## As Passed by the Senate

# 131st General Assembly

Regular Session 2015-2016

Sub. H. B. No. 56

### Representatives Schuring, Slesnick

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

Senators Brown, Hottinger, Yuko, Burke, Eklund, Seitz

#### A BILL

| Го | amend sections 124.11, 124.34, 329.021, 2953.36, | 1  |
|----|--|----|
|    | 4121.121, 5120.38, 5120.381, 5120.382, 5123.08,  | 2  |
|    | and 5139.02 and to enact sections 9.73 and       | 3  |
|    | 5164.44 of the Revised Code to prohibit public   | 4  |
|    | employers from including on an employment        | 5  |
|    | application any question concerning the criminal | 6  |
|    | background of the applicant, to prohibit a       | 7  |
|    | felony conviction from being used against an     | 8  |
|    | officer or employee when a public employer is    | 9  |
|    | undertaking certain employment practices, unless | 10 |
|    | the conviction occurs while the officer or       | 11 |
|    | employee is employed in the civil service, to    | 12 |
|    | remove the bar against sealing a conviction      | 13 |
|    | record when the victim is 16 or 17 years old,    | 14 |
|    | and to provide that certain independent          | 15 |
|    | providers are not employees of the state or a    | 16 |
|    | political subdivision.                           | 17 |

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

| Section 1. That sections 124.11, 124.34, 329.021, 2953.36,       | 18 |
|--|----|
| 4121.121, 5120.38, 5120.381, 5120.382, 5123.08, and 5139.02 be   | 19 |
| amended and sections 9.73 and 5164.44 of the Revised Code be     | 20 |
| enacted to read as follows:                                      | 21 |
| Sec. 9.73. (A) As used in this section:                          | 22 |
| (1) "Public employer" means a state agency or a political        | 23 |
| subdivision of the state.  | 24 |
| (2) "State agency" means any organized body, office,             | 25 |
| agency, institution, or other entity established by the laws of  | 26 |
| the state for the exercise of any function of government.        | 27 |
| (3) "Political subdivision" means a county, township,            | 28 |
| municipal corporation, or any other body corporate and politic   | 29 |
| that is responsible for government activities in a geographic    | 30 |
| area smaller than that of the state.                             | 31 |
| (B) No public employer shall include on any form for             | 32 |
| application for employment with the public employer any question | 33 |
| concerning the criminal background of the applicant.             | 34 |
| (C) Nothing in this section prohibits a public employer          | 35 |
| from including on any form for application for employment with   | 36 |
| the public employer a statement notifying an applicant of any    | 37 |
| provision of the Revised Code or federal law that disqualifies   | 38 |
| an individual with a particular criminal history from employment | 39 |
| in a particular position.  | 40 |
| Sec. 124.11. The civil service of the state and the              | 41 |
| several counties, cities, civil service townships, city health   | 42 |
| districts, general health districts, and city school districts   | 43 |

Except as otherwise provided in division (A)(17) or (C) of this section, this chapter does not exempt the chiefs of police departments and chiefs of fire departments of cities or civil

service townships from the competitive classified service.

mayor, such other similar chief appointing authority of any city

(4) The members of county or district licensing boards or
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commissions and boards of revision, and not more than five
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deputy county auditors;
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(5) All officers and employees elected or appointed by
either or both branches of the general assembly, and employees
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| of the city legislative authority engaged in legislative duties; | 72 |
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| (6) All commissioned, warrant, and noncommissioned               | 73 |
| officers and enlisted persons in the Ohio organized militia,     | 74 |
| including military appointees in the adjutant general's          | 75 |
| department;  | 76 |
| (7)(a) All presidents, business managers, administrative         | 77 |
| officers, superintendents, assistant superintendents,            | 78 |
| principals, deans, assistant deans, instructors, teachers, and   | 79 |
| such employees as are engaged in educational or research duties  | 80 |
| connected with the public school system, colleges, and           | 81 |
| universities, as determined by the governing body of the public  | 82 |
| school system, colleges, and universities;                       | 83 |
| (b) The library staff of any library in the state                | 84 |
| supported wholly or in part at public expense.                   | 85 |
| (8) Four clerical and administrative support employees for       | 86 |
| each of the elective state officers, four clerical and           | 87 |
| administrative support employees for each board of county        | 88 |
| commissioners and one such employee for each county              | 89 |
| commissioner, and four clerical and administrative support       | 90 |
| employees for other elective officers and each of the principal  | 91 |
| appointive executive officers, boards, or commissions, except    | 92 |
| for civil service commissions, that are authorized to appoint    | 93 |
| such clerical and administrative support employees;              | 94 |
| (9) The deputies and assistants of state agencies                | 95 |
| authorized to act for and on behalf of the agency, or holding a  | 96 |
| fiduciary or administrative relation to that agency and those    | 97 |
| persons employed by and directly responsible to elected county   | 98 |
| officials or a county administrator and holding a fiduciary or   | 99 |
| administrative relationship to such elected county officials or  | 10 |

| county administrator, and the employees of such county officials | 101 |
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| whose fitness would be impracticable to determine by competitive | 102 |
| examination, provided that division (A)(9) of this section shall | 103 |
| not affect those persons in county employment in the classified  | 104 |
| service as of September 19, 1961. Nothing in division (A)(9) of  | 105 |
| this section applies to any position in a county department of   | 106 |
| job and family services created pursuant to Chapter 329. of the  | 107 |
| Revised Code.  | 108 |

- (10) Bailiffs, constables, official stenographers, and

  commissioners of courts of record, deputies of clerks of the

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  courts of common pleas who supervise or who handle public moneys

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  or secured documents, and such officers and employees of courts

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  of record and such deputies of clerks of the courts of common

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  pleas as the appointing authority finds it impracticable to

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  determine their fitness by competitive examination;

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- (11) Assistants to the attorney general, special counsel 116 appointed or employed by the attorney general, assistants to 117 county prosecuting attorneys, and assistants to city directors 118 of law; 119
- (12) Such teachers and employees in the agricultural 120 experiment stations; such students in normal schools, colleges, 121 and universities of the state who are employed by the state or a 122 political subdivision of the state in student or intern 123 classifications; and such unskilled labor positions as the 124 director of administrative services, with respect to positions 125 in the service of the state, or any municipal civil service 126 commission may find it impracticable to include in the 127 competitive classified service; provided such exemptions shall 128 be by order of the commission or the director, duly entered on 129 the record of the commission or the director with the reasons 130

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for each such exemption; 131 (13) Any physician or dentist who is a full-time employee 132 of the department of mental health and addiction services, the 133 department of developmental disabilities, or an institution 134 under the jurisdiction of either department; and physicians who 135 are in residency programs at the institutions; 136 (14) Up to twenty positions at each institution under the 137 jurisdiction of the department of mental health and addiction 138 services or the department of developmental disabilities that 139 the department director determines to be primarily 140 administrative or managerial; and up to fifteen positions in any 141 division of either department, excluding administrative 142 assistants to the director and division chiefs, which are within 143 the immediate staff of a division chief and which the director 144 determines to be primarily and distinctively administrative and 145 managerial; 146 (15) Noncitizens of the United States employed by the 147 state, or its counties or cities, as physicians or nurses who 148 are duly licensed to practice their respective professions under 149 the laws of this state, or medical assistants, in mental or 150 chronic disease hospitals, or institutions; 151 152 (16) Employees of the governor's office; (17) Fire chiefs and chiefs of police in civil service 153 townships appointed by boards of township trustees under section 154 505.38 or 505.49 of the Revised Code; 155 (18) Executive directors, deputy directors, and program 156 directors employed by boards of alcohol, drug addiction, and 157 mental health services under Chapter 340. of the Revised Code,

