by reason of any devise, bequest, or 687  
the operation of the laws of descent or distribution, the 688  
ownership of shares of voting stock is transferred to another 689  
person, as long as that person is within the degree of kinship 690  
stipulated in this division. 691

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

manner from the public in general. 698

(G) "Self-insuring employer" means an employer who is granted 699  
the privilege of paying compensation and benefits directly under 700  
section 4123.35 of the Revised Code, including a board of county 701  
commissioners for the sole purpose of constructing a sports 702  
facility as defined in section 307.696 of the Revised Code, 703  
provided that the electors of the county in which the sports 704  
facility is to be built have approved construction of a sports 705  
facility by ballot election no later than November 6, 1997. 706

(H) "Private employer" means an employer as defined in 707  
division (B)(2) of this section. 708

(I) "Professional employer organization" has the same meaning 709  
as in section 4125.01 of the Revised Code. 710

(J) "Public employer" means an employer as defined in 711  
division (B)(1) of this section. 712

(K) "Sexual conduct" means vaginal intercourse between a male 713  
and female; anal intercourse, fellatio, and cunnilingus between 714  
persons regardless of gender; and, without privilege to do so, the 715  
insertion, however slight, of any part of the body or any 716  
instrument, apparatus, or other object into the vaginal or anal 717  
cavity of another. Penetration, however slight, is sufficient to 718  
complete vaginal or anal intercourse. 719

(L) "Other-states' insurer" means an insurance company that 720  
is authorized to provide workers' compensation insurance coverage 721  
in any of the states that permit employers to obtain insurance for 722  
workers' compensation claims through insurance companies. 723

(M) "Other-states' coverage" means both of the following: 724

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



employees' dependents; 728

(2) Insurance coverage secured by an eligible employer for 729  
workers' compensation claims that arise in a state other than this 730  
state where an employer elects to obtain coverage through either 731  
the administrator or an other-states' insurer. 732

(N) "Limited other-states coverage" means insurance coverage 733  
provided by the administrator to an eligible employer for workers' 734  
compensation claims of employees who are in an employment 735  
relationship localized in this state but are temporarily working 736  
in a state other than this state, or those employees' dependents. 737

**Sec. 4123.291.** (A) An adjudicating committee appointed by the 738  
administrator of workers' compensation to hear any matter 739  
specified in divisions (B)(1) to (7) of this section shall hear 740  
the matter within sixty days of the date on which an employer 741  
files the request, protest, or petition. An employer desiring to 742  
file a request, protest, or petition regarding any matter 743  
specified in divisions (B)(1) to (7) of this section shall file 744  
the request, protest, or petition to the adjudicating committee on 745  
or before twenty-four months after the administrator sends notice 746  
of the determination about which the employer is filing the 747  
request, protest, or petition. 748

(B) An employer who is adversely affected by a decision of an 749  
adjudicating committee appointed by the administrator may appeal 750  
the decision of the committee to the administrator or the 751  
administrator's designee. The employer shall file the appeal in 752  
writing within thirty days after the employer receives the 753  
decision of the adjudicating committee. The Except as otherwise 754  
provided in this division, the administrator or the designee shall 755  
hear hold a hearing and consider and issue a decision on the 756  
appeal and hold a hearing, provided that if the decision of the 757  
adjudicating committee relates to one of the following: 758

(1) An employer request for a waiver of a default in the payment of premiums pursuant to section 4123.37 of the Revised Code; 759  
760  
761

(2) An employer request for the settlement of liability as a noncomplying employer under section 4123.75 of the Revised Code; 762  
763

(3) An employer petition objecting to an assessment made pursuant to section 4123.37 of the Revised Code and the rules adopted pursuant to that section; 764  
765  
766

(4) An employer request for the abatement of penalties assessed pursuant to section 4123.32 of the Revised Code and the rules adopted pursuant to that section; 767  
768  
769

(5) An employer protest relating to an audit finding or a determination of a manual classification, experience rating, or transfer or combination of risk experience; 770  
771  
772

(6) Any decision relating to any other risk premium matter under Chapters 4121., 4123., and 4131. of the Revised Code; 773  
774

(7) An employer petition objecting to the amount of security required under division (D) of section 4125.05 of the Revised Code and the rules adopted pursuant to that section. 775  
776  
777

An employer may request, in writing, that the administrator waive the hearing before the administrator or the administrator's designee. The administrator shall decide whether to grant or deny a request to waive a hearing. 778  
779  
780  
781

(C) The bureau of workers' compensation board of directors, based upon recommendations of the workers' compensation actuarial committee, shall establish the policy for all adjudicating committee procedures, including, but not limited to, specific criteria for manual premium rate adjustment. 782  
783  
784  
785  
786

**Sec. 4123.34.** It shall be the duty of the bureau of workers' compensation board of directors and the administrator of workers' 787  
788

compensation to safeguard and maintain the solvency of the state 789  
insurance fund and all other funds specified in this chapter and 790  
Chapters 4121., 4127., and 4131. of the Revised Code. The 791  
administrator, in the exercise of the powers and discretion 792  
conferred upon the administrator in section 4123.29 of the Revised 793  
Code, shall fix and maintain, with the advice and consent of the 794  
board, for each class of occupation or industry, the lowest 795  
possible rates of premium consistent with the maintenance of a 796  
solvent state insurance fund and the creation and maintenance of a 797  
reasonable surplus, after the payment of legitimate claims for 798  
injury, occupational disease, and death that the administrator 799  
authorizes to be paid from the state insurance fund for the 800  
benefit of injured, diseased, and the dependents of killed 801  
employees. In establishing rates, the administrator shall take 802  
into account the necessity of ensuring sufficient money is set 803  
aside in the premium payment security fund to cover any defaults 804  
in premium obligations. The administrator shall observe all of the 805  
following requirements in fixing the rates of premium for the 806  
risks of occupations or industries: 807

(A) The administrator shall keep an accurate account of the 808  
money paid in premiums by each of the several classes of 809  
occupations or industries, and the losses on account of injuries, 810  
occupational disease, and death of employees thereof, and also 811  
keep an account of the money received from each individual 812  
employer and the amount of losses incurred against the state 813  
insurance fund on account of injuries, occupational disease, and 814  
death of the employees of the employer. 815

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

statutory surplus fund, or the statutory surplus of the state 821  
insurance fund are hereby deemed to be references to the surplus 822  
fund account. The administrator may transfer the portion of the 823  
state insurance fund to the surplus fund account as the 824  
administrator determines is necessary to satisfy the needs of the 825  
surplus fund account and to guarantee the solvency of the state 826  
insurance fund and the surplus fund account. In addition to all 827  
statutory authority under this chapter and Chapter 4121. of the 828  
Revised Code, the administrator has discretionary and contingency 829  
authority to make charges to the surplus fund account. The 830  
administrator shall account for all charges, whether statutory, 831  
discretionary, or contingency, that the administrator may make to 832  
the surplus fund account. A revision of basic rates shall be made 833  
annually on the first day of July. 834

~~Notwithstanding any provision of the law to the contrary, one 835  
hundred eighty days after the effective date on which 836  
self-insuring employers first may elect under division (D) of 837  
section 4121.66 of the Revised Code to directly pay for 838  
rehabilitation expenses, the administrator shall calculate the 839  
deficit, if any, in the portion of the surplus fund account that 840  
is used for reimbursement to self-insuring employers for all 841  
expenses other than handicapped reimbursement under section 842  
4123.343 of the Revised Code. The administrator, from time to 843  
time, may determine whether the surplus fund account has such a 844  
deficit and may assess all self-insuring employers who 845  
participated in the portion of the surplus fund account during the 846  
accrual of the deficit and who during that time period have not 847  
made the election under division (D) of section 4121.66 of the 848  
Revised Code the amount the administrator determines necessary to 849  
reduce the deficit. 850~~

For policy years commencing prior to July 1, 2016, revisions 851  
of basic rates for private employers shall be in accordance with 852

the oldest four of the last five calendar years of the combined 853  
accident and occupational disease experience of the administrator 854  
in the administration of this chapter, as shown by the accounts 855  
kept as provided in this section. For a policy year commencing on 856  
or after July 1, 2016, revisions of basic rates for private 857  
employers shall be in accordance with the oldest four of the last 858  
five policy years combined accident and occupational disease 859  
experience of the administrator in the administration of this 860  
chapter, as shown by the accounts kept as provided in this 861  
section. 862

Revisions of basic rates for public employers shall be in 863  
accordance with the oldest four of the last five policy years of 864  
the combined accident and occupational disease experience of the 865  
administrator in the administration of this chapter, as shown by 866  
the accounts kept as provided in this section. 867

In revising basic rates, the administrator shall exclude the 868  
experience of employers that are no longer active if the 869  
administrator determines that the inclusion of those employers 870  
would have a significant negative impact on the remainder of the 871  
employers in a particular manual classification. The administrator 872  
shall adopt rules, with the advice and consent of the board, 873  
governing rate revisions, the object of which shall be to make an 874  
equitable distribution of losses among the several classes of 875  
occupation or industry, which rules shall be general in their 876  
application. 877

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

each risk the basic principles of workers' compensation insurance. 885

(D) The administrator, from the money paid into the state 886  
insurance fund, shall set aside into an account of the state 887  
insurance fund titled a premium payment security fund sufficient 888  
money to pay for any premiums due from an employer and 889  
uncollected. 890

The use of the moneys held by the premium payment security 891  
fund account is restricted to reimbursement to the state insurance 892  
fund of premiums due and uncollected. 893

(E) The administrator may grant discounts on premium rates 894  
for employers who meet either of the following requirements: 895

(1) Have not incurred a compensable injury for one year or 896  
more and who maintain an employee safety committee or similar 897  
organization or make periodic safety inspections of the workplace. 898

(2) Successfully complete a loss prevention program 899  
prescribed by the superintendent of the division of safety and 900  
hygiene and conducted by the division or by any other person 901  
approved by the superintendent. 902

(F)(1) In determining the premium rates for the construction 903  
industry the administrator shall calculate the employers' premiums 904  
based upon the actual remuneration construction industry employees 905  
receive from construction industry employers, provided that the 906  
amount of remuneration the administrator uses in calculating the 907  
premiums shall not exceed an average weekly wage equal to one 908  
hundred fifty per cent of the statewide average weekly wage as 909  
defined in division (C) of section 4123.62 of the Revised Code. 910

(2) Division (F)(1) of this section shall not be construed as 911  
affecting the manner in which benefits to a claimant are awarded 912  
under this chapter. 913

(3) As used in division (F) of this section, "construction 914

industry" includes any activity performed in connection with the 915  
erection, alteration, repair, replacement, renovation, 916  
installation, or demolition of any building, structure, highway, 917  
or bridge. 918

(G) The administrator shall not place a limit on the length 919  
of time that an employer may participate in the bureau of workers' 920  
compensation drug free workplace and workplace safety programs. 921

**Sec. 4123.343.** This section shall be construed liberally to 922  
the end that employers shall be encouraged to employ and retain in 923  
their employment handicapped employees as defined in this section. 924

(A) As used in this section, "handicapped employee" means an 925  
employee who is afflicted with or subject to any physical or 926  
mental impairment, or both, whether congenital or due to an injury 927  
or disease of such character that the impairment constitutes a 928  
handicap in obtaining employment or would constitute a handicap in 929  
obtaining reemployment if the employee should become unemployed 930  
and whose handicap is due to any of the following diseases or 931  
conditions: 932

(1) Epilepsy; 933

(2) Diabetes; 934

(3) Cardiac disease; 935

(4) Arthritis; 936

(5) Amputated foot, leg, arm, or hand; 937

(6) Loss of sight of one or both eyes or a partial loss of 938  
uncorrected vision of more than seventy-five per cent bilaterally; 939

(7) Residual disability from poliomyelitis; 940

(8) Cerebral palsy; 941

(9) Multiple sclerosis; 942

(10) Parkinson's disease;	943
(11) Cerebral vascular accident;	944
(12) Tuberculosis;	945
(13) Silicosis;	946
(14) Psycho-neurotic disability following treatment in a recognized medical or mental institution;	947 948
(15) Hemophilia;	949
(16) Chronic osteomyelitis;	950
(17) Ankylosis of joints;	951
(18) Hyper insulinism;	952
(19) Muscular dystrophies;	953
(20) Arterio-sclerosis;	954
(21) Thrombo-phlebitis;	955
(22) Varicose veins;	956
(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;	957 958 959 960
(24) Coal miners' pneumoconiosis, commonly referred to as "black lung disease";	961 962
(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.	963 964 965
(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	966 967 968 969 970



be merit-rated or otherwise treated as part of the accident or 971  
occupational disease experience of the employer. If the employer 972  
~~is a self-insuring employer, the proportion of such costs whether~~ 973  
~~charged to the statutory surplus fund in whole or in part shall be~~ 974  
~~by way of direct payment to such employee or the employee's~~ 975  
~~dependents or by way of reimbursement to the self-insuring~~ 976  
~~employer as the circumstances indicate.~~ The provisions of this 977  
section apply only in cases of death, total disability, whether 978  
temporary or permanent, and all disabilities compensated under 979  
division (B) of section 4123.57 of the Revised Code. The 980  
administrator shall adopt rules specifying the grounds upon which 981  
charges to the statutory surplus fund are to be made. The rules 982  
shall prohibit as a grounds any agreement between employer and 983  
claimant as to the merits of a claim and the amount of the charge. 984

(C) Any employer who has in its employ a handicapped employee 985  
is entitled, in the event the person is injured, to a 986  
determination under this section. 987

An employer shall file an application under this section for 988  
a determination with the bureau or commission in the same manner 989  
as other claims. An application only may be made in cases where a 990  
handicapped employee or a handicapped employee's dependents claim 991  
or ~~is~~ are receiving an award of compensation as a result of an 992  
injury or occupational disease occurring or contracted on or after 993  
the date on which division (A) of this section first included the 994  
handicap of such employee. 995

(D) The circumstances under and the manner in which an 996  
apportionment under this section shall be made are: 997

(1) Whenever a handicapped employee is injured or disabled or 998  
dies as the result of an injury or occupational disease sustained 999  
in the course of and arising out of a handicapped employee's 1000  
employment in this state and the administrator awards compensation 1001  
therefor and when it appears to the satisfaction of the 1002

administrator that the injury or occupational disease or the death 1003  
resulting therefrom would not have occurred but for the 1004  
pre-existing physical or mental impairment of the handicapped 1005  
employee, all compensation and benefits payable on account of the 1006  
disability or death shall be paid from the surplus fund. 1007

(2) Whenever a handicapped employee is injured or disabled or 1008  
dies as a result of an injury or occupational disease and the 1009  
administrator finds that the injury or occupational disease would 1010  
have been sustained or suffered without regard to the employee's 1011  
pre-existing impairment but that the resulting disability or death 1012  
was caused at least in part through aggravation of the employee's 1013  
pre-existing disability, the administrator shall determine in a 1014  
manner that is equitable and reasonable and based upon medical 1015  
evidence the amount of disability or proportion of the cost of the 1016  
death award that is attributable to the employee's pre-existing 1017  
disability and the amount found shall be charged to the statutory 1018  
surplus fund. 1019

(E) The benefits and provisions of this section apply only to 1020  
employers who have complied with this chapter ~~either~~ through 1021  
insurance with the state fund ~~or as a self-insuring employer.~~ 1022

(F) No employer shall in any year receive credit under this 1023  
section in an amount greater than the premium the employer paid ~~if~~ 1024  
~~a state fund employer or greater than the employer's assessments~~ 1025  
~~if a self-insuring employer.~~ 1026

(G) ~~Self-insuring employers may, for all claims made after~~ 1027  
~~January 1, 1987, for compensation and benefits under this section,~~ 1028  
~~pay the compensation and benefits directly to the employee or the~~ 1029  
~~employee's dependents. If such an employer chooses to pay~~ 1030  
~~compensation and benefits directly, the employer shall receive no~~ 1031  
~~money or credit from the surplus fund for the payment under this~~ 1032  
~~section, nor shall the employer be required to pay any amounts~~ 1033  
~~into the surplus fund that otherwise would be assessed for~~ 1034

~~handicapped reimbursements for claims made after January 1, 1987. 1035  
Where a self insuring employer elects to pay for compensation and 1036  
benefits pursuant to this section, the employer shall assume 1037  
responsibility for compensation and benefits arising out of claims 1038  
made prior to January 1, 1987, and shall not be required to pay 1039  
any amounts into the surplus fund and may not receive any money or 1040  
credit from that fund on account of this section. The election 1041  
made under this division is irrevocable. 1042~~

(H) An order issued by the administrator pursuant to this 1043  
section is appealable under section 4123.511 of the Revised Code 1044  
but is not appealable to court under section 4123.512 of the 1045  
Revised Code. 1046

**Sec. 4123.35.** (A) Except as provided in this section, and 1047  
until the policy year commencing July 1, 2015, every private 1048  
employer and every publicly owned utility shall pay semiannually 1049  
in the months of January and July into the state insurance fund 1050  
the amount of annual premium the administrator of workers' 1051  
compensation fixes for the employment or occupation of the 1052  
employer, the amount of which premium to be paid by each employer 1053  
to be determined by the classifications, rules, and rates made and 1054  
published by the administrator. The employer shall pay 1055  
semiannually a further sum of money into the state insurance fund 1056  
as may be ascertained to be due from the employer by applying the 1057  
rules of the administrator. 1058

Except as otherwise provided in this section, for a policy 1059  
year commencing on or after July 1, 2015, every private employer 1060  
and every publicly owned utility shall pay annually in the month 1061  
of June immediately preceding the policy year into the state 1062  
insurance fund the amount of estimated annual premium the 1063  
administrator fixes for the employment or occupation of the 1064  
employer, the amount of which estimated premium to be paid by each 1065

employer to be determined by the classifications, rules, and rates 1066  
made and published by the administrator. The employer shall pay a 1067  
further sum of money into the state insurance fund as may be 1068  
ascertained to be due from the employer by applying the rules of 1069  
the administrator. Upon receipt of the payroll report required by 1070  
division (B) of section 4123.26 of the Revised Code, the 1071  
administrator shall adjust the premium and assessments charged to 1072  
each employer for the difference between estimated gross payrolls 1073  
and actual gross payrolls, and any balance due to the 1074  
administrator shall be immediately paid by the employer. Any 1075  
balance due the employer shall be credited to the employer's 1076  
account. 1077

For a policy year commencing on or after July 1, 2015, each 1078  
employer that is recognized by the administrator as a professional 1079  
employer organization shall pay monthly into the state insurance 1080  
fund the amount of premium the administrator fixes for the 1081  
employer for the prior month based on the actual payroll of the 1082  
employer reported pursuant to division (C) of section 4123.26 of 1083  
the Revised Code. 1084

A receipt certifying that payment has been made shall be 1085  
issued to the employer by the bureau of workers' compensation. The 1086  
receipt is prima-facie evidence of the payment of the premium. The 1087  
administrator shall provide each employer written proof of 1088  
workers' compensation coverage as is required in section 4123.83 1089  
of the Revised Code. Proper posting of the notice constitutes the 1090  
employer's compliance with the notice requirement mandated in 1091  
section 4123.83 of the Revised Code. 1092

The bureau shall verify with the secretary of state the 1093  
existence of all corporations and organizations making application 1094  
for workers' compensation coverage and shall require every such 1095  
application to include the employer's federal identification 1096  
number. 1097

A private employer who has contracted with a subcontractor is 1098  
liable for the unpaid premium due from any subcontractor with 1099  
respect to that part of the payroll of the subcontractor that is 1100  
for work performed pursuant to the contract with the employer. 1101

Division (A) of this section providing for the payment of 1102  
premiums semiannually does not apply to any employer who was a 1103  
subscriber to the state insurance fund prior to January 1, 1914, 1104  
or, until July 1, 2015, who may first become a subscriber to the 1105  
fund in any month other than January or July. Instead, the 1106  
semiannual premiums shall be paid by those employers from time to 1107  
time upon the expiration of the respective periods for which 1108  
payments into the fund have been made by them. After July 1, 2015, 1109  
an employer who first becomes a subscriber to the fund on any day 1110  
other than the first day of July shall pay premiums according to 1111  
rules adopted by the administrator, with the advice and consent of 1112  
the bureau of workers' compensation board of directors, for the 1113  
remainder of the policy year for which the coverage is effective. 1114

The administrator, with the advice and consent of the board, 1115  
shall adopt rules to permit employers to make periodic payments of 1116  
the premium and assessment due under this division. The rules 1117  
shall include provisions for the assessment of interest charges, 1118  
where appropriate, and for the assessment of penalties when an 1119  
employer fails to make timely premium payments. The administrator, 1120  
in the rules the administrator adopts, may set an administrative 1121  
fee for these periodic payments. An employer who timely pays the 1122  
amounts due under this division is entitled to all of the benefits 1123  
and protections of this chapter. Upon receipt of payment, the 1124  
bureau shall issue a receipt to the employer certifying that 1125  
payment has been made, which receipt is prima-facie evidence of 1126  
payment. Workers' compensation coverage under this chapter 1127  
continues uninterrupted upon timely receipt of payment under this 1128  
division. 1129

Every public employer, except public employers that are 1130  
self-insuring employers under this section, shall comply with 1131  
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 1132  
regard to the contribution of moneys to the public insurance fund. 1133