and secretaries of the executive directors, deputy directors,

| and program directors;  | 160 |
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| (19) Superintendents, and management employees as defined       | 161 |
| in section 5126.20 of the Revised Code, of county boards of     | 162 |
| developmental disabilities;                                     | 163 |
| (20) Physicians, nurses, and other employees of a county        | 164 |
| hospital who are appointed pursuant to sections 339.03 and      | 165 |
| 339.06 of the Revised Code;                                     | 166 |
| (21) The executive director of the state medical board,         | 167 |
| who is appointed pursuant to division (B) of section 4731.05 of | 168 |
| the Revised Code;   | 169 |
| (22) County directors of job and family services as             | 170 |
| provided in section 329.02 of the Revised Code and              | 171 |
| administrators appointed under section 329.021 of the Revised   | 172 |
| Code;   | 173 |
| (23) A director of economic development who is hired            | 174 |
| pursuant to division (A) of section 307.07 of the Revised Code; | 175 |
| (24) Chiefs of construction and compliance, of operations       | 176 |
| and maintenance, of worker protection, and of licensing and     | 177 |
| certification in the division of industrial compliance in the   | 178 |
| department of commerce;   | 179 |
| (25) The executive director of a county transit system          | 180 |
| appointed under division (A) of section 306.04 of the Revised   | 181 |
| Code;   | 182 |
| (26) Up to five positions at each of the administrative         | 183 |
| departments listed in section 121.02 of the Revised Code and at | 184 |
| the department of taxation, department of the adjutant general, | 185 |
| department of education, Ohio board of regents, bureau of       | 186 |
| workers' compensation, industrial commission, state lottery     | 187 |

authority to set compensation;

| commission, opportunities for Ohioans with disabilities agency,  | 188 |
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| and public utilities commission of Ohio that the head of that    | 189 |
| administrative department or of that other state agency          | 190 |
| determines to be involved in policy development and              | 191 |
| implementation. The head of the administrative department or     | 192 |
| other state agency shall set the compensation for employees in   | 193 |
| these positions at a rate that is not less than the minimum      | 194 |
| compensation specified in pay range 41 but not more than the     | 195 |
| maximum compensation specified in pay range 47 of salary         | 196 |
| schedule E-2 in section 124.152 of the Revised Code. The         | 197 |
| authority to establish positions in the unclassified service     | 198 |
| under division (A)(26) of this section is in addition to and     | 199 |
| does not limit any other authority that an administrative        | 200 |
| department or state agency has under the Revised Code to         | 201 |
| establish positions, appoint employees, or set compensation.     | 202 |
| (27) Employees of the department of agriculture employed         | 203 |
| under section 901.09 of the Revised Code;                        | 204 |
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| (28) For cities, counties, civil service townships, city         | 205 |
| health districts, general health districts, and city school      | 206 |
| districts, the deputies and assistants of elective or principal  | 207 |
| executive officers authorized to act for and in the place of     | 208 |
| their principals or holding a fiduciary relation to their        | 209 |
| principals;  | 210 |
| (29) Employees who receive intermittent or temporary             | 211 |
| appointments under division (B) of section 124.30 of the Revised | 212 |
| Code;  | 213 |
| (20) Employees experiented to administration at 55 marilians     | 014 |
| (30) Employees appointed to administrative staff positions       | 214 |
| for which an appointing authority is given specific statutory    | 215 |

- (31) Employees appointed to highway patrol cadet or 217 highway patrol cadet candidate classifications; 218
- (32) Employees placed in the unclassified service by 219 another section of the Revised Code. 220
- (B) The classified service shall comprise all persons in 221 the employ of the state and the several counties, cities, city 222 health districts, general health districts, and city school 223 224 districts of the state, not specifically included in the unclassified service. Upon the creation by the board of trustees 225 of a civil service township civil service commission, the 226 classified service shall also comprise, except as otherwise 227 provided in division (A)(17) or (C) of this section, all persons 228 in the employ of a civil service township police or fire 229 department having ten or more full-time paid employees. The 230 classified service consists of two classes, which shall be 231 designated as the competitive class and the unskilled labor 232 class. 233
- (1) The competitive class shall include all positions and 234 employments in the state and the counties, cities, city health 235 districts, general health districts, and city school districts 236 of the state, and, upon the creation by the board of trustees of 237 a civil service township of a township civil service commission, 238 all positions in a civil service township police or fire 239 department having ten or more full-time paid employees, for 240 which it is practicable to determine the merit and fitness of 241 applicants by competitive examinations. Appointments shall be 242 made to, or employment shall be given in, all positions in the 243 competitive class that are not filled by promotion, 244 reinstatement, transfer, or reduction, as provided in this 245 chapter, and the rules of the director of administrative 246

| services, | by  | appointment  | from  | those  | certified | to | the | appointing | 247 |
|-----------|-----|--------------|-------|--------|-----------|----|-----|------------|-----|
| officer i | n a | ccordance wi | th th | is cha | pter.     |    |     |            | 248 |

- (2) The unskilled labor class shall include ordinary 249 unskilled laborers. Vacancies in the labor class for positions 250 in service of the state shall be filled by appointment from 251 lists of applicants registered by the director or the director's 252 designee. Vacancies in the labor class for all other positions 253 shall be filled by appointment from lists of applicants 254 registered by a commission. The director or the commission, as 255 256 applicable, by rule, shall require an applicant for registration 257 in the labor class to furnish evidence or take tests as the director or commission considers proper with respect to age, 258 residence, physical condition, ability to labor, honesty, 259 sobriety, industry, capacity, and experience in the work or 260 employment for which application is made. Laborers who fulfill 261 the requirements shall be placed on the eligible list for the 2.62 kind of labor or employment sought, and preference shall be 263 given in employment in accordance with the rating received from 264 that evidence or in those tests. Upon the request of an 265 appointing officer, stating the kind of labor needed, the pay 266 and probable length of employment, and the number to be 267 employed, the director or commission, as applicable, shall 268 certify from the highest on the list double the number to be 269 employed; from this number, the appointing officer shall appoint 270 the number actually needed for the particular work. If more than 271 one applicant receives the same rating, priority in time of 272 application shall determine the order in which their names shall 273 be certified for appointment. 274
- (C) A municipal or civil service township civil service 275 commission may place volunteer firefighters who are paid on a 276 fee-for-service basis in either the classified or the 277

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| unclassified civil service.                                      | 278 |
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| (D)(1) This division does not apply to persons in the            | 279 |
| unclassified service who have the right to resume positions in   | 280 |
| the classified service under sections 4121.121, 5119.18,         | 281 |
| 5120.38, 5120.381, 5120.382, 5123.08, and 5139.02 of the Revised | 282 |
| Code or to cities, counties, or political subdivisions of the    | 283 |
| state.   | 284 |
| (2) A person who holds a position in the classified              | 285 |
| service of the state and who is appointed to a position in the   | 286 |
| unclassified service shall retain the right to resume the        | 287 |
| position and status held by the person in the classified service | 288 |
| immediately prior to the person's appointment to the position in | 289 |
| the unclassified service, regardless of the number of positions  | 290 |
| the person held in the unclassified service. An employee's right | 291 |
| to resume a position in the classified service may only be       | 292 |
| exercised when an appointing authority demotes the employee to a | 293 |
| pay range lower than the employee's current pay range or revokes | 294 |
| the employee's appointment to the unclassified service and any   | 295 |
| of the following apply:  | 296 |
| (a) That person held a certified position prior to July 1,       | 297 |
| 2007, in the classified service within the appointing            | 298 |
| authority's agency;  | 299 |
| (b) That person held a permanent position on or after July       | 300 |
| 1, 2007, in the classified service within the appointing         | 301 |
| authority's agency, and was appointed to the position in the     | 302 |
| unclassified service prior to January 1, 2016;                   | 303 |
|  |     |

(c) That person held a permanent position on or after

January 1, 2016, in the classified service within the appointing

authority's agency, and is within five years from the effective

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date of the person's appointment in the unclassified service.

- (3) An employee forfeits the right to resume a position in 308 the classified service when:
- (a) The employee is removed from the position in the 310 unclassified service due to incompetence, inefficiency, 311 dishonesty, drunkenness, immoral conduct, insubordination, 312 discourteous treatment of the public, neglect of duty, violation 313 of this chapter or the rules of the director of administrative 314 services, any other failure of good behavior, any other acts of 315 misfeasance, malfeasance, or nonfeasance in office, or 316 conviction of a felony while employed in the civil service; or 317
  - (b) Upon transfer to a different agency.
- (4) Reinstatement to a position in the classified service shall be to a position substantially equal to that position in the classified service held previously, as certified by the director of administrative services. If the position the person previously held in the classified service has been placed in the unclassified service or is otherwise unavailable, the person shall be appointed to a position in the classified service within the appointing authority's agency that the director of administrative services certifies is comparable in compensation to the position the person previously held in the classified service. Service in the position in the unclassified service shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment to the position in the unclassified service. When a person is reinstated to a position in the classified service as provided in this division, the person is entitled to all rights, status, and benefits accruing to the position in the classified service during the person's time of service in the position in

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the unclassified service.

| Sec. 124.34. (A) The tenure of every officer or employee         | 338 |
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| in the classified service of the state and the counties, civil   | 339 |
| service townships, cities, city health districts, general health | 340 |
| districts, and city school districts of the state, holding a     | 341 |
| position under this chapter, shall be during good behavior and   | 342 |
| efficient service. No officer or employee shall be reduced in    | 343 |
| pay or position, fined, suspended, or removed, or have the       | 344 |
| officer's or employee's longevity reduced or eliminated, except  | 345 |
| as provided in section 124.32 of the Revised Code, and for       | 346 |
| incompetency, inefficiency, unsatisfactory performance,          | 347 |
| dishonesty, drunkenness, immoral conduct, insubordination,       | 348 |
| discourteous treatment of the public, neglect of duty, violation | 349 |
| of any policy or work rule of the officer's or employee's        | 350 |
| appointing authority, violation of this chapter or the rules of  | 351 |
| the director of administrative services or the commission, any   | 352 |
| other failure of good behavior, any other acts of misfeasance,   | 353 |
| malfeasance, or nonfeasance in office, or conviction of a felony | 354 |
| while employed in the civil service. The denial of a one-time    | 355 |
| pay supplement or a bonus to an officer or employee is not a     | 356 |
| reduction in pay for purposes of this section.                   | 357 |
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This section does not apply to any modifications or reductions in pay or work week authorized by section 124.392, 124.393, or 124.394 of the Revised Code.

An appointing authority may require an employee who is

suspended to report to work to serve the suspension. An employee

serving a suspension in this manner shall continue to be

compensated at the employee's regular rate of pay for hours

worked. The disciplinary action shall be recorded in the

an employee's personnel file in the same manner as other

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| discipli | nary | act | cions | and   | has  | the   | same   | effe  | ct  | as  | а  | suspension | L   | 367 |
|----------|------|-----|-------|-------|------|-------|--------|-------|-----|-----|----|------------|-----|-----|
| without  | pay  | for | the   | purpo | se o | of re | ecordi | .ng d | isc | ipl | in | ary action | ıs. | 368 |

A finding by the appropriate ethics commission, based upon 369 a preponderance of the evidence, that the facts alleged in a 370 complaint under section 102.06 of the Revised Code constitute a 371 violation of Chapter 102., section 2921.42, or section 2921.43 372 of the Revised Code may constitute grounds for dismissal. 373 Failure to file a statement or falsely filing a statement 374 required by section 102.02 of the Revised Code may also 375 376 constitute grounds for dismissal. The tenure of an employee in the career professional service of the department of 377 transportation is subject to section 5501.20 of the Revised 378 Code. 379

Conviction of a felony while employed in the civil service 380 is a separate basis for reducing in pay or position, suspending, 381 or removing an officer or employee, even if the officer or 382 employee has already been reduced in pay or position, suspended, 383 or removed for the same conduct that is the basis of the felony. 384 An officer or employee may not appeal to the state personnel 385 board of review or the commission any disciplinary action taken 386 by an appointing authority as a result of the officer's or 387 employee's conviction of a felony. If an officer or employee 388 removed under this section is reinstated as a result of an 389 appeal of the removal, any conviction of a felony that occurs 390 during the pendency of the appeal is a basis for further 391 disciplinary action under this section upon the officer's or 392 employee's reinstatement. 393

A person convicted of a felony <u>while employed in the civil</u>

<u>service</u> immediately forfeits the person's status as a classified

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employee in any public employment on and after the date of the

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| conviction for the felony. If an officer or employee is removed  | 397 |
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| under this section as a result of being convicted of a felony or | 398 |
| is subsequently convicted of a felony that involves the same     | 399 |
| conduct that was the basis for the removal, the officer or       | 400 |
| employee is barred from receiving any compensation after the     | 401 |
| removal notwithstanding any modification or disaffirmance of the | 402 |
| removal, unless the conviction for the felony is subsequently    | 403 |
| reversed or annulled.  | 404 |
| Any person removed for conviction of a felony is entitled        | 405 |
| to a cash payment for any accrued but unused sick, personal, and | 406 |
| vacation leave as authorized by law. If subsequently reemployed  | 407 |
| in the public sector, the person shall qualify for and accrue    | 408 |
| these forms of leave in the manner specified by law for a newly  | 409 |
| appointed employee and shall not be credited with prior public   | 410 |
| service for the purpose of receiving these forms of leave.       | 411 |
| As used in this division, "felony" means any of the              | 412 |
| following:   | 413 |
| (1) A felony that is an offense of violence as defined in        | 414 |
| section 2901.01 of the Revised Code;                             | 415 |
| (2) A felony that is a felony drug abuse offense as              | 416 |
| defined in section 2925.01 of the Revised Code;                  | 417 |
|  | 410 |
| (3) A felony under the laws of this or any other state or        | 418 |
| the United States that is a crime of moral turpitude;            | 419 |
| (4) A felony involving dishonesty, fraud, or theft;              | 420 |
| (5) A felony that is a violation of section 2921.05,             | 421 |
| 2921.32, or 2921.42 of the Revised Code.                         | 422 |
| (B) In case of a reduction, a suspension of more than            | 423 |
| forty work hours in the case of an employee exempt from the      | 424 |

| payment of overtime compensation, a suspension of more than      | 425 |
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| twenty-four work hours in the case of an employee required to be | 426 |
| paid overtime compensation, a fine of more than forty hours' pay | 427 |
| in the case of an employee exempt from the payment of overtime   | 428 |
| compensation, a fine of more than twenty-four hours' pay in the  | 429 |
| case of an employee required to be paid overtime compensation,   | 430 |
| or removal, except for the reduction or removal of a             | 431 |
| probationary employee, the appointing authority shall serve the  | 432 |
| employee with a copy of the order of reduction, fine,            | 433 |
| suspension, or removal, which order shall state the reasons for  | 434 |
| the action.  | 435 |

Within ten days following the date on which the order is 436 served or, in the case of an employee in the career professional 437 service of the department of transportation, within ten days 438 following the filing of a removal order, the employee, except as 439 otherwise provided in this section, may file an appeal of the 440 order in writing with the state personnel board of review or the 441 commission. For purposes of this section, the date on which an 442 order is served is the date of hand delivery of the order or the 443 date of delivery of the order by certified United States mail, 444 whichever occurs first. If an appeal is filed, the board or 445 commission shall forthwith notify the appointing authority and 446 shall hear, or appoint a trial board to hear, the appeal within 447 thirty days from and after its filing with the board or 448 commission. The board, commission, or trial board may affirm, 449 disaffirm, or modify the judgment of the appointing authority. 450 However, in an appeal of a removal order based upon a violation 451 of a last chance agreement, the board, commission, or trial 452 board may only determine if the employee violated the agreement 453 and thus affirm or disaffirm the judgment of the appointing 454 authority. 455

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| In cases of removal or reduction in pay for disciplinary         | 456 |
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| reasons, either the appointing authority or the officer or       | 457 |
| employee may appeal from the decision of the state personnel     | 458 |
| board of review or the commission, and any such appeal shall be  | 459 |
| to the court of common pleas of the county in which the          | 460 |
| appointing authority is located, or to the court of common pleas | 461 |
| of Franklin county, as provided by section 119.12 of the Revised | 462 |
| Code.  | 463 |