(B) Employers who will abide by the rules of the 1134  
administrator and who may be of sufficient financial ability to 1135  
render certain the payment of compensation to injured employees or 1136  
the dependents of killed employees, and the furnishing of medical, 1137  
surgical, nursing, and hospital attention and services and 1138  
medicines, and funeral expenses, equal to or greater than is 1139  
provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 1140  
to 4123.67 of the Revised Code, and who do not desire to insure 1141  
the payment thereof or indemnify themselves against loss sustained 1142  
by the direct payment thereof, upon a finding of such facts by the 1143  
administrator, may be granted the privilege to pay individually 1144  
compensation, and furnish medical, surgical, nursing, and hospital 1145  
services and attention and funeral expenses directly to injured 1146  
employees or the dependents of killed employees, thereby being 1147  
granted status as a self-insuring employer. The administrator may 1148  
charge employers who apply for the status as a self-insuring 1149  
employer a reasonable application fee to cover the bureau's costs 1150  
in connection with processing and making a determination with 1151  
respect to an application. 1152

All employers granted status as self-insuring employers shall 1153  
demonstrate sufficient financial and administrative ability to 1154  
assure that all obligations under this section are promptly met. 1155  
The administrator shall deny the privilege where the employer is 1156  
unable to demonstrate the employer's ability to promptly meet all 1157  
the obligations imposed on the employer by this section. 1158

(1) The administrator shall consider, but is not limited to, 1159  
the following factors, where applicable, in determining the 1160  
employer's ability to meet all of the obligations imposed on the 1161

employer by this section:	1162
(a) The employer employs a minimum of five hundred employees in this state;	1163 1164
(b) The employer has operated in this state for a minimum of two years, provided that an employer who has purchased, acquired, or otherwise succeeded to the operation of a business, or any part thereof, situated in this state that has operated for at least two years in this state, also shall qualify;	1165 1166 1167 1168 1169
(c) Where the employer 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;	1170 1171 1172
(d) The sufficiency of the employer's assets located in this state to insure the employer's solvency in paying compensation directly;	1173 1174 1175
(e) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the employer'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.	1176 1177 1178 1179 1180
(f) The employer's organizational plan for the administration of the workers' compensation law;	1181 1182
(g) The employer's proposed plan to inform employees of the change from a state fund insurer to a self-insuring employer, the procedures the employer will follow as a self-insuring employer, and the employees' rights to compensation and benefits; and	1183 1184 1185 1186
(h) The employer has either an account in a financial institution in this state, or if the employer 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 employer clearly indicates that payment will	1187 1188 1189 1190 1191

be honored by a financial institution in this state. 1192

The administrator may waive the requirements of divisions 1193  
(B)(1)(a) and (b) of this section and the requirement of division 1194  
(B)(1)(e) of this section that the financial records, documents, 1195  
and data be certified by a certified public accountant. The 1196  
administrator shall adopt rules establishing the criteria that an 1197  
employer shall meet in order for the administrator to waive the 1198  
requirements of divisions (B)(1)(a), (b), and (e) of this section. 1199  
Such rules may require additional security of that employer 1200  
pursuant to division (E) of section 4123.351 of the Revised Code. 1201

The administrator shall not grant the status of self-insuring 1202  
employer to the state, except that the administrator may grant the 1203  
status of self-insuring employer to a state institution of higher 1204  
education, including its hospitals, that meets the requirements of 1205  
division (B)(2) of this section. 1206

(2) When considering the application of a public employer, 1207  
except for a board of county commissioners described in division 1208  
(G) of section 4123.01 of the Revised Code, a board of a county 1209  
hospital, or a publicly owned utility, the administrator shall 1210  
verify that the public employer satisfies all of the following 1211  
requirements as the requirements apply to that public employer: 1212

(a) For the two-year period preceding application under this 1213  
section, the public employer has maintained an unvoted debt 1214  
capacity equal to at least two times the amount of the current 1215  
annual premium established by the administrator under this chapter 1216  
for that public employer for the year immediately preceding the 1217  
year in which the public employer makes application under this 1218  
section. 1219

(b) For each of the two fiscal years preceding application 1220  
under this section, the unreserved and undesignated year-end fund 1221  
balance in the public employer's general fund is equal to at least 1222



five per cent of the public employer's general fund revenues for 1223  
the fiscal year computed in accordance with generally accepted 1224  
accounting principles. 1225

(c) For the five-year period preceding application under this 1226  
section, the public employer, to the extent applicable, has 1227  
complied fully with the continuing disclosure requirements 1228  
established in rules adopted by the United States securities and 1229  
exchange commission under 17 C.F.R. 240.15c 2-12. 1230

(d) For the five-year period preceding application under this 1231  
section, the public employer has not had its local government fund 1232  
distribution withheld on account of the public employer being 1233  
indebted or otherwise obligated to the state. 1234

(e) For the five-year period preceding application under this 1235  
section, the public employer has not been under a fiscal watch or 1236  
fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 1237  
of the Revised Code. 1238

(f) For the public employer's fiscal year preceding 1239  
application under this section, the public employer has obtained 1240  
an annual financial audit as required under section 117.10 of the 1241  
Revised Code, which has been released by the auditor of state 1242  
within seven months after the end of the public employer's fiscal 1243  
year. 1244

(g) On the date of application, the public employer holds a 1245  
debt rating of Aa3 or higher according to Moody's investors 1246  
service, inc., or a comparable rating by an independent rating 1247  
agency similar to Moody's investors service, inc. 1248

(h) The public employer agrees to generate an annual 1249  
accumulating book reserve in its financial statements reflecting 1250  
an actuarially generated reserve adequate to pay projected claims 1251  
under this chapter for the applicable period of time, as 1252  
determined by the administrator. 1253

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

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

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

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

the dependents of killed employees, thereby being granted status 1286  
as a self-insuring employer. The administrator may charge a board 1287  
of county commissioners described in division (G) of section 1288  
4123.01 of the Revised Code that applies for the status as a 1289  
self-insuring employer a reasonable application fee to cover the 1290  
bureau's costs in connection with processing and making a 1291  
determination with respect to an application. All employers 1292  
granted such status shall demonstrate sufficient financial and 1293  
administrative ability to assure that all obligations under this 1294  
section are promptly met. The administrator shall deny the 1295  
privilege where the employer is unable to demonstrate the 1296  
employer's ability to promptly meet all the obligations imposed on 1297  
the employer by this section. The administrator shall consider, 1298  
but is not limited to, the following factors, where applicable, in 1299  
determining the employer's ability to meet all of the obligations 1300  
imposed on the board as an employer by this section: 1301

(1) The board as an employer employs a minimum of five 1302  
hundred employees in this state; 1303

(2) The board has operated in this state for a minimum of two 1304  
years; 1305

(3) Where the board previously contributed to the state 1306  
insurance fund or is a successor employer as defined by bureau 1307  
rules, the amount of the buyout, as defined by bureau rules; 1308

(4) The sufficiency of the board's assets located in this 1309  
state to insure the board's solvency in paying compensation 1310  
directly; 1311

(5) The financial records, documents, and data, certified by 1312  
a certified public accountant, necessary to provide the board's 1313  
full financial disclosure. The records, documents, and data 1314  
include, but are not limited to, balance sheets and profit and 1315  
loss history for the current year and previous four years. 1316

(6) The board's organizational plan for the administration of the workers' compensation law; 1317  
1318

(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; 1319  
1320  
1321  
1322

(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; 1323  
1324  
1325  
1326  
1327  
1328

(9) The board shall provide the administrator a surety bond in an amount equal to one hundred twenty-five per cent of the projected losses as determined by the administrator. 1329  
1330  
1331

(D) The administrator shall require a surety bond from all self-insuring employers, issued pursuant to section 4123.351 of the Revised Code, that is sufficient to compel, or secure to injured employees, or to the dependents of employees killed, the payment of compensation and expenses, which shall in no event be less than that paid or furnished out of the state insurance fund in similar cases to injured employees or to dependents of killed employees whose employers contribute to the fund, except when an employee of the employer, who has suffered the loss of a hand, arm, foot, leg, or eye prior to the injury for which compensation is to be paid, and thereafter suffers the loss of any other of the members as the result of any injury sustained in the course of and arising out of the employee's employment, the compensation to be paid by the self-insuring employer is limited to the disability suffered in the subsequent injury, additional compensation, if any, to be paid by the bureau out of the surplus created by section 4123.34 of the Revised Code. 1332  
1333  
1334  
1335  
1336  
1337  
1338  
1339  
1340  
1341  
1342  
1343  
1344  
1345  
1346  
1347  
1348

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

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

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

statement, containing its findings of fact, that is prepared by 1381  
the bureau and signed by the administrator. If the bureau 1382  
determines not to grant the status as a self-insuring employer, 1383  
the bureau shall notify the employer of the determination and 1384  
require the employer to continue to pay its full premium into the 1385  
state insurance fund. The administrator also shall adopt rules 1386  
establishing a minimum level of performance as a criterion for 1387  
granting and maintaining the status as a self-insuring employer 1388  
and fixing time limits beyond which failure of the self-insuring 1389  
employer to provide for the necessary medical examinations and 1390  
evaluations may not delay a decision on a claim. 1391

(G) The administrator shall adopt rules setting forth 1392  
procedures for auditing the program of self-insuring employers. 1393  
The bureau shall conduct the audit upon a random basis or whenever 1394  
the bureau has grounds for believing that a self-insuring employer 1395  
is not in full compliance with bureau rules or this chapter. 1396

The administrator shall monitor the programs conducted by 1397  
self-insuring employers, to ensure compliance with bureau 1398  
requirements and for that purpose, shall develop and issue to 1399  
self-insuring employers standardized forms for use by the 1400  
self-insuring employer in all aspects of the self-insuring 1401  
employers' direct compensation program and for reporting of 1402  
information to the bureau. 1403

The bureau shall receive and transmit to the self-insuring 1404  
employer all complaints concerning any self-insuring employer. In 1405  
the case of a complaint against a self-insuring employer, the 1406  
administrator shall handle the complaint through the 1407  
self-insurance division of the bureau. The bureau shall maintain a 1408  
file by employer of all complaints received that relate to the 1409  
employer. The bureau shall evaluate each complaint and take 1410  
appropriate action. 1411

The administrator shall adopt as a rule a prohibition against 1412

any self-insuring employer from harassing, dismissing, or 1413  
otherwise disciplining any employee making a complaint, which rule 1414  
shall provide for a financial penalty to be levied by the 1415  
administrator payable by the offending self-insuring employer. 1416

(H) For the purpose of making determinations as to whether to 1417  
grant status as a self-insuring employer, the administrator may 1418  
subscribe to and pay for a credit reporting service that offers 1419  
financial and other business information about individual 1420  
employers. The costs in connection with the bureau's subscription 1421  
or individual reports from the service about an applicant may be 1422  
included in the application fee charged employers under this 1423  
section. 1424

(I) The administrator, notwithstanding other provisions of 1425  
this chapter, may permit a self-insuring employer to resume 1426  
payment of premiums to the state insurance fund with appropriate 1427  
credit modifications to the employer's basic premium rate as such 1428  
rate is determined pursuant to section 4123.29 of the Revised 1429  
Code. 1430