- (C) In the case of the suspension for any period of time, or a fine, demotion, or removal, of a chief of police, a chief of a fire department, or any member of the police or fire department of a city or civil service township, who is in the classified civil service, the appointing authority shall furnish the chief or member with a copy of the order of suspension, fine, demotion, or removal, which order shall state the reasons for the action. The order shall be filed with the municipal or civil service township civil service commission. Within ten days following the filing of the order, the chief or member may file an appeal, in writing, with the commission. If an appeal is filed, the commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, the appeal within thirty days from and after its filing with the commission, and it may affirm, disaffirm, or modify the judgment of the appointing authority. An appeal on questions of law and fact may be had from the decision of the commission to the court of common pleas in the county in which the city or civil service township is situated. The appeal shall be taken within thirty days from the finding of the commission.
- (D) A violation of division (A)(7) of section 2907.03 of the Revised Code is grounds for termination of employment of a nonteaching employee under this section.

| (E) The director shall adopt a rule in accordance with           | 487 |
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| Chapter 119. of the Revised Code to define the term              | 488 |
| "unsatisfactory performance" as it is used in this section with  | 489 |
| regard to employees in the service of the state.                 | 490 |
| (F) As used in this section, "last chance agreement" means       | 491 |
| an agreement signed by both an appointing authority and an       | 492 |
| officer or employee of the appointing authority that describes   | 493 |
| the type of behavior or circumstances that, if it occurs, will   | 494 |
| automatically lead to removal of the officer or employee without | 495 |
| the right of appeal to the state personnel board of review or    | 496 |
| the appropriate commission.                                      | 497 |
| Sec. 329.021. (A) The board of county commissioners may,         | 498 |
| in addition to the county director of job and family services,   | 499 |
| appoint administrators to oversee services provided by the       | 500 |
| county department of job and family services, subject to the     | 501 |
| following limitations:   | 502 |
| (1) If the county has a population of five hundred               | 503 |
| thousand or more, the board may appoint up to five               | 504 |
| administrators.  | 505 |
| (2) If the county has a population of two hundred and            | 506 |
| fifty thousand or more, but less than five hundred thousand, the | 507 |
| board may appoint up to four administrators.                     | 508 |
| (3) If the county has a population of one hundred thousand       | 509 |
| or more, but less than two hundred and fifty thousand, the board | 510 |
| may appoint up to three administrators.                          | 511 |
| (4) If the county has a population of forty thousand or          | 512 |
| more, but less than one hundred thousand, the board may appoint  | 513 |
| up to two administrators.  | 514 |
| (5) If the county has a population of less than forty            | 515 |

thousand, the board may appoint one administrator.

(B) The administrators appointed by the board of county

commissioners under this section shall be in the unclassified

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civil service and serve at the pleasure of the board. However,

no administrator position that is filled by a person serving in

the classified service on the effective date of this amendment

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July 1, 2007, shall be placed in the unclassified civil service

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until that person vacates the position.

524 (C) The board of county commissioners may appoint a person who holds a certified position in the classified service within 525 the county department of job and family services to the position 526 of administrator. A person appointed to the position of 527 administrator pursuant to this division and later removed by the 528 board retains the right to resume the position in the classified 529 service held by that person immediately prior to being appointed 530 to the position of administrator, except that a person first 531 appointed to a classified position in the department on or after 532 the effective date of this amendment July 1, 2007, shall retain 533 the right to resume the position in the classified service for 534 535 only six months after being appointed to the position of 536 administrator. An employee forfeits the right to resume a position in the classified service when the employee is removed 537 from the position of administrator due to incompetence, 538 inefficiency, dishonesty, drunkenness, immoral conduct, 539 insubordination, discourteous treatment of the public, neglect 540 of duty, violation of any policy or work rule of the board or 541 department, violation of Chapter 124. of the Revised Code or the 542 rules of the director of administrative services, any other 543 failure of good behavior, any other acts of misfeasance, 544 malfeasance, or nonfeasance in office, or conviction of a felony 545 while employed in the civil service. If the position the person 546

| previously held in the classified service no longer exists or    | 547 |
|--|-----|
| has been placed in the unclassified service, the person shall be | 548 |
| appointed to a position in the classified service of the         | 549 |
| department that is equivalent to the classified position the     | 550 |
| person previously held, as determined by the board with the      | 551 |
| approval of the director of administrative services.             | 552 |
| (D) As used in this section, "administrator" means               | 553 |
| assistant director, fiscal officer or director, personnel        | 554 |
| officer or director, social services administrator, income       | 555 |
| maintenance administrator, child support administrator in a      | 556 |
| combined agency, children services administrator in a combined   | 557 |
| agency, and workforce development administrator in a combined    | 558 |
| agency.  | 559 |
| Sec. 2953.36. Sections 2953.31 to 2953.35 of the Revised         | 560 |
| Code do not apply to any of the following:                       | 561 |
| (A) Convictions when the offender is subject to a                | 562 |
| mandatory prison term;   | 563 |
| (B) Convictions under section 2907.02, 2907.03, 2907.04,         | 564 |
| 2907.05, 2907.06, 2907.321, 2907.322, or 2907.323, former        | 565 |
| section 2907.12, or Chapter 4506., 4507., 4510., 4511., or 4549. | 566 |
| of the Revised Code, or a conviction for a violation of a        | 567 |
| municipal ordinance that is substantially similar to any section | 568 |
| contained in any of those chapters, except as otherwise provided | 569 |
| in section 2953.61 of the Revised Code;                          | 570 |
| (C) Convictions of an offense of violence when the offense       | 571 |
| is a misdemeanor of the first degree or a felony and when the    | 572 |
| offense is not a violation of section 2917.03 of the Revised     | 573 |
| Code and is not a violation of section 2903.13, 2917.01, or      | 574 |
| 2917.31 of the Revised Code that is a misdemeanor of the first   | 575 |

| degree;  | 576 |
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| (D) Convictions on or after October 10, 2007, under              | 577 |
| section 2907.07 of the Revised Code or a conviction on or after  | 578 |
| October 10, 2007, for a violation of a municipal ordinance that  | 579 |
| is substantially similar to that section;                        | 580 |
| (E) Convictions on or after October 10, 2007, under              | 581 |
| section 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.31,    | 582 |
| 2907.311, 2907.32, or 2907.33 of the Revised Code when the       | 583 |
| victim of the offense was under eighteen years of age;           | 584 |
| (F) Convictions of an offense in circumstances in which          | 585 |
| the victim of the offense was under eighteen less than sixteen   | 586 |
| years of age when the offense is a misdemeanor of the first      | 587 |
| degree or a felony, except for convictions under section 2919.21 | 588 |
| of the Revised Code;   | 589 |
| (G) Convictions of a felony of the first or second degree;       | 590 |
| (H) Bail forfeitures in a traffic case as defined in             | 591 |
| Traffic Rule 2.  | 592 |
| Sec. 4121.121. (A) There is hereby created the bureau of         | 593 |
| workers' compensation, which shall be administered by the        | 594 |
| administrator of workers' compensation. A person appointed to    | 595 |
| the position of administrator shall possess significant          | 596 |
| management experience in effectively managing an organization or | 597 |
| organizations of substantial size and complexity. A person       | 598 |
| appointed to the position of administrator also shall possess a  | 599 |
| minimum of five years of experience in the field of workers'     | 600 |
| compensation insurance or in another insurance industry, except  | 601 |
| as otherwise provided when the conditions specified in division  | 602 |
| (C) of this section are satisfied. The governor shall appoint    | 603 |
| the administrator as provided in section 121.03 of the Revised   | 604 |

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| Code, and the administrator shall serve at the pleasure of the  | 605 |
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| governor. The governor shall fix the administrator's salary on  | 606 |
| the basis of the administrator's experience and the             | 607 |
| administrator's responsibilities and duties under this chapter  | 608 |
| and Chapters 4123., 4125., 4127., 4131., and 4167. of the       | 609 |
| Revised Code. The governor shall not appoint to the position of | 610 |
| administrator any person who has, or whose spouse has, given a  | 611 |
| contribution to the campaign committee of the governor in an    | 612 |
| amount greater than one thousand dollars during the two-year    | 613 |
| period immediately preceding the date of the appointment of the | 614 |
| administrator.  | 615 |

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

- (B) The administrator is responsible for the management of 625 the bureau and for the discharge of all administrative duties 626 imposed upon the administrator in this chapter and Chapters 627 4123., 4125., 4127., 4131., and 4167. of the Revised Code, and 628 in the discharge thereof shall do all of the following: 629
- (1) Perform all acts and exercise all authorities and
  powers, discretionary and otherwise that are required of or
  vested in the bureau or any of its employees in this chapter and
  Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised
  Code, except the acts and the exercise of authority and power
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| that is required of and vested in the bureau of workers'       | 635 |
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| compensation board of directors or the industrial commission   | 636 |
| pursuant to those chapters. The treasurer of state shall honor | 637 |
| all warrants signed by the administrator, or by one or more of | 638 |
| the administrator's employees, authorized by the administrator | 639 |
| in writing, or bearing the facsimile signature of the          | 640 |
| administrator or such employee under sections 4123.42 and      | 641 |
| 4123.44 of the Revised Code.                                   | 642 |

(2) Employ, direct, and supervise all employees required 643 644 in connection with the performance of the duties assigned to the bureau by this chapter and Chapters 4123., 4125., 4127., 4131., 645 and 4167. of the Revised Code, including an actuary, and may 646 establish job classification plans and compensation for all 647 employees of the bureau provided that this grant of authority 648 shall not be construed as affecting any employee for whom the 649 state employment relations board has established an appropriate 650 bargaining unit under section 4117.06 of the Revised Code. All 651 positions of employment in the bureau are in the classified 652 civil service except those employees the administrator may 653 appoint to serve at the administrator's pleasure in the 654 unclassified civil service pursuant to section 124.11 of the 655 Revised Code. The administrator shall fix the salaries of 656 employees the administrator appoints to serve at the 657 administrator's pleasure, including the chief operating officer, 658 staff physicians, and other senior management personnel of the 659 bureau and shall establish the compensation of staff attorneys 660 of the bureau's legal section and their immediate supervisors, 661 and take whatever steps are necessary to provide adequate 662 compensation for other staff attorneys. 663

The administrator may appoint a person who holds a 664 certified position in the classified service within the bureau 665

| to a position in the unclassified service within the bureau. A   | 666 |
|--|-----|
| person appointed pursuant to this division to a position in the  | 667 |
| unclassified service shall retain the right to resume the        | 668 |
| position and status held by the person in the classified service | 669 |
| immediately prior to the person's appointment in the             | 670 |
| unclassified service, regardless of the number of positions the  | 671 |
| person held in the unclassified service. An employee's right to  | 672 |
| resume a position in the classified service may only be          | 673 |
| exercised when the administrator demotes the employee to a pay   | 674 |
| range lower than the employee's current pay range or revokes the | 675 |
| employee's appointment to the unclassified service. An employee  | 676 |
| who holds a position in the classified service and who is        | 677 |
| appointed to a position in the unclassified service on or after  | 678 |
| January 1, 2016, shall have the right to resume a position in    | 679 |
| the classified service under this division only within five      | 680 |
| years after the effective date of the employee's appointment in  | 681 |
| the unclassified service. An employee forfeits the right to      | 682 |
| resume a position in the classified service when the employee is | 683 |
| removed from the position in the unclassified service due to     | 684 |
| incompetence, inefficiency, dishonesty, drunkenness, immoral     | 685 |
| conduct, insubordination, discourteous treatment of the public,  | 686 |
| neglect of duty, violation of this chapter or Chapter 124.,      | 687 |
| 4123., 4125., 4127., 4131., or 4167. of the Revised Code,        | 688 |
| violation of the rules of the director of administrative         | 689 |
| services or the administrator, any other failure of good         | 690 |
| behavior, any other acts of misfeasance, malfeasance, or         | 691 |
| nonfeasance in office, or conviction of a felony while employed  | 692 |
| in the civil service. An employee also forfeits the right to     | 693 |
| resume a position in the classified service upon transfer to a   | 694 |
| different agency.  | 695 |

Reinstatement to a position in the classified service

| shall be to a position substantially equal to that position in   | 697 |
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| the classified service held previously, as certified by the      | 698 |
| department of administrative services. If the position the       | 699 |
| person previously held in the classified service has been placed | 700 |
| in the unclassified service or is otherwise unavailable, the     | 701 |
| person shall be appointed to a position in the classified        | 702 |
| service within the bureau that the director of administrative    | 703 |
| services certifies is comparable in compensation to the position | 704 |
| the person previously held in the classified service. Service in | 705 |
| the position in the unclassified service shall be counted as     | 706 |
| service in the position in the classified service held by the    | 707 |
| person immediately prior to the person's appointment in the      | 708 |
| unclassified service. When a person is reinstated to a position  | 709 |
| in the classified service as provided in this division, the      | 710 |
| person is entitled to all rights, status, and benefits accruing  | 711 |
| to the position during the person's time of service in the       | 712 |
| position in the unclassified service.                            | 713 |

(3) Reorganize the work of the bureau, its sections, 714 departments, and offices to the extent necessary to achieve the 715 most efficient performance of its functions and to that end may 716 establish, change, or abolish positions and assign and reassign 717 duties and responsibilities of every employee of the bureau. All 718 persons employed by the commission in positions that, after 719 November 3, 1989, are supervised and directed by the 720 administrator under this section are transferred to the bureau 721 in their respective classifications but subject to reassignment 722 and reclassification of position and compensation as the 723 administrator determines to be in the interest of efficient 724 administration. The civil service status of any person employed 725 by the commission is not affected by this section. Personnel 726 employed by the bureau or the commission who are subject to 727

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| Chapter 4117. of the Revised Code shall retain all of their     | 728 |
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| rights and benefits conferred pursuant to that chapter as it    | 729 |
| presently exists or is hereafter amended and nothing in this    | 730 |
| chapter or Chapter 4123. of the Revised Code shall be construed | 731 |
| as eliminating or interfering with Chapter 4117. of the Revised | 732 |
| Code or the rights and benefits conferred under that chapter to | 733 |
| public employees or to any bargaining unit.                     | 734 |
|   |     |

- (4) Provide offices, equipment, supplies, and other facilities for the bureau.
- (5) Prepare and submit to the board information the 737 administrator considers pertinent or the board requires, 738 together with the administrator's recommendations, in the form 739 of administrative rules, for the advice and consent of the 740 board, for classifications of occupations or industries, for 741 premium rates and contributions, for the amount to be credited 742 to the surplus fund, for rules and systems of rating, rate 743 revisions, and merit rating. The administrator shall obtain, 744 prepare, and submit any other information the board requires for 745 the prompt and efficient discharge of its duties. 746
- (6) Keep the accounts required by division (A) of section 4123.34 of the Revised Code and all other accounts and records necessary to the collection, administration, and distribution of the workers' compensation funds and shall obtain the statistical and other information required by section 4123.19 of the Revised Code.
- (7) Exercise the investment powers vested in the 753
  administrator by section 4123.44 of the Revised Code in 754
  accordance with the investment policy approved by the board 755
  pursuant to section 4121.12 of the Revised Code and in 756
  consultation with the chief investment officer of the bureau of 757

| workers' compensation. The administrator shall not engage in any | 758 |
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| prohibited investment activity specified by the board pursuant   | 759 |
| to division (F)(9) of section 4121.12 of the Revised Code and    | 760 |
| shall not invest in any type of investment specified in          | 761 |
| divisions (B)(1) to (10) of section 4123.442 of the Revised      | 762 |
| Code. All business shall be transacted, all funds invested, all  | 763 |
| warrants for money drawn and payments made, and all cash and     | 764 |
| securities and other property held, in the name of the bureau,   | 765 |
| or in the name of its nominee, provided that nominees are        | 766 |
| authorized by the administrator solely for the purpose of        | 767 |
| facilitating the transfer of securities, and restricted to the   | 768 |
| administrator and designated employees.                          | 769 |
|  |     |

- (8) In accordance with Chapter 125. of the Revised Code, purchase supplies, materials, equipment, and services.
- (9) Prepare and submit to the board an annual budget for 772 internal operating purposes for the board's approval. The 773 administrator also shall, separately from the budget the 774 industrial commission submits, prepare and submit to the 775 director of budget and management a budget for each biennium. 776 The budgets submitted to the board and the director shall 777 include estimates of the costs and necessary expenditures of the 778 bureau in the discharge of any duty imposed by law. 779
- (10) As promptly as possible in the course of efficient 780 administration, decentralize and relocate such of the personnel 781 and activities of the bureau as is appropriate to the end that 782 the receipt, investigation, determination, and payment of claims 783 may be undertaken at or near the place of injury or the 784 residence of the claimant and for that purpose establish 785 regional offices, in such places as the administrator considers 786 proper, capable of discharging as many of the functions of the 787