(J) On the first day of July of each year, the administrator 1431  
shall calculate separately each self-insuring employer's 1432  
assessments for the safety and hygiene fund, administrative costs 1433  
pursuant to section 4123.342 of the Revised Code, and for the 1434  
~~portion of the surplus fund under division (B) of section 4123.34~~ 1435  
~~of the Revised Code that is not used for handicapped~~ 1436  
~~reimbursement~~, on the basis of the paid compensation attributable 1437  
to the individual self-insuring employer according to the 1438  
following calculation: 1439

(1) The total assessment against all self-insuring employers 1440  
as a class for each fund and for the administrative costs for the 1441  
year that the assessment is being made, as determined by the 1442  
administrator, divided by the total amount of paid compensation 1443  
for the previous calendar year attributable to all amenable 1444

self-insuring employers; 1445

(2) Multiply the quotient in division (J)(1) of this section 1446  
by the total amount of paid compensation for the previous calendar 1447  
year that is attributable to the individual self-insuring employer 1448  
for whom the assessment is being determined. Each self-insuring 1449  
employer shall pay the assessment that results from this 1450  
calculation, unless the assessment resulting from this calculation 1451  
falls below a minimum assessment, which minimum assessment the 1452  
administrator shall determine on the first day of July of each 1453  
year with the advice and consent of the bureau of workers' 1454  
compensation board of directors, in which event, the self-insuring 1455  
employer shall pay the minimum assessment. 1456

In determining the total amount due for the total assessment 1457  
against all self-insuring employers as a class for each fund and 1458  
the administrative assessment, the administrator shall reduce 1459  
proportionately the total for each fund and assessment by the 1460  
amount of money in the self-insurance assessment fund as of the 1461  
date of the computation of the assessment. 1462

~~The administrator shall calculate the assessment for the 1463  
portion of the surplus fund under division (B) of section 4123.34 1464  
of the Revised Code that is used for handicapped reimbursement in 1465  
the same manner as set forth in divisions (J)(1) and (2) of this 1466  
section except that the administrator shall calculate the total 1467  
assessment for this portion of the surplus fund only on the basis 1468  
of those self-insuring employers that retain participation in the 1469  
handicapped reimbursement program and the individual self-insuring 1470  
employer's proportion of paid compensation shall be calculated 1471  
only for those self-insuring employers who retain participation in 1472  
the handicapped reimbursement program. The administrator, as the 1473  
administrator determines appropriate, may determine the total 1474  
assessment for the handicapped portion of the surplus fund in 1475  
accordance with sound actuarial principles. 1476~~



~~The administrator shall calculate the assessment for the 1477  
portion of the surplus fund under division (B) of section 4123.34 1478  
of the Revised Code that under division (D) of section 4121.66 of 1479  
the Revised Code is used for rehabilitation costs in the same 1480  
manner as set forth in divisions (J)(1) and (2) of this section, 1481  
except that the administrator shall calculate the total assessment 1482  
for this portion of the surplus fund only on the basis of those 1483  
self-insuring employers who have not made the election to make 1484  
payments directly under division (D) of section 4121.66 of the 1485  
Revised Code and an individual self-insuring employer's proportion 1486  
of paid compensation only for those self-insuring employers who 1487  
have not made that election. 1488~~

The administrator shall calculate the assessment for the 1489  
portion of the surplus fund under division (B) of section 4123.34 1490  
of the Revised Code that is used for reimbursement to a 1491  
self-insuring employer under division (H) of section 4123.512 of 1492  
the Revised Code in the same manner as set forth in divisions 1493  
(J)(1) and (2) of this section except that the administrator shall 1494  
calculate the total assessment for this portion of the surplus 1495  
fund only on the basis of those self-insuring employers that 1496  
retain participation in reimbursement to the self-insuring 1497  
employer under division (H) of section 4123.512 of the Revised 1498  
Code and the individual self-insuring employer's proportion of 1499  
paid compensation shall be calculated only for those self-insuring 1500  
employers who retain participation in reimbursement to the 1501  
self-insuring employer under division (H) of section 4123.512 of 1502  
the Revised Code. 1503

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

upon paid compensation attributable to claims that occurred while 1509  
the employer was a self-insuring employer within this state. 1510

(K) There is hereby created in the state treasury the 1511  
self-insurance assessment fund. All investment earnings of the 1512  
fund shall be deposited in the fund. The administrator shall use 1513  
the money in the self-insurance assessment fund only for 1514  
administrative costs as specified in section 4123.341 of the 1515  
Revised Code. 1516

(L) Every self-insuring employer shall certify, in affidavit 1517  
form subject to the penalty for perjury, to the bureau the amount 1518  
of the self-insuring employer's paid compensation for the previous 1519  
calendar year. In reporting paid compensation paid for the 1520  
previous year, a self-insuring employer shall exclude from the 1521  
total amount of paid compensation any reimbursement the 1522  
self-insuring employer receives in the previous calendar year from 1523  
the surplus fund pursuant to section 4123.512 of the Revised Code 1524  
for any paid compensation. The self-insuring employer also shall 1525  
exclude from the paid compensation reported any amount recovered 1526  
under section 4123.931 of the Revised Code and any amount that is 1527  
determined not to have been payable to or on behalf of a claimant 1528  
in any final administrative or judicial proceeding. The 1529  
self-insuring employer shall exclude such amounts from the paid 1530  
compensation reported in the reporting period subsequent to the 1531  
date the determination is made. The administrator shall adopt 1532  
rules, in accordance with Chapter 119. of the Revised Code, that 1533  
provide for all of the following: 1534

(1) Establishing the date by which self-insuring employers 1535  
must submit such information and the amount of the assessments 1536  
provided for in division (J) of this section for employers who 1537  
have been granted self-insuring status within the last calendar 1538  
year; 1539

(2) If an employer fails to pay the assessment when due, the 1540

administrator may add a late fee penalty of not more than five 1541  
hundred dollars to the assessment plus an additional penalty 1542  
amount as follows: 1543

(a) For an assessment from sixty-one to ninety days past due, 1544  
the prime interest rate, multiplied by the assessment due; 1545

(b) For an assessment from ninety-one to one hundred twenty 1546  
days past due, the prime interest rate plus two per cent, 1547  
multiplied by the assessment due; 1548

(c) For an assessment from one hundred twenty-one to one 1549  
hundred fifty days past due, the prime interest rate plus four per 1550  
cent, multiplied by the assessment due; 1551

(d) For an assessment from one hundred fifty-one to one 1552  
hundred eighty days past due, the prime interest rate plus six per 1553  
cent, multiplied by the assessment due; 1554

(e) For an assessment from one hundred eighty-one to two 1555  
hundred ten days past due, the prime interest rate plus eight per 1556  
cent, multiplied by the assessment due; 1557

(f) For each additional thirty-day period or portion thereof 1558  
that an assessment remains past due after it has remained past due 1559  
for more than two hundred ten days, the prime interest rate plus 1560  
eight per cent, multiplied by the assessment due. 1561

(3) An employer may appeal a late fee penalty and penalty 1562  
assessment to the administrator. 1563

For purposes of division (L)(2) of this section, "prime 1564  
interest rate" means the average bank prime rate, and the 1565  
administrator shall determine the prime interest rate in the same 1566  
manner as a county auditor determines the average bank prime rate 1567  
under section 929.02 of the Revised Code. 1568

The administrator shall include any assessment and penalties 1569  
that remain unpaid for previous assessment periods in the 1570

calculation and collection of any assessments due under this 1571  
division or division (J) of this section. 1572

(M) As used in this section, "paid compensation" means all 1573  
amounts paid by a self-insuring employer for living maintenance 1574  
benefits, all amounts for compensation paid pursuant to sections 1575  
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 1576  
4123.64 of the Revised Code, all amounts paid as wages in lieu of 1577  
such compensation, all amounts paid in lieu of such compensation 1578  
under a nonoccupational accident and sickness program fully funded 1579  
by the self-insuring employer, and all amounts paid by a 1580  
self-insuring employer for a violation of a specific safety 1581  
standard pursuant to Section 35 of Article II, Ohio Constitution 1582  
and section 4121.47 of the Revised Code. 1583

(N) Should any section of this chapter or Chapter 4121. of 1584  
the Revised Code providing for self-insuring employers' 1585  
assessments based upon compensation paid be declared 1586  
unconstitutional by a final decision of any court, then that 1587  
section of the Revised Code declared unconstitutional shall revert 1588  
back to the section in existence prior to November 3, 1989, 1589  
providing for assessments based upon payroll. 1590

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

A self-insuring employer who desires to self-insure a construction project shall submit to the administrator an application listing the dates the construction project is scheduled to begin and end, the estimated cost of the construction project, the contractors and subcontractors whose employees are to be self-insured by the self-insuring employer, the provisions of a safety program that is specifically designed for the construction project, and a statement as to whether a collective bargaining agreement governing the rights, duties, and obligations of each of the parties to the agreement with respect to the construction project exists between the self-insuring employer and a labor organization.

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

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

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

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

The administrator shall maintain a record of the contractors and subcontractors whose employees are covered under the certificate issued to the self-insured employer. A self-insuring

employer immediately shall notify the administrator when any 1634  
contractor or subcontractor is added or eliminated from inclusion 1635  
under the certificate. 1636

Upon approval of the application, the self-insuring employer 1637  
is responsible for the administration and payment of all claims 1638  
under this chapter and Chapter 4121. of the Revised Code for the 1639  
employees of the contractor and subcontractors covered under the 1640  
certificate who receive injuries or are killed in the course of 1641  
and arising out of employment on the construction project, or who 1642  
contract an occupational disease in the course of employment on 1643  
the construction project. For purposes of this chapter and Chapter 1644  
4121. of the Revised Code, a claim that is administered and paid 1645  
in accordance with this division is considered a claim against the 1646  
self-insuring employer listed in the certificate. A contractor or 1647  
subcontractor included under the certificate shall report to the 1648  
self-insuring employer listed in the certificate, all claims that 1649  
arise under this chapter and Chapter 4121. of the Revised Code in 1650  
connection with the construction project for which the certificate 1651  
is issued. 1652

A self-insuring employer who complies with this division is 1653  
entitled to the protections provided under this chapter and 1654  
Chapter 4121. of the Revised Code with respect to the employees of 1655  
the contractors and subcontractors covered under a certificate 1656  
issued under this division for death or injuries that arise out 1657  
of, or death, injuries, or occupational diseases that arise in the 1658  
course of, those employees' employment on that construction 1659  
project, as if the employees were employees of the self-insuring 1660  
employer, provided that the self-insuring employer also complies 1661  
with this section. No employee of the contractors and 1662  
subcontractors covered under a certificate issued under this 1663  
division shall be considered the employee of the self-insuring 1664  
employer listed in that certificate for any purposes other than 1665

this chapter and Chapter 4121. of the Revised Code. Nothing in 1666  
this division gives a self-insuring employer authority to control 1667  
the means, manner, or method of employment of the employees of the 1668  
contractors and subcontractors covered under a certificate issued 1669  
under this division. 1670

The contractors and subcontractors included under a 1671  
certificate issued under this division are entitled to the 1672  
protections provided under this chapter and Chapter 4121. of the 1673  
Revised Code with respect to the contractor's or subcontractor's 1674  
employees who are employed on the construction project which is 1675  
the subject of the certificate, for death or injuries that arise 1676  
out of, or death, injuries, or occupational diseases that arise in 1677  
the course of, those employees' employment on that construction 1678  
project. 1679

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

paid compensation the self-insuring employer paid pursuant to this 1698  
division for the previous calendar year. 1699

Nothing in this division shall be construed as altering the 1700  
rights of employees under this chapter and Chapter 4121. of the 1701  
Revised Code as those rights existed prior to September 17, 1996. 1702  
Nothing in this division shall be construed as altering the rights 1703  
devolved under sections 2305.31 and 4123.82 of the Revised Code as 1704  
those rights existed prior to September 17, 1996. 1705

As used in this division, "privilege to self-insure a 1706  
construction project" means privilege to pay individually 1707  
compensation, and to furnish medical, surgical, nursing, and 1708  
hospital services and attention and funeral expenses directly to 1709  
injured employees or the dependents of killed employees. 1710

(P) A self-insuring employer whose application is granted 1711  
under division (O) of this section shall designate a safety 1712  
professional to be responsible for the administration and 1713  
enforcement of the safety program that is specifically designed 1714  
for the construction project that is the subject of the 1715  
application. 1716

A self-insuring employer whose application is granted under 1717  
division (O) of this section shall employ an ombudsperson for the 1718  
construction project that is the subject of the application. The 1719  
ombudsperson shall have experience in workers' compensation or the 1720  
construction industry, or both. The ombudsperson shall perform all 1721  
of the following duties: 1722

(1) Communicate with and provide information to employees who 1723  
are injured in the course of, or whose injury arises out of 1724  
employment on the construction project, or who contract an 1725  
occupational disease in the course of employment on the 1726  
construction project; 1727

(2) Investigate the status of a claim upon the request of an 1728



employee to do so;	1729
(3) Provide information to claimants, third party administrators, employers, and other persons to assist those persons in protecting their rights under this chapter and Chapter 4121. of the Revised Code.	1730 1731 1732 1733
A self-insuring employer whose application is granted under division (O) of this section shall post the name of the safety professional and the ombudsperson and instructions for contacting the safety professional and the ombudsperson in a conspicuous place at the site of the construction project.	1734 1735 1736 1737 1738
(Q) The administrator may consider all of the following when deciding whether to grant a self-insuring employer the privilege to self-insure a construction project as provided under division (O) of this section:	1739 1740 1741 1742
(1) Whether the self-insuring employer has an organizational plan for the administration of the workers' compensation law;	1743 1744
(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;	1745 1746 1747 1748 1749 1750 1751 1752 1753
(3) Whether granting the privilege to self-insure the construction project will reduce the costs of the construction project;	1754 1755 1756
(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;	1757 1758

(5) Whether the self-insuring employer has sufficient surety 1759  
to secure the payment of claims for which the self-insuring 1760  
employer would be responsible pursuant to the granting of the 1761  
privilege to self-insure a construction project under division (O) 1762  
of this section. 1763

(R) As used in divisions (O), (P), and (Q), "self-insuring 1764  
employer" includes the following employers, whether or not they 1765  
have been granted the status of being a self-insuring employer 1766  
under division (B) of this section: 1767

(1) A state institution of higher education; 1768

(2) A school district; 1769

(3) A county school financing district; 1770

(4) An educational service center; 1771

(5) A community school established under Chapter 3314. of the 1772  
Revised Code; 1773

(6) A municipal power agency as defined in section 3734.058 1774  
of the Revised Code. 1775

(S) As used in this section: 1776

(1) "Unvoted debt capacity" means the amount of money that a 1777  
public employer may borrow without voter approval of a tax levy; 1778

(2) "State institution of higher education" means the state 1779  
universities listed in section 3345.011 of the Revised Code, 1780  
community colleges created pursuant to Chapter 3354. of the 1781  
Revised Code, university branches created pursuant to Chapter 1782  
3355. of the Revised Code, technical colleges created pursuant to 1783  
Chapter 3357. of the Revised Code, and state community colleges 1784  
created pursuant to Chapter 3358. of the Revised Code. 1785

**Sec. 4123.351.** (A) The administrator of workers' compensation 1786  
shall require every self-insuring employer, including any 1787

self-insuring employer that is indemnified by a captive insurance 1788  
company granted a certificate of authority under Chapter ~~3694.~~ 1789  
3964. of the Revised Code, to pay a contribution, calculated under 1790  
this section, to the self-insuring employers' guaranty fund 1791  
established pursuant to this section. The fund shall provide for 1792  
payment of compensation and benefits to employees of the 1793  
self-insuring employer in order to cover any default in payment by 1794  
that employer. 1795

(B) The bureau of workers' compensation shall operate the 1796  
self-insuring employers' guaranty fund for self-insuring 1797  
employers. The administrator annually shall establish the 1798  
contributions due from self-insuring employers for the fund at 1799  
rates as low as possible but such as will assure sufficient moneys 1800  
to guarantee the payment of any claims against the fund. The 1801  
bureau's operation of the fund is not subject to sections 3929.10 1802  
to 3929.18 of the Revised Code or to regulation by the 1803  
superintendent of insurance. 1804

(C) If a self-insuring employer defaults, the bureau shall 1805  
recover the amounts paid as a result of the default from the 1806  
self-insuring employers' guaranty fund. If a self-insuring 1807  
employer defaults and is in compliance with this section for the 1808  
payment of contributions to the fund, such self-insuring employer 1809  
is entitled to the immunity conferred by section 4123.74 of the 1810  
Revised Code for any claim arising during any period the employer 1811  
is in compliance with this section. 1812

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

from the fund pursuant to this section. 1820

(2) The administrator has the same powers to invest any of 1821  
the surplus or reserve belonging to the fund as are delegated to 1822  
the administrator under section 4123.44 of the Revised Code with 1823  
respect to the state insurance fund. The administrator shall apply 1824  
interest earned solely to the reduction of assessments for 1825  
contributions from self-insuring employers and to the payments 1826  
required due to defaults. 1827

(3) If the bureau of workers' compensation board of directors 1828  
determines that reinsurance of the risks of the fund is necessary 1829  
to assure solvency of the fund, the board may: 1830

(a) Enter into contracts for the purchase of reinsurance 1831  
coverage of the risks of the fund with any company or agency 1832  
authorized by law to issue contracts of reinsurance; 1833

(b) Require the administrator to pay the cost of reinsurance 1834  
from the fund; 1835

(c) Include the costs of reinsurance as a liability and 1836  
estimated liability of the fund. 1837

(E) The administrator, with the advice and consent of the 1838  
board, may adopt rules pursuant to Chapter 119. of the Revised 1839  
Code for the implementation of this section, including a rule, 1840  
notwithstanding division (C) of this section, requiring 1841  
self-insuring employers to provide security in addition to the 1842  
contribution to the self-insuring employers' guaranty fund 1843  
required by this section. The additional security required by the 1844  
rule, as the administrator determines appropriate, shall be 1845  
sufficient and adequate to provide for financial assurance to meet 1846  
the obligations of self-insuring employers under this chapter and 1847  
Chapter 4121. of the Revised Code. 1848

(F) The purchase of coverage under this section by 1849  
self-insuring employers is valid notwithstanding the prohibitions 1850

contained in division (A) of section 4123.82 of the Revised Code 1851  
and is in addition to the indemnity contracts that self-insuring 1852  
employers may purchase pursuant to division (B) of section 4123.82 1853  
of the Revised Code. 1854

(G) The administrator, on behalf of the self-insuring 1855  
employers' guaranty fund, has the rights of reimbursement and 1856  
subrogation and shall collect from a defaulting self-insuring 1857  
employer or other liable person all amounts the administrator has 1858  
paid or reasonably expects to pay from the fund on account of the 1859  
defaulting self-insuring employer. 1860

(H) The assessments for contributions, the administration of 1861  
the self-insuring employers' guaranty fund, the investment of the 1862  
money in the fund, and the payment of liabilities incurred by the 1863  
fund do not create any liability upon the state. 1864

Except for a gross abuse of discretion, neither the board, 1865  
nor the individual members thereof, nor the administrator shall 1866  
incur any obligation or liability respecting the assessments for 1867  
contributions, the administration of the self-insuring employers' 1868  
guaranty fund, the investment of the fund, or the payment of 1869  
liabilities therefrom. 1870

**Sec. 4123.411.** (A) For all injuries and disabilities 1871  
occurring before January 1, 1987, the administrator of workers' 1872  
compensation, for the purpose of carrying out sections 4123.412 to 1873  
4123.418 of the Revised Code, ~~the administrator of workers'~~ 1874  
~~compensation,~~ and with the advice and consent of the bureau of 1875  
workers' compensation board of directors, ~~shall~~ may levy an 1876  
assessment against all employers at a rate not to exceed ten cents 1877  
per one hundred dollars of payroll, ~~such.~~ If the administrator 1878  
levies an assessment under this division, the rate to of that 1879  
assessment shall be determined annually for each employer group 1880  
listed in divisions (A)(1) to (3) of this section, ~~which will.~~ The 1881

rates determined under this division shall be sufficient to 1882  
produce an amount no greater than the amount the administrator 1883  
estimates to be necessary to carry out such sections for the 1884  
period for which the assessment is levied. In the event the amount 1885  
produced by the assessment is not sufficient to carry out such 1886  
sections the additional amount necessary shall be provided, 1887  
pursuant to section 4123.419 of the Revised Code, from the income 1888  
produced as a result of investments made pursuant to section 1889  
4123.44 of the Revised Code. 1890

~~Assessments~~ If levied, assessments shall be levied according 1891  
to the following schedule: 1892

(1) For private fund employers, except self-insuring 1893  
employers: 1894

(a) For policy years commencing prior to July 1, 2015, in 1895  
January and July of each year upon gross payrolls of the preceding 1896  
six months; 1897

(b) For policy years commencing on or after July 1, 2015, in 1898  
the month of June immediately preceding each policy year upon 1899  
gross payrolls estimated for that policy year. 1900

(2) For counties and taxing district employers therein, 1901  
except county hospitals that are self-insuring employers: 1902

(a) For policy years commencing prior to January 1, 2016, in 1903  
January of each year upon gross payrolls of the preceding twelve 1904  
months; 1905

(b) For policy years commencing on or after January 1, 2016, 1906  
in the month of December immediately preceding each policy year 1907  
upon gross payrolls estimated for that policy year. 1908