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| bureau as is practicable so as to promote prompt and efficient   | 788 |
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| administration in the processing of claims. All active and       | 789 |
| inactive lost-time claims files shall be held at the service     | 790 |
| office responsible for the claim. A claimant, at the claimant's  | 791 |
| request, shall be provided with information by telephone as to   | 792 |
| the location of the file pertaining to the claimant's claim. The | 793 |
| administrator shall ensure that all service office employees     | 794 |
| report directly to the director for their service office.        | 795 |
| (11) Provide a written binder on new coverage where the          | 796 |
| administrator considers it to be in the best interest of the     | 797 |
| risk. The administrator, or any other person authorized by the   | 798 |
| administrator, shall grant the binder upon submission of a       | 799 |
| request for coverage by the employer. A binder is effective for  | 800 |
| a period of thirty days from date of issuance and is             | 801 |
| nonrenewable. Payroll reports and premium charges shall coincide | 802 |
| with the effective date of the binder.                           | 803 |
| (12) Set standards for the reasonable and maximum handling       | 804 |
| time of claims payment functions, ensure, by rules, the          | 805 |
| impartial and prompt treatment of all claims and employer risk   | 806 |
| accounts, and establish a secure, accurate method of time        | 807 |
| stamping all incoming mail and documents hand delivered to       | 808 |
| bureau employees.  | 809 |
| (13) Ensure that all employees of the bureau follow the          | 810 |
| orders and rules of the commission as such orders and rules      | 811 |
| relate to the commission's overall adjudicatory policy-making    | 812 |
| and management duties under this chapter and Chapters 4123.,     | 813 |
| 4127., and 4131. of the Revised Code.                            | 814 |
| (14) Manage and operate a data processing system with a          | 815 |

common data base for the use of both the bureau and the

commission and, in consultation with the commission, using

| electronic data processing equipment, shall develop a claims    | 818 |
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| tracking system that is sufficient to monitor the status of a   | 819 |
| claim at any time and that lists appeals that have been filed   | 820 |
| and orders or determinations that have been issued pursuant to  | 821 |
| section 4123.511 or 4123.512 of the Revised Code, including the | 822 |
| dates of such filings and issuances.                            | 823 |
| (15) Establish and maintain a medical section within the        | 824 |
| bureau. The medical section shall do all of the following:      | 825 |
|   |     |
| (a) Assist the administrator in establishing standard           | 826 |
| medical fees, approving medical procedures, and determining     | 827 |
| eligibility and reasonableness of the compensation payments for | 828 |
| medical, hospital, and nursing services, and in establishing    | 829 |
| guidelines for payment policies which recognize usual,          | 830 |
| customary, and reasonable methods of payment for covered        | 831 |
| services;   | 832 |
| (b) Provide a resource to respond to questions from claims      | 833 |
| examiners for employees of the bureau;                          | 834 |
| examiners for employees of the sureau,                          | 031 |
| (c) Audit fee bill payments;                                    | 835 |
| (d) Implement a program to utilize, to the maximum extent       | 836 |
| possible, electronic data processing equipment for storage of   | 837 |
| information to facilitate authorizations of compensation        | 838 |
| payments for medical, hospital, drug, and nursing services;     | 839 |
| (e) Perform other duties assigned to it by the                  | 840 |
| administrator.  | 841 |
|   | 011 |
| (16) Appoint, as the administrator determines necessary,        | 842 |
| panels to review and advise the administrator on disputes       | 843 |
| arising over a determination that a health care service or      | 844 |
| supply provided to a claimant is not covered under this chapter | 845 |
| or Chapter 4123., 4127., or 4131. of the Revised Code or is     | 846 |

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| medically unnecessary. If an individual health care provider is | 847 |
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| involved in the dispute, the panel shall consist of individuals | 848 |
| licensed pursuant to the same section of the Revised Code as    | 849 |
| such health care provider.                                      | 850 |
|   |     |
| (17) Pursuant to section 4123.65 of the Revised Code,           | 851 |
| approve applications for the final settlement of claims for     | 852 |
| compensation or benefits under this chapter and Chapters 4123., | 853 |

- compensation or benefits under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as the administrator determines appropriate, except in regard to the applications of self-insuring employers and their employees.
- (18) Comply with section 3517.13 of the Revised Code, and 857 858 except in regard to contracts entered into pursuant to the authority contained in section 4121.44 of the Revised Code, 859 comply with the competitive bidding procedures set forth in the 860 Revised Code for all contracts into which the administrator 861 enters provided that those contracts fall within the type of 862 contracts and dollar amounts specified in the Revised Code for 863 competitive bidding and further provided that those contracts 864 are not otherwise specifically exempt from the competitive 865 866 bidding procedures contained in the Revised Code.
- (19) Adopt, with the advice and consent of the board, rules for the operation of the bureau.
- (20) Prepare and submit to the board information the administrator considers pertinent or the board requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the board, for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code.

| (C) The administrator, with the advice and consent of the        | 876 |
|--|-----|
| senate, shall appoint a chief operating officer who has a        | 877 |
| minimum of five years of experience in the field of workers'     | 878 |
| compensation insurance or in another similar insurance industry  | 879 |
| if the administrator does not possess such experience. The chief | 880 |
| operating officer shall not commence the chief operating         | 881 |
| officer's duties until after the senate consents to the chief    | 882 |
| operating officer's appointment. The chief operating officer     | 883 |
| shall serve in the unclassified civil service of the state.      | 884 |

Sec. 5120.38. Subject to the rules of the department of 885 rehabilitation and correction, each institution under the 886 department's jurisdiction other than an institution operated 887 pursuant to a contract entered into under section 9.06 of the 888 Revised Code shall be under the control of a managing officer 889 known as a warden or other appropriate title. The managing 890 officer shall be appointed by the director of rehabilitation and 891 correction and shall be in the unclassified service and serve at 892 the pleasure of the director. Appointment to the position of 893 managing officer shall be made from persons who have criminal 894 justice experience. 895

A person who is appointed to the position of managing 896 897 officer from a permanent, classified position within the department shall retain the right to resume the position and 898 status that the person held in the classified service 899 immediately prior to the person's appointment to the position in 900 the unclassified service, regardless of the number of positions 901 the person held in the unclassified service. An employee's right 902 to resume a position in the classified service may be exercised 903 only when an appointing authority demotes the employee to a pay 904 range lower than the employee's current pay range or revokes the 905 employee's appointment to the position in the unclassified 906

| service. An employee who holds a position in the classified      | 907 |
|--|-----|
| service and who is appointed to a position in the unclassified   | 908 |
| service on or after January 1, 2016, shall have the right to     | 909 |
| resume a position in the classified service under this section   | 910 |
| only within five years after the effective date of the           | 911 |
| employee's appointment in the unclassified service. An employee  | 912 |
| forfeits the right to resume a position in the classified        | 913 |
| service if the employee is removed from a position in the        | 914 |
| unclassified service due to incompetence, inefficiency,          | 915 |
| dishonesty, drunkenness, immoral conduct, insubordination,       | 916 |
| discourteous treatment of the public, neglect of duty, a         | 917 |
| violation of this chapter or the rules of the department or the  | 918 |
| director of administrative services, any other failure of good   | 919 |
| behavior, any other acts of misfeasance, malfeasance, or         | 920 |
| nonfeasance in office, or conviction of or plea of guilty to a   | 921 |
| felony while employed in the civil service. An employee also     | 922 |
| forfeits the right to resume the prior position in the           | 923 |
| classified service upon transfer to a different agency.          | 924 |
| Reinstatement to a position in the classified service shall be   | 925 |
| to a position substantially equal to the position in the         | 926 |
| classified service that the person previously held, as certified | 927 |
| by the director of rehabilitation and correction and approved by | 928 |
| the director of administrative services. If the position the     | 929 |
| person previously held in the classified service has been placed | 930 |
| in the unclassified service or is otherwise unavailable, the     | 931 |
| person shall be appointed to a position in the classified        | 932 |
| service within the department that the director of               | 933 |
| administrative services certifies is comparable in compensation  | 934 |
| to the position the person previously held in the classified     | 935 |
| service. Service in a position in the unclassified service shall | 936 |
| be counted as service in the position in the classified service  | 937 |
| held by the person immediately preceding the person's            | 938 |

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appointment to the position in the unclassified service. When a person is reinstated to a position in the classified service, as provided in this section, the person is entitled to all rights and benefits and any status accruing to the position in the classified service during the time of the person's service in the position in the unclassified service.