(3) For the state as an employer--in January, April, July, 1909  
and October of each year upon gross payrolls of the preceding 1910  
three months or at other intervals as the administrator 1911

establishes. 1912

After the completion of each policy year that commences on or 1913  
after July 1, 2015, for private fund employers or that commences 1914  
on or after January 1, 2016, for counties and taxing district 1915  
employers therein, the assessments levied under this section shall 1916  
be adjusted for the difference between estimated gross payrolls 1917  
and actual gross payrolls reported by the employer on the payroll 1918  
report submitted by a private employer pursuant to section 4123.26 1919  
of the Revised Code, or, for a public employer, submitted pursuant 1920  
to section 4123.41 of the Revised Code. 1921

Amounts assessed in accordance with this section shall be 1922  
collected from each employer as prescribed in rules the 1923  
administrator adopts. 1924

The moneys derived from the assessment provided for in this 1925  
section shall be credited to the disabled workers' relief fund 1926  
created by section 4123.412 of the Revised Code. The administrator 1927  
shall establish by rule classifications of employers within 1928  
divisions (A)(1) to (3) of this section and shall determine rates 1929  
for each class so as to fairly apportion the costs of carrying out 1930  
sections 4123.412 to 4123.418 of the Revised Code. 1931

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

assure sufficient moneys to guarantee the payment of any claims 1944  
against that fund. 1945

Amounts assessed in accordance with this division shall be 1946  
billed at the same time premiums are billed and credited to the 1947  
disabled workers' relief fund created by section 4123.412 of the 1948  
Revised Code. The administrator shall determine the rates for each 1949  
class in the same manner as the administrator fixes the rates for 1950  
premiums pursuant to section 4123.29 of the Revised Code. 1951

(C) For a self-insuring employer, the bureau of workers' 1952  
compensation shall pay to employees who are participants 1953  
regardless of the date of injury, any amounts due to the 1954  
participants under section 4123.414 of the Revised Code and shall 1955  
bill the self-insuring employer, semiannually, for all amounts 1956  
paid to a participant. 1957

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



~~deducted from any such reimbursement.~~ 1975

For all injuries and disabilities occurring before January 1, 1987, the administrator, for the purpose of carrying out those sections and with the advice and consent of the bureau of workers' compensation board of directors, may transfer to the disabled workers' relief fund from the income produced as a result of investments made pursuant to section 4123.44 of the Revised Code amounts necessary to carry out those sections with respect to claims related to private and public taxing district employers, rather than levying an assessment against those employers under section 4123.411 of the Revised Code. 1976  
1977  
1978  
1979  
1980  
1981  
1982  
1983  
1984  
1985

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

of a staff hearing officer's decision under division (D) of 2007  
section 4123.511 of the Revised Code. The filing of the notice of 2008  
the appeal with the court is the only act required to perfect the 2009  
appeal. 2010

If an action has been commenced in a court of a county other 2011  
than a court of a county having jurisdiction over the action, the 2012  
court, upon notice by any party or upon its own motion, shall 2013  
transfer the action to a court of a county having jurisdiction. 2014

Notwithstanding anything to the contrary in this section, if 2015  
the commission determines under section 4123.522 of the Revised 2016  
Code that an employee, employer, or their respective 2017  
representatives have not received written notice of an order or 2018  
decision which is appealable to a court under this section and 2019  
which grants relief pursuant to section 4123.522 of the Revised 2020  
Code, the party granted the relief has sixty days from receipt of 2021  
the order under section 4123.522 of the Revised Code to file a 2022  
notice of appeal under this section. 2023

(B) The notice of appeal shall state the names of the 2024  
administrator of workers' compensation, the claimant, and the 2025  
employer; the number of the claim; the date of the order appealed 2026  
from; and the fact that the appellant appeals therefrom. 2027

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

noncomplying employer under section 4123.75 of the Revised Code. 2039

(C) The attorney general or one or more of the attorney 2040  
general's assistants or special counsel designated by the attorney 2041  
general shall represent the administrator and the commission. In 2042  
the event the attorney general or the attorney general's 2043  
designated assistants or special counsel are absent, the 2044  
administrator or the commission shall select one or more of the 2045  
attorneys in the employ of the administrator or the commission as 2046  
the administrator's attorney or the commission's attorney in the 2047  
appeal. Any attorney so employed shall continue the representation 2048  
during the entire period of the appeal and in all hearings thereof 2049  
except where the continued representation becomes impractical. 2050

(D) Upon receipt of notice of appeal, the clerk of courts 2051  
shall provide notice to all parties who are appellees and to the 2052  
commission. 2053

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

or subject to service in the county in which the trial is had. The 2071  
bureau of workers' compensation shall pay the cost of the 2072  
stenographic deposition filed in court and of copies of the 2073  
stenographic deposition for each party from the surplus fund and 2074  
charge the costs thereof against the unsuccessful party if the 2075  
claimant's right to participate or continue to participate is 2076  
finally sustained or established in the appeal. In the event the 2077  
deposition is taken and filed, the physician whose deposition is 2078  
taken is not required to respond to any subpoena issued in the 2079  
trial of the action. The court, or the jury under the instructions 2080  
of the court, if a jury is demanded, shall determine the right of 2081  
the claimant to participate or to continue to participate in the 2082  
fund upon the evidence adduced at the hearing of the action. 2083

(E) The court shall certify its decision to the commission 2084  
and the certificate shall be entered in the records of the court. 2085  
Appeals from the judgment are governed by the law applicable to 2086  
the appeal of civil actions. 2087

(F) The cost of any legal proceedings authorized by this 2088  
section, including an attorney's fee to the claimant's attorney to 2089  
be fixed by the trial judge, based upon the effort expended, in 2090  
the event the claimant's right to participate or to continue to 2091  
participate in the fund is established upon the final 2092  
determination of an appeal, shall be taxed against the employer or 2093  
the commission if the commission or the administrator rather than 2094  
the employer contested the right of the claimant to participate in 2095  
the fund. The attorney's fee shall not exceed forty-two hundred 2096  
dollars. 2097

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

section 4123.52 of the Revised Code. 2103

(H)(1) An appeal from an order issued under division (E) of 2104  
section 4123.511 of the Revised Code or any action filed in court 2105  
in a case in which an award of compensation or medical benefits 2106  
has been made shall not stay the payment of compensation or 2107  
medical benefits under the award, or payment for subsequent 2108  
periods of total disability or medical benefits during the 2109  
pendency of the appeal. If, in a final administrative or judicial 2110  
action, it is determined that payments of compensation or 2111  
benefits, or both, made to or on behalf of a claimant should not 2112  
have been made, the amount thereof shall be charged to the surplus 2113  
fund account under division (B) of section 4123.34 of the Revised 2114  
Code. In the event the employer is a state risk, the amount shall 2115  
not be charged to the employer's experience, and the administrator 2116  
shall adjust the employer's account accordingly. In the event the 2117  
employer is a self-insuring employer, the self-insuring employer 2118  
shall deduct the amount from the paid compensation the 2119  
self-insuring employer reports to the administrator under division 2120  
(L) of section 4123.35 of the Revised Code. If an employer is a 2121  
state risk and has paid an assessment for a violation of a 2122  
specific safety requirement, and, in a final administrative or 2123  
judicial action, it is determined that the employer did not 2124  
violate the specific safety requirement, the administrator shall 2125  
reimburse the employer from the surplus fund account under 2126  
division (B) of section 4123.34 of the Revised Code for the amount 2127  
of the assessment the employer paid for the violation. 2128

(2)(a) Notwithstanding a final determination that payments of 2129  
benefits made to or on behalf of a claimant should not have been 2130  
made, the administrator or self-insuring employer shall award 2131  
payment of medical or vocational rehabilitation services submitted 2132  
for payment after the date of the final determination if all of 2133  
the following apply: 2134

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

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

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

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

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

(3) A self-insuring employer may elect to pay compensation and benefits under this section directly to an employee or an employee's dependents by filing an application with the bureau of workers' compensation not more than one hundred eighty days and not less than ninety days before the first day of the employer's next six-month coverage period. If the self-insuring employer timely files the application, the application is effective on the first day of the employer's next six-month coverage period, provided that the administrator shall compute the employer's

assessment for the surplus fund account due with respect to the 2166  
period during which that application was filed without regard to 2167  
the filing of the application. On and after the effective date of 2168  
the employer's election, the self-insuring employer shall pay 2169  
directly to an employee or to an employee's dependents 2170  
compensation and benefits under this section regardless of the 2171  
date of the injury or occupational disease, and the employer shall 2172  
receive no money or credits from the surplus fund account on 2173  
account of those payments and shall not be required to pay any 2174  
amounts into the surplus fund account on account of this section. 2175  
The election made under this division is irrevocable. 2176

(I) All actions and proceedings under this section which are 2177  
the subject of an appeal to the court of common pleas or the court 2178  
of appeals shall be preferred over all other civil actions except 2179  
election causes, irrespective of position on the calendar. 2180

This section applies to all decisions of the commission or 2181  
the administrator on November 2, 1959, and all claims filed 2182  
thereafter are governed by sections 4123.511 and 4123.512 of the 2183  
Revised Code. 2184

Any action pending in common pleas court or any other court 2185  
on January 1, 1986, under this section is governed by former 2186  
sections 4123.514, 4123.515, 4123.516, and 4123.519 and section 2187  
4123.522 of the Revised Code. 2188

**Sec. 4123.56.** (A) Except as provided in division (D) of this 2189  
section, in the case of temporary disability, an employee shall 2190  
receive sixty-six and two-thirds per cent of the employee's 2191  
average weekly wage so long as such disability is total, not to 2192  
exceed a maximum amount of weekly compensation which is equal to 2193  
the statewide average weekly wage as defined in division (C) of 2194  
section 4123.62 of the Revised Code, and not less than a minimum 2195  
amount of compensation which is equal to thirty-three and 2196

one-third per cent of the statewide average weekly wage as defined 2197  
in division (C) of section 4123.62 of the Revised Code unless the 2198  
employee's wage is less than thirty-three and one-third per cent 2199  
of the minimum statewide average weekly wage, in which event the 2200  
employee shall receive compensation equal to the employee's full 2201  
wages; provided that for the first twelve weeks of total 2202  
disability the employee shall receive seventy-two per cent of the 2203  
employee's full weekly wage, but not to exceed a maximum amount of 2204  
weekly compensation which is equal to the lesser of the statewide 2205  
average weekly wage as defined in division (C) of section 4123.62 2206  
of the Revised Code or one hundred per cent of the employee's net 2207  
take-home weekly wage. In the case of a self-insuring employer, 2208  
payments shall be for a duration based upon the medical reports of 2209  
the attending physician. If the employer disputes the attending 2210  
physician's report, payments may be terminated only upon 2211  
application and hearing by a district hearing officer pursuant to 2212  
division (C) of section 4123.511 of the Revised Code. Payments 2213  
shall continue pending the determination of the matter, however 2214  
payment shall not be made for the period when any employee has 2215  
returned to work, when an employee's treating physician has made a 2216  
written statement that the employee is capable of returning to the 2217  
employee's former position of employment, when work within the 2218  
physical capabilities of the employee is made available by the 2219  
employer or another employer, or when the employee has reached the 2220  
maximum medical improvement. Where the employee is capable of work 2221  
activity, but the employee's employer is unable to offer the 2222  
employee any employment, the employee shall register with the 2223  
director of job and family services, who shall assist the employee 2224  
in finding suitable employment. The termination of temporary total 2225  
disability, whether by order or otherwise, does not preclude the 2226  
commencement of temporary total disability at another point in 2227  
time if the employee again becomes temporarily totally disabled. 2228

After two hundred weeks of temporary total disability 2229



benefits, the medical section of the bureau of workers' 2230  
compensation shall schedule the claimant for an examination for an 2231  
evaluation to determine whether or not the temporary disability 2232  
has become permanent. A self-insuring employer shall notify the 2233  
bureau immediately after payment of two hundred weeks of temporary 2234  
total disability and request that the bureau schedule the claimant 2235  
for such an examination. 2236

When the employee is awarded compensation for temporary total 2237  
disability for a period for which the employee has received 2238  
benefits under Chapter 4141. of the Revised Code, the bureau shall 2239  
pay an amount equal to the amount received from the award to the 2240  
director of job and family services and the director shall credit 2241  
the amount to the accounts of the employers to whose accounts the 2242  
payment of benefits was charged or is chargeable to the extent it 2243  
was charged or is chargeable. 2244

If any compensation under this section has been paid for the 2245  
same period or periods for which temporary nonoccupational 2246  
accident and sickness insurance is or has been paid pursuant to an 2247  
insurance policy or program to which the employer has made the 2248  
entire contribution or payment for providing insurance or under a 2249  
nonoccupational accident and sickness program fully funded by the 2250  
employer, except as otherwise provided in this division 2251  
compensation paid under this section for the period or periods 2252  
shall be paid only to the extent by which the payment or payments 2253  
exceeds the amount of the nonoccupational insurance or program 2254  
paid or payable. Offset of the compensation shall be made only 2255  
upon the prior order of the bureau or industrial commission or 2256  
agreement of the claimant. If an employer provides supplemental 2257  
sick leave benefits in addition to temporary total disability 2258  
compensation paid under this section, and if the employer and an 2259  
employee agree in writing to the payment of the supplemental sick 2260  
leave benefits, temporary total disability benefits may be paid 2261

without an offset for those supplemental sick leave benefits. 2262

As used in this division, "net take-home weekly wage" means 2263  
the amount obtained by dividing an employee's total remuneration, 2264  
as defined in section 4141.01 of the Revised Code, paid to or 2265  
earned by the employee during the first four of the last five 2266  
completed calendar quarters which immediately precede the first 2267  
day of the employee's entitlement to benefits under this division, 2268  
by the number of weeks during which the employee was paid or 2269  
earned remuneration during those four quarters, less the amount of 2270  
local, state, and federal income taxes deducted for each such 2271  
week. 2272

(B)(1) If an employee in a claim allowed under this chapter 2273  
suffers a wage loss as a result of returning to employment other 2274  
than the employee's former position of employment due to an injury 2275  
or occupational disease, the employee shall receive compensation 2276  
at sixty-six and two-thirds per cent of the difference between the 2277  
employee's average weekly wage and the employee's present earnings 2278  
not to exceed the statewide average weekly wage. The payments may 2279  
continue for up to a maximum of two hundred weeks, but the 2280  
payments shall be reduced by the corresponding number of weeks in 2281  
which the employee receives payments pursuant to division 2282  
~~(B)(A)(2)~~ of section 4121.67 ~~of~~ of the Revised Code. 2283

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

maximum of two hundred weeks of payments allowed under division 2294  
(B)(1) of this section. If an employee in a claim allowed under 2295  
this chapter receives compensation under division (B)(2) of this 2296  
section in excess of twenty-six weeks, the number of weeks of 2297  
compensation allowable under division (B)(1) of this section shall 2298  
be reduced by the corresponding number of weeks in excess of 2299  
twenty-six, and up to fifty-two, that is allowable under division 2300  
(B)(1) of this section. 2301

(3) The number of weeks of wage loss payable to an employee 2302  
under divisions (B)(1) and (2) of this section shall not exceed 2303  
two hundred and twenty-six weeks in the aggregate. 2304

(C) In the event an employee of a professional sports 2305  
franchise domiciled in this state is disabled as the result of an 2306  
injury or occupational disease, the total amount of payments made 2307  
under a contract of hire or collective bargaining agreement to the 2308  
employee during a period of disability is deemed an advanced 2309  
payment of compensation payable under sections 4123.56 to 4123.58 2310  
of the Revised Code. The employer shall be reimbursed the total 2311  
amount of the advanced payments out of any award of compensation 2312  
made pursuant to sections 4123.56 to 4123.58 of the Revised Code. 2313

(D) If an employee receives temporary total disability 2314  
benefits pursuant to division (A) of this section and social 2315  
security retirement benefits pursuant to the "Social Security 2316  
Act," the weekly benefit amount under division (A) of this section 2317  
shall not exceed sixty-six and two-thirds per cent of the 2318  
statewide average weekly wage as defined in division (C) of 2319  
section 4123.62 of the Revised Code. 2320

**Sec. 4123.59.** In case an injury to or an occupational disease 2321  
contracted by an employee causes ~~his~~ the employee's death, 2322  
benefits shall be in the amount and to the persons following: 2323

(A) If there are no dependents, the disbursements from the 2324

state insurance fund is limited to the expenses provided for in 2325  
section 4123.66 of the Revised Code. 2326

(B) If there are wholly dependent persons at the time of the 2327  
death, the weekly payment is sixty-six and two-thirds per cent of 2328  
the average weekly wage, but not to exceed a maximum aggregate 2329  
amount of weekly compensation which is equal to sixty-six and 2330  
two-thirds per cent of the statewide average weekly wage as 2331  
defined in division (C) of section 4123.62 of the Revised Code, 2332  
and not in any event less than a minimum amount of weekly 2333  
compensation which is equal to fifty per cent of the statewide 2334  
average weekly wage as defined in division (C) of section 4123.62 2335  
of the Revised Code, regardless of the average weekly wage; 2336  
provided however, that if the death is due to injury received or 2337  
occupational disease first diagnosed after January 1, 1976, the 2338  
weekly payment is sixty-six and two-thirds per cent of the average 2339  
weekly wage but not to exceed a maximum aggregate amount of weekly 2340  
compensation which is equal to the statewide average weekly wage 2341  
as defined in division (C) of section 4123.62 of the Revised Code; 2342  
provided that when any claimant is receiving total disability 2343  
compensation at the time of death the wholly dependent person is 2344  
eligible for the maximum compensation provided for in this 2345  
section. Where there is more than one person who is wholly 2346  
dependent at the time of the death of the employee, the 2347  
administrator of workers' compensation shall promptly apportion 2348  
the weekly amount of compensation payable under this section among 2349  
the dependent persons as provided in division (D) of this section. 2350

(1) The payment as provided in this section shall continue 2351  
from the date of death of an injured or disabled employee until 2352  
the death or remarriage of such dependent spouse. If the dependent 2353  
spouse remarries, an amount equal to two years of compensation 2354  
benefits at the weekly amount determined to be applicable to and 2355  
being paid to the dependent spouse shall be paid in a lump sum to 2356

such spouse and no further compensation shall be paid to such spouse. 2357  
2358

(2) That portion of the payment provided in division (B) of this section applicable to wholly dependent persons other than a spouse shall continue from the date of death of an injured or disabled employee to a dependent as of the date of death, other than a spouse, at the weekly amount determined to be applicable and being paid to such dependent other than a spouse, until ~~he~~ the dependent: 2359  
2360  
2361  
2362  
2363  
2364  
2365

(a) Reaches eighteen years of age; 2366

(b) If pursuing a full time educational program while enrolled in an accredited educational institution and program, reaches twenty-five years of age; 2367  
2368  
2369

(c) If mentally or physically incapacitated from having any earnings, is no longer so incapacitated. 2370  
2371

(3)(a) Payments under division (B) of this section to a dependent described in division (B)(2)(c) of this section shall not be terminated due to the dependent's employment in a sheltered workshop if the dependent does not receive income, compensation, or remuneration from that employment in excess of two thousand dollars in any calendar quarter. 2372  
2373  
2374  
2375  
2376  
2377

(b) As used in division (B)(3) of this section, "sheltered workshop" has the same meaning as in section 4123.58 of the Revised Code. 2378  
2379  
2380

(C) If there are partly dependent persons at the time of the death the weekly payment is sixty-six and two-thirds per cent of the employee's average weekly wage, not to exceed sixty-six and two-thirds per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code, and shall continue for such time as the administrator in each case determines. 2381  
2382  
2383  
2384  
2385  
2386  
2387

(D) The following persons are presumed to be wholly dependent 2388  
for their support upon a deceased employee: 2389

(1) A surviving spouse who was living with the employee at 2390  
the time of death or a surviving spouse who was separated from the 2391  
employee at the time of death because of the aggression of the 2392  
employee; 2393

(2) A child under the age of eighteen years, or twenty-five 2394  
years if pursuing a full-time educational program while enrolled 2395  
in an accredited educational institution and program, or over said 2396  
age if physically or mentally incapacitated from earning, upon 2397  
only the one parent who is contributing more than one-half of the 2398  
support for such child and with whom ~~he~~ the child is living at the 2399  
time of the death of such parent, or for whose maintenance such 2400  
parent was legally liable at the time of ~~his~~ the parent's death. 2401

It is presumed that there is sufficient dependency to entitle 2402  
a surviving natural parent or surviving natural parents, share and 2403  
share alike, with whom the decedent was living at the time of ~~his~~ 2404  
the decedent's death, to a total minimum award of three thousand 2405  
dollars. 2406

The administrator may take into consideration any 2407  
circumstances which, at the time of the death of the decedent, 2408  
clearly indicate prospective dependency on the part of the 2409  
claimant and potential support on the part of the decedent. No 2410  
person shall be considered a prospective dependent unless such 2411  
person is a member of the family of the deceased employee and 2412  
bears to ~~him~~ the deceased employee the relation of surviving 2413  
spouse, lineal descendant, ancestor, or brother or sister. The 2414  
total award for any or all prospective dependency to all such 2415  
claimants, except to a natural parent or natural parents of the 2416  
deceased, shall not exceed three thousand dollars to be 2417  
apportioned among them as the administrator orders. 2418

In all other cases, the question of dependency, in whole or 2419  
in part, shall be determined in accordance with the facts in each 2420  
particular case existing at the time of the injury resulting in 2421  
the death of such employee, but no person shall be considered as 2422  
dependent unless such person is a member of the family of the 2423  
deceased employee, or bears to ~~him~~ the deceased employee the 2424  
relation of surviving spouse, lineal descendant, ancestor, or 2425  
brother or sister. 2426