The managing officer, under the director of rehabilitation and correction, shall have entire executive charge of the institution for which the managing officer is appointed. Subject to civil service rules and regulations, the managing officer shall appoint the necessary employees and the managing officer or the director may remove such employees for cause.

Sec. 5120.381. Subject to the rules of the department of 951 rehabilitation and correction, the director of rehabilitation 952 and correction may appoint a deputy warden for each institution 953 under the jurisdiction of the department. A deputy warden shall 954 be in the unclassified service and serve at the pleasure of the 955 director of rehabilitation and correction. The director of 956 rehabilitation and correction shall make an appointment to the 957 position of deputy warden from persons having criminal justice 958 959 experience. A person who is appointed to a position as deputy 960 warden from a permanent, classified position within the department shall retain the right to resume the position and 961 status that the person held in the classified service 962 immediately prior to the person's appointment to the position in 963 the unclassified service, regardless of the number of positions 964 the person held in the unclassified service. An employee's right 965 to resume a position in the classified service may be exercised 966 only when an appointing authority demotes the employee to a pay 967 range lower than the employee's current pay range or revokes the 968 employee's appointment to the unclassified service. An employee 969

| who holds a position in the classified service and who is        | 970  |
|--|------|
| appointed to a position in the unclassified service on or after  | 971  |
| January 1, 2016, shall have the right to resume a position in    | 972  |
| the classified service under this section only within five years | 973  |
| after the effective date of the employee's appointment in the    | 974  |
| unclassified service. An employee forfeits the right to resume a | 975  |
| position in the classified service when the employee is removed  | 976  |
| from the position in the unclassified service due to             | 977  |
| incompetence, inefficiency, dishonesty, drunkenness, immoral     | 978  |
| conduct, insubordination, discourteous treatment of the public,  | 979  |
| neglect of duty, a violation of this chapter or the rules of the | 980  |
| department or the director of administrative services, any other | 981  |
| failure of good behavior, any other acts of misfeasance,         | 982  |
| malfeasance, or nonfeasance in office, or conviction of or plea  | 983  |
| of guilty to a felony while employed in the civil service. An    | 984  |
| employee also forfeits the right to resume the prior position in | 985  |
| the classified service upon transfer to a different agency.      | 986  |
| Reinstatement to a position in the classified service shall be   | 987  |
| to a position substantially equal to the position in the         | 988  |
| classified service that the person previously held, as certified | 989  |
| by the director of rehabilitation and correction and approved by | 990  |
| the director of administrative services. If the position the     | 991  |
| person previously held in the classified service has been placed | 992  |
| in the unclassified service or is otherwise unavailable, the     | 993  |
| person shall be appointed to a position in the classified        | 994  |
| service within the department that the director of               | 995  |
| administrative services certifies is comparable in compensation  | 996  |
| to the position the person previously held in the classified     | 997  |
| service. Service in the position in the unclassified service     | 998  |
| shall be counted as service in the position in the classified    | 999  |
| service that the person held immediately preceding the person's  | 1000 |
| appointment to the position in the unclassified service. When a  | 1001 |

| person who is reinstated to a position in the classified service | 1002 |
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| as provided in this section, the person is entitled to all       | 1003 |
| rights and benefits and any status accruing to the position      | 1004 |
| during the time of the person's service in the unclassified      | 1005 |
| service.   | 1006 |

Sec. 5120.382. Except as otherwise provided in this 1007 chapter for appointments by division chiefs and managing 1008 officers, the director of rehabilitation and correction shall 1009 appoint employees who are necessary for the efficient conduct of 1010 the department of rehabilitation and correction and prescribe 1011 their titles and duties. A person who is appointed to an 1012 unclassified position from a permanent, classified position 1013 within the department shall retain the right to resume the 1014 position and status that the person held in the classified 1015 service immediately prior to the person's appointment to the 1016 position in the unclassified service, regardless of the number 1017 of positions the person held in the unclassified service. An 1018 employee's right to resume a position in the classified service 1019 may be exercised only when an appointing authority demotes the 1020 employee to a pay range lower than the employee's current pay 1021 range or revokes the employee's appointment to the unclassified 1022 service. An employee who holds a position in the classified 1023 service and who is appointed to a position in the unclassified 1024 service on or after January 1, 2016, shall have the right to 1025 resume a position in the classified service under this section 1026 only within five years after the effective date of the person's 1027 appointment in the unclassified service. An employee forfeits 1028 the right to resume a position in the classified service when 1029 the employee is removed from the position in the unclassified 1030 service due to incompetence, inefficiency, dishonesty, 1031 drunkenness, immoral conduct, insubordination, discourteous 1032

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| treatment of the public, neglect of duty, a violation of this    | 1033 |
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| chapter or the rules of the department or the director of        | 1034 |
| administrative services, any other failure of good behavior, any | 1035 |
| other acts of misfeasance, malfeasance, or nonfeasance in        | 1036 |
| office, or conviction of or plea of guilty to a felony while     | 1037 |
| employed in the civil service. An employee also forfeits the     | 1038 |
| right to resume the prior position in the classified service     | 1039 |
| upon transfer to a different agency. Reinstatement to a position | 1040 |
| in the classified service shall be to a position substantially   | 1041 |
| equal to the position in the classified service that the person  | 1042 |
| previously held, as certified by the director of rehabilitation  | 1043 |
| and correction and approved by the director of administrative    | 1044 |
| services. If the position the person previously held in the      | 1045 |
| classified service has been placed in the unclassified service   | 1046 |
| or is otherwise unavailable, the person shall be appointed to a  | 1047 |
| position in the classified service within the department that    | 1048 |
| the director of administrative services certifies is comparable  | 1049 |
| in compensation to the position the person previously held in    | 1050 |
| the classified service. Service in the position in the           | 1051 |
| unclassified service shall be counted as service in the position | 1052 |
| in the classified service that the person held immediately       | 1053 |
| preceding the person's appointment to the position in the        | 1054 |
| unclassified service. When a person is reinstated to a position  | 1055 |
| in the classified service as provided in this section, the       | 1056 |
| person is entitled to all rights and benefits and any status     | 1057 |
| accruing to the position in the classified service during the    | 1058 |
| time of the person's service in the position in the unclassified | 1059 |
| service.   | 1060 |
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Sec. 5123.08. An appointing officer may appoint a person

who holds a certified position in the classified service within

the department of developmental disabilities to a position in

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| the unclassified service within the department. A person         | 1064 |
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| appointed pursuant to this section to a position in the          | 1065 |
| unclassified service shall retain the right to resume the        | 1066 |
| position and status held by the person in the classified service | 1067 |
| immediately prior to the person's appointment to the position in | 1068 |
| the unclassified service, regardless of the number of positions  | 1069 |
| the person held in the unclassified service. An employee's right | 1070 |
| to resume a position in the classified service may only be       | 1071 |
| exercised when an appointing authority demotes the employee to a | 1072 |
| pay range lower than the employee's current pay range or revokes | 1073 |
| the employee's appointment to the unclassified service. An       | 1074 |
| employee who holds a position in the classified service and who  | 1075 |
| is appointed to a position in the unclassified service on or     | 1076 |
| after January 1, 2016, shall have the right to resume a position | 1077 |
| in the classified service under this section only within five    | 1078 |
| years after the effective date of the employee's appointment in  | 1079 |
| the unclassified service. An employee forfeits the right to      | 1080 |
| resume a position in the classified service when the employee is | 1081 |
| removed from the position in the unclassified service due to     | 1082 |
| incompetence, inefficiency, dishonesty, drunkenness, immoral     | 1083 |
| conduct, insubordination, discourteous treatment of the public,  | 1084 |
| neglect of duty, violation of this chapter or Chapter 124. of    | 1085 |
| the Revised Code, the rules of the director of developmental     | 1086 |
| disabilities or the director of administrative services, any     | 1087 |
| other failure of good behavior, any other acts of misfeasance,   | 1088 |
| malfeasance, or nonfeasance in office, or conviction of a felony | 1089 |
| while employed in the civil service. An employee also forfeits   | 1090 |
| the right to resume a position in the classified service upon    | 1091 |
| transfer to a different agency.                                  | 1092 |
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Reinstatement to a position in the classified service