(E) An order issued by the administrator under this section 2427  
is appealable pursuant to sections 4123.511 to 4123.512 of the 2428  
Revised Code. 2429

Sec. 5162.80. (A) A provider of medical services licensed, 2430  
accredited, or certified under Chapter 3721., 3727., 4715., 4725., 2431  
4731., 4732., 4734., 4747., 4753., 4755., 4757., or 4779. of the 2432  
Revised Code shall provide in writing, before products, services, 2433  
or procedures are provided, a reasonable, good-faith estimate of 2434  
all of the following for the provider's non-emergency products, 2435  
services, or procedures: 2436

(1) The amount the provider will charge the patient or the 2437  
consumer's health plan issuer for the product, service, or 2438  
procedure; 2439

(2) The amount the health plan issuer intends to pay for the 2440  
product, service, or procedure; 2441

(3) The difference, if any, that the consumer or other party 2442  
responsible for the consumer's care would be required to pay to 2443  
the provider for the product, service, or procedure. 2444

(B) Any health plan issuer contacted by a provider described 2445  
in division (A) of this section in order for the provider to 2446  
obtain information so that the provider can comply with division 2447  
(A) of this section shall provide such information to the provider 2448

within a reasonable time of the provider's request. 2449

(C) As used in this section, "health plan issuer" means an 2450  
entity subject to the insurance laws and rules of this state, or 2451  
subject to the jurisdiction of the superintendent of insurance, 2452  
that contracts, or offers to contract, to provide, deliver, 2453  
arrange for, pay for, or reimburse any of the costs of health care 2454  
services under a health benefit plan, including a sickness and 2455  
accident insurance company and a health insuring corporation. 2456  
"Health plan issuer" also includes a managed care organization 2457  
under contract with the department of medicaid and, if the 2458  
services are to be provided on a fee-for-service basis, the 2459  
Medicaid program. 2460

(D) The medicaid director shall adopt rules, in accordance 2461  
with Chapter 119. of the Revised Code, to carry out this section. 2462

**Section 2.** That existing sections 119.12, 4121.129, 4121.37, 2463  
4121.61, 4121.65, 4121.66, 4121.67, 4121.68, 4123.01, 4123.291, 2464  
4123.34, 4123.343, 4123.35, 4123.351, 4123.411, 4123.419, 2465  
4123.512, 4123.56, and 4123.59 and section 4121.48 of the Revised 2466  
Code are hereby repealed. 2467

**Section 3.** All items in this section are hereby appropriated 2468  
out of any moneys in the state treasury to the credit of the 2469  
designated fund. For all appropriations made in this act, those in 2470  
the first column are for fiscal year 2016, and those in the second 2471  
column are for fiscal year 2017. 2472

FND	AI	AI TITLE	Appropriations		
		BWC BUREAU OF WORKERS' COMPENSATION			2474
		Dedicated Purpose Fund Group			2475
7023	855407	Claims, Risk and	\$ 110,445,000	\$ 110,445,000	2476
		Medical Management			
7023	855408	Fraud Prevention	\$ 11,909,400	\$ 11,909,400	2477



7023	855409	Administrative Services	\$	110,360,919	\$	110,360,919	2478
7023	855410	Attorney General Payments	\$	4,621,850	\$	4,621,850	2479
8220	855606	Coal Workers' Fund	\$	147,666	\$	147,666	2480
8230	855608	Marine Industry	\$	55,000	\$	55,000	2481
8250	855605	Disabled Workers Relief Fund	\$	170,000	\$	170,000	2482
8260	855609	Safety and Hygiene Operating	\$	21,661,132	\$	21,661,132	2483
8260	855610	Safety Grants	\$	15,000,000	\$	15,000,000	2484
TOTAL DPF Dedicated Purpose Fund Group			\$	274,370,967	\$	274,370,967	2485
Federal Fund Group							2486
3490	855601	OSHA Enforcement	\$	1,731,000	\$	1,731,000	2487
3FW0	855614	BLS SOII Grant	\$	141,000	\$	141,000	2488
TOTAL FED Federal Fund Group			\$	1,872,000	\$	1,872,000	2489
TOTAL ALL BUDGET FUND GROUPS			\$	276,242,967	\$	276,242,967	2490
WORKERS' COMPENSATION FRAUD UNIT							2491
Of the foregoing appropriation item 855410, Attorney General Payments, \$828,200 in each fiscal year shall be used to fund the expenses of the Workers' Compensation Fraud Unit within the Attorney General's Office. These payments shall be processed at the beginning of each quarter of each fiscal year and deposited into the Workers' Compensation Section Fund (Fund 1950) used by the Attorney General.							2492 2493 2494 2495 2496 2497 2498
SAFETY AND HYGIENE							2499
Notwithstanding section 4121.37 of the Revised Code, the Treasurer of State shall transfer \$21,661,132 cash in fiscal year 2016 and \$21,661,132 cash in fiscal year 2017 from the State Insurance Fund to the Safety and Hygiene Fund (Fund 8260).							2500 2501 2502 2503

OSHA ON-SITE CONSULTATION PROGRAM	2504
A portion of the foregoing appropriation item 855609, Safety and Hygiene Operating, may be used to provide the state match for federal funding of the Occupational Safety and Health Administration's On-site Consultation Program operated by the Division of Safety and Hygiene.	2505 2506 2507 2508 2509
VOCATIONAL REHABILITATION	2510
The Bureau of Workers' Compensation and the Opportunities for Ohioans with Disabilities Agency shall enter into an interagency agreement for the provision of vocational rehabilitation services and staff to mutually eligible clients. The Bureau may provide not more than \$605,407 in fiscal year 2016 and \$605,407 in fiscal year 2017 from the State Insurance Fund to fund vocational rehabilitation services and staff in accordance with the interagency agreement.	2511 2512 2513 2514 2515 2516 2517 2518
<b>Section 4. DEPUTY INSPECTOR GENERAL FOR BWC AND OIC FUNDING</b>	2519
To pay for the FY 2016 costs related to the Deputy Inspector General for the Bureau of Workers' Compensation and Industrial Commission, on July 1, 2015, and January 1, 2016, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$212,500 in cash from the Workers' Compensation Fund (Fund 7023) to the Deputy Inspector General for the Bureau of Workers' Compensation and Industrial Commission Fund (Fund 5FT0).	2520 2521 2522 2523 2524 2525 2526
To pay for the FY 2017 costs related to the Deputy Inspector General for the Bureau of Workers' Compensation and Industrial Commission, on July 1, 2016, and January 1, 2017, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$212,500 in cash from the Workers' Compensation Fund (Fund 7023) to the Deputy Inspector General for the Bureau of Workers' Compensation and Industrial Commission Fund (Fund 5FT0).	2527 2528 2529 2530 2531 2532 2533

If additional amounts are needed, the Inspector General may 2534  
seek Controlling Board approval for additional transfers of cash 2535  
and to increase the amount appropriated in appropriation item 2536  
965604, Deputy Inspector General for the Bureau of Workers' 2537  
Compensation and Industrial Commission. 2538

**Section 5.** Law contained in the Main Operating Appropriations 2539  
Act of the 131st General Assembly that applies generally to the 2540  
appropriations made in that act also applies generally to the 2541  
appropriations made in this act. 2542

**Section 6.** The Administrator of Workers' Compensation shall 2543  
study the operations of the Bureau of Workers' Compensation and 2544  
create a report detailing how the aggregate appropriations in 2545  
fiscal years 2016 and 2017 contained in Section 3 of this act may 2546  
be reduced by five per cent. The Administrator shall submit the 2547  
report to the Speaker of the House of Representatives and the 2548  
President of the Senate not later than ninety days after the 2549  
effective date of this section. 2550

**Section 7. HEALTH SERVICES PROVIDERS COST ESTIMATES** 2551

(A) There is hereby established under the Office of Health 2552  
Transformation the Health Services Price Disclosure Study 2553  
Committee. The Committee shall study the impact and feasibility of 2554  
carrying out the requirement prescribed in section 5162.80 of the 2555  
Revised Code. The Committee shall consist of interested parties 2556  
and legislators. 2557

(B) Not later than December 31, 2015, the Health Services 2558  
Price Disclosure Study Committee shall make a report of its 2559  
findings and shall deliver that report to the Governor, the 2560  
President and Minority Leader of the Senate, and the Speaker and 2561  
Minority Leader of the House of Representatives. 2562

(C) The Health Services Price Disclosure Study Committee 2563  
shall also provide recommendations on how health plan issuers can 2564  
provide comparison prices from the providers described in division 2565  
(A) of section 5162.80 of the Revised Code to their own enrollees 2566  
for comparison purposes. The Committee shall also provide 2567  
recommendations on required cost information disclosure for health 2568  
plans offered through the health care exchange for consumer 2569  
comparison purposes. These recommendations shall be submitted in a 2570  
separate report and the Committee shall deliver a copy of the 2571  
report to the Governor, the President and Minority Leader of the 2572  
Senate, and Speaker and Minority Leader of the House of 2573  
Representatives. 2574

(D) Not later than July 1, 2016, the Medicaid Director shall 2575  
adopt rules, in accordance with Chapter 119. of the Revised Code, 2576  
related to the implementation of section 5162.80 of the Revised 2577  
Code. These rules shall be based on the recommendations of the 2578  
Health Services Price Disclosure Study Committee. These rules 2579  
shall address both of the following: 2580

(1) How a cost estimate is to be provided to a consumer; 2581

(2) The definition of "emergency products, services, or 2582  
procedures." 2583

**Section 8.** The provisions of law contained in this act, and 2584  
their applications, are severable. If any provision of law 2585  
contained in this act, or if any application of any provision of 2586  
law contained in this act, is held invalid, the invalidity does 2587  
not affect other provisions of law contained in this act and their 2588  
applications that can be given effect without the invalid 2589  
provision or application. 2590

**Section 9.** Except as otherwise specifically provided in this 2591  
act, the amendment, enactment, or repeal by this act of a section 2592

of law is exempt from the referendum under Ohio Constitution, 2593  
Article II, Section 1d and section 1.471 of the Revised Code and 2594  
therefore takes effect immediately when this act becomes law. 2595

**Section 10.** The amendment, enactment, or repeal by this act 2596  
of the divisions and sections of law listed below are subject to 2597  
the referendum under Ohio Constitution, Article II, Section 1c and 2598  
therefore take effect on the ninety-first day after this act is 2599  
filed with the Secretary of State or, if a later effective date is 2600  
specified below, on that date: 2601

All Revised Code sections in Section 1 of this act; 2602

Section 6 of this act. 2603

**Section 11.** Section 5162.80 of the Revised Code, as enacted 2604  
by this act, shall take effect January 1, 2017. 2605