shall be to a position substantially equal to that position in

| the classified service held previously, as certified by the      | 1095 |
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| director of administrative services. If the position the person  | 1096 |
| previously held in the classified service has been placed in the | 1097 |
| unclassified service or is otherwise unavailable, the person     | 1098 |
| shall be appointed to a position in the classified service       | 1099 |
| within the department that the director of administrative        | 1100 |
| services certifies is comparable in compensation to the position | 1101 |
| the person previously held in the classified service. Service in | 1102 |
| the position in the unclassified service shall be counted as     | 1103 |
| service in the position in the classified service held by the    | 1104 |
| person immediately prior to the person's appointment to the      | 1105 |
| position in the unclassified service. When a person is           | 1106 |
| reinstated to a position in the classified service as provided   | 1107 |
| in this section, the person is entitled to all rights, status,   | 1108 |
| and benefits accruing to the position in the classified service  | 1109 |
| during the time of the person's service in the position in the   | 1110 |
| unclassified service.  | 1111 |

Sec. 5139.02. (A) (1) As used in this section, "managing 1112 officer" means a deputy director, an assistant deputy director, 1113 a superintendent, a regional administrator, a deputy 1114 superintendent, or the superintendent of schools of the 1115 department of youth services, a member of the release authority, 1116 the chief of staff to the release authority, and the victims 1117 administrator of the office of victim services. 1118

(2) Each division established by the director of youth

services shall consist of managing officers and other employees,

including those employed in institutions and regions as

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necessary to perform the functions assigned to them. The

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director or appropriate deputy director or managing officer of

the department shall supervise the work of each division and

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determine general policies governing the exercise of powers

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| vested in the department and assigned to each division. The      | 1126 |
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| appropriate managing officer or deputy director is responsible   | 1127 |
| to the director for the organization, direction, and supervision | 1128 |
| of the work of the division or unit and for the exercise of the  | 1129 |
| powers and the performance of the duties of the department       | 1130 |
| assigned to it and, with the director's approval, may establish  | 1131 |
| bureaus or other administrative units within the department.     | 1132 |
| (B) The director shall appoint all managing officers, who        | 1133 |
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shall be in the unclassified civil service. The director may 1134 appoint a person who holds a certified position in the 1135 classified service within the department to a position as a 1136 managing officer within the department. A person appointed 1137 pursuant to this division to a position as a managing officer 1138 shall retain the right to resume the position and status held by 1139 the person in the classified service immediately prior to the 1140 person's appointment as managing officer, regardless of the 1141 number of positions the person held in the unclassified service. 1142 A managing officer's right to resume a position in the 1143 classified service may only be exercised when the director 1144 demotes the managing officer to a pay range lower than the 1145 managing officer's current pay range or revokes the managing 1146 officer's appointment to the position of managing officer. A 1147 person who holds a position in the classified service and who is 1148 appointed to the position of managing officer on or after 1149 January 1, 2016, shall have the right to resume a position in 1150 the classified service under this division only within five 1151 years after the effective date of the person's appointment as 1152 managing officer. A managing officer forfeits the right to 1153 resume a position in the classified service when the managing 1154 officer is removed from the position of managing officer due to 1155 incompetence, inefficiency, dishonesty, drunkenness, immoral 1156

| conduct, insubordination, discourteous treatment of the public,  | 1157 |
|--|------|
| neglect of duty, violation of this chapter or Chapter 124. of    | 1158 |
| the Revised Code, the rules of the director of youth services or | 1159 |
| the director of administrative services, any other failure of    | 1160 |
| good behavior, any other acts of misfeasance, malfeasance, or    | 1161 |
| nonfeasance in office, or conviction of a felony while employed  | 1162 |
| in the civil service. A managing officer also forfeits the right | 1163 |
| to resume a position in the classified service upon transfer to  | 1164 |
| a different agency.  | 1165 |

Reinstatement to a position in the classified service 1166 shall be to the position held in the classified service 1167 immediately prior to appointment as managing officer, or to 1168 another position certified by the director of administrative 1169 services as being substantially equal to that position. If the 1170 position the person previously held in the classified service 1171 immediately prior to appointment as a managing officer has been 1172 placed in the unclassified service or is otherwise unavailable, 1173 the person shall be appointed to a position in the classified 1174 service within the department that the director of 1175 administrative services certifies is comparable in compensation 1176 to the position the person previously held in the classified 1177 service. Service as a managing officer shall be counted as 1178 service in the position in the classified service held by the 1179 person immediately prior to the person's appointment as a 1180 managing officer. If a person is reinstated to a position in the 1181 classified service under this division, the person shall be 1182 returned to the pay range and step to which the person had been 1183 assigned at the time of the appointment as managing officer. 1184 Longevity, where applicable, shall be calculated pursuant to the 1185 provisions of section 124.181 of the Revised Code. 1186

(C) Each person appointed as a managing officer shall have

| received special training and shall have experience in the type  | 1188 |
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| of work that the person's division is required to perform. Each  | 1189 |
| managing officer, under the supervision of the director, has     | 1190 |
| entire charge of the division, institution, unit, or region for  | 1191 |
| which the managing officer is appointed and, with the director's | 1192 |
| approval, shall appoint necessary employees and may remove them  | 1193 |
| for cause.   | 1194 |
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| (D) The director may designate one or more deputy                | 1195 |
| directors to sign any personnel actions on the director's        | 1196 |
| behalf. The director shall make a designation in a writing       | 1197 |
| signed by the director, and the designation shall remain in      | 1198 |
| effect until the director revokes or supersedes it with a new    | 1199 |
| designation.   | 1200 |
| Sec. 5164.44. (A) As used in this section:                       | 1201 |
| (1) "Aide services" means all of the following:                  | 1202 |
| (a) Home health aide services covered by the medicaid            | 1203 |
| program as part of the home health services benefit pursuant to  | 1204 |
| 42 C.F.R. 440.70(b)(2);  | 1205 |
| (b) Home care attendant services covered by a                    | 1206 |
| participating medicaid waiver component, as defined in section   | 1207 |
| 5166.30 of the Revised Code;                                     | 1208 |
| (c) Any of the following covered by a home and community-        | 1209 |
| based services medicaid waiver component:                        | 1210 |
| (i) Personal care aide services;                                 | 1211 |
| (ii) Homemaker/personal care services;                           | 1212 |
| (iii) Community inclusion services.                              | 1213 |
| (2) "Independent provider" means an individual who               | 1214 |

| personally provides aide services or nursing services under the  | 1215 |
|--|------|
| medicaid program and is not employed by, under contract with, or | 1216 |
| affiliated with another entity that provides the services.       | 1217 |
| (3) "Nursing services" means all of the following:               | 1218 |
| (a) Nursing services covered by the medicaid program as          | 1219 |
| part of the home health services benefit pursuant to 42 C.F.R.   | 1220 |
| 440.70(b)(1);  | 1221 |
| (b) Private duty nursing services, as defined in 42 C.F.R.       | 1222 |
| 440.80, covered by the medicaid program;                         | 1223 |
| (c) Nursing services covered by a home and community-based       | 1224 |
| services medicaid waiver component.                              | 1225 |
| (B) Notwithstanding any provision of the Revised Code to         | 1226 |
| the contrary, an independent provider is not an employee of the  | 1227 |
| state, or any political subdivision of the state, for any        | 1228 |
| purpose under state law due to being an independent provider or  | 1229 |
| any actions taken to become or remain an independent provider.   | 1230 |
| Section 2. That existing sections 124.11, 124.34, 329.021,       | 1231 |
| 2953.36, 4121.121, 5120.38, 5120.381, 5120.382, 5123.08, and     | 1232 |
| 5139.02 of the Revised Code are hereby repealed.                 | 1233 